



WIRRINGA BAIYA
ABORIGINAL WOMEN'S LEGAL CENTRE

Submission

Evidence to action: informing direction for the Second Action Plan

July 2026



Wirringa Baiya Aboriginal Women's Legal Centre

Wirringa Baiya is a not-for-profit, NSW state-wide community legal centre for Aboriginal and Torres Strait Islander women and children in NSW. The Centre's focus is to assist victims of violence, particularly those who have experienced domestic and family violence, sexual violence, and child sexual assault. We regularly provide legal advice to Aboriginal and Torres Strait Islander women who have experienced violence from multiple perpetrators during their lives.

Our core work includes providing free legal advice and casework for clients as well as running community legal education sessions and engaging in law reform work.

Our service was the first of its kind in Australia and has been operational for close to 30 years. Our service is managed by Aboriginal women. Our Governing Committee is made up entirely of Aboriginal women. Our CEO is an Aboriginal woman, and we have several Aboriginal and Torres Strait identified positions.

We are a gender-specific service sensitive to the culturally diverse needs of Aboriginal and Torres Strait Islander women who have been victim-survivors of violence.

A number of staff members have had input to this submission, and it is based on the collective work of all Centre staff, both the legal and the Aboriginal and Torres Strait Islander specialist teams.

Terminology

Aboriginal and Torres Strait Islander

We recognise the sovereignty and choice of Aboriginal and Torres Strait Islander peoples to determine how they are referred to.

Aboriginal and Torres Strait Islander communities and identities are diverse and expansive. To recognise the shared experiences of systemic discrimination and racism since colonisation, and the distinct and rich cultures, traditions and histories of these communities, we refer to 'Aboriginal and Torres Strait Islander' communities and peoples.

Victim-survivor

We acknowledge the various language preferences of women who have experienced gender-based violence. We use the term 'victim-survivor' to acknowledge the ongoing effects and harm caused by abuse and violence and to honour the strength and resilience of people with lived experience of gender-based violence.

Criminal legal system

The criminal legal system has, since its inception, routinely disadvantaged Aboriginal and Torres Strait Islander peoples – through discriminatory policies and laws that have led to over-policing of communities, over-incarceration, and poor responses to reports of violence. As such, the criminal legal system fails to deliver 'justice' for Aboriginal and Torres Strait Islander peoples, and in particular, Aboriginal and Torres Strait Islander women and children. We consciously use the term 'criminal legal system' instead of 'justice system' to recognise that its failure to deliver justice for women and children who experience violence, as well as recognise the injustices that the system itself causes. It is a legal system with western and colonial roots that has been imposed on Aboriginal and Torres Strait Islander peoples.

Executive Summary

Wirringa Baiya Aboriginal Women's Legal Centre welcomes the opportunity to contribute to the Second Action Plan. As a member of Women's Legal Services Australia (WLSA), this submission complements WLSA's. Where WLSA speaks to the legal system as a whole, this submission focuses on particular issues we want to stress concerning the experiences and safety of Aboriginal and Torres Strait Islander women and children. Time does not permit us to do a more comprehensive submission. However, we look forward to contributing to the implementation of *Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026–2036*.¹

This submission addresses the three priority areas most relevant to our clients: Priority Area 1 (victim-survivors), Priority Area 2 (prevention and early intervention), and Priority Area 5 (system integration and workforce).

The violence experienced by Aboriginal and Torres Strait Islander women cannot be understood in isolation from colonisation, dispossession, the disruption of family and kinship structures, systemic racism, and the imposition of Western patriarchy. These harms are reflected in disproportionate rates of homicide, assault-related hospitalisation, and domestic and family violence.² They are compounded when systems intended to provide safety instead respond with disbelief, delay, misidentification, criminalisation or unsafe information sharing.

In our experience, victim-survivors continue to be deterred from disclosing violence and accessing counselling, legal advice and specialist support by fear of state intervention, including child removal; fear of being misidentified as the perpetrator; institutional mistrust; and uncertainty about how information may be shared.

The Second Action Plan is an opportunity to address these harms by strengthening culturally safe services, preventing misidentification, recognising Aboriginal community-controlled legal services as early intervention, and embedding accountability across the systems women rely on for safety.

