

Yoorrook Justice Commission- Nuther-mooyoop on Family Violence

Victorian Aboriginal Child and Community Agency
February 2024



VACCA

Connected by culture

VICTORIAN ABORIGINAL
CHILD CARE AGENCY

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Dedication

This nuther-mooyoop (submission) is dedicated to the Aboriginal children and young people who have been placed in out of home care in Victoria over VACCA's 45-year history. Your stories remain with us forever. We recognise you, your dignity and identity as proud Aboriginal and Torres Strait Islander children and young people. We acknowledge your trauma and your resilience, and we will fiercely fight for your future.

Acknowledgement

We acknowledge the Traditional Owners of the lands across Victoria that we work on, and pay our respects to their Elders, both past and present and to their children and young people, who are our future Elders and caretakers of this great land. We acknowledge the Stolen Generations, those who we have lost; those who generously share their stories with us; and those we are yet to bring home.

Disclaimers

Note on Language

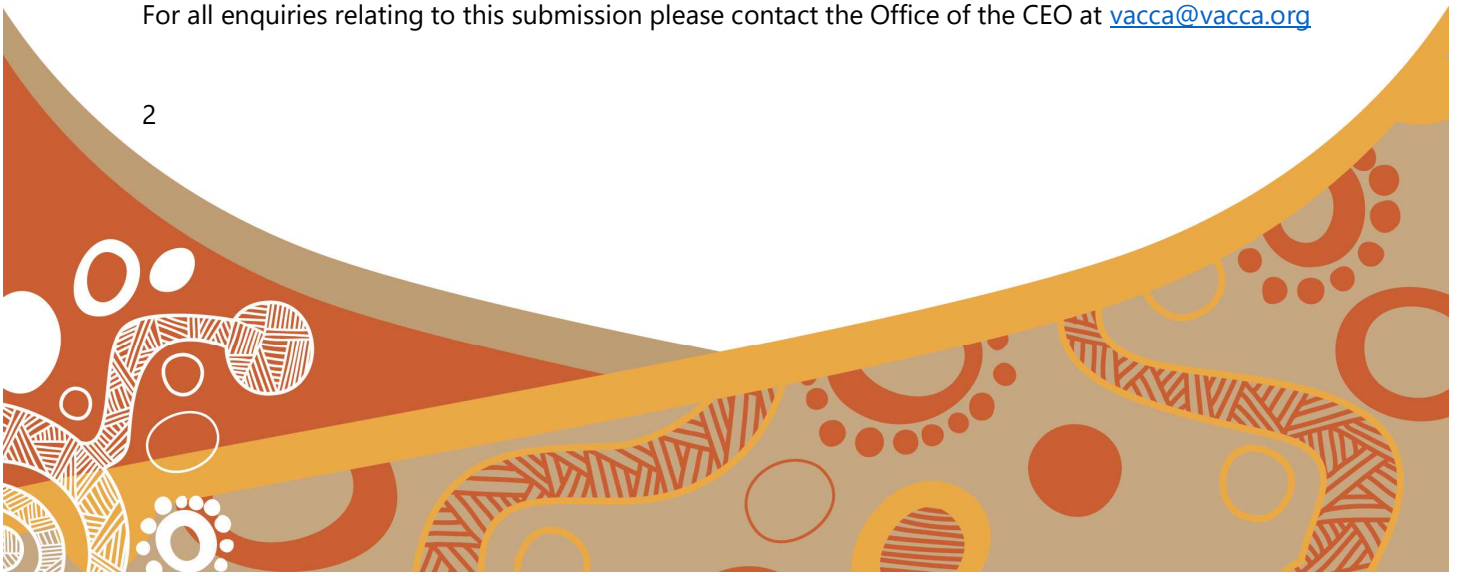
- We use the term **Aboriginal** to describe the many Aboriginal and Torres Strait Islander Peoples, Clans and Traditional Owner Groups whose traditional lands comprise what is now called Australia.
- We use the term **Indigenous** as it relates to Indigenous peoples globally as well as in the human rights context.
- The terms **First Peoples and First Nations** are employed in the Australian context, by recognising that Aboriginal and Torres Strait Islander peoples are the First Peoples/First Nations of this land, it directly relates to their inherent un-ceded sovereignty.
- Within the family violence context, VACCA has adopted the language of affected family member and user of violence rather than the victim/perpetrator binary. This better reflects the complexity and nuance so common in family violence situations, where we know all too often people using violence have also been 'victims' themselves.

Note on case stories shared

All case stories shared have been de-identified, but due to the high-profile nature of some of these cases, and the relatively small and connected Aboriginal community in Victoria, we ask that these submissions are redacted if this submission is published publicly, as we do not want to cause further harm to families that are already suffering.

Contact

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About VACCA

Established in 1977, the Victorian Aboriginal Child and Community Agency (VACCA) is the Peak voice for Aboriginal children in Victoria. We are the lead Aboriginal child and family support organisation in Australia and the largest provider of Aboriginal family violence, justice support and homelessness services in Victoria. We work holistically with children, young people, women, men, and families to ensure they have the necessary supports to heal and thrive. We do this by advocating for the rights of children and providing everyone who walks through our doors with services premised on human rights, self-determination, cultural respect, and safety.

VACCA's [Family Violence](#) services support Aboriginal women, men, young people and children to heal from their experiences of family violence and move forward with their lives. As well as providing strong leadership at the national, state and local levels, advocating for change across policy settings and communities. VACCA provides services and supports across all of metropolitan Melbourne, Inner Gippsland and the Ovens Murray regions.

Our Family Violence service footprint include but are not limited to: Outreach Services, Case Management, Therapeutic supports, services for people who use violence, , therapeutic supports for adolescents who use violence in the home , therapeutic sexual assault counselling services together with a range of early intervention, prevention and community awareness raising programs like Healthy respectful relationship programs for young people, camps, groups and Better Futures (leaving care program). VACCA is part of 11 Support and Safety Hubs (Orange Doors) across the state which support women, children, men, and young people experiencing family violence or using family violence across the state access culturally safe and Aboriginal led service solutions.

We also operate Orana Gunyah—a refuge that supports Aboriginal women and their children escaping family violence, as well as two Koorie Women Diversion Programs aimed at keeping women out of prison and safe from violence.

We provide support services to over 4,500 children and young people, their families, and carers each year. VACCA provides support services for Stolen Generations through Link-Up Victoria, which has been in operation since 1990. Across our six regions, we deliver over 80 programs tailored to the needs of the communities we serve including child and family services, child protection, family violence and sexual assault supports, youth and adult justice supports, early years, education, homelessness, disability, alcohol and other drugs, cultural programs and supports for Stolen Generations. We employ over 1000 staff, making us one of Victoria's biggest employers of Aboriginal people. Our Aboriginality distinguishes us from mainstream services and enables us to deliver the positive outcomes we achieve for our people.



VACCA is guided by *Cultural Therapeutic Ways*, our whole-of-agency approach to our practice of healing for Aboriginal children, young people, families, community members and carers who use our services. The framework acts at the intersection of cultural practice with trauma and self-determination theories. The aim of this practice is to integrate Aboriginal culture and healing practices across the organisation and guide our service delivery approach to be healing, protective and connective.

VACCA's submission is based on our unique position and role we play as an ACCO providing a suite of services across the state supporting children, young people, families, and community members. We have protected and promoted the rights of Aboriginal children and families for over 45 years. VACCA believes that all children have a right to feel and be safe and live in an environment that is free from abuse, neglect, and violence. We are committed to promoting and upholding the rights of Aboriginal children to maintain and celebrate their identity and culture, recognising that connection to culture is a protective factor critical for children's emotional, physical, and spiritual wellbeing.



Table of Contents

About VACCA.....	3
Introduction.....	6
Recommendations.....	7
The state of Aboriginal family violence in Victoria.....	9
The Victorian Government’s family violence reform agenda: Progress made thus far.....	12
The child protection system’s response to family violence.....	15
Family Violence Service Delivery.....	18
Aboriginal children who are affected by family violence.....	19
Aboriginal young people affected by family violence.....	21
Aboriginal young people who use violence in the home.....	23
Aboriginal people who experience sexual violence.....	23
Responses for people who use violence.....	24
Holistic support for the whole family.....	28
Family Violence Supports for People with Disability.....	28
Elder Abuse.....	31
LGBTQIA+ Communities.....	32
AOD Support.....	33
Policing and legislative responses to family violence.....	34
Misidentification.....	34
The criminalisation of women experiencing family violence.....	37
MARAM and VACCA’s leadership in embedding a cultural lens.....	38
Consistency across jurisdictions.....	40
The implementation of international treaties and declarations.....	42
The intersection of family violence and homelessness.....	42
Reform Priorities.....	44
Aboriginal response to FV: Aboriginal self-determination and self-governance.....	44
Equity in access across metro/regional/rural.....	44
Data sovereignty.....	45



Introduction

In October 2022, VACCA provided an earlier *nuther-mooyoop* to the Yoorrook Justice Commission ('Commission') on the systemic injustices in the Child Protection and Youth Justice systems, which included some limited information around the impact of family violence. Following this, VACCA has been anticipating the next issue for the Commission to be family violence. Due to the immense impact family violence has had, and continues to have, on Aboriginal communities in Victoria since colonisation, and the intersection between family violence, child protection and the criminal justice systems, we believe it is imperative this topic is investigated by the Commission. We present this submission to highlight the necessity of the Commission to consider the systemic injustices in the family violence sector experienced by Aboriginal peoples, to inform its final recommendations and report to the Victorian State Government.

The Commission's mandate is to develop an official record of historic and ongoing injustices experienced by the First Peoples, in what we now know as the state of Victoria. It is well documented that settler violence against Aboriginal women and their children was a tool to secure land, resources, and a form of oppression.¹ Whilst we acknowledge that family violence intersects with child protection and criminal justice, VACCA believes that the degree to which violence against Aboriginal women and children has been normalised and made invisible means that it warrants its own specific focus by the Commission. The claim by the Victorian Government at the beginning of 2023 to have fully implemented all recommendations of the 2016 Royal Commission into Family Violence makes this inquiry even more pertinent.

¹ Arvin, M., Tuck, E., & Morrill, A. (2013). Decolonizing feminism: Challenging connections between settler colonialism and heteropatriarchy. *Feminist Formations*, 25(1), 8-34.



Recommendations

1. That the Yoorrook Justice Commission recommend the State Government develop State and regional data modelling to meet Closing the Gap targets, National Plan to End Violence against Women and Children commitments and Dhelk Dja Action Plan commitments.
2. That the Yoorrook Justice Commission call a focus of its inquiry on family violence and call for evidence and hold public hearings focussed on the historic and ongoing impacts of family violence on Aboriginal peoples.
3. That the Yoorrook Justice Commission recommend the Victorian Government resource an independent, Aboriginal-led analysis and review of the implementation of all recommendations of the Family Violence Royal Commission as this is unfinished business.
4. That the Yoorrook Justice Commission call for the creation of a Victorian Aboriginal peak for the primary prevention of Aboriginal family violence; and that the new peak be legislated to oversee the introduction and implementation of family violence death review mechanisms for formal reporting, similar to CCYP.
5. That the Yoorrook Justice Commission recommend a review into the L17 process to identify the number of Aboriginal women who have been misidentified by police using these tools.
6. That the Yoorrook Justice Commission recommend a review of the number of Aboriginal women who have been misidentified using L17 tools.
7. That the Yoorrook Justice Commission call upon the Victorian Government to build upon and expand therapeutic models of care, including VACCA's Aboriginal Children's Healing Team, to support children affected by family violence.
8. That the Yoorrook Justice Commission advocate for an investment in ACCO-led Aboriginal-specific Healthy and Respectful Relationships programs and consent education.
9. That the Yoorrook Justice Commission recommends that the Victorian Government commit to an independent review of culturally safe after-hours services, to determine whether services are adequately responding to demand and meeting the needs of service users. This review should include assessing:
 - a. Funding
 - b. Prioritisation of Aboriginal services
 - c. Use of the Standard Indigenous Question



10. That the Yoorrook Justice Commission recommend the provision of mandatory Aboriginal Cultural Awareness training for all staff working within after-hours crisis services.
11. That the Yoorrook Justice Commission recommends that the Victorian government grant access to the Central Information Point (CIP) for specialist family violence practitioners.
12. That the Yoorrook Justice Commission recommend the Victorian government invest in establishing specialist disability worker roles within family violence services.
13. That the Yoorrook Justice Commission recommend the Victorian government commit to resourcing ACCOs to develop education and training on utilising the NDIS referral system.
14. That, in line with Brain Injury Australia's report, the Yoorrook Justice Commission to call upon the Victorian Government to commit significant funding to establish an Aboriginal-led specialist integrated brain injury and family violence service.
15. That the Yoorrook Justice Commission undertake a yarning session with ACES on the issue of Elder abuse.
16. That the Yoorrook Justice Commission advocate for funding to establish an Aboriginal-specific holistic family violence, mental health, and AOD crisis accommodation service in each region.
17. That the Yoorrook Justice Commission recommend the state government invest in ongoing training opportunities to support family violence workers to understand the intersection between mental health, AOD and family violence.
18. That the Yoorrook Justice Commission advocate for the embedding of a multi-disciplinary approach to service delivery across AOD, Mental Health, Family Violence and Family Services that responds to the specific individual needs of each person accessing the service.
19. That the Yoorrook Justice Commission advocate for the inclusion of AOD rehabilitation services as a part of the crisis and refuge services.
20. That the Yoorrook Justice Commission recommends Victoria Police undertake quarterly cultural safety training and regular cultural supervision to ensure better practice, this will help to address the institutional racism and bias, alongside building their understanding of family violence in Aboriginal families. Organisational attainment of training should be



reported regularly to Dhelk Dja to ensure accountability.

21. That the Yoorrook Justice Commission recommend an independent audit of family violence incidents to better understand and respond to misidentification.
22. That the Yoorrook Justice Commission recommends Victoria Police must consistently follow up on missing reports on an Aboriginal child, young person or woman in timely manner and not make assumptions about where they may be but act as if they are in imminent danger.
23. That the Yoorrook Justice Commission recommend the expansion of support for incarcerated women who are impacted by family violence.
24. That the Yoorrook Justice Commission recommend the Victorian Government to commit to ongoing funding through the MARAMIS Sector Grants initiative to ensure that ACCOs can continue to strengthen their response to family violence.
25. That the Yoorrook Justice Commission recommend the Victorian Government commit to a sector-wide implementation review of the MARAM.
26. That the Yoorrook Justice Commission recommend the implementation of a national family violence information sharing scheme.
27. That the Yoorrook Justice Commission to ask the Victorian Government to produce evidence illustrating how future family violence reforms will align with national commitments, including the National Plan to End Violence Against Women and Their Children 2022 – 2023 and the National Agreement on Closing the Gap.
28. That the Yoorrook Justice Commission recommend the development of a stand-alone Aboriginal-led response to family violence.

The state of Aboriginal family violence in Victoria

What the data tells us



Family violence is understood through an Aboriginal lens as an issue encompassing a range of physical, emotional, sexual, social, spiritual, cultural, psychological, and economic abuses that occur within families, intimate relationships, extended families, kinship networks and communities. Family violence undermines the pivotal role families' play in protecting our children and passing on our culture. Family violence is not, and never has been a part of Aboriginal culture.

Aboriginal peoples and communities continue to be impacted disproportionately by family violence. It is difficult to accurately determine the prevalence of family violence across society due to underreporting, culturally inappropriate assessment tools, the poor identification of Aboriginal status at the point of police involvement including misidentification of the affected family member, as well as a fear of involving state authorities, such as criminal justice and child protection systems.¹ Due to these factors, some studies have estimated that family violence against Aboriginal women is underreported by as much as 90 per cent.²

The Victorian Health Population Survey found that in 2017, Aboriginal women were 2.5 times more likely to report experiencing family violence than their non-Aboriginal peers.³ It is important to note, however, that Aboriginal respondents were twice as likely than non-Aboriginal participants to refuse to answer questions about family violence, indicating a potential underreporting in these figures as well.⁴ In 2022, there were 5,040 Aboriginal women and children who were identified as an 'affected family member' during family incidents attended by the Victorian Police, compared with 81,614 non-Indigenous Victorians, this equates to Aboriginal women in Victoria making up 6 per cent of this cohort when the Aboriginal population make up 1 per cent of the broader Victorian population.⁵ Aboriginal women are 25 times more likely to be injured or killed as a result of family violence than non-Aboriginal women.⁶ VACCA practitioners find on average there are six to ten callouts to police for help before police take action. This data represents a significant disproportionate representation in family violence is a national crisis of epidemic proportions.

