

20 May 2024

Australian Law Reform Commission
Level 40/19 Martin Place
Sydney NSW 2000

By email: jrsv@alrc.gov.au

Re: Australian Law Reform Commission (ALRC) Inquiry into Justice Responses to Sexual Violence

Djirra welcomes the opportunity to comment on the ALRC Inquiry into Justice Responses to Sexual Violence.

About Djirra

Djirra is a specialist Aboriginal Community Controlled Organisation (ACCO) with 22 years' experience working at the frontline with Aboriginal people who experience family violence, the vast majority being women and children. Djirra's service delivery includes specialist family and sexual violence support, legal services, case management, and wellbeing services and programs across Victoria. Djirra advocates for system wide change to improve access to justice and eliminate systemic violence. Djirra is also an active member of the National Family Violence Prevention and Legal Services Forum, the peak body for Aboriginal people who are experiencing or at risk of family violence.

Djirra remains committed in our calls for increased and sustained investment into specialist ACCOs. To end violence against Aboriginal women and children, their safety must be of paramount concern and funded accordingly; and in the case of responding to sexual violence specifically, there is a significant funding gap. Djirra's culturally safe, holistic approach through our frontline services and programs are designed and tailored to meet the unique and diverse needs of those who need us most. Djirra acknowledges the ongoing impacts of colonisation. Djirra has the solutions. Djirra is self-determination in action.

Funding for self-determined services for Aboriginal women and children

Nationally, significant gaps exist in holistic, culturally safe services for Aboriginal women and children who experience sexual assault. This leaves thousands of women and children around the country being turned away from sexual assault and related therapeutic and support services. In Victoria, the State Budget 2024 provided no additional support for Aboriginal-specific legal services or family violence support through Djirra, despite the urgent need for investment in our critical services.

Service provision for Aboriginal women and children who have experienced sexual violence must be client centred and focussed on the impacts to their physical and mental health. At a minimum, this must include access to a diverse range of culturally safe services relevant to Aboriginal women and not be limited solely to criminal action.



Data and Prevalence

It is difficult to estimate how many Aboriginal women and children are sexually assaulted. This is due to unreliable recording, underreporting, and non-disclosure by many Aboriginal people that experience sexual violence. In addition, some jurisdictions do not hold sexual violence data that is disaggregated by Indigeneity. However, we know that 90+% of sexual violence against Aboriginal women goes unreported.¹

At Djirra, our staff report that many women we support have experienced sexual violence. This is often from early childhood, with sexual assault frequently a feature of their experience of family violence. However, rates of disclosure do not reflect the rate of incidence. Djirra's experience is that sexual violence is rarely talked about and often is not disclosed until after we have worked with individual women for some time and have gained her trust. When disclosures are made, these tend to be made in specific contexts and very rarely proceed to reports or charges through the criminal justice process. These disclosures can be of recent or historic sexual harm. Sometimes, this may be the first time a woman has disclosed experiencing sexual violence.

In Djirra's experience, disclosures of sexual violence to our workers are the result of creating a culturally safe and supported space for women to feel safe and confident that they will be listened to. Facilitators at Dilly Bag, community engagement workers, and the therapists who work in partnership with Djirra, receive most disclosures of sexual violence from Aboriginal women we assist. See Appendix 1 for details of our services and programs.

There is increasing evidence that intimate partner sexual violence is part of the continuum of violence that can end in a woman's death. 14 Aboriginal women were killed because of gendered violence in 2022/23.¹ So far in 2024, women are being killed at a rate of one every 4 days.¹ The justice system must change its response to women and children who experience sexual violence.

Aboriginal women's experience of the justice system and sexual violence

There are significant and well-documented barriers to disclosure of sexual harm for all persons surviving sexual violence, which are the same for Aboriginal people. This includes the normalisation of sexual violence by an intimate partner, a lack of recognition that sexual assaults can occur within relationships, shame, guilt, and fear that they will be disbelieved.

Aboriginal women also face greater barriers to disclosure and to accessing traditional justice system remedies and to accessing culturally safe services. Our frontline staff identify that racism and fear are the primary reasons for not reporting sexual violence, and especially so if the alleged perpetrator is not Aboriginal. Moreover, there is a very real fear of child removal, misidentification, and inadequate law and justice responses. In our current system, Aboriginal women who experience sexual violence are sometimes met with punitive responses (e.g. police and prisons, child removal) rather than support. Many Aboriginal women who are already in contact with the criminal justice system (e.g. through unpaid fines) know that if they report sexual violence to Police, they are likely to be arrested and remanded into custody.