We focus on three connected priorities. First, victim-survivors must be able to disclose into Aboriginal and Torres Strait Islander led, culturally safe, trauma-informed services, supported by long-term funding and measurable change within police and other agencies. Second, misidentification of victim-survivors as perpetrators must be treated as a discrete national priority, addressed through national standards, competency frameworks, independent audits, senior Aboriginal leadership and workforce accountability. Third, prevention must include Aboriginal community-controlled legal services, respectful relationships education co-designed with community, privacy protections for therapeutic records, and funded early independent legal advice at first contact.

Underpinning all three is self-determination. The responses women rely on must be Aboriginal community-controlled and community-led by design, delivered through long-term funding, culturally grounded healing and prevention, and mainstream accountability, alongside a mandated referral to independent Aboriginal legal and wraparound support. These recommendations seek to ensure the Plan is measured by whether it increases safe disclosure, correct identification, culturally safe support and accountability.

¹ Department of Social Services (Cth), *Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence 2026–2036* (Report, 2026).

² Australia's National Research Organisation for Women's Safety, *Evidence to Action: Informing Direction for the Second Action Plan* (Consultation Paper, 2026).

Recommendations

Culturally Safe Wraparound Support

1. Long-term funding of Aboriginal and Torres Strait Islander community-controlled, gender-specialist family safety services, with Aboriginal governance and decision-making, culturally grounded healing and prevention, and accountability for mainstream systems to respond safely at the point of disclosure.
2. Set measurable targets for structural change within police and other agencies to eliminate systemic racism, sexism and ableism, designed and monitored in genuine partnership with Aboriginal and Torres Strait Islander community-controlled organisations.
3. Embed self-determination as a design principle across the Second Action Plan, commit to full implementation of the *Aboriginal and Torres Strait Islander Action Plan 2023–2025*, and fund Aboriginal and Torres Strait Islander community-led healing as core prevention and recovery infrastructure.

Housing

4. Treat safe, affordable and long-term housing as a strong lever for change, including accelerated delivery of affordable housing, expanded crisis and transitional accommodation, dedicated exit points and removal of eligibility barriers affecting women on temporary visas.

Prevention of Misidentification

5. Amend domestic and family violence legislation across all jurisdictions to make domestic abuse the basis for protection orders, requiring a contextual approach that considers both parties' behaviour within the relationship as a whole, and limits cross and dual order applications to exceptional circumstances.
6. Introduce legislative and policy guidance for the accurate identification of the person most in need of protection, requiring police to consider relevant factors, consult family violence specialists before labelling parties, and give standing to the person most in need of protection to be heard.
7. Resource police recruitment, training and capability to strengthen frontline responses and reduce the misidentification of Aboriginal and Torres Strait Islander victim-survivors.
8. Implement the Australian Human Rights Commission's National Anti-Racism Framework, embedding anti-racism and cultural safety across policing, work health and safety laws, and government funding contracts, and introduce a positive duty to eliminate unlawful discrimination.
9. Establish clear, expedited processes for identifying and correcting misidentification, and align police policies with common risk assessment approaches, court practice notes and benchbooks.
10. Resource the recruitment and retention of a culturally capable police workforce, strengthen accountability and cultural safety as ongoing responsibilities.

Prevention and Early Intervention

11. Fund Aboriginal Community-Controlled Organisations to deliver community-led healing as core, ongoing prevention infrastructure rather than short-term projects, and deliver the Second Action Plan alongside full implementation of the *Aboriginal and Torres Strait Islander Action Plan 2023–2025*.

12. Recognise and fund Aboriginal and Torres Strait Islander community-controlled legal services as early intervention and prevention infrastructure, reflecting their role as a first and often only point of safe disclosure for Aboriginal and Torres Strait Islander women, and their work correcting misidentification and securing safe outcomes before harm entrenches.
13. Fund education and prevention programs that are created and delivered by Aboriginal and Torres Strait Islander communities, ensuring content is culturally safe and responsive, as determined by Aboriginal and Torres Strait Islander communities, and relatable for Aboriginal and Torres Strait Islander children.
14. Invest in storytelling-based resources, including films made by community and featuring actors from community, drawing on real community stories to drive reflection and change.
15. Support the provision of Aboriginal-only learning sessions where appropriate, so Aboriginal and Torres Strait Islander children can engage with the material in a safe space.
16. Deliver early intervention programs beyond schools, including through juvenile justice and youth detention centres, adult correctional facilities, and community, cultural and sporting events, to reach children who are not attending school regularly.