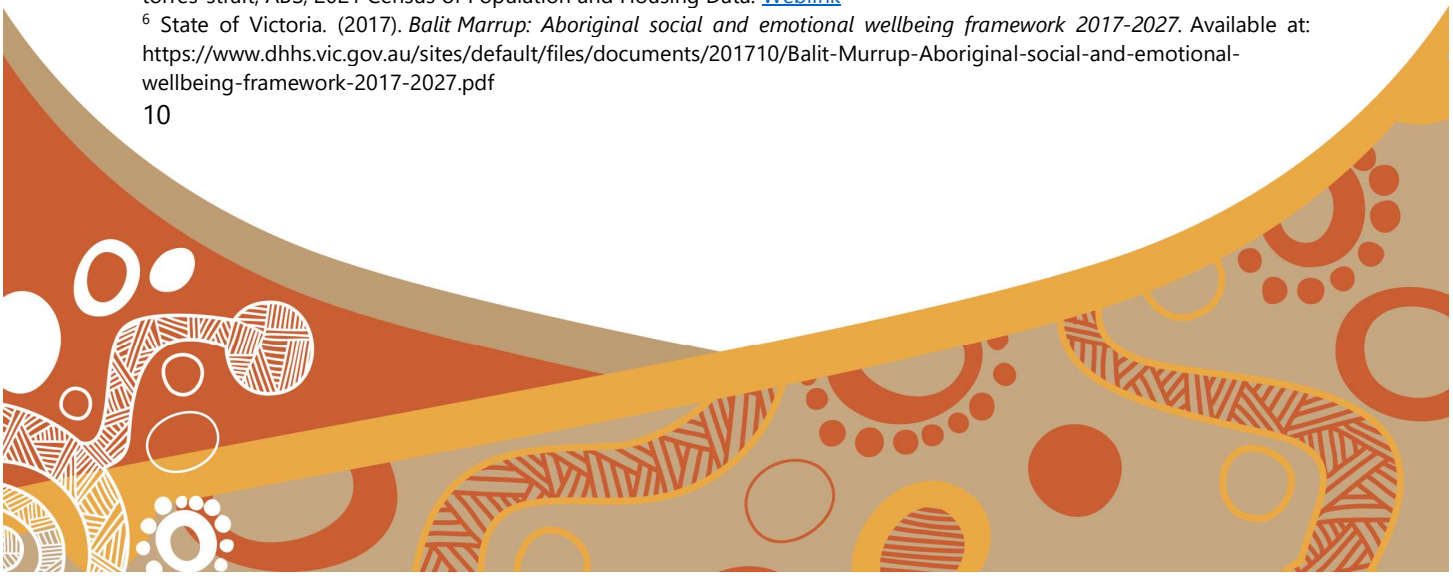
² Willis, M. (2011). *Non-disclosure of family violence in Australian Indigenous communities*. Canberra, ACT: Australian Institute of Criminology. Available at: <https://www.aic.gov.au/publications/tandi/tandi405>

³ Victorian Agency for Health Information. (2020). *Family violence in Victoria: Findings from the Victorian Population Health Survey*. Melbourne, VIC: Author.

⁴ Victorian Agency for Health Information, The Health and Wellbeing of Aboriginal Victorians: findings from the Victorian Population Health Survey 2017, accessed 4 June 2023, <https://vahi.vic.gov.au/reports/population-health/health-and-wellbeing-aboriginal-victorians-findings-victorian-population-health-survey-2017>

⁵ Crime Statistics Agency. (2021). *Family incidents by Aboriginal and Torres Strait Islander status*. Available at: <https://www.crimestatistics.vic.gov.au/crime-statistics/latest-aboriginal-crime-data/family-incidents-by-aboriginal-and-torres-strait>; ABS, 2021 Census of Population and Housing Data. [Weblink](#)

⁶ State of Victoria. (2017). *Balit Marrup: Aboriginal social and emotional wellbeing framework 2017-2027*. Available at: <https://www.dhhs.vic.gov.au/sites/default/files/documents/201710/Balit-Murrup-Aboriginal-social-and-emotional-wellbeing-framework-2017-2027.pdf>



VACCA's own family violence data indicates that pre-COVID-19, VACCA saw on average 250 family violence referrals per month, during the height of the pandemic (during lockdowns) referrals sat around 400-450 per month and since lockdowns eased, referral numbers have again increased to on average 600 per month across our 6 regions.⁷ Increased exposure to family violence for Aboriginal children and young people can have both indirect and direct impacts, including the risk of child protection involvement and potential placement in out-of-home care.

VACCA promotes the need to adopt a holistic approach to address the causes and the consequences of family violence in Aboriginal and Torres Strait Islander communities. If we treat family violence as a simple law and order matter, a matter of legal compliance, or a health matter, we will not meet our commitments as outlined in the National Agreement on Closing the Gap, nor achieve lasting improvements. The solutions are complex, multi-faceted and require long term focus and commitment to address.

Recommendation:

- 1. That the Yoorrook Justice Commission recommend the State Government develop State and regional data modelling to meet Closing the Gap targets, National Plan to End Violence against Women and Children commitments and Dhelk Dja Action Plan commitments.**

Impact of colonisation and the intersection of gender and oppression

The intersection of Aboriginality and gender creates unique risks of family violence for women and children. The key drivers of family violence include the impacts of colonisation, intergenerational trauma, Stolen Generations, systemic disadvantage, structural oppression, and violation of Aboriginal women and children's rights, within the context of societal indifference toward their well-being. Colonisation attempted to dispossess Aboriginal peoples of their lands, used as a means of eroding sovereignty and economic prosperity, and to dismantle structures of kinship through the forcible removal of Aboriginal children.

Colonial intervention and violence against Aboriginal women and children were central to the process of settler-colonial expansion. Broadly, invasion made Aboriginal women and children vulnerable in two key ways, firstly the invaders actively perpetrated physical, sexual, economic, and spiritual violence, and secondly, settler-colonialism attempted to weaken the roles and autonomy of women within their communities. As Larissa Behrendt writes, "just as the invading colonists saw Aboriginal land as theirs for the taking, so too they assumed they could do as they wished with Aboriginal women without fear of interference from British law. As a result of this colonising,

⁷ VACCA, Family Violence Data Snapshots 2020-2023.



conquering mentality...the sexual abuse of Aboriginal women on the frontier and in the colony was prevalent."⁷

Another persistent stereotype seen throughout colonial representations of Aboriginal family life is that violence is inherent to Aboriginal culture, whilst both historical and contemporary violence against Aboriginal women and children by non-Aboriginal men remains invisible.⁸ Indeed, research has found that the vast majority of Aboriginal women in Victoria have non-Indigenous partners – 85 per cent of Aboriginal women in Melbourne, 67.9 per cent in Shepparton and 82.4 per cent in Bendigo.⁹ It can therefore be extrapolated that given the high prevalence of family violence experienced by Aboriginal women, it is likely that the person responsible is non-Indigenous.¹⁰ VACCA Family Violence practitioners indicate that this data is also reflective of their experience.

Disclosure of family violence remains particularly challenging for Aboriginal families as many are hesitant of utilising mainstream services due to a well-founded fear that their children may be removed. When violence against Aboriginal women and children becomes minimalised and their lives devalued, it means they are no longer viewed as affected family members by authorities and receive a negligent response, becoming more likely to experience further harm.

Recommendation:

- 2. That the Yoorrook Justice Commission call a focus of its inquiry on family violence and call for evidence and hold public hearings focussed on the historic and ongoing impacts of family violence on Aboriginal peoples.**

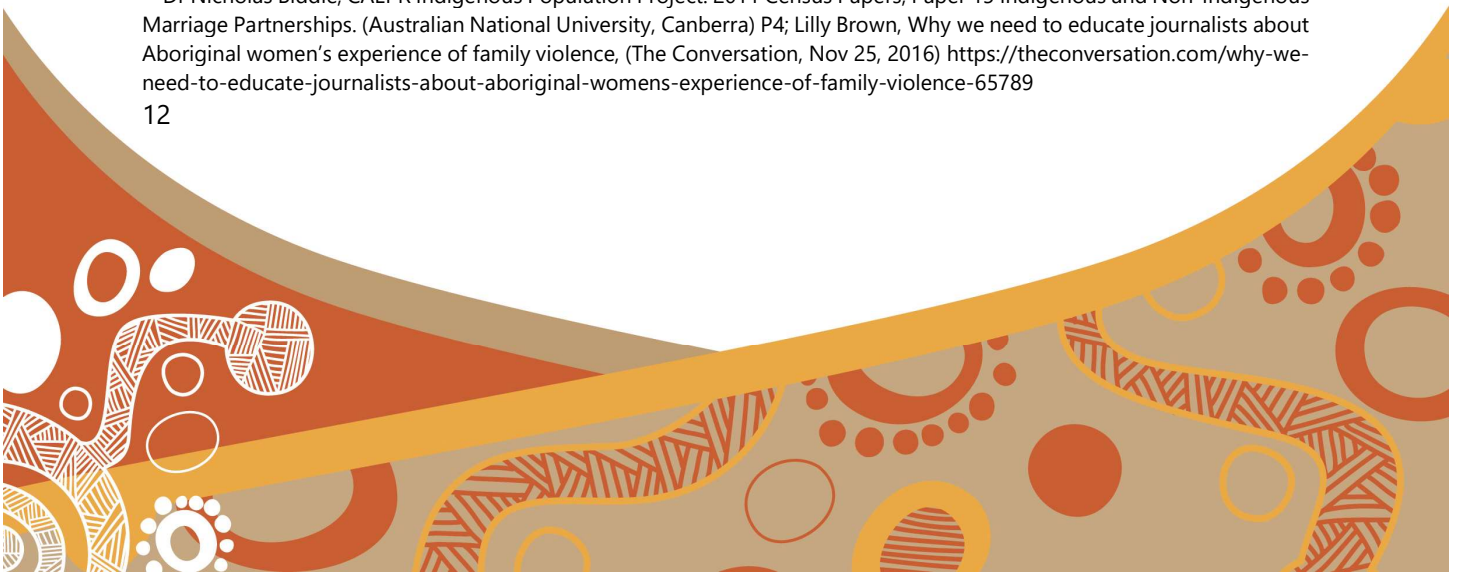
The Victorian Government's family violence reform agenda: Progress made thus far

Aboriginal peoples, organisations, and communities have committed their time, resources, and knowledge to reform processes, outlining the solutions required to address rising rates of family violence, with the hope that they would result in substantive change. Despite these efforts, contemporary Aboriginal Affairs policy has been characterised as in a state of crisis and subject to an endless cycle of reform, reinvention, and reformulation. From VACCA's perspective this is because

⁸ Watson, I. (2009). Aboriginality and the violence of colonialism. *Borderlands*, 8(1),

⁹ Brown, Lily. (2019, November 25). Why we need to educate journalists about Aboriginal women's experience of family violence. *The Conversation*. Available at: <https://theconversation.com/why-we-need-to-educate-journalists-about-aboriginal-womens-experience-of-family-violence-65789>

¹⁰ Dr Nicholas Biddle, CAEPR Indigenous Population Project: 2011 Census Papers, Paper 15 Indigenous and Non-Indigenous Marriage Partnerships. (Australian National University, Canberra) P4; Lily Brown, Why we need to educate journalists about Aboriginal women's experience of family violence, (The Conversation, Nov 25, 2016) <https://theconversation.com/why-we-need-to-educate-journalists-about-aboriginal-womens-experience-of-family-violence-65789>



governments have failed to enact the solutions for change proposed by our communities. Indeed, all of these processes have resulted in numerous recommendations for reform, which have been implemented to varying degrees. Within [our previous Yoorrook submission](#), VACCA explained the shortcomings of previous commissions, inquiries, reviews and advisory groups, that often result in a lack of reform and investment. From our perspective, this includes the 2016 the Victorian Royal Commission into Family Violence, as implementation of the full suite of recommendations has fallen short of expectations set out in the final report.

The Royal Commission released its findings and [final report](#) following a significant 13-month inquiry where 227 recommendations were put forward to transform the family violence sector. The overarching goal of the Royal Commission recommendations was to build the structures and systems required to deal with all aspects of family violence, from prevention through to supports for affected family members and accountability for those who use violence. This is inevitably, as the recommendations reflect, a whole-of-government and societal task.

Victoria has invested heavily in family violence reforms since the Royal Commission in 2016, after which the Victorian Government agreed to implement all recommendations, and VACCA commends this investment and commitment. We have seen the Multi Agency Risk Assessment Management Framework (MARAM) implemented across the sector and the Orange Door Safety hubs open, but unfortunately the rates of family violence continue to increase.¹¹ In 2020-2021, the Orange Door Network received 66,309 referrals, a 30.4 per cent increase compared to 2019-2020. Over half of these referrals included at least one child.¹² This is in part because there are more safety options, so women reach out for support, but also because we are seeing more escalations, more repeated episodes of violence, more breaches and more new occurrences. COVID-19 made this exponentially worse, and these rates have remained steady. Before COVID-19, VACCA supported around 250 women each month, now we support over 600 women each month, during the peak of COVID-19 infections and lockdowns in Victoria, consistently over 400 women each month.

The Royal Commission was asked to identify, and provide practical recommendations to achieve the most effective ways to:

- prevent family violence
- improve early intervention so as to identify and protect those at risk
- support affected family members—particularly women and children—and address the impacts of violence on them
- make person's using violence accountable
- develop and refine systemic responses to family violence—including in the legal system and by police, corrections, child protection, legal and family violence support services
- better coordinate community and government responses to family violence

¹¹ <https://www.vic.gov.au/orange-door-annual-service-delivery-report-2020-2021/print-all>

¹² Ibid.



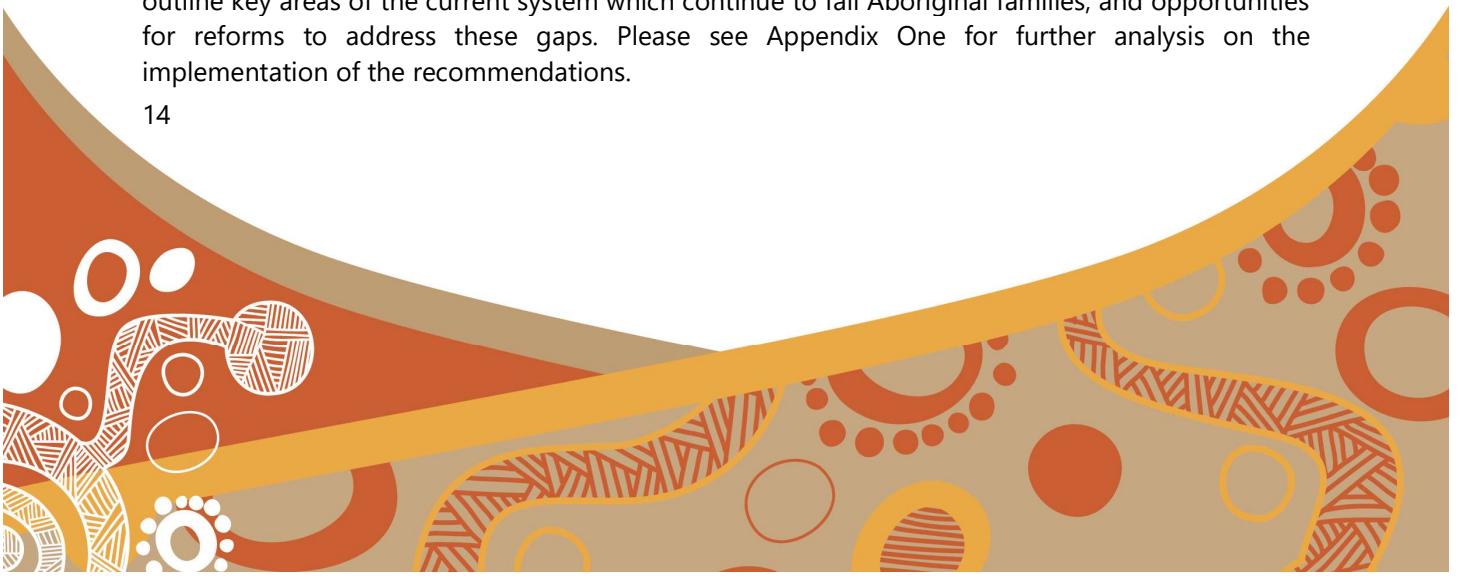
- evaluate and measure the success of strategies, frameworks, policies, programs and services introduced to put a stop family violence.¹

After undertaking substantive investment and systems reform, in January 2023 the Victorian Government announced that it had [implemented in full](#) these recommendations. VACCA is concerned with this assertion, and believes ongoing work is required for the government to claim full implementation. Indeed, it is the government's assertion that it has fully implemented all the recommendations speaks to the necessity of the work of the Yoorrook Justice Commission to ensure there is accountability and transparency, and truth around the ongoing injustices Aboriginal peoples who experience family violence continue to encounter in their interactions with systems that are meant to support them. In addition to their assertion of full implementation of its recommendations, the term of the Family Violence Reform Implementation Monitor, which was responsible for monitoring implementation of the recommendations, was not extended. This creates a gap in accountability in surveying government efforts to respond to family violence.

Victoria has ongoing commitments towards ending violence against women and children including Dhelk Dja, Target 13 of the National Agreement on Closing the Gap and the National Plan to End Violence against Women and Children. It is critical that the Victorian Government continue to invest in Aboriginal led prevention, early intervention, and family violence initiatives with sustainable, long-term funding. The scourge of family violence cannot be addressed within less than a decade.