While legal remedies are secured in very few cases of sexual harm, there is an even lower rate of successful prosecution of such cases involving an Aboriginal person who experienced sexual assault.

¹ Willis (2011) *Non-disclosure of violence in Australian Indigenous Communities*

² Australian Institute of Criminology (2024) *Homicide in Australia 2022-23*

https://www.aic.gov.au/sites/default/files/2024-04/sr46_homicide_in_australia_2022-23.pdf

³ *Counting Dead Women 2024*



Sexual Violence against Aboriginal Children in Residential Care

Throughout the course of child protection proceedings, children can be placed into residential care when home-based options such as parental, kinship and foster care have been determined to be unsuitable. Residential care is typically a group home where up to 4 children, usually with high and complex needs, live together under the supervision of paid staff. In Victoria, Aboriginal children are 22 times more likely to be in out of home care than non-Aboriginal children; the highest rates of overrepresentation in the country.¹

Some mothers Djirra supports disclose that when their children are placed in these residential care settings, they are exposed to sexual violence and highly sexualised behaviour, whether from the other children in care, or from those entrusted to supervise. The women we support also often disclose having been subjected to sexual violence as children themselves, when they were placed into residential care under the child protection system.

While this is widespread across our work, it is most evident in the work of our Prison Support Program where we regularly make referrals for clients to receive civil redress in relation to institutional abuse. In many circumstances, these women express the long-lasting trauma of being taken from their home, from their mum, and placed into a situation that was infinitely more dangerous.

Proposed Solutions

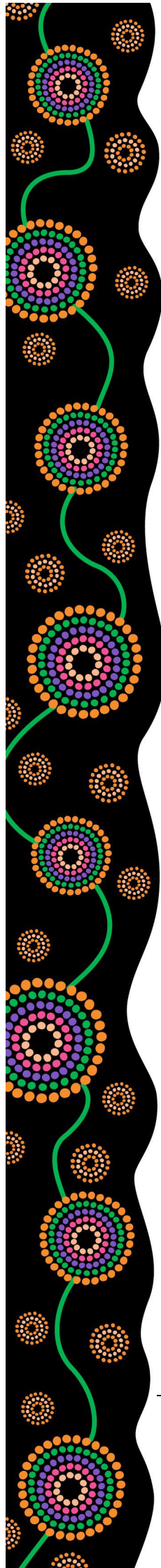
System reform is needed to improve outcomes and experiences for Aboriginal women experiencing sexual violence within the justice system. This is across all parts of the justice system, including:

- access to information about available options following disclosure or formal report;
- mainstream and specialist court processes;
- criminal justice;
- civil claims;
- child protection, particularly residential care;
- restorative justice and redress schemes; and
- Victims of Crime Assistance Tribunal (VOCAT), soon to be the Financial Assistance Scheme (FAS).

System reform must prioritise cultural safety for Aboriginal women and children and centre their voices and experiences in all service design. This must also include:

- the availability of preferred pathways and specialist support that are non-conditional and straightforward which meet the diverse access needs for Aboriginal women and children. For instance, are responsive to the needs of Aboriginal women and children within different settings (e.g., urban, regional, rural and remote) and with disabilities.
- equitable access to compensation for Aboriginal women and children experiencing sexual assault without financial resources.
- access to culturally safe, independent sexual assault advisors who facilitate access to diverse therapeutic, legal and other support options that are specifically relevant to the needs of the individual service user at any point in the justice process.

⁴ Australian Institute of Health and Welfare 2020-21 data tables S4.9 and S5.10.



While reform of the mainstream criminal justice system is essential, Aboriginal women and children need access to independent self-determined solutions. Djirra’s experience is that sexual offence matters involving Aboriginal women and children rarely reach court. The ALRC recognises that establishing sexual offences beyond reasonable doubt is extremely challenging and even more so where these offences occurred historically. This limits the confidence of Aboriginal women and children who experience sexual violence to engage with the criminal justice system.