Information Sharing

17. Information-sharing policy, including arrangements within co-location models, must be clear, transparent and grounded in Indigenous data sovereignty. Victim-survivors must be informed of how their information will be used and shared, with whom, and for what purpose, and be warned of any risks before disclosing.
18. Consideration should be given to establishing an absolute privilege for sexual assault counselling communications, consistent with the Tasmanian model, across all jurisdictions. Victim-survivors must understand how their information will be used and be warned of any risks before disclosing.

Consultation Questions

Priority Area 1 – Violence against women and other forms of gender-based violence

Structural barriers to reporting

Aboriginal and Torres Strait Islander women face significant barriers to reporting sexual violence, within a broader context shaped by colonisation, systemic racism, over-policing and the ongoing impacts of the Stolen Generations.³ These women experience disproportionately high rates of violence,⁴ yet sexual violence remains significantly under-disclosed.⁵

Barriers include limited access to culturally safe services, workforce gaps, and systems often experienced as unsafe or unresponsive.⁶ In our experience, fear of state intervention, including child removal, combined with institutional mistrust and uncertainty about how information may be shared, continues to deter many victim-survivors from disclosing sexual violence and accessing the counselling needed for healing.

Concerns about where information may go, who may access it, and whether it may trigger scrutiny of parenting, health, substance use, or prior system involvement are powerful deterrents. This fear is justified and reflects lived and collective experience.

Research confirms that complainants' personal histories may be scrutinised in sexual offence trials in ways that risk compounding harm. The report *Experience of Complainants of Adult Sexual Offences in the District Court of NSW: A Trial Transcript Analysis* found that some complainants were questioned about aspects of their past that might cast them in a poor light and undermine their credibility as a witness.⁷ These included substance use and addiction, mental illness, criminal convictions and having had children placed in out-of-home care. This is discussed further below.

We note the Consultation Paper's recognition of the need to improve understanding of sexual violence in all its forms, and to simplify legal processes and reduce adversarial practices that cause victim-blaming, re-traumatisation and disengagement. We support that direction, and submit that protecting therapeutic and counselling records is a core component of it, not a procedural side issue. A right to counselling a woman cannot use without risking its disclosure in court is not, in practice, access to healing.

Courage to disclose is meeting a service system that cannot respond

Frontline services are already stretched well beyond capacity. In NSW, two in three new referrals to specialist domestic and family violence services cannot be assigned to a caseworker immediately, and sexual assault services report significant wait times.⁸ For our clients, constraints mean culturally safe, gender-specialist support is often simply not there when it is needed most.

³ NSW Department of Communities and Justice, *NSW Sexual Violence Plan 2022–2027* (Report, December 2022) 12.

⁴ Our Watch, 'Aboriginal and Torres Strait Islander Women' (Web Page) <https://fullstop.org.au/get-help/find-services/aboriginal-and-torres-strait-islander-communities>.

⁵ Ibid.

⁶ Australian Institute of Health and Welfare, 'Aboriginal and Torres Strait Islander People' (Web Page, 30 June 2023) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people>.

⁷ NSW Bureau of Crime Statistics and Research, *Experience of Complainants of Adult Sexual Assault Offences in the District Court: A Trial Transcript Analysis* (Crime and Justice Bulletin No 259, 2023).

⁸ Equity Economics and Development Partners, *The Unmet Demand Crisis Facing Domestic and Family Violence Services in New South Wales* (Report prepared for Domestic Violence NSW, 2026).

The consequence is that the system's response to a disclosure is frequently a waitlist or a referral to another service that is also full. Each additional referral is another opportunity for a woman to disengage, and each disengagement is read within the system as a woman who "did not follow through" rather than as a service system that had no place for her.

For these reasons, the Second Action Plan should treat service capacity, cultural safety and structural accountability as prerequisites for meaningful disclosure and access to healing.