It is VACCA's contention that the policy intent behind many of the Royal Commission's recommendations have not been fully executed, which will result in the family violence service sector not meeting the needs of those experiencing family violence, alongside failure to achieve a declining number of family violence incidents. We believe that there is a need for an independent review of the recommendations to provide an accurate assessment of how the government has fared in improving its response to family violence. Without this, there is a risk that the government's position will influence policy and practice responses to family violence, leading to false comfort about the system's capacity to support Aboriginal women and children experiencing violence and to hold those who use violence to account.

Furthermore, there were significant gaps in the Royal Commission's recommendations as they pertained to Aboriginal communities. Most importantly, none of the Royal Commissions' recommendations spoke to the right to Aboriginal self-determination to be respected and embedded within the sector. Whilst there was a focus on the need for cultural safety, it is VACCA's contention that there is still a significant need invest in self-determination, including through substantive policy reform and investment to create an Aboriginal-led system. In what follows, we outline key areas of the current system which continue to fail Aboriginal families, and opportunities for reforms to address these gaps. Please see Appendix One for further analysis on the implementation of the recommendations.



Recommendation:

3. That the Yoorrook Justice Commission recommend the Victorian Government resource an independent, Aboriginal-led analysis and review of the implementation of all recommendations of the Family Violence Royal Commission as this is unfinished business.
4. That the Yoorrook Justice Commission call for the creation of a Victorian Aboriginal peak for the primary prevention of Aboriginal family violence; and that the new peak be legislated to oversee the introduction and implementation of family violence death review mechanisms for formal reporting, similar to CCYP.

The child protection system's response to family violence

As detailed in our first submission to the Commission, experiences of family violence make children and families vulnerable to child protection involvement and potential removal. A 2016 inquiry by the Commission for Children and Young People found that family violence was an identified driver of child protection involvement and entry into out-of-home care for 89% of Aboriginal children whose files they reviewed.¹³ There is a need to look more closely at how the statutory child protection responds to cases in which family violence is identified, and whether current approaches are working to support the safety of women and children who have experienced violence.

A key practice tension in cases where family violence is present is in how child protection, as the statutory agency responsible for protecting children from harm, responds to the needs of children *and* the parent who has experienced family violence. The Victorian Government's *Child Protection Manual* stipulates that the department's response needs to address the "recovery needs of both the adult victim survivor and the child."¹⁴ However, in practice, VACCA observes ongoing failures to support Aboriginal women who are experiencing family violence, and punitive responses remain common, including by removing their children. There are cases in which the safety and wellbeing of the child cannot be assured without removal of the child, however this must only occur when sustained and holistic attempts to address protective concerns have been made. In the current environment, where child protection practice is largely crisis-driven and under resourced, this is not

¹³ Commission for Children and Young People. (2016). Always was, always will be Koori children: Investigations into the circumstance of Aboriginal children and young people in out-of-home care in Victoria. Available at: <https://ccyp.vic.gov.au/inquiries/systemic-inquiries/always-was-always-will-be-koori-children/#:~:text=Always%20was%2C%20always%20will%20be%20Koori%20children%20is%20the%20report,of%20home%20care%20in%20Victoria.>

¹⁴ Victoria State Government. (2021). *Assessing and managing family violence in child protection – advice*. Retrieved from: <https://www.cpmanual.vic.gov.au/advice-and-protocols/advice/case-planning/assessing-and-managing-family-violence-child-protection>



the norm and there is a significant reliance on the use of emergency protection orders which can result in the immediate removal of children from their primary caregivers.

In VACCA's experience there continues to be a lack of expertise and knowledge within statutory child protection about family violence and best practice for working with Aboriginal people. At present, there is a lack of culturally safe and targeted training for child protection workers that focuses on family violence theory and practice. Given that family violence drives such a high number of reports to child protection, it is essential that family violence training is integrated into practice. The lack of knowledge and understanding surrounding family violence results in the use of punitive approaches when working with Aboriginal children and families, these are particularly directed toward Aboriginal mothers. The penalisation of Aboriginal women by the child protection system can occur in a number of ways. First, in cases where children remain with or are to be reunified with their mother, the child protection response is meant to "support the adult victim survivor to provide for the ongoing needs of the child."¹⁵ The assumption here being that the appropriate supports and services are available and that women feel heard, safe, and empowered when coming forward to child protection. In reality we know this is often not the case.

At VACCA, we regularly work with Aboriginal women who are doing their very best to keep their children safe from harm during a very traumatic time, including reporting and sharing information with child protection and engaging in programs when they are struggling and experiencing family violence. This is often accompanied by and pressure for women who are often living in challenging circumstances and experiencing significant trauma from their experiences of family violence. This level of supervision is rarely reflected onto the men who use violence, and as a result a lot of the focus is taken away from the person using violence and put onto the person who has experienced violence – the rationale for these restrictions is that they show women are "acting protectively" toward their children. However, from VACCA's perspective, this largely falls upon the individuals experiencing violence to modify their behaviours other court conditions, including curfews, rules, and boundaries, which create a lot of anxiety and lives, rather than accountability of the person using violence. Child protection will often require that mothers avoid taking the children to places where the person using violence might be likely to locate them, and that this is framed as the mother "acting protectively". For example, a VACCA practitioner discussed a case in which a mother was directed by child protection to remain in an apartment for approximately three weeks with two toddlers and a primary school aged child. Mum told her VACCA worker that she felt she was being punished for her former partner's actions, with him being able to go about his life freely, whilst she was stuck inside, attempting to keep three very small children busy.

Secondly, as the following case study illustrates, VACCA Family Violence Practitioners regularly encounter situations where the statutory child protection system is used by men who use violence

¹⁵ Ibid.



to exert ongoing control over their partner, this is known as systems abuse. Research has tended to focus on the legal system as a key site of systems abuse, and it is our contention that there is a need for greater awareness and recognition of the potential for systems abuse within the child protection system.¹⁶ Studies which have focussed specifically on malicious reporting to child protection in the context of family violence have highlighted the negative impacts it has on mothers, and highlighted the need for improved investigation processes where a history of family violence is present, and greater accountability in cases where the child protection system appears unable to respond appropriately.¹⁷

A great deal of VACCA's work with Aboriginal women involves advocating to child protection to recognise the ways in which mothers are actively working to keep their children safe. To do so requires building relationships of trust with those who have experienced family violence. Many of the Aboriginal women whom VACCA works with are fearful of engaging with child protection and police due to experiences of racism, judgement, and child removal. Because of this, they may be reluctant to speak openly and frankly with statutory services, which is often perceived as them being disengaged or difficult. It is often only after VACCA's engagement with Aboriginal women who have experienced family violence that we gain an understanding of the 'full story', including the dynamics of violence, the plans and actions mothers' have already in place to keep their children and family safe, and what further supports are required. However, this work can only occur when ACCOs are resourced effectively so they have time to build trusting relationships so they can better understand the family story and issues that need to be addressed.

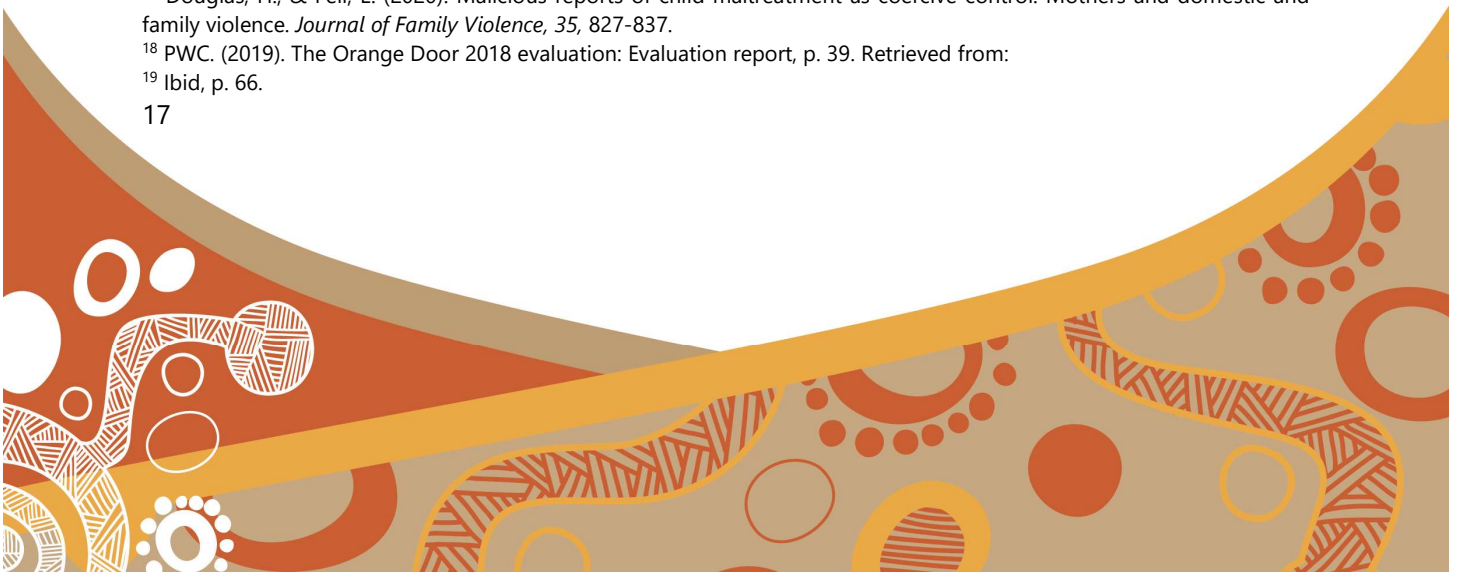
The Orange Door receives L17 reports, referrals from professionals or community, and can also accept self-referrals, but the vast majority of cases come through the L17 portal.¹⁸ Whilst each Orange Door location screens and triages cases in different ways, it often involves a multidisciplinary team of practitioners from the various organisations housed within. The variation in practice between Orange Door locations also means there are differences in terms of how the principles of Aboriginal self-determination are embedded into practice.¹⁹ VACCA practitioners have highlighted the North Eastern Melbourne Area (NEMA) Orange Door as an example of where things are working well, and that there is essentially a 'stand-alone' Aboriginal response nested within the NEMA Orange Door with Aboriginal referrals being directed to VACCA and strong relationships developed across the other services. That means that in practice, ACCOs have adequate time and resources to assess and plan with the family, which can help in diverting cases from further Child Protection involvement. The

¹⁶ Reeves, E. (2018). *Research brief: Systems Abuse*. Retrieved from: https://arts.monash.edu/_data/assets/pdf_file/0005/1529852/rb-systems-abuse.pdf

¹⁷ Douglas, H., & Fell, E. (2020). Malicious reports of child maltreatment as coercive control: Mothers and domestic and family violence. *Journal of Family Violence, 35*, 827-837.

¹⁸ PWC. (2019). *The Orange Door 2018 evaluation: Evaluation report*, p. 39. Retrieved from:

¹⁹ *Ibid*, p. 66.



success of the NEMA Orange Door highlights that when there is a culturally responsive service families are more likely to be supported to engage with services and less likely to be referred to child protection.

In other regions, VACCA staff report having less influence on direct practice with Aboriginal families, particularly with child protection. Whilst VACCA currently provides services at 11 of 18 Orange Door locations, there remains an inequitable access to resources, supports and information available to Aboriginal women, compared with non-Indigenous women. Anecdotally, VACCA staff report that the development of a centralised intake report led to a drop in the number of families self-referring and have observed that families appear to be coming to the attention of service system later on, meaning that cases are more complex and there are often more immediate safety concerns for practitioners to respond to. These reflections from VACCA staff mirror the findings of the 2018 evaluation of the Orange Door which found that collaboration on assessment and planning was “inconsistent and not yet embedded in within practice” but that it was most consistent in the work of Aboriginal practitioners.²⁰

Due to these variations, VACCA believes that addressing family violence requires the establishment of a stand-alone Aboriginal response to family violence. We discuss this in more detail further below, under *Reform Priorities*.

Recommendation:

- 5. That the Yoorrook Justice Commission recommend a review into the L17 process to identify the number of Aboriginal women who have been misidentified by police using these tools.**
- 6. That the Yoorrook Justice Commission recommend a review of the number of Aboriginal women who have been misidentified using L17 tools.**

Family Violence Service Delivery

It is VACCA's contention that there remains a lack of understanding of and respect for the complexity and level of need ACCOs are facing in responding to family violence and supporting children, young people and adults at risk of or being affected by family violence to seek necessary supports, without children being removed. In addition, investment upstream in prevention programs across the lifespan from early childhood right through to adulthood is key to preventing family violence before it starts. This includes ongoing, flexible funding for ACCOs to design, deliver and evaluate family violence prevention and early help programs across both the child and family, and family violence sectors.

We also find that there is a lack of recognition amongst mainstream service providers of the important role that ACCOs have in supporting families, and the particular understanding of the dynamics of family violence in the Aboriginal community. We operate from a trauma-informed understanding that recognises the ongoing consequences of colonisation, associated trauma for Aboriginal people and understanding that the intersection of Aboriginality and gender creates additional risks of family violence for women and children. The lack of culturally appropriate, effective, and coordinated service support across the family violence, justice, and housing sectors can reinforce cycles of poverty and exacerbate a range of mental health issues for families with complex needs, thus increasing the likelihood of anti-social behaviour and family violence. VACCA has invested extensively in providing family violence programs that are culturally embedded and help to build resilience, connection, and opportunities for healing. As the largest provider of Aboriginal family violence services in the state, we cover all of metropolitan Melbourne, Gippsland, and Ovens Murray. Our family violence therapeutic support services help Aboriginal, men, women, adolescents, and children to heal and move forward with their lives, as well as advocate for change.

In addition, VACCA operates the Aboriginal Children's Healing Team (AHT) which is an integrated therapeutic care model involving a multidisciplinary team of practitioners experienced in working specifically with traumatised children and their families in out-of-home care. The also provides training and support regarding understanding how to appropriately respond to children's experience of trauma, and their associated developmental, attachment and behavioural needs. However, this service is only funded to support children in the northern region who are living in out-of-home care. The model combines culturally grounded, family-centred, and trauma-informed approaches, theories of trauma, neurobiology and an understanding of attachment and resilience which facilitates the appropriate response to children's complex traumas. Importantly, the clinical work done by the AHT is firmly grounded in culture where lived experience is valued in addition to qualifications - a cultural clinical care model.

Although VACCA and other ACCOs have worked to increase the culturally safe service offerings across metropolitan and regional Victoria, these programs are still underfunded and lack consistency across regions. Gaps in service delivery include:

Aboriginal children who are affected by family violence

Research has shown that family violence can have long-term and significant impacts on infants (including in utero), children and young people. These impacts exist regardless of whether children have been directly subjected to family violence, but also if they witness abuse or violence toward their parent or carer or they are exposed indirectly to the effects the violence has on their living environment. Exposure to family violence can result in a range of detrimental impacts on



development, mental and physical health, housing, and overall wellbeing.²¹ Research has found that exposure to family violence is associated with a wide range of outcomes including:

- Physical and psychological disorders
- Diminished educational attainment
- Behavioural difficulties
- Homelessness
- Future victimisation and/or violent offending²²

Children experiencing family violence are often subject to two intersecting legal systems, the child protection system and the family law court. The 2019 Inquiry by the Australian Government Law Reform Commission (ALRC) into the family law system found that among parents who use courts to resolve their parenting issues, 85 per cent report a history of emotional abuse and more than 54 per cent report physical abuse.¹⁸ Significant issues have been identified in relation to child protection and the family law system being able to achieve effective and timely outcomes that are in the best interest of children experiencing family violence. The ALRC inquiry identified that some of these issues were due to divided legislative regimes and court structures and processes that address different aspects of matters impacting on families – a federal regime that deals primarily with parenting and property matters and state and territory regimes that are responsible for child protection and family violence laws.²³ This has also been raised by VACCA staff who are often working with families at the intersection of multiple court systems. VACCA staff have also expressed concern that children’s voices are not being heard and respected by these systems, and often do not have input into the decisions being made about their wellbeing.

When exposed to legal proceedings children can be subject to more harm. VACCA and Aboriginal legal service organisations have found a lack of cultural safety for Aboriginal families in the family law system, including:

- Limited understanding of the importance of the cultural and identity rights of Aboriginal children
- Inequity of access to culturally appropriate legal services
- Limited understanding of Aboriginal family structures by judges and favouring of a nuclear family structure
- Limited culturally appropriate services for Aboriginal families.

²¹ WHO (World Health Organization) 2016. [Violence against children fact sheet- external site opens in new window](#). Geneva: WHO. Viewed 1 May 2019.

²² Bland D & Shallcross L 2015. [Children who are homeless with their family: a literature review for the Queensland Commissioner for Children and Young People- external site opens in new window](#). Brisbane: Queensland University of Technology, Children and Youth Resource Centre. Viewed 22 May 2019.