Housing

In our experience, and consistent with the wider sector, housing is a significant lever for change in ending violence against Aboriginal and Torres Strait Islander women. Affordable housing is not being delivered fast enough, crisis accommodation is routinely full, and there are few transitional or long-term exit points.⁹ As a result, women are often forced to choose between returning to their abuser, or becoming homeless.¹⁰ The Northern Territory reports public housing waitlists exceeding eight years.¹¹ Socio-economic disadvantage forces many women to choose between violence and poverty, worsened by inadequate welfare, casualised work and inaccessible childcare. Women on temporary visas face acute risk, including trafficking and exclusion from welfare and services.¹² We support accelerated delivery of affordable housing, expanded crisis and transitional accommodation, dedicated exit-point options, and implementation of the Blueprint for Reform for women on temporary visas.¹³

Recommendations

1. Long-term funding of Aboriginal and Torres Strait Islander community-controlled, gender-specialist family safety services, with Aboriginal governance and decision-making, culturally grounded healing and prevention, and accountability for mainstream systems to respond safely at the point of disclosure.
2. Set measurable targets for structural change within police and other agencies to eliminate systemic racism, sexism and ableism, designed and monitored in genuine partnership with Aboriginal and Torres Strait Islander community-controlled organisations.
3. Embed self-determination as a design principle across the Second Action Plan, commit to full implementation of the *Aboriginal and Torres Strait Islander Action Plan 2023–2025*, and fund Aboriginal and Torres Strait Islander community-led healing as core prevention and recovery infrastructure.
4. Treat safe, affordable and long-term housing as a strong lever for change, including accelerated delivery of affordable housing, expanded crisis and transitional accommodation, dedicated exit points and removal of eligibility barriers affecting women on temporary visas.

Misidentification of the person most in need of protection

We are increasingly concerned by the growing challenge of misidentification of the predominant aggressor and the person most in need of protection. Accurate identification of

⁹ Ibid.

¹⁰ Ibid.

¹¹ Northern Territory Government, 'Social Housing Wait Times' (Web Page, 31 December 2025) <https://nt.gov.au/property/social-housing/apply-for-housing/apply-for-public-housing/waiting-list>.

¹² National Advocacy Group on Women on Temporary Visas Experiencing Violence, *Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence Who Are on Temporary Visas* (Report, 2022).

¹³ Ibid.

the person most in need of protection is essential to ensure the safety of women and children.

This is a phenomenon that disproportionately impacts Aboriginal and Torres Strait Islander victim-survivors.¹⁴ Our clients consistently report being misidentified by police as the perpetrator of domestic and family violence when they seek protection. This occurs in a context where Aboriginal and Torres Strait Islander women are less likely to be believed and more likely to be viewed through racialised stereotypes, including as “aggressive” or “uncooperative”.

Perpetrators often know how to manipulate the system, and clients report to us that when misidentification occurs, the perpetrator has been able to talk “smart” with police, the criminal legal system and other government bodies to paint them as the “angry black woman” or the perpetrator.

In practice, trauma responses such as distress are misinterpreted, while perpetrators who present as calm or articulate are treated as credible.

Racism is particularly evident where perpetrators are non-Aboriginal and Torres Strait Islander men who exploit these dynamics, relying on victims’ fear of police involvement and child removal by DCJ to maintain coercive control.¹⁵

Our clients tell us they are scared that if they involve police then their children will be removed and that their perpetrator will be able to convince police that they are lying.

These experiences are reflected in broader domestic violence data. The NSW Domestic Violence Death Review Team has reported that, while domestic violence homicides in NSW generally declined in the decade leading up to 2023, the proportion of Aboriginal and Torres Strait Islander victims increased.¹⁶ The report further noted that the proportion of Aboriginal and Torres Strait Islander homicide offenders did not increase at the same rate, “rejecting the myth that First Nations women are always killed by First Nations men”.¹⁷ This is significant in the context of policing responses which often frame Aboriginal and Torres Strait Islander women as mutually violent or as perpetrators themselves, rather than recognising them as victim-survivors requiring protection.

Case Study – Aria¹⁸

Aria, an Aboriginal woman, has an ex who is a known violent offender and has been convicted of multiple violent offences. One night when he was on parole, he broke into her house. Aria ran and hid, and called her friend who called the police. When the police arrived, the offender was the first person they found. Police described his demeanour as “cool” and calm.

When Aria came out of hiding, she was visibly distressed and upset. The police arrested Aria and took her to the police station, misidentifying her as the perpetrator of domestic violence. While Aria was at the police station, the offender kidnapped one of Aria’s children and had driven into remote NSW before a Senior Constable looked at the matter and realised the police had made an error.

¹⁴ Heather Nancarrow et al, *Accurately Identifying the 'Person Most in Need of Protection' in Domestic and Family Violence Law* (Research Report No 23/2020, Australia's National Research Organisation for Women's Safety, 2020).

¹⁵ Family Violence Reform Implementation Monitor, 'Misidentification Is a Significant Issue That Has Enormous Consequences for the Victim Survivor' (Web Page, 2021) <https://archive.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor/misidentification-significant-issue-enormous-consequences-victim-survivor>.

¹⁶ Domestic Violence Death Review Team, *Domestic Violence Death Review Team Report 2021–2023* (Report, 2025).

¹⁷ Domestic Violence Death Review Team, *Report 2021–2023* (Report, 2024)

¹⁸ Name has been changed.

The ANROWS report *Accurately identifying the “person most in need of protection”* in domestic and family violence law demonstrates that, despite decades of legislative, policy and procedural reform, this problem persists.¹⁹ Commissioned by the Queensland Government following the Queensland Domestic Violence Death Review and Advisory Board's finding that in just under half (44.4 per cent)²⁰ of reviewed female deaths the woman had at some point been identified as a respondent to a protection order, the report found that in most Australian jurisdictions a significant minority of respondents on protection orders, between one fifth and one quarter, are female.²¹ That proportion is inconsistent with the well-established gendered nature of coercive control, which is overwhelmingly perpetrated by men against women. Aboriginal and Torres Strait Islander women are consistently over-represented as respondents,²² and as women charged with breaching orders, across every jurisdiction able to provide data. The report found a lack of evidence of best practice nationally and recommended pathways for all jurisdictions to work towards it.

Since that report, Queensland and Victoria have shown important leadership. Both now provide legislative guidance to help police and courts identify the person most in need of protection, adopt the language of “self-protection” rather than self-defence, and restrict cross-applications, with Victoria legislating checkpoints at which police and courts must consider misidentification factors.²³ This language and these mechanisms are consistent with a social and systemic entrapment framework and better reflect the experiences of women who use acts of resistance to protect themselves and others.

The Second Action Plan is an opportunity for the Commonwealth to lead national coordination on this issue. Policing and court practice are matters for states and territories, but the Commonwealth is well placed to drive nationally consistent standards, data collection and monitoring, in the way it does for other national priorities under the National Plan. We submit that misidentification should be named in the Second Action Plan as a discrete national priority with its own measures, rather than being addressed only indirectly through general commitments to workforce capability.

Best practice requires a social and systemic entrapment framework combined with legislative reform, models that recognise the importance of DFV specialisation, reflective practice and resourced police recruitment, training and capability rather than general training commitments alone.

Recommendations

1. Amend domestic and family violence legislation across all jurisdictions to make domestic abuse the basis for protection orders, requiring a contextual approach that considers both parties' behaviour within the relationship as a whole, and limits cross and dual order applications to exceptional circumstances.
2. Introduce legislative and policy guidance for the accurate identification of the person most in need of protection, requiring police to consider relevant factors, consult family violence specialists before labelling parties, and give standing to the person most in need of protection to be heard.

¹⁹ Nancarrow et al (n 14).

²⁰ Queensland Domestic and Family Violence Death Review and Advisory Board, 2016–17 *Annual Report* (Report, 2017) 82.

²¹ Nancarrow et al (n 14).

²² Nancarrow et al (n 14).

²³ *Domestic and Family Violence Protection Act 2012* (Qld) s 22A; *Family Violence Protection Act 2008* (Vic); Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor* (Report, December 2021).

3. Implement the Australian Human Rights Commission's National Anti-Racism Framework, embedding anti-racism and cultural safety across policing, work health and safety laws, and government funding contracts, and introduce a positive duty to eliminate unlawful discrimination.
4. Establish clear, expedited processes for identifying and correcting misidentification, and align police policies with common risk assessment approaches, court practice notes and benchbooks.

Priority Area 2 – Prevention and early intervention

The importance of primary prevention and of addressing the gendered drivers of violence is well recognised in Australia, including in the National Plan.²⁴ For Aboriginal and Torres Strait Islander women, however, prevention cannot be separated from the ongoing legacy of colonisation, systemic racism, and the compounding barriers that prevent women from seeking help early. Prevention that addresses gendered drivers alone, without addressing why our clients cannot safely approach the systems meant to help them, will not reach Aboriginal and Torres Strait Islander communities.