²³ Australian Law Reform Commission (2019). Family Law for the Future — An Inquiry into the Family Law System: Final Report. Commonwealth of Australia. Retrieved from Weblink



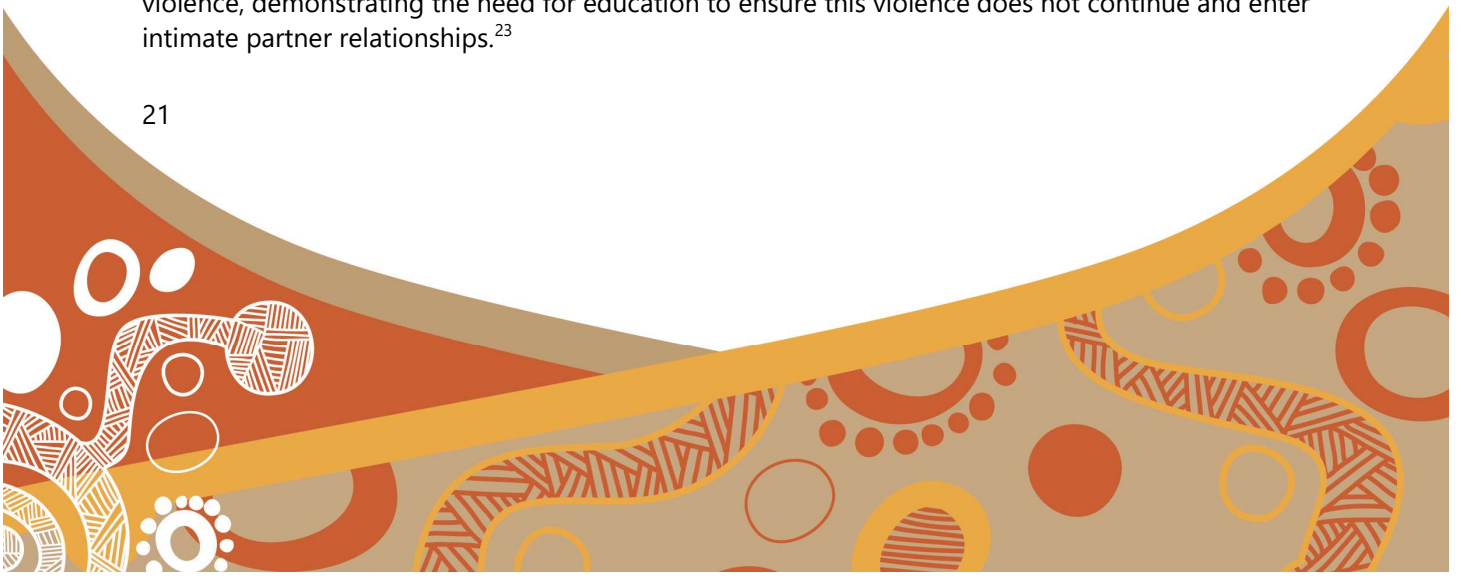
As outlined in our [submission to the Family Law Amendment Bill 2023](#), VACCA's position is that the family law system must first and foremost be rights-based and centred on the best interests of children. This includes an Aboriginal child's right to safety as well as their cultural rights being upheld and respected. It is VACCA's contention that the key to this approach is to effectively resource Family Dispute Resolution (FDR) processes, case management and mediation that is child-centered, culturally appropriate, trauma-informed and aims to resolve conflict and create new positive relationships within families. In cases where there is family violence present, a trauma-informed approach is central, ensuring that the safety of children and affected family member is central to any decisions made by the court. This should also be coupled with an understanding of the trauma and coercion placed on the affected family member, as well as the gender implications if the affected family member is a mother.

Aboriginal young people affected by family violence

In VACCA's experience, there is often a significant lack of direct focus on the needs of children in the discourse and service provision around family and sexual violence. This includes the recognition of the traumas experienced by children and young people who witness violence in the home, those experiencing it in their intimate partner relationships, and responses for young people who use violence.

Key to respecting the rights of Aboriginal children and young people is through a policy and practice response that views them both as victims in their own right, whilst acknowledging the importance of supporting the family in a holistic way that promotes healing. VACCA believes that the Victorian Government needs to take further action to build on and expand therapeutic models of care for children and young people. As highlighted above, our ACHT provides integrated, therapeutic care for children who have experienced trauma and we believe there is an opportunity to expand on this program so it is available to all Aboriginal children impacted by family violence – children need access both to crisis, short-term interventions so they have an opportunity to debrief in the aftermath of a traumatic event, as well as longer-term supports to address its impacts and heal.

Practitioners have reported a concerning rise in intimate partner violence between young people, which continues to be largely conceptualised as an issue that only impacts adult intimate relationships. At present, the service system is ill-equipped to assist young people experiencing intimate partner violence, and the lack of available services makes it challenging for young people to receive supports including case management, accommodation, early intervention, and prevention supports and education surrounding respectful relationships. Research on intergenerational family violence demonstrates a correlation between parent to child abuse (including where a child experiences parental intimate partner violence) and the subsequent use of adolescent family violence, demonstrating the need for education to ensure this violence does not continue and enter intimate partner relationships.²³



From consultations across VACCA's Family Violence programs it appears that these issues are particularly pronounced in the Ovens Murray, Wodonga, and the Eastern and Western regions of Victoria. As a result of the lack of programs and services, VACCA case managers have highlighted the increased instances of serious violence escalating in relationships between young people. There is a consensus that this violence is not being taken as seriously by police as adult violence, and a lot of responsibility is falling to case managers to do everything they can to keep young people safe without the support of services or respect from police for young people's welfare. VACCA is concerned that without adequate support for children and young people, there is the risk of further compounding intergenerational cycles of violence.

Programs to support children and young people and aim to educate on healthy, respectful relationships require urgent attention and expansion, for example VACCA's *Deadly Lovin'* program. *Deadly Lovin'* is a program for 12–17-year-old Aboriginal young people to support conversations about healthy respectful ('deadly') relationships, aiming to prevent the cycle of family violence that is overrepresented in Aboriginal communities and aiming to improve the understanding of healthy respectful relationships and consent. VACCA was funded through Dhelk Dja in 2021 to develop a Healthy Respectful Relationships Learning Module in partnership with Centre for Excellence and Innovation (CEI). The need for a culturally responsive healthy respectful relationships package came about through our experience in delivering camps in the Young Fullas project using mainstream healthy respectful relationships materials. These materials were adapted to meet the needs of Aboriginal young people in camp settings, however demonstrated the need to have a package designed specifically with Aboriginal young people in mind. In 2022, 45 VACCA staff members were trained in the *Deadly Lovin'* program to support Aboriginal young people connected with our services in group settings to improve their understanding of healthy respectful relationships. In mid-2023 - VACCA's *Deadly Lovin'* program received two-year funding through philanthropic avenues by the Paul Ramsay Foundation for delivery of train the trainer package to staff who are working with young people. This training enhances and supports program staff skills and knowledge in working with adolescents to support practice.

Recommendation:

- 7. That the Yoorrook Justice Commission call upon the Victorian Government to build upon and expand therapeutic models of care, including VACCA's Aboriginal Children's Healing Team, to support children affected by family violence.**
- 8. That the Yoorrook Justice Commission advocate for an investment in ACCO-led Aboriginal-specific Healthy and Respectful Relationships programs and consent education.**



Aboriginal young people who use violence in the home

There is still relatively scarce research and reporting on adolescents who use violence in the home (AVITH). Despite the acknowledgement of the significant harms and impacts of AVITH, particularly noted in the Royal Commission into Family Violence, there are still limited specialised service responses across Victoria, in particular culturally safe and appropriate services for Aboriginal young people. VACCA currently runs the Adolescent Using Violence in the Home therapeutic case management program in the North and West. However, there is no indication if this program will be funded to be rolled out across more regions, which is required to increase therapeutic case management for Aboriginal young people.

The system is failing to remember that young people who use violence are still themselves children, who have often experienced violence or abuse. Research demonstrates that exposure to traumatic violent experiences for children and young people can often lead to young people themselves using violence in the home.²⁴ VACCA believes children and young people who use violence in the home require age and developmentally appropriate therapeutic intervention and would like to see greater investment in family violence therapeutic services for individual and family group work, alongside preventative programs such as healthy and respectful family relationship programs which are necessary in assisting the whole family to heal and build trust.

Aboriginal people who experience sexual violence

The historical context of dispossession, removal and transgenerational trauma is an important part of understanding Aboriginal people's experience of sexual violence. Research reveals an extensive intersection between experiences of sexual and physical violence by an intimate partner, with Aboriginal people disproportionately over-represented in this cohort.²⁵ The increased awareness of the prevalence and impacts of family violence in recent years has improved reporting and attitudes towards violence against women and children, however there remains stigma within the mainstream and Aboriginal community around sexual violence.

There are significant barriers for Aboriginal women and children to report incidents of sexual violence. The lack of cultural safety and systemic racism and bias that both clients and staff report, make the criminal justice system inaccessible. This reflects a failure of the system to protect those most vulnerable and provides limited opportunity for not only justice but healing for all parties. There is an identified need for improved service responses across sectors inclusive of family violence and sexual assault systems but also ACCOs, the health, housing and education systems, Child Protection,

²⁴ Fitz-Gibbon, K., Meyer, S., Boxall, H., Maher, J., & Roberts, S. (2022). Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts (Research report, 15/2022). ANROWS. Retrieved from [Weblink](#)

²⁵ Temple, J.B., Wong, H., Ferdinand, A. *et al.* Physical violence and violent threats reported by Aboriginal and Torres Strait Islander people with a disability: cross sectional evidence from a nationally representative survey. *BMC Public Health* **20**, 1752 (2020). <https://doi.org/10.1186/s12889-020-09684-4>



police, and justice systems. A joint, integrated and holistic approach looking at historical drivers and current risk factors associated with the abuse is key with a set of agreed upon principles and framework across all sectors. Regardless of which service a person engages in, including family violence, there should be a minimum basic assessment of whether sexual violence is an issue and what culturally appropriate safety measures should be in place. The sexual assault system, family violence and ACCOs must also adopt collaborative practice, linking families into culturally specific services that are able to respond to the needs of the entire family, and responsive to the specific experiences of sexual violence. There is an urgent need for adequate resourcing and investment in ACCOs to respond to the needs of Aboriginal children and families who have experienced sexual abuse or are at risk of sexual exploitation; and to build our capacity and responses.²⁶ Unlike the sexual assault system, ACCOs are uniquely placed with strong ties to their communities and therefore with sufficient resourcing are best positioned to provide tailored, culturally strong programs with a focus on early intervention and prevention programs and specialised staff training.

VACCA runs a therapeutic sexual assault support service which operates in the western and southern regions of metropolitan Melbourne. The programs, called Nowunun Murrumbunrunner Yearkun (NMY - Healing Our Spirit) are unique, therapeutic, and healing services that are responsive to the diverse needs of Aboriginal children, young people, women, and men who have experienced sexual assault. The distinctive feature of this program is the integration of a specialist sexual assault service within an Aboriginal cultural healing context. The client cohort accessing each regional service is quite different; one servicing more adult survivors of child sexual abuse and the other supporting more recent experiences of abuse among children and young people.

It is one aspect of the government's response to the Royal Commission into Family Violence recommendation 31, that the Victorian Government provide funding for collaboration between specialist family violence and sexual assault services. VACCA would like to see the expansion of (NMY) - Healing Our Spirit' across all regions so we can better support children and young people who have experienced sexual harm. These services need to be available across the state and be flexible to support the needs of that local Aboriginal community across the lifespan.

Responses for people who use violence

Commitments made as part of national and state-level policy frameworks, including the draft of the new National Plan to Reduce Violence Against Women and Their Children, the National Agreement on Closing the Gap, and Dhelk Dja: Strong Culture, Strong Peoples, Strong Peoples, all recognise the importance of providing services and programs for people who use violence, the majority of whom

²⁶ Davis, M. (2019). Family is culture: Final report- Independent review into Aboriginal out-of-home care in NSW, Sydney: Family is Culture

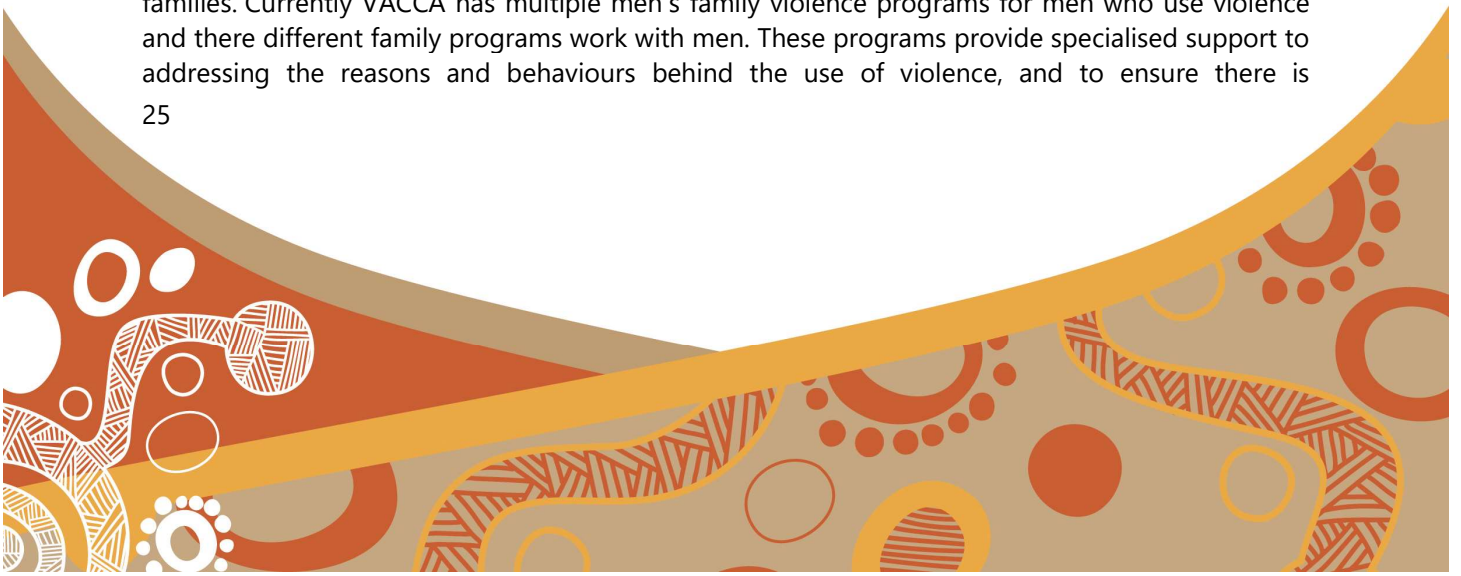


are men. The Royal Commission led to significant changes in how the service sector responds to users of violence, however ongoing challenges remain, which we describe below.

As the system currently stands it is difficult to make informed decisions that prioritise safety without access to information and the ability to identify incidents and behaviour across jurisdictions. Recommendation 7 called for the establishment of a Central Information Point (CIP) which would consist of a co-located multi-disciplinary team, led by Victoria Police, that would provide information, primarily about users of violence, to the proposed Support and Safety Hubs and other key agencies so that they can engage in safety planning with the affected family member. Currently the CIP sits at Orange Door, with limited access available to other family violence services. Given the purpose is to receive and respond to CIP requests, including to ensure services can keep the person using violence in view, this function needs to be centralised. VACCA contends that CIP should be made available to all specialist family violence services. Where a family is not engaged with The Orange Door, it is difficult to obtain historical information to identify patterns of behaviour of the person using violence. Although VACCA may receive some information from The Orange Door, it is limited and does not help us to understand the person's entire history.

One issue VACCA has encountered is in how family violence case management programs are structured to respond to L17 referrals from police. VACCA Team Leaders who work with men using violence have highlighted that they often receive an L17 referral and receive information that the ex-partner who has experienced violence has chosen not to receive help and support from services after their partner is referred as an L17. This is usually due to having a mistrust of police and support services, and often a fear that the more they disclose to services or police the more at risk they are of their partner finding out they have disclosed this information. In these cases, VACCA is concerned about the risk posed to partners who are not engaged with services, as there is minimal support and safety planning in place if they are at risk. In particular, evenings and weekends are a time when risk is heightened but there are limited supports. VACCA workers put in place extensive safety plans for the men they work with and build strong relationships to ensure they feel supported to talk through emotions and behaviors. However, VACCA's concern is that during evenings and the weekends they must leave men with safety plans and contacts of other organisations, who may not be culturally safe and with whom they do not have a pre-existing relationship. VACCA believes that it is integral for there to be an independent review of culturally safe after-hours services, to ensure services are adequately responding to demand and meeting the needs of service users.