Community-led healing and self-determined responses

Prevention must include community-led healing delivered by Aboriginal Community-Controlled Organisations on community's terms, which addresses drivers of violence that generic programs cannot reach. The Second Action Plan should be delivered alongside full implementation of the *Aboriginal and Torres Strait Islander Action Plan 2023–2025*,²⁵ with healing funded as core prevention infrastructure rather than a short-term project.

Aboriginal and Torres Strait Islander community-controlled legal services are early intervention

Aboriginal and Torres Strait Islander community-controlled legal services should be recognised and funded as prevention infrastructure. Frontline legal services intervene early, correcting misidentification before it entrenches, securing safe outcomes in protection order proceedings, and preventing a woman's first contact with the criminal legal system from becoming a source of further harm. For many clients we are not an incidental point of disclosure on the way elsewhere. We are the first and sometimes only place a disclosure is made, precisely because we are Aboriginal women-led, gender-specific, and independent of police and child protection. This is critical for Aboriginal and Torres Strait Islander women, who face distinct barriers to seeking help early, including fear of police disbelief, misidentification and child removal; where those barriers go unaddressed, women disengage and opportunities for early intervention are lost.

Education and Storytelling

Education that begins early and is delivered consistently can shift attitudes, but its impact depends on the design of the programs. We stress the importance of programs created by and for Aboriginal and Torres Strait Islander communities, so that Aboriginal children can see themselves in the material and connect with it.

²⁴ Department of Social Services (Cth), *National Plan to End Violence against Women and Children 2022–2032* (Report, 2022) 79.

²⁵ Department of Social Services (Cth), *Aboriginal and Torres Strait Islander Action Plan 2023–2025: Under the National Plan to End Violence against Women and Children 2022–2032* (Report, 2023).

Storytelling is a powerful driver of change. To be effective, content must be meaningful and relatable, grounded in real community stories and delivered by Aboriginal and Torres Strait Islander presenters. We encourage funding for films made by Aboriginal and Torres Strait Islander communities, featuring actors from community.

Educational videos that are not community-created can be culturally inappropriate and fail to land. This is why it is essential that material be both created and delivered by Aboriginal and Torres Strait Islander people. A strong example is *Who's the Loser*, produced by the Education Centre Against Violence.²⁶ Its relatability and creative storytelling make it powerful, and we argue this approach is far more effective at prompting genuine reflection and change in Aboriginal and Torres Strait Islander young people.

We also advise that Aboriginal-only sessions may be necessary. These sessions give Aboriginal and Torres Strait Islander children a safe space to learn, without fear that the content will be weaponised against them by non-Aboriginal classmates.

Early Intervention Beyond Schools

Educational material must also reach children outside the classroom, and this calls for creative thinking about delivery. Some Aboriginal and Torres Strait Islander children do not attend school regularly, particularly those experiencing violence at home. We propose delivering intervention programs through juvenile justice and youth detention centres, adult correctional facilities, sporting events and platforms, and community events, so that this vital content reaches children who are not being reached at school.

Recommendations

1. Fund Aboriginal Community-Controlled Organisations to deliver community-led healing as core, ongoing prevention infrastructure rather than short-term projects, and deliver the Second Action Plan alongside full implementation of the Aboriginal and Torres Strait Islander Action Plan 2023–2025.
2. Recognise and fund Aboriginal and Torres Strait Islander community-controlled legal services as early intervention and prevention infrastructure, reflecting their role as a first and often only point of safe disclosure for Aboriginal and Torres Strait Islander women, and their work correcting misidentification and securing safe outcomes before harm entrenches.
3. Fund education and prevention programs that are created and delivered by Aboriginal and Torres Strait Islander communities, ensuring content is culturally safe and responsive, as determined by Aboriginal and Torres Strait Islander communities, and relatable for Aboriginal and Torres Strait Islander children.
4. Invest in storytelling-based resources, including films made by community and featuring actors from community, drawing on real community stories to drive reflection and change.
5. Support the provision of Aboriginal-only learning sessions where appropriate, so Aboriginal and Torres Strait Islander children can engage with the material in a safe space.
6. Deliver early intervention programs beyond schools, including through juvenile justice and youth detention centres, adult correctional facilities, and community, cultural and sporting events, to reach children who are not attending school regularly.

²⁶ *Who's the Loser?* (Education Centre Against Violence, 1999).