Programs are required specifically to respond to the needs of men and young men; with a preventative focus on strengthening connection to culture and healing. Through such projects, men can collectively take a lead role in addressing violence therefore increase the safety and wellbeing of families. Currently VACCA has multiple men's family violence programs for men who use violence and there different family programs work with men. These programs provide specialised support to addressing the reasons and behaviours behind the use of violence, and to ensure there is



accountability and responsibility. Yet, options for culturally safe programs for men who use violence remain scarce, and research has found this service gap acts as a significant obstacle to achieving the intended goals of participants.²⁷ In many instances men who are seeking therapeutic support cannot make the progress they want due to the lack of availability of cultural support services, and instead are at risk of disengaging after long wait times. Access to programs for men is particularly limited in the Ovens Murray, Wodonga, and eastern regions of the state. When Aboriginal men do not have a culturally safe option they are instead diverted into a mainstream program which does not sufficiently cater to their needs, creating a risk of disengagement.²⁸ Research has indicated that men's support programs need to be "more accessible, available and appropriately targeted" to meet increasing demand and the complex needs of people who use violence.²⁹ The VACCA Family Violence Team has worked together to develop men's programs which have a clear therapeutic and healing direction, ensuring that culture underpins practice as much as possible.

According to VACCA staff, one of the major barriers to successful men's programs is the current lack of housing options for men seeking support. VACCA is currently running a Family Violence Men's program in Gippsland, which has been highly successful in providing therapeutic support for Aboriginal men in the region via Family Violence 1-1 individual case management and group work counselling service. This program has focused on:

- Understanding family violence
- Understanding and dealing with intergenerational trauma
- Talking about relationships and emotional regulation strategies for Persons using violence.
- Connecting to culture via Group work activities to promote healing: such as artwork camping and fishing on country, making clap sticks, boomerangs and spears, gym sessions golfing and through music.

VACCA Family Violence case workers have noted that when men engage in these programs it is important to assess the social risk of the person using violence. Men who use violence are often displaced from the home as a condition of their Family Violence Intervention Order (FVIO). Homelessness has been an ongoing challenge for men accessing our program, due to the lack of housing options and high prices for temporary accommodation, which puts men in the program at constant risk of homelessness. However, if we address homelessness in the program, we minimise client disengagement and breaching of FVIO. It is also a noted fact that family violence has

²⁷ Langton, M., Smith, K., Eastman, T., O'Neill, L., Cheesman, E., & Rose, M. (2020). Family violence policies, legislation and services: Improving access and suitability for Aboriginal and Torres Strait Islander men (Research report, 26/2020). Sydney: ANROWS.

²⁸ Ibid.

²⁹ Ibid.



increasingly become common amongst family member groups as well as child to parent and sibling to sibling at times.

Although VACCA submits a Victorian Housing Register application for all Family Violence program participants, they must find accommodation in the interim and this is often expensive and inappropriate for the client needs. For example, case managers report that they often rely on purchased motel accommodation, which can total up to \$1000 per week and can reach \$8000 if a participant engages for the full eight-week program. This accommodation is not therapeutic or supportive of men who often have highly complex needs. This detracts from case managers ability to further engage clients in activities such as counselling or achieving practical goals.

However, if they are unable to accommodate program participants this can result in them breaking their FVIO and returning to the home of a partner, which cause them to be re-arrested. The lack of safe, affordable crisis, short- and long-term housing options, particularly for clients with complex needs, alongside the stress that comes from insecure housing can also cause men to disengage in the therapeutic elements of the program, limiting the progress that could otherwise have been made. The below case study illustrates how inadequate and unsuitable housing is a major barrier in effectively working with men to address their behaviours and stop using violence.

Recommendation:

- 9. That the Yoorrook Justice Commission recommends that the Victorian Government commit to an independent review of culturally safe after-hours services, to determine whether services are adequately responding to demand and meeting the needs of service users. This review should include assessing:

 - a. Funding
 - b. Prioritisation of Aboriginal services
 - c. Use of the Standard Indigenous Question**
- 10. That the Yoorrook Justice Commission recommend the provision of mandatory Aboriginal Cultural Awareness training for all staff working within after-hours crisis services.**
- 11. That the Yoorrook Justice Commission recommends that the Victorian government grant access to the Central Information Point (CIP) for specialist family violence practitioners.**



Holistic support for the whole family

Due to the scarcity of services, it is challenging for Aboriginal families to access holistic, whole of family support. VACCA case workers report that many families request this type of support, and this simply cannot be accessed in several regions across Victoria, including Ovens Murray, Wodonga and the Northern and Eastern regions of Melbourne. At present, western centric models of support which prioritise an individual lens dominate responses to family violence. The Aboriginal approach to family violence response is a holistic approach inclusive of the whole family, which still holds people who are using violence to account, but also recognises the impacts of colonisation, intergenerational trauma, Stolen Generations and experiences of family violence on both affected family members as well as on those who use violence. At present, mainstream organisations are funded for a broader provision of services than ACCOs. For example, there are no Aboriginal referral sites equivalent to WIRE, which offers free support, referrals and information on any issue for women, non-binary and gender diverse people in Victoria.³⁰ In addition, the Women's Health Network has existed for over 20 years and was only funded for the first time in 2023 to deliver Aboriginal specific support through an ACCHO. It is essential ACCOs and ACCHOs receive funding for the provision of these services to offer Aboriginal people a culturally safe equivalent to services which exist in the mainstream.

Family Violence Supports for People with Disability

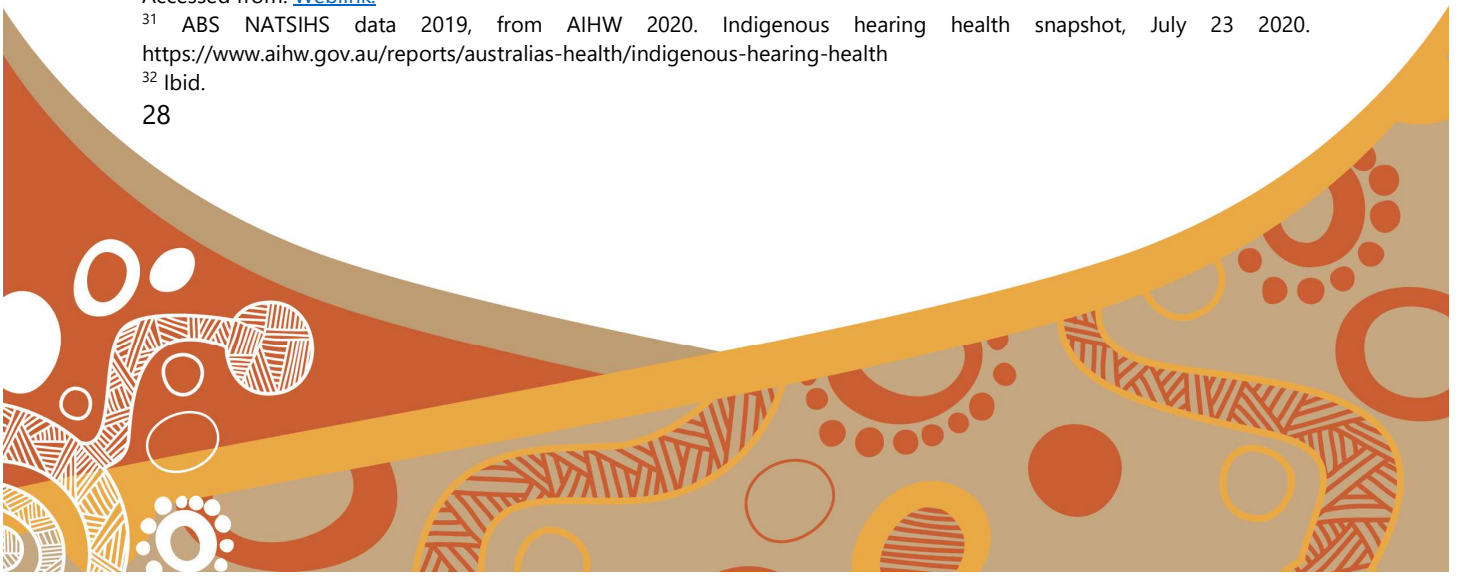
In 2021 VACCA undertook a cross-sectional disability data collection project across 35 of our programs to understand the prevalence of diagnosed disability within the community we serve. What we found is that our numbers are significantly higher than national data reports. For example, Australian Bureau of Statistics (ABS) NATSIHS data from 2018/19 shows that 22 per cent of Aboriginal children surveyed were living with a disability (compared with 8 per cent non-Aboriginal children).³¹ The baseline data that we collated indicated that 35 per cent of Aboriginal children aged 17 and under across all 35 programs were living with a diagnosed disability.³² Specifically relating to the 11 family violence services, these programs had the second highest prevalence of Aboriginal children living with a diagnosed disability, with 29 per cent of clients 17 and under in family violence programs living with a disability. For adults, 6 of the 11 family violence programs surveyed had 50 percent or more adult clients living with a disability.

This data confirms what we know more broadly about the developmental concerns and social and emotional wellbeing of Aboriginal children in care and in family violence situations, the increased risk of violence against Aboriginal children with disabilities, and the need for early intervention and

³⁰ WIRE, free support, referrals and information on any issue for women, non-binary and gender diverse people in Victoria. Accessed from: [Weblink](#).

³¹ ABS NATSIHS data 2019, from AIHW 2020. Indigenous hearing health snapshot, July 23 2020. <https://www.aihw.gov.au/reports/australias-health/indigenous-hearing-health>

³² Ibid.



sustained support.³³ The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability raised concern about the alarming rates of family violence and sexual violence experienced by women and girls with disability, including 40 per cent of women with disability having experienced physical violence after the age of 15 (compared to 26 per cent for women not living with disability).³⁴ The Commission also highlighted that close to 50 per cent of women living with cognitive disability or psychological disability had experienced sexual violence (compared to 16 per cent of women not living with disability).³⁵

For children, young people and adults living with disability, the failure of the family violence, justice and child protection systems to meet their needs is exacerbated by challenges accessing disability assessments or diagnosis and therefore often making them unable to access NDIS supports. In particular, there is a lack of access to neuropsychological assessments pre and post sentence due a limited capacity and a lack of knowledge in court and custodial settings on acquired brain injuries (ABI), such as:

- Foetal Alcohol Syndrome Disorder (FASD)
- Traumatic Brain Injury (TBI) and the correlation to the prevalence of family violence and assault/accident rates
- Hypoxic Brain Injury (HBI) and the link to drug related overdose and juvenile chomring.

The correlation between family violence and acquired brain injuries (ABI) has been well documented in the literature.³⁶ The Victorian Royal Commission Into Family Violence also recognised the potential for ABIs to contribute to the use of family violence cases, both increasing the risk that one might use violence but also that one might experience it. In its recommendations, the Royal Commission called upon the Victorian Government to fund research into the prevalence of ABIs amongst both individuals who experience and those who use violence. Brain Injury Australia was funded by the Victorian Government to undertake this research, with the final report released in 2018. This research found that 40 per cent of affected family members attending Victorian hospitals over a 10-year period presented with an ABI and that Aboriginal peoples were overrepresented.³⁷ It recommended

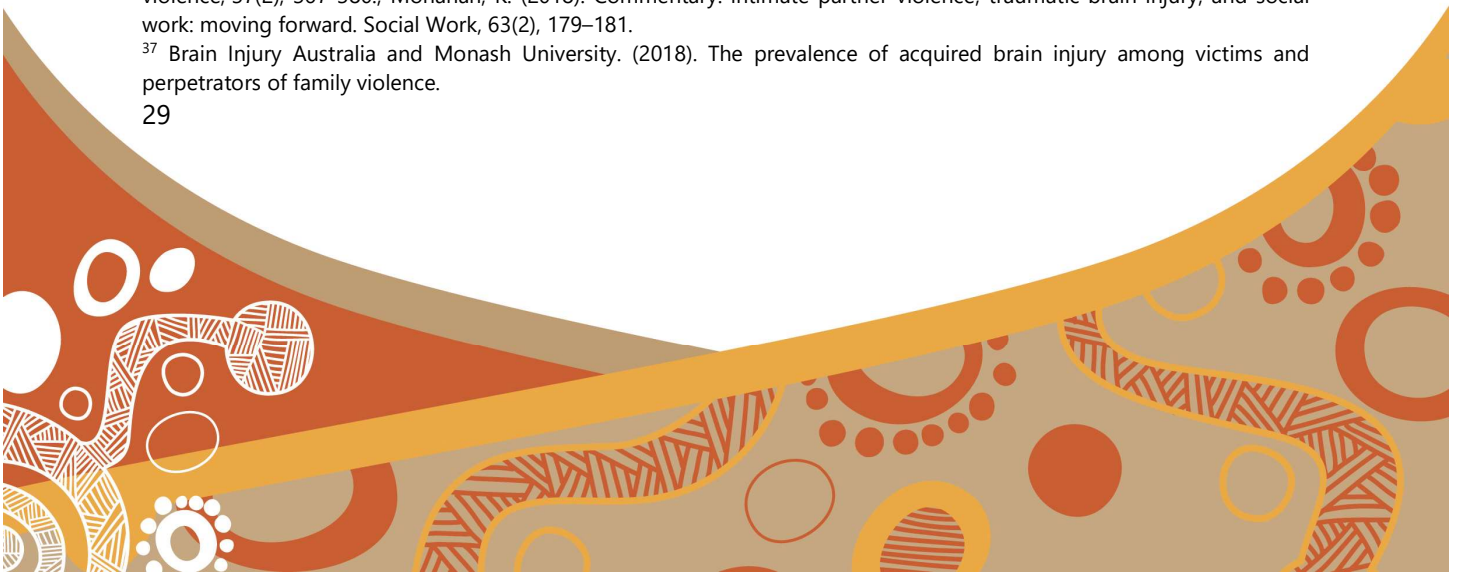
³³ Temple, J.B., Wong, H., Ferdinand, A. et al. Physical violence and violent threats reported by Aboriginal and Torres Strait Islander people with a disability: cross sectional evidence from a nationally representative survey. *BMC Public Health* 20, 1752 (2020). <https://doi.org/10.1186/s12889-020-09684-4>

³⁴ The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 'Alarming rates of family, domestic and sexual violence of women and girls with disability to be examined in hearing' October 2021. Via [weblink](#)

³⁵ Ibid.

³⁶ Lansdell, G. T., Saunders, B. J., Eriksson, A., & Bunn, R. (2022). Strengthening the connection between acquired brain injury (ABI) and family violence: the importance of ongoing monitoring, research and inclusive terminology. *Journal of family violence*, 37(2), 367-380.; Monahan, K. (2018). Commentary: intimate partner violence, traumatic brain injury, and social work: moving forward. *Social Work*, 63(2), 179-181.

³⁷ Brain Injury Australia and Monash University. (2018). The prevalence of acquired brain injury among victims and perpetrators of family violence.



that an integrated support service be developed to undertake screening as well as provide treatment and support services to individuals who experienced an ABI as a result of family violence. Unfortunately, this recommendation has yet to be actioned. Given that Aboriginal peoples experience family violence related ABI at a higher rate, this service needs to be Aboriginal-led. There is currently a project underway to bridge the gap between research and practice provide a qualitative exploration of Aboriginal women with traumatic brain injury, who experience head injury at a rate 69 times higher than other Australian women.³⁸ This research will be instrumental in understanding traumatic brain injury amongst Aboriginal women who have experienced family violence.

A Canadian study that was referenced in the 2021 Senate inquiry into effective approaches to prevention, diagnosis and support for foetal alcohol Spectrum disorder (FASD), looked at 80 mothers who had given birth to a child with FASD and found that 95 per cent of them had been seriously sexually, physically or emotionally abused as a child or adult.³⁹ 80 per cent had a major mental health issue, predominantly PTSD. 72 per cent of these 80 women felt unable to reduce their alcohol use because they were in an abusive relationship.⁴⁰

In response, research has continuously highlighted the challenges Aboriginal people face in accessing supports for disability, including the National Disability Insurance Scheme (NDIS). Based on participation rates and anecdotal evidence from VACCA staff, Aboriginal children and families are not accessing the NDIS to their fullest capacity. Alternatively, family and or/carers are taking the responsibility of caring upon themselves without the necessary supports. Carers/parents have difficulties navigating the NDIS including knowing how or where to have a disability assessment, requirements of the NDIS and who they can seek advice from. A lack of awareness leads to misunderstanding the service, not reaping the benefits, and provoking families to withdraw. Support staff and case managers have raised challenges in trying to navigate and utilise the NDIS. Uncertainty about where referrals can be made, which services are culturally safe or criteria for disability packages were common challenges and consequently disability packages may not be completed properly. Even where case coordination has been included under an NDIS plan, there has often been insufficient allocation of hours to reflect the time required. Alternatively, families seek help from trusted Aboriginal Community Controlled Health Organisations (ACCHOs) and ACCOs who often do not have the capacity to support their needs. Whilst several regional ACCOs have NDIS support roles, this is not necessarily at a scale required to meet needs. Data indicates that 24 per cent of Aboriginal

³⁸ ANROWS, *Invisible disability: Indigenous women living with traumatic brain injury*, retrieved from: [weblink](#).

³⁹ Parliament of Australia, Senate Committee, 'Effective approaches to prevention, diagnosis and support for Foetal Alcohol Spectrum Disorder Inquiry: [weblink](#); Centre of Excellence for Women's Health. (2016). *Women, Alcohol and FASD Prevention*. [weblink](#)

⁴⁰ Centre of Excellence for Women's Health. (2016). *Women, Alcohol and FASD Prevention*. [weblink](#)



people having disability, twice the rate of the general population.⁴¹ It is therefore essential that there is increased support for Aboriginal children and families to navigate the NDIS in a culturally safe way.

VACCA has established specialist disability worker roles in each our Child Protection regions through a partnership with Yooralla, a mainstream disability support service. We think that the gaps in access to NDIS support for families impacted by family violence could be addressed by establishing similar roles within our family violence team.

Recommendation:

- 12. That the Yoorrook Justice Commission recommend the Victorian government invest in establishing specialist disability worker roles within family violence services.**
- 13. That the Yoorrook Justice Commission recommend the Victorian government commit to resourcing ACCOs to develop education and training on utilising the NDIS referral system.**
- 14. That, in line with Brain Injury Australia's report, the Yoorrook Justice Commission to call upon the Victorian Government to commit significant funding to establish an Aboriginal-led specialist integrated brain injury and family violence service.**

Elder Abuse

We see many Elders who are experiencing family violence within their immediate family, such as from their children and/or grandchildren. Given the central role that Elders play as caregivers within their families and communities, they are often focused on caring for and supporting those around them, and do not necessarily identify abusive and controlling behaviours as being forms of family violence. Whilst specialised family violence services should be inclusive of and responsive to the unique needs of Elders, it is also important that social and community programming, such as Elder's Groups and the supports already available through Link-Up and the Aboriginal Community Elders Services Inc (ACES), have staff with the training, resources, referral pathways to identify and support Elders who might disclose experiences of abuse to them.

Analysis of the National Aboriginal and Torres Strait Islander Survey conducted in 2019 under the National Elder Abuse Prevalence study showed that 16 per cent of survey participants aged 45 and over had experienced physical violence in the last 12 months, and that although Aboriginal people aged 50 and over were proportionally lower than the total population (2 per cent) they experienced a proportionately greater representation in hospitalisations for non-fatal assault (17 per cent), as victims of family and domestic violence (11 per cent) and as victims of homicide (5 per cent).⁴²

⁴¹ The State Government of Victoria (2022), *about people with disability*, retrieved from: [weblink](#).

⁴² Qu, L., Kaspiew, R., Carson, R., Roopani, D., De Maio, J., Harvey, J., Horsfall, B. (2021). *National Elder Abuse Prevalence Study: Final Report*. (Research Report). Melbourne: Australian Institute of Family Studies.



Disclosure of Elder abuse remains particularly challenging for Aboriginal families as many are hesitant of utilising mainstream services due to a well-founded fear of involvement by statutory systems. It is important that Elders have access to appropriate, culturally safe, and supportive services that are responsive to their specific needs and operate from a trauma-informed understanding, recognising the ongoing consequences of colonisation and associated trauma for Aboriginal people.

VACCA contends that there needs to be a significant focus on increasing community awareness and education around the issue of Elder abuse. In order to better understand both the issue of Elder abuse, as well what supports are required to support Elders and their families, VACCA believes that the Yoorrook Justice Commission should hold a yarning session with ACES on the issue.

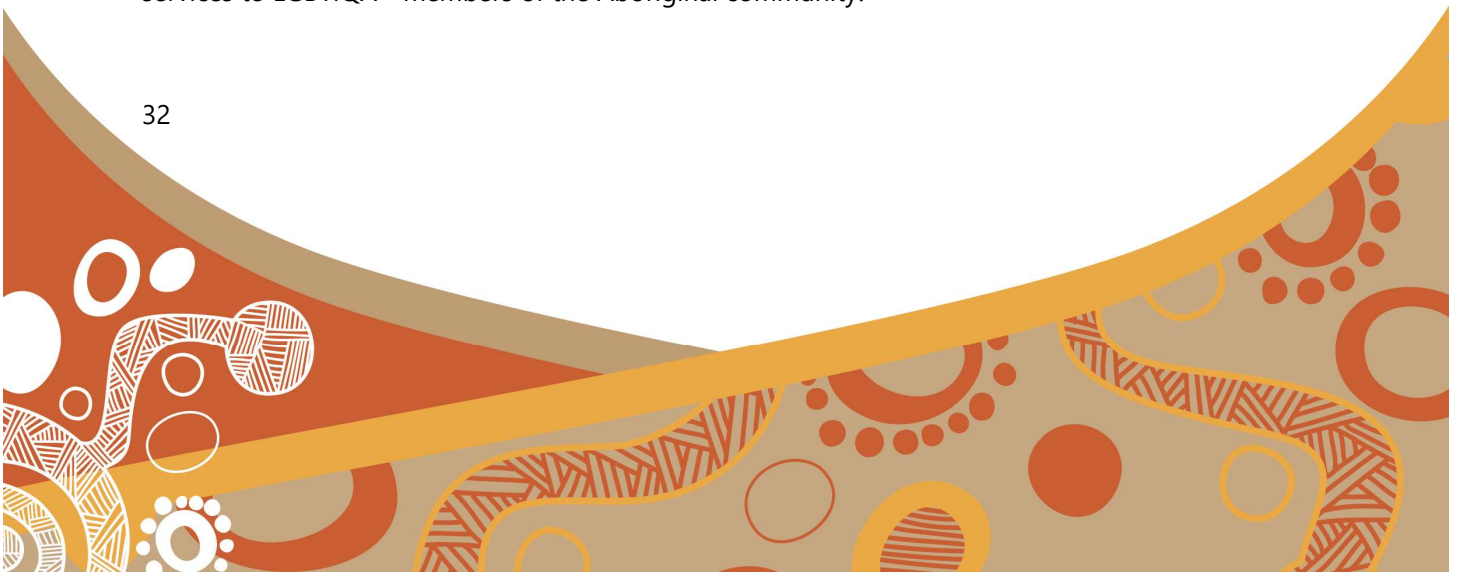
Recommendation:

15. That the Yoorrook Justice Commission undertake a yarning session with ACES on the issue of Elder abuse.

LGBTQIA+ Communities

The deliberate and systemic violent human rights abuses against Aboriginal women and children, compounded by racism, sexism, ableism, homophobia, and transphobia is not just a historic issue, but rather an ongoing and enduring issue of human rights abuses and violations. We know that LGBTQIA+ Aboriginal community members are at an even greater risk of violence and abuses, and their specific needs and experiences must be at the centre of Victoria's commitment to address family violence. Despite the establishment of a number of initiatives, including the development of community education materials, the establishment of a state-wide LGBTQIA+ Family Violence Inclusion Advisor position, and funding for the Rainbow Door, VACCA believes that there is ongoing work that needs to be done to ensure that Rainbow mob experiencing violence are safe and supported.

We know that LGBTQIA+ members of the Aboriginal community experience additional barriers in accessing family violence supports, including experiences of discrimination and a lack of understanding of the dynamics of family violence within LGBTQIA+ relationships. Despite this, there is currently no specialist funding provided to ACCOs, including VACCA, to deliver specialised family violence services to Rainbow mob. Whilst VACCA holds Rainbow Tick Accreditation, we know that there are many ACCOs which have yet to receive theirs, and that this is primarily an issue of resourcing. ACCOs should be funded to support building their capacity to be responsive to the specific needs of the LGBTQIA+ people. For example, ACCOs could be funded to design and deliver specialised training for family violence workers to support them in delivering inclusive and safer services to LGBTQIA+ members of the Aboriginal community.



AOD Support

VACCA has been advocating for the needs of individuals who have experienced violence and who are also experiencing alcohol or other drug (AOD) issues to be recognised and accommodated. We are concerned of the significant risk of harm posed to both women and their children, where Aboriginal women are denied access to family violence crisis accommodation because they have AOD dependency. This leaves them with no option but to return to violent situations or face homelessness. This is an unacceptable failure of the duty of care of the government and the sector to ensure that those fleeing violent situations are able to access services that meet their needs in a trauma informed, culturally safe and therapeutic approach.

It is VACCA's contention, and this is shared by the Victorian Alcohol and Drug Association, that we are faced with a systemic issue that is causing further harm to women and children fleeing family violence. The policy and practice approach of family violence crisis support and refuge services, who are denying service on the basis of AOD use, are failing to meet the needs of clients as a result. These services intrinsically show a lack of understanding about the intersection between family violence, AOD use and mental health issues. We must ensure that our services meet community needs and provide a multi sector response to ensure holistic, trauma informed, family centered therapeutic supports and interventions. These services intrinsically show a lack of understanding about the intersection between family violence, AOD use and mental health issues.

It is VACCA's contention that denial of service is akin to failure of duty of care, and contributes to systemic discrimination against Aboriginal women. The Multi Agency Risk Assessment and Management framework (MARAM) notes the compounding and intersecting nature of family violence and abuse, including the impact on mental health and wellbeing, as well as the use of AOD as a means of coercion and control, or a coping mechanism against trauma by the affected family member. Yet, when these vulnerable at-risk community members are denied crisis support services, this shows an abject disregard by the system for their rights to service and a life free from violence.



Recommendation:

- 16. That the Yoorrook Justice Commission advocate for funding to establish an Aboriginal-specific holistic family violence, mental health, and AOD crisis accommodation service in each region.**
- 17. That the Yoorrook Justice Commission recommend the state government invest in ongoing training opportunities to support family violence workers to understand the intersection between mental health, AOD and family violence.**
- 18. That the Yoorrook Justice Commission advocate for the embedding of a multi-disciplinary approach to service delivery across AOD, Mental Health, Family Violence and Family Services that responds to the specific individual needs of each person accessing the service.**
- 19. That the Yoorrook Justice Commission advocate for the inclusion of AOD rehabilitation services as a part of the crisis and refuge services.**

Policing and legislative responses to family violence

In many cases, police responses to family violence fail to protect Aboriginal women. Research demonstrates that both police inaction, through failures to respond or enforce the law, as well as police action, through misidentification and the criminalisation of women who experience violence, are sources of harm for Aboriginal women who come into contact with police.⁴³ These experiences lead to fear and mistrust of police, which in turn make Aboriginal women who are at risk of serious harm or death, less likely to contact police when they need help. This is exacerbated by fears of child removal, with a family violence incident meaning mandatory reporting to child protection through the Orange Door. Analysis of coronial investigations into the deaths of Aboriginal women have found that the actions and inaction of police are “akin to systemic racism, or at the very least, lazy policing.”⁴⁴ As the following case study illustrates, where Aboriginal women confront these fears and contact police, there is no assurance that they receive the support they have a right to.

Misidentification

The misidentification of women who have experienced violence as the ‘aggressor’ by police remains a major issue in how systems respond to family violence. It has significant consequences for women. Firstly, misidentification means that there is a lack of accountability toward the actual person using violence which places women and children at risk of harm. Furthermore, the flow-on effects of misidentification can be significant and long-term. For women, these include further criminalisation

⁴³ Buxton-Namisnyk, E. (2022). Domestic violence policing of First Nations women in Australia. ‘Settler’ frameworks, consequential harms and the promise of meaningful self-determination. *The British Journal of Criminology*, 62(6), 1323-1340.

⁴⁴ Cripps, K. (2023). Indigenous women and intimate partner homicide in Australia: Confronting the impunity of policing failures. *Current Issues in Criminal Justice*. <https://doi.org/10.1080/10345329.2023.2205625>



if they are subjected to criminal charges, child removal, employment and financial instability if a woman loses access to government payments or is terminated because of a criminal record, and homelessness if a woman is excluded from the home.⁴⁵ Aboriginal women are at greater risk of misidentification as users of violence and VACCA has seen a number of cases where police have responded to a client as the aggressor, rather than as an affected family member. For instance, data from the Crime Statistics Agency shows that in 2020, 79.4 per cent of Aboriginal women recorded as respondents had previously been recorded as 'victim', in comparison to 58.7 per cent of all women.⁴⁶

When violence against Aboriginal women and children becomes normalised and their lives devalued, it means they are no longer viewed as victims by authorities and receive a negligent response, increasing the likelihood of experiencing further harm. In a 2021 review, the Victorian Family Violence Implementation Monitor found high rates of misidentification among Aboriginal women. Between 2016 and 2020, nearly 80 per cent of Aboriginal women who were identified by police as the respondent in family violence incidents had also been previously recorded as an affected family member (compared with nearly 60 per cent for all female respondents).⁴⁷ The Family Violence Reform Implementation Monitor's research also indicates that police continue to lack adequate training to understand family violence and signs of trauma and abuse (including the prevalence of acquired brain injuries) and self-defence, that they do not adequately look at the history of family violence incidents for the parties involved, nor their history of prior offending, and instead treat the incident at 'face value'.⁴⁸

In addition, we know that the police referral (L17) process itself can lead to misidentification of Aboriginal women as the "primary aggressor" because the L17 often lacks important contextual and historical information that speaks to the pattern of family violence. Misidentification is a major issue, which Victoria Police are aware of. VACCA believes that a key weakness of the current L17 form is that it is narrowly focussed on the current family violence incident to which the police are responding at the time. This stands in contrast with other risk assessment tools, including the MARAM, which seek to develop an understanding of the alleged user of violence's history and pattern of family

⁴⁵ Family Violence Reform Implementation Monitor. (2021). *Misidentification is a significant issue that has enormous consequences for the victim survivors*. Retrieved from: <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor-4>

⁴⁶ Ibid.

⁴⁷ The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 'Alarming rates of family, domestic and sexual violence of women and girls with disability to be examined in hearing' October 2021. Via [weblink](#)

⁴⁸ Family Violence Reform Information Monitor, 'Acknowledging the complexity of the family violence incidents police attend, police practice and processes are contributing to misidentification'. Accessed on 7/12/22 via: <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor-5>



violence behaviour.⁴⁹ For example, in Darebin, Victoria Police have been trialling a misidentification tool, however they are assessing their own work rather than involving VACCA and other agencies in this work. VACCA has raised concerns with Victoria Police around the lack of information and transparency of the trial and were told that they had assessed that there were only a few misidentifications, which we know is not true. From VACCA's experience, misidentification is a common occurrence. The fact that the Victoria Police found very few cases of misidentification indicates a level of misunderstanding about what family violence looks like for Aboriginal women and their children.

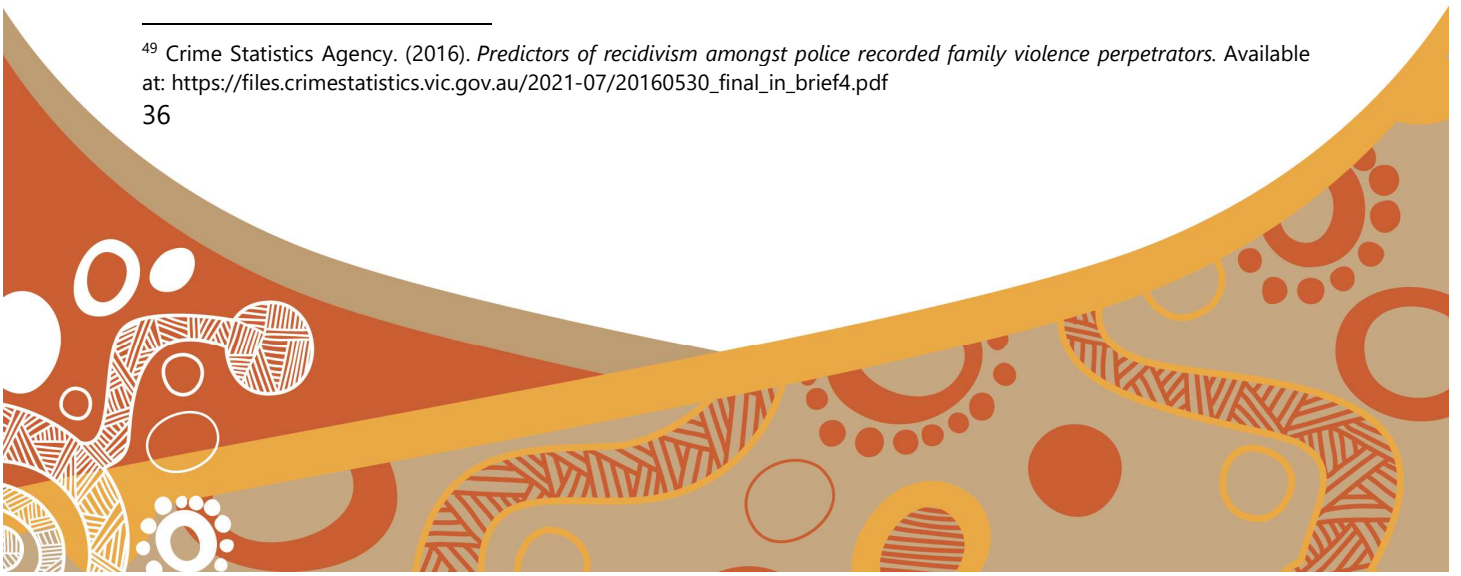
As the following case study illustrates, misidentification has serious consequences– it directly contributes to the overrepresentation of Aboriginal women in custody, as well the removal of children.