Priority Area 5 – System Integration and Workforce

The commitments proposed under Priority Areas 1 and 2 depend on the systems and workforce that Aboriginal and Torres Strait Islander women encounter being integrated, culturally safe and accountable. The barriers Aboriginal and Torres Strait Islander women face in disclosing violence and being correctly identified are, ultimately, workforce and system failures. Coordination, capability and accountability must therefore be built around safe disclosure and correct identification, not information sharing alone, if the systems intended to protect women and children are to earn their trust.

Misidentification remains the central workforce risk

Despite substantial training already delivered, misidentification of the person most in need of protection persists across Australian jurisdictions. Incorrect identification has long-term, potentially life-threatening consequences and re-victimises women and children through the very systems intended to protect them.²⁷ Preventing it requires police to assess the relationship as a whole rather than a single incident, recognising patterns of coercive control, cumulative abuse, power imbalances and self-protective responses instead of who appears calm or distressed. A social and systemic entrapment framework supports this shift, directing attention to the predominant aggressor's behaviour, the institutional responses the victim-survivor received, and the structural inequities shaping both.²⁸

Improvement also requires police policy consistent with common risk assessment approaches, a clear escalation pathway when misidentification is identified, guidelines requiring documented reasoning, and matching updates to court practice notes and benchbooks so corrections do not stall. The ANROWS report identified these same needs: better risk screening to detect coercive control and self-protection, education to help police and courts recognise the image management and systems abuse used by predominant aggressors, and clear processes for withdrawing or dismissing inappropriate applications.²⁹

Training is necessary but not sufficient

Significant investment has prepared the workforce to respond to coercive control. More than 20,000 NSW Police employees, prosecutors and judicial officers, plus over 2,000 non-government frontline workers, have completed specialised training, including training on coercive control in Aboriginal and Torres Strait Islander communities.³⁰ This represents one of the largest coordinated workforce reform initiatives accompanying the introduction of the offence.

Yet many of these systemic challenges remain. Ongoing misidentification of victim-survivors, inconsistent recognition of coercive control, and culturally unsafe responses show that training, while essential, cannot achieve lasting reform alone. UK comparative research reaches the same conclusion: consistent training matters, yet the specific complexities faced by minoritised women went unrecognised, so coercive control offences have not been

²⁷ Nancarrow et al (n 14).

²⁸ Julia Tolmie, Rachel Smith and Denise Wilson, 'Understanding Intimate Partner Violence: Why Coercive Control Requires a Social and Systemic Entrapment Framework' (2024) 30(1) *Violence Against Women* 54.

²⁹ Nancarrow et al (n 14).

³⁰ Department of Communities and Justice (NSW), *Statutory Review of Coercive Control Reform: Review of Part 3, Division 6A of the Crimes Act 1900 (Abusive Behaviour towards Intimate Partners)* (Discussion Paper, July 2026) 25.

equally transformative for all victims.³¹ At this scale, the persistence of these issues suggests education alone cannot overcome entrenched organisational cultures, institutional practices and structural barriers.

Future reform should move beyond training, placing equal emphasis on recruiting and retaining a culturally capable workforce, strengthening accountability, evaluating organisational culture, and embedding cultural safety as an ongoing responsibility rather than a one-off requirement. Evidence from Queensland and Victoria indicates co-responder models can improve risk assessment, support prosecutions, connect victims and perpetrators with services, and reduce misidentification.³² For Aboriginal and Torres Strait Islander communities, coronial recommendations stress these models must be developed in partnership with Aboriginal Community Controlled Organisations, with evaluations engaging First Nations and culturally and linguistically diverse victim-survivors.³³

Recommendation

1. Resource the recruitment and retention of a culturally capable police workforce, strengthen accountability and cultural safety as ongoing responsibilities to reduce the misidentification of Aboriginal and Torres Strait Islander victim-survivors.

Information Sharing and Safe Disclosure

Information sharing across agencies can be a valuable tool for keeping victim-survivors and children safe and holding perpetrators to account, and we recognise its role in a more integrated system. For Aboriginal and Torres Strait Islander women, however, information sharing carries distinct risks. Fear of state intervention, including child removal, combined with uncertainty about how information may be shared, continues to deter victim-survivors from disclosing violence and accessing counselling. That fear is justified and reflects lived and collective experience.