It is crucial for authorities to accurately identify the predominant aggressor, so that affected family members are kept safe and users of violence are held accountable for their use of family violence. We also note that, as reported by Victoria Police, the current rate of asking the Standard Indigenous Questions (SIQ) for L17s is sitting around 80-90 per cent. Fundamentally there are issues due to the lack of consistent data collection, which will impact our ability to meet Closing the Gap targets and reporting associated with the Victorian implementation plan. Given the serious impacts of misidentification, VACCA believes that there needs to be an independent audit of Victoria Police to determine the number of and factors which lead to misidentification and make recommendations for addressing gaps in practice.

Recommendation:

- 20. That the Yoorrook Justice Commission recommends Victoria Police undertake quarterly cultural safety training and regular cultural supervision to ensure better practice, this will help to address the institutional racism and bias, alongside building their understanding of family violence in Aboriginal families. Organisational attainment of training should be reported regularly to Dhelk Dja to ensure accountability.**
- 21. That the Yoorrook Justice Commission recommend an independent audit of family violence incidents to better understand and respond to misidentification.**
- 22. That the Yoorrook Justice Commission recommends Victoria Police must consistently follow up on missing reports on an Aboriginal child, young person or woman in timely manner and not make assumptions about where they may be but act as if they are in imminent danger.**

⁴⁹ Crime Statistics Agency. (2016). *Predictors of recidivism amongst police recorded family violence perpetrators*. Available at: https://files.crimestatistics.vic.gov.au/2021-07/20160530_final_in_brief4.pdf



The criminalisation of women experiencing family violence

Aboriginal women are the fastest growing prison population, with a high proportion of these women having dependent children.⁶ We know that unsentenced women make up over 60 per cent of Aboriginal women in prison, and that 80 per cent of Aboriginal women in prison are mothers.⁵⁰ The prevalence of family violence and the damaging effects of family violence have been recognised as key drivers of incarcerated Aboriginal men, and increasingly Aboriginal women.⁵¹ Prison population surveys have consistently revealed high rates of sexual abuse and family violence among incarcerated Aboriginal women, with one 2013 survey of Victorian female prisoners finding 87 per cent had experienced sexual, physical or emotional abuse, with most having suffered abuse in multiple forms.⁵²

As detailed in the previous section, the misidentification of women as primary aggressors in family violence incidents is one way that criminal justice systems criminalise women who have experienced family violence. In Australia, 80 per cent of Aboriginal women who are imprisoned are mothers, this corresponds with the experience of VACCA staff who report that the vast majority of the women they work with have children.⁵³ As detailed in our previous submission to this commission, 90 per cent of the women whom VACCA has supported as part of its Dardee Djeetgun Women's Diversion Program have experienced family violence, and many have been identified as the primary aggressor. Furthermore, a high proportion of the women supported through the program are mothers and do not have custody of their children. The lack of a specific approach to addressing the needs of children of imprisoned parents creates challenges in ensuring that children have regular, safe contact with their parent. Please refer to our [Response to the Inquiry into Children of Imprisoned Parents](#) for more detail.

Another issue VACCA sees in its work with incarcerated women who have experienced family violence is that many of the conditions placed on women upon their release can adversely impact their safety. Whilst incarcerated, women rarely receive supports to address their needs, including access to Aboriginal-led, culturally appropriate, and wrap-around responses. From our perspective, in determining sentencing and bail conditions, there is often unreasonable expectations placed upon women, as the following case study illustrates.

⁵⁰ 2020-21 Corrections and Justice Services Data Report to the Aboriginal Justice Forum, November 2021; Senate Standing Committees on Legal and Constitutional Affairs, Parliament of Australia, Value of a Justice Reinvestment Approach to Criminal Justice in Australia (2013) 21.

⁵¹ [PwC's Indigenous Consulting, Indigenous Incarceration: Unlock the Facts \(2017\) 23.](#)

⁵² [Victorian Equal Opportunity and Human Rights Commission, Unfinished Business: Koori Women and the Justice System \(2013\).](#)

⁵³ Bartels, L. (2012). Painting the picture of Indigenous women in custody in Australia. *QUT Law & Justice Journal*, 12(2), 1-17. Retrieved from: <https://lr.law.qut.edu.au/article/view/487/473/view.html>



VACCA commends the Victorian Government on its intention to reform bail laws, noting the disproportionate effect of current laws on Aboriginal peoples, and support the Victorian Aboriginal Legal Service (VALS) Yoorrook submission and advocacy on bail reform. The proposed amendments include changes which recognise the historical and ongoing systemic factors that have resulted in overrepresentation, as well as the risk of harm and trauma that being in custody poses to Aboriginal peoples. However, there also needs to be greater attention paid to the types of restrictions placed upon Aboriginal women, and the duty of the state to provide the necessary supports to ensure that women on bail are able to reconnect with their families and communities. Whilst it is hoped that such amendments will reduce the number of Aboriginal people in prison on remand, it will also require greater investment in culturally appropriate pre and post release supports that are holistic and incorporate education, health, housing, welfare, education and justice systems.

Recommendation:

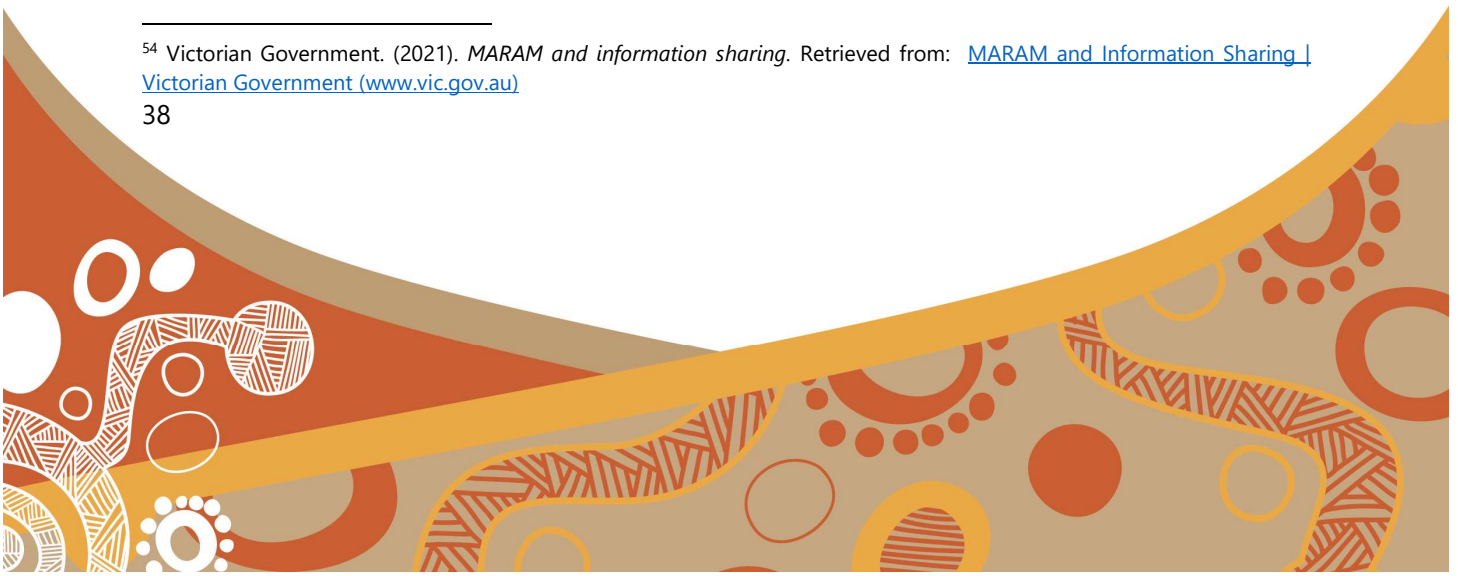
23. That the Yoorrook Justice Commission recommend the expansion of support for incarcerated women who are impacted by family violence.

MARAM and VACCA's leadership in embedding a cultural lens

VACCA strongly advocated the need for, and the implementation of, the Family Violence Multi-Agency Risk Assessment and Management Framework (MARAM). The MARAM was designed to increase the safety and wellbeing of people experiencing violence by supporting relevant services to identify, assess and manage family violence risk.⁵⁴ It sets out the key principles and elements to embed into policies, procedures, and practices, so that organisations who work with children and families have the skills required to identify the level of family violence risk and respond appropriately. VACCA has undertaken and invested significant resources to embed MARAM across the organisation.

Since the development of MARAM in 2018, VACCA has undertaken significant work and advocacy to ensure that a cultural lens is embedded across all aspects of this framework. In addition, we have advocated consistently for the need of, and then been funded to develop resources and adapt tools to embed a cultural lens in the screening, assessment, and management of family violence risk across VACCA. This includes the development and adaption of training tools and resources for adults and children who have experienced violence. As implementation of MARAM has progressed, VACCA has seen the involvement of ACCOs increase and occur at an earlier stage, which we see as fundamental to the successful implementation of MARAM. Instead of Aboriginal involvement being perceived as an 'add-on', we have observed an increased recognition of the need to partner with Aboriginal organisations. This has provided the opportunity for a cultural lens to be embedded in more

⁵⁴ Victorian Government. (2021). *MARAM and information sharing*. Retrieved from: [MARAM and Information Sharing | Victorian Government \(www.vic.gov.au\)](https://www.vic.gov.au/maram-and-information-sharing)



meaningful and substantive ways. As the suite of tools under MARAM expands and develops, there will also be a need to consolidate and develop training, tools and resources for practitioners who work with all members of the family impacted by family violence.

A central goal of MARAM is to ensure that all parts of the service sector have a shared understanding of family violence risk assessment and management. Whilst VACCA agrees with this intent, we also recognise the importance of Aboriginal-led approaches to family violence prevention and response. This is to ensure all services are culturally safe and responsive to the diverse needs of Aboriginal adults, children and young people who are affected by family violence. There needs to be funding for place-based and needs based programs to deliver services specific to the community needs in that area. In recent years, VACCA has been encouraged by the Victorian Government committing more strongly to building and embedding a cultural lens across all aspects of the MARAM reform.

A major challenge in MARAM implementation is supporting the translation of policy into practice. As such, there are numerous areas where further efforts are required to ensure consistent uptake and implementation of MARAM across the entire service sector. Firstly, to support the MARAM reform process, the Victorian Government established the MARAM Sector Grants program. This program was to ensure that services received funding to embed MARAM and information sharing requirements through their organisations. From VACCA's perspective, this funding should have been provided to all ACCOs from the outset to ensure consistent implementation. In addition, given that embedding MARAM involves long-term systems change and that the tools for adults and young people using violence have yet to be finalised, there will be a need for long-term resourcing, in our view at least an additional five years, to continue the process of aligning policies, procedures and practices with the framework. This funding must include ongoing evaluation of the training, tools, resources and implementation of MARAM across the sector.

VACCA practitioners continue to report inconsistent use of the MARAM risk assessment tool, particularly by statutory child protection. This also includes the quality of L17s, which are developed by police but are central for informing the MARAM risk assessment. For example, the tool might lack detailed information, or have not been completed at all despite the presence of family violence risk factors. There is a need to ensure that all bodies prescribed under MARAM recognise their duty to identify, assess and respond to family violence. VACCA believes that the Victorian Government should undertake a review to evaluate how MARAM implementation is progressing across the service sector. The Family Violence Reform Implementation Monitor is undertaking an independent legislative review which includes a review of the legal provisions supporting the Family Violence Information Sharing Scheme and MARAM.⁵⁵ However, an implementation review would look more

⁵⁵ Family Violence Reform Implementation Monitor. (2023). *Independent legislative review of family violence reforms*. Retrieved from: [Independent legislative review of family violence reforms | Family Violence Reform Implementation Monitor \(fvrim.vic.gov.au\)](https://www.fvrim.vic.gov.au)



closely at whether MARAM is achieving its aim of strengthening the identification, assessment, and response to family violence in Victoria.

With no existing federal information sharing system, there are limitations as to how effective information sharing can be across jurisdictions. A commitment to improve collaboration and build a shared understanding of family violence risk within Victoria also provides an opportunity to look how we share information and support safety for women and children nationally. VACCA practitioners note that responding to family violence in a cross-border context remains a major challenge. Indeed, research shows that service delivery inconsistencies, and the lack of information sharing protocols in other jurisdictions, lead to delays in responding and providing families with the services and supports they need.⁵⁶

Recommendation:

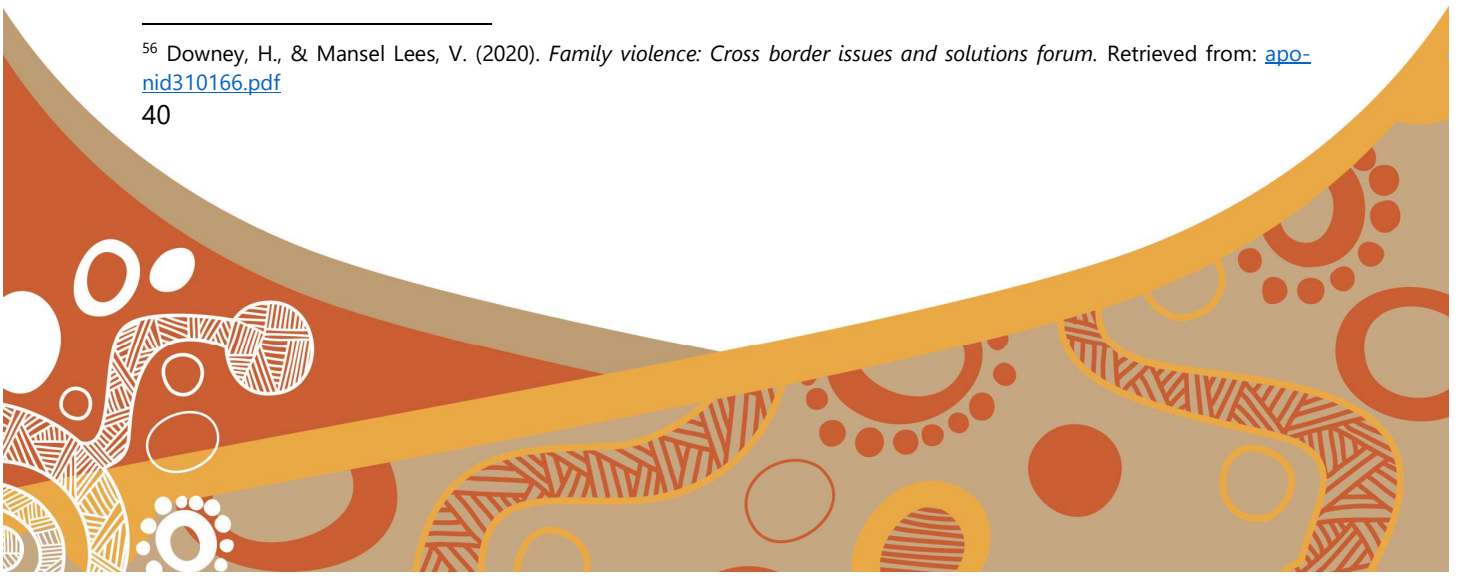
- 24. That the Yoorrook Justice Commission recommend the Victorian Government to commit to ongoing funding through the MARAMIS Sector Grants initiative to ensure that ACCOs can continue to strengthen their response to family violence.**
- 25. That the Yoorrook Justice Commission recommend the Victorian Government commit to a sector-wide implementation review of the MARAM.**
- 26. That the Yoorrook Justice Commission recommend the implementation of a national family violence information sharing scheme.**

Consistency across jurisdictions

Moving forward, family violence reform priorities need to align with relevant national frameworks, including the *National Agreement on Closing the Gap* ('Closing the Gap') and the *National Plan to End Violence Against Women and their Children 2022-2032* (the 'National Plan'). Closing the Gap represents a fundamental shift in the approaches of governments, one that is built upon genuine and meaningful partnership with the ACCO sector and wider Aboriginal community. The National Agreement on Closing the Gap has a target to reduce the rates of family violence against Aboriginal women and children by at least 50 per cent by 2031.

The National Plan is the national policy framework that is designed to guide the work of Commonwealth and state governments at all levels, policy makers, businesses and workplaces, specialist organisations and family, domestic and sexual violence organisations including ACCOs and workers in addressing, preventing, and responding to gender-based violence in Australia. A key benefit of a national approach is the potential for it to create greater consistency in family violence legislation, policy, and practice. Despite the existence of these national frameworks, there continues

⁵⁶ Downey, H., & Mansel Lees, V. (2020). *Family violence: Cross border issues and solutions forum*. Retrieved from: [apo-nid310166.pdf](#)



to be significant variation in responses to family violence across Australia, which in turn leads to differences in the treatment of women and children experiencing violence.⁵⁷ As detailed in our previous submission, we remain concerned that these policy commitments are not being translated into a transfer of resources and power to the Aboriginal community.