While we acknowledge that co-location between police and specialist domestic and family violence services is an important and effective model for many victim-survivors, it can create concerns for some Aboriginal and Torres Strait Islander women. Our clients often tell us they do not understand what co-location means in practice, including what information may be shared, with whom, or for what purpose. This uncertainty can deepen mistrust and deter women from seeking support or disclosing violence.³⁴ Consideration should be given to enabling women to engage independently with specialist services before information is shared or police become involved, where appropriate.

We recommend that information-sharing policy, including within co-location, be clear, transparent and grounded in data sovereignty, with consideration of an absolute privilege for sexual assault counselling communications on the Tasmanian model for all jurisdictions.³⁵ Victim-survivors must understand how their information will be used and be warned of any risks before disclosing.

³¹ Charlotte Barlow and Sandra Walklate, 'Who Is the Victim? Exploring the Complexities of Misidentification' (2025) *Criminology & Criminal Justice* (advance) <https://doi.org/10.1177/17488958251355378>.

³² Women's Safety and Justice Taskforce, *Hear Her Voice: Report One – Addressing Coercive Control and Domestic and Family Violence in Queensland* (Report, 2021).

³³ *Inquest into the Deaths of Miss Yunupingu, Ngeygo Ragurk, Kumarn Rubuntja and Kumanjayi Haywood* (Coroners Court of the Northern Territory, Coroner Armitage, 25 November 2024).

³⁴ Brigitte Gilbert, *Attrition of Sexual Assaults from the New South Wales Criminal Justice System* (Bureau Brief No 170, NSW Bureau of Crime Statistics and Research, May 2024).

³⁵ *Evidence Act 2001* (Tas) s 127B.

Recommendations

1. Information-sharing policy, including arrangements within co-location models, must be clear, transparent and grounded in Indigenous data sovereignty. Victim-survivors must be informed of how their information will be used and shared, with whom, and for what purpose, and be warned of any risks before disclosing.
2. Consideration should be given to establishing an absolute privilege for sexual assault counselling communications, consistent with the Tasmanian model, across all jurisdictions. Victim-survivors must understand how their information will be used and be warned of any risks before disclosing.

Conclusion

The Second Action Plan presents an important opportunity to strengthen Australia's response to gender-based violence in a way that reflects the lived experiences of Aboriginal and Torres Strait Islander women and children. Achieving this requires more than expanding existing initiatives. It requires confronting the structural barriers that continue to prevent women from safely disclosing violence, accessing support, and being recognised as victim-survivors by the systems intended to protect them.

Its success should be judged against three questions.

First, whether a woman who finds the courage to disclose is met by a culturally safe, Aboriginal community-controlled, gender-specialist service with the capacity to support her immediately, rather than a waitlist or a referral to another full service.

Second, whether the systems she turns to recognise her as the victim-survivor, respond safely and fairly, and are accountable for preventing misidentification and culturally unsafe practice.

Third, whether Aboriginal community-controlled and Aboriginal women-led organisations are recognised and funded as long-term prevention and early intervention infrastructure, supporting self-determined healing, legal assistance and community-led responses rather than short-term projects.

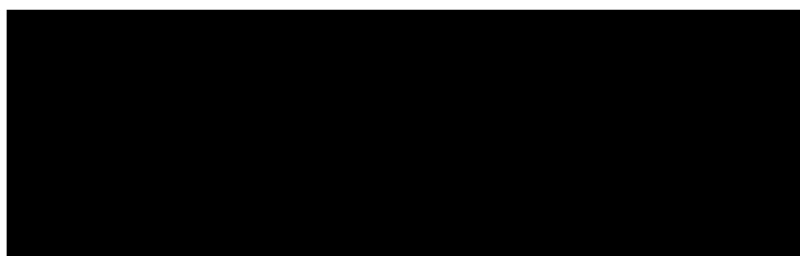
Underpinning all three, whether Aboriginal and Torres Strait Islander women can rely on self-determined, community-led responses, on healing, and on safe and affordable housing, and whether the fear of child removal that keeps so many from disclosing is met with support rather than scrutiny.

The National Plan's ambition of ending violence in one generation cannot be realised while the systems intended to deliver safety continue to misidentify, criminalise and turn away Aboriginal and Torres Strait Islander women and children. The recommendations in this submission are directed at closing that gap, and we would welcome the opportunity to discuss them further with the Department or to give evidence in any subsequent consultation process.

Yours faithfully,

Wirringa Baiya Aboriginal Women's Legal Centre

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