Both Closing the Gap and the National Plan recognise the right of self-determination, and the need for governments to develop legislation, policy, and practice through full and genuine partnership with Aboriginal peoples. However, in practice we continue to see a top-down approach to policymaking, an example of this being approaches taken to the criminalisation of coercive control across the country, including in NSW, Queensland, and South Australia. In November 2022, the NSW Parliament passed legislation which made coercive control in intimate partner relationships a criminal offence, whilst Queensland and South Australia are taking active steps in this direction.⁵⁸ Tasmanian law also has a criminal offence which is aimed at non-physical forms of family violence, such as economic and emotional abuse.⁵⁹ Given the intense public debate surrounding it, it is important that the needs of Aboriginal women remain paramount in discussions. Key to this has been the question of whether criminalising coercive control is the most appropriate response. At this stage, the Victorian Government does not appear poised to introduce legislation criminalising coercive control, with the government stating that coercive behaviour is already included under its definition of family violence within the Victorian Family Violence Protection Act.⁶⁰ However, where other jurisdictions have moved forward with it, questions remain over how to ensure Aboriginal women and children are not adversely impacted.

⁵⁷ Taylor, A., Ibrahim, N., Wakefield, S., & Finn, K. (2015). Domestic and family violence protection orders in Australia: An investigation of information sharing and enforcement.

Reeves, E. (2020). Family violence, protection orders and systems abuse: views of legal practitioners. *Current issues in criminal justice*, 32(1), 91-110.

Jeffries, S., Bond, C. E., & Field, R. (2013). Australian domestic violence protection order legislation: A comparative quantitative content analysis of victim safety provisions. *Current Issues in Criminal Justice*, 25, 627-643.

⁵⁸ Rose, T. (2022, 16 Nov). NSW passes law to make coercive control a stand-alone offence in an Australia first. *The Guardian*. Retrieved from: <https://www.theguardian.com/australia-news/2022/nov/16/nsw-passes-law-to-make-coercive-control-a-stand-alone-offence-in-an-australian-first>

⁵⁹ Standing Committee on Social Policy and Legal Affairs. (2020). *Inquiry into family, domestic and sexual violence*. Retrieved from:

https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/Familyviolence/Report/section?id=committees%2Freportrep%2F024577%2F75463

⁶⁰ Topsfield, J. (2023). Domestic violence victims overwhelmingly back criminalising coercive control. *The Age*. Retrieved from: <https://www.smh.com.au/national/domestic-violence-victims-overwhelmingly-back-criminalising-coercive-control-20230321-p5ctvm.html>



Recommendation:

27. That the Yoorrook Justice Commission to ask the Victorian Government to produce evidence illustrating how future family violence reforms will align with national commitments, including the National Plan to End Violence Against Women and Their Children 2022 – 2023 and the National Agreement on Closing the Gap.

The implementation of international treaties and declarations

A key concern for VACCA is Australia's ongoing failure to meaningfully implement international declarations and treaties that affect and impact the rights and safety of Aboriginal women and girls, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as the United Nations Convention on Rights of the Child, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Committee on the Elimination of Discrimination against Women and the Convention on the Prevention and Punishment of the Crime of Genocide.

All levels of government must do better to uphold the rights of Aboriginal peoples and implement legislative and policy reforms that address the links between systemic bias, structural disadvantage, and rates of violence against Aboriginal peoples, particularly women and children. In our December 2022 submission to Yoorrook Justice Commission we discussed ongoing failures by the Victorian Government to recognise the right of self-determination and collective rights of Aboriginal peoples more broadly within the state's primary human rights framework, the Charter of Human Rights and Responsibilities Act 2006.

The intersection of family violence and homelessness

Family violence is one of the main reasons for Aboriginal young people, women, families and men enter homelessness.³⁹ There are a number of complex and compounding reasons why individuals, in particular women and children, are forced to remain in unsafe housing, with a key issue being no alternative, affordable accommodation. For affected family members seeking to leave a violent household, there is a lack of housing options available and those leaving often need safe, secure and specialised housing. For children and young people, family violence is the leading cause of homelessness and can have a detrimental impact on their life trajectory, affecting their educational, physical, mental and emotional wellbeing and development.⁴⁰ Aboriginal children, women and families are disproportionately over-represented in rates of family violence, and Aboriginal women are 15 times more likely to access homelessness and crisis housing than non-Indigenous women.⁴¹ Everyone has the right to secure housing and somewhere they feel safe. Family violence undermines this right and pushes affected family members to leave their home and find accommodation elsewhere. However, many women who seek specialist homelessness services request assistance as



they do not have the financial stability to acquire housing and consequently their options are extremely limited, impacting on their ability to leave a violent environment.

As detailed in VACCA's submission to the inquiry into the extent and nature of poverty in Australia we note that while poverty can be a contributing factor for family violence, experiences of family violence can also increase the risk of housing stress and homelessness and therefore poverty.⁴² Unaffordable or insecure housing means that those fleeing violence, in particular women and children, are often economically dependent on users of family violence. In addition, financial abuse is a highly prevalent issue in Australia with severe impacts on women and children yet is often not given the adequate weight it deserves in family violence prevention and response.⁴³

Anne Summer's report 'The Choice: Violence or Poverty' articulates what is so often the experience of Aboriginal women, that they are faced with living with family violence or entering policy induced poverty,⁴⁴ identifying the insufficient social security payments contribute to the experience of financial hardship.⁴⁵ This is why the provision of Aboriginal-specific, culturally safe, affordable and accessible housing is key to addressing the cycle of poverty, family violence and homelessness. This must also be combined with ACCO-led, wrap-around, trauma informed responses that support the specific needs of Aboriginal families affected by family violence.

Currently, there are only 423 government funded crisis beds across Victoria, yet the state experiences more than 9,500 instances of emergency accommodation required each year.⁴⁶ Alternative crisis accommodation consists of options which are not culturally safe or long-term, including motels, boarding houses, hostels and caravan parks. This lack of stable and safe accommodation is resulting in affected family members being more likely to return to violent partners, and users of violence are often unable to engage fully in behaviour change programs due to the lack of accommodation options.

VACCA's Orana Gunyah program is one example of community-led service delivery embedded in Aboriginal self-determination and the rights of women and children. It supports Aboriginal women and children, women with Aboriginal children or carers with Aboriginal children fleeing family violence. All clients that seek refuge receive full therapeutic and case management, including administrative support to complete public, social and private rental housing paperwork. Since its conception, Orana Gunyah Outreach has supported 370 women and 527 children. The crisis accommodation aspect of the program has housed 139 women with children, and while some have returned to the situation they left, most have moved to other refuges, to stay with kin or acquired public housing or a private rental. The correlation between family violence and homelessness for Aboriginal women and children has in the past remained a hidden issue as Aboriginal women are apprehensive to approach mainstream services due to fear that if they disclose the presence of family violence, their children may be removed. Yet, when access to an Aboriginal specific, culturally appropriate, and wrap-around response is available there is an increase in the number of Aboriginal



women and children seeking assistance. A culturally safe response supports women's willingness to come forward, fosters empowerment and allows women to see a positive future for themselves and their children. Orana Gunya is only in one of VACCA's regions, we know there is community need for crisis accommodation across all VACCA regions, VACCA recommends that government fund Aboriginal led family violence crisis accommodation across all regions.

Reform Priorities

Aboriginal response to FV: Aboriginal self-determination and self-governance

Self-determination and self-governance are critical to affect change for Aboriginal communities and meaningful progression through Aboriginal community-designed and led service responses is required to achieve this. VACCA believes that addressing family violence within the Aboriginal community requires a stronger commitment from the Victorian Government and the mainstream sector to transfer services and resources to enable Aboriginal control of the service sector. This reform would also be aligned with commitments under the National Agreement on Closing the Gap to support greater investment in ACCOs to design and deliver services across the family violence sector. This could be modelled on the commitments made by the child and family services sector in *Beyond Good Intentions*.⁶¹ From VACCA's perspective, there needs to be a stand-alone Aboriginal response, similar to the Orange Door which triages, assesses, and provides wrap-around support to families experiencing family violence.

Recommendation:

28. That the Yoorrook Justice Commission recommend the development of a stand-alone Aboriginal-led response to family violence.

Equity in access across metro/regional/rural

VACCA provides family violence services in Gippsland and the Ovens Murray area. From our experience in delivering family violence services in these regions, there is a lack of equity in access to culturally appropriate family violence services and supports across the spectrum of prevention, early intervention and response in regional areas. Challenges facing service delivery in regional areas include a lack of access to services and inadequate service coordination, a shortage of workers in the community services sector (in particular family violence practitioners), and the need for additional support stemming from the COVID-19 pandemic and the rising cost of living. Research by ACOSS in 2022 highlighted that only 3 per cent of services felt they could meet the demand they faced, and 81 per cent of family violence services reported their main service was affected by staff exhaustion or burnout.⁶²

⁶¹ Centre for Excellence in Family and Child Welfare. (2015). *Beyond Good Intentions*. Retrieved from: <http://128.199.174.185/wp-content/uploads/2015/12/Beyond%20Good%20Intentions%20Spreads.pdf>

⁶² Cortis, N. and Blaxland, M. (2022) Helping people in need during a cost-of-living crisis: findings from the Australian Community Sector Survey, Sydney: ACOSS.



The issue of family violence and homelessness is also compounded in regional and rural areas where there is already limited housing stock and an affordable housing crisis. As discussed previously, our Orana Gunyah program is one example of community-led service delivery embedded in Aboriginal self-determination and the rights of women and children. Operating in regional and rural areas, Orana Gunyah program provides critical culturally appropriate crisis service and accommodation in Gippsland, Latrobe Valley, Baw Baw, South Gippsland and Bass Coast.

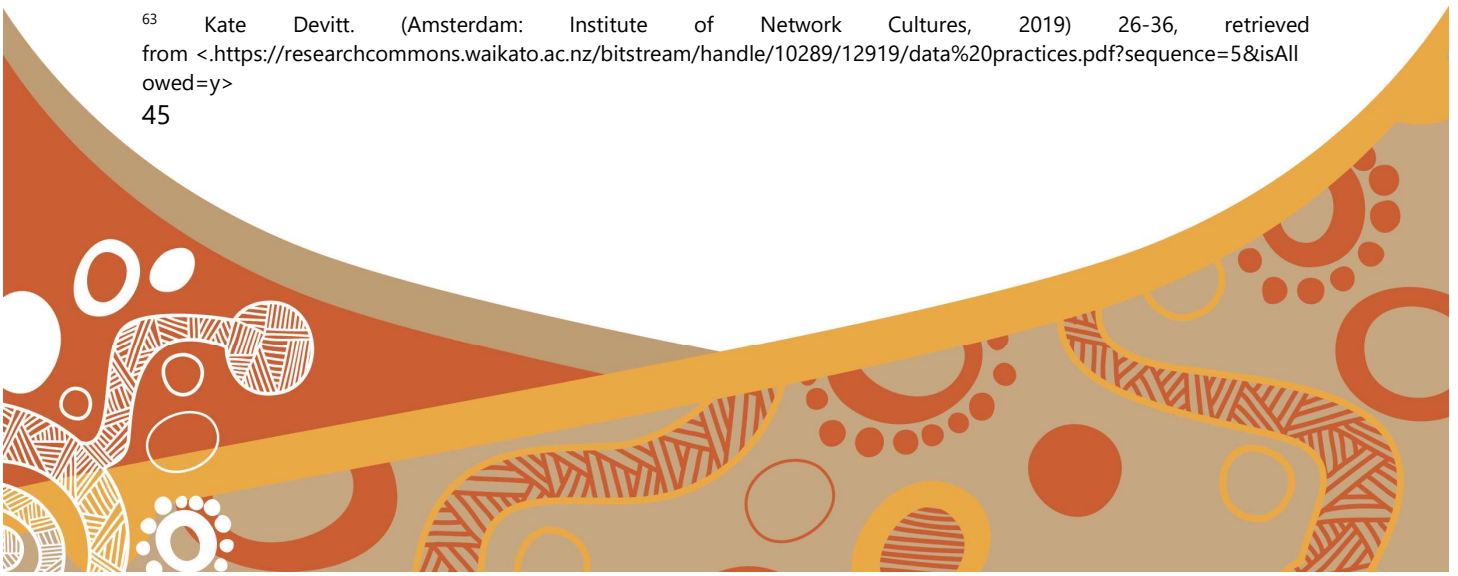
VACCA advocates for greater investment in culturally appropriate family violence programs in regional areas across prevention, early intervention, and response, but in particular, we call for culturally safe crisis accommodation noting the compounded impact of family violence and experiences of homelessness in regional areas.

Data sovereignty

VACCA is committed to building an Aboriginal evidence base in line with the principles of data sovereignty. Data sovereignty is a rights-based framework surrounding the ownership, control, management, and acquisition of data.⁶³ In the Aboriginal context, this actualises as a form of self-determination where Aboriginal communities, organisations and individuals have access to data about Indigenous people and with the ability to make decisions pertaining to them that are in the best interest of community.

Data sovereignty has been characterised as an emerging driver to address many systemic and deep-rooted issues affecting Aboriginal peoples and organisations capacity and capability to generate, collect and store data. Whilst data sovereignty has been repeatedly raised as being fundamental to progressing self-determination, what it looks like in Victoria and more specifically within the Aboriginal Community Controlled sector remains unclear. The Dhelk Dja: Safe Our Way Agreement identified Aboriginal -led and informed innovation, data, and research as one of five priorities. This emphasises the importance of Aboriginal access to data and asserts that measures of success and other mechanisms of data must be determined by Aboriginal communities. Dhelk Dja recognises the need to work holistically across multiple sectors including police, courts and health and human services to access data for Aboriginal organisations and community's benefit and respond to family violence. Alongside this, the Victorian Government has made a range of commitments to progressing Aboriginal data sovereignty, including in the recent [Victorian Closing the Gap Implementation Plan](#), [the Victorian Aboriginal Affairs Framework \(VAAF\)](#), [Korin Korin Balit Djak \(Aboriginal Health, Wellbeing and Safety Strategic Plan\)](#), [Burra Lotjpa Dungaludja \(Aboriginal Justice Agreement Phase](#)

⁶³ Kate Devitt. (Amsterdam: Institute of Network Cultures, 2019) 26-36, retrieved from <<https://researchcommons.waikato.ac.nz/bitstream/handle/10289/12919/data%20practices.pdf?sequence=5&isAllowed=y>>



4) and in [Mana-na worn-tyeen maar-takoort \(Victorian Aboriginal Housing and Homelessness Framework\)](#), Despite these commitments, little to no progress has been made.

Aboriginal peoples are one of the most studied populations, with almost all research and data unavailable to the communities they pertain to, which should be considered as a means of spiritual and cultural abuse.⁶⁴ Often portrayed negatively, or with a deficit lens, institutional racism remains a significant barrier to social inclusion. Beginning in settler-colonial anthropological research, subsequently led to Western researchers aiming to scientifically prove white superiority over Aboriginal people.⁶⁵ Contemporarily, it occurs in research and policy making in sectors including child and family welfare, family violence, health, housing and justice.⁶⁶ Reinstating and emphasising the ownership of data back into Aboriginal communities serves as a much-needed effort towards Aboriginal self-determination and responding to rising rates of family violence. Giving Aboriginal peoples the power make decisions about what data is used, control over how they represent themselves and the ability to choose how research is conducted is integral.

VACCA is committed to working towards data sovereignty and building Aboriginal evidence base specific to family violence. This work is focusing on developing our systems and improving data collection, guided by our Cultural Therapeutic Ways framework and consisting broadly of;

- Engaging staff in a participatory process of clarifying the 'logic' of their program's design;
- Co-designing with staff a program monitoring and evaluation plan based on this logic;
- Integration of these plans into our own systems
- Monitoring program delivery, benefits and outcomes
- Making sense of the emerging data and learn about what is working and not working to strengthen and/or adapt program design and delivery, and Continuing this cycle over time to continuously improve and evolve program responses.

VACCA encourages the Commission to consider our recommendation to announce a focus on family violence as part of their truth telling process. We welcome the opportunity to speak to this submission with Commissioners in due course.

For further information, please contact Sarah Gafforini, Director, Office of the CEO via sarahg@vacca.org.

⁶⁴ Victorian State Government, *Victorian Family Violence Data Collection Framework*, (Australia, 2021). <https://content.vic.gov.au/sites/default/files/2019-11/Family-Violence-Data-Collection-Framework-October-2019.PDF>

⁶⁵ Edward Said, *Orientalism*, (United States: 1978), 30. https://sites.evergreen.edu/politicalshakespeares/wp-content/uploads/sites/33/2014/12/Said_full.pdf; Mark Francis, "Social Darwinism and the construction of institutionalised racism in Australia", *Journal of Australian Studies*, 20:50-51 (1996), 90-105, DOI: 10.1080/14443059609387281

⁶⁶ Raymond Lovett et al., *Good Data Practices for Indigenous Data Sovereignty and Governance*, 28.