In this context, the system must make available a range of person-centred options that affirm Aboriginal women and children’s experiences and the impact upon their lives. At the same time, these must provide some kind of redress and consequence for the perpetrator. For example, a reformed justice response must include the opportunity to make statements to police officers at an ACCO, where the woman can be supported and advised.

Until then, Aboriginal women and children will continue to distrust the justice system. However, ACCOs can provide accessible, culturally safe places to disclose sexual violence and access support to recover and heal. A specialist, holistic ACCO like Djirra gives Aboriginal women the space and time to undertake her healing journey on her own terms. For example, a woman coming to Djirra might attend Sisters Day Out, and then later a Dilly Bag retreat. Thereafter, she may seek support from Djirra’s legal service to secure an intervention order or use phone counselling or drug and alcohol support from Djirra’s intensive case-management team.

Access to community-run Aboriginal sexual assault services

Aboriginal women who have experienced sexual violence need Aboriginal-specific first-response services. The Victorian Law Reform Commission recommended a permanent Aboriginal sexual assault service model in 2021.¹ Such self-determined service models are crucial to provide:

- a culturally safe and appropriate service based on Aboriginal healing approaches; and
- more options for Aboriginal women who have experienced sexual violence.

Increased knowledge and awareness among Aboriginal women and children

We need to increase awareness and understanding amongst Aboriginal women and children of sexual harm and increase formal and informal opportunities to safely disclose their experiences. This is concurrent with upholding the principle of self-determination by coordinating access to a range of legal and non-legal responses. This includes case management, counselling, and cultural healing programs.

⁵ Victorian Law Reform Commission (2021) *Improving the Justice System Response to Sexual Offences*. p173



A better skilled workforce

All workers who come into contact with Aboriginal women and children who have experienced sexual violence need specialised training that is designed, developed and delivered by ACCOS in close consultation with Aboriginal women and children with experience of sexual violence. The workforce includes frontline specialist sexual assault services, hospitals, police (as the first contact point in the justice system), court staff, lawyers and magistrates.

Working safely and effectively with Aboriginal women and children who have experienced sexual harm requires:

- sensitivity to the impact of colonisation and multigenerational trauma;
- knowledge and understanding of the impact of sexual violence and how this will affect the likelihood of disclosure, memory and reactions;
- a comprehensive practice framework that supports increasing the rate of disclosures through ongoing opportunities for disclosure in varied contexts and at varied times;
- building the capability of staff to assist women and children to overcome their internalised shame and self-blame in order to disclose; and
- raising the awareness of women and children to identify sexual harm, particularly in the context of coercively controlling relationships in which consent is not possible.

Cultural awareness training is an important first step but more specific and ongoing training and system consequences are crucial to begin to change systemic and individual racism. The Yoorrook Justice Commission recommended anti-racism training throughout mainstream systems.

Self-determined responses: Djirra's unique model

A fundamental aspect of Aboriginal women's self determination, is having choice about an appropriate service no matter where you live. Djirra's is the only statewide specialist Aboriginal family violence service in Victoria; we provide a unique and holistic service model that spans the service continuum from prevention and early intervention through to response and recovery. See Appendix A for details of our programs.

We need Aboriginal-led processes to be available to all Aboriginal women and children who experience sexual violence. Cultural connectedness and support are critical to recovery for Aboriginal women and children who experience family violence and sexual harm. Our Community Engagement services are flexibly available for women on an ongoing basis whether they choose to drop into Koori Women's Space and/or to access programs and workshops. These spaces and activities create a safe environment for women to share their experiences with trained staff.

Djirra's **early intervention and prevention programs** focus on building trust and confidence and promoting cultural connection and a strong sense of identity for Aboriginal women. Our successful signature programs Sisters Day Out®, Dilly Bag and Young Luv® take us to our women, no matter where they are in Victoria, although we lack funding to have these available on a day-to-day basis in all parts of Victoria. These programs create safe and alternative ways for women to understand the warning signs of family and sexual violence and how key services for safety can be accessed. These programs have been recognised internationally and by Victoria's Royal Commission into Family Violence as best practice.



Victims Legal Service

Djirra has partnered with Victorian Legal Aid, Victorian Women’s Legal Service and the Victorian Aboriginal Legal Service to deliver the Victims Legal Service (VLS). The VLS provides culturally safe advice and legal support to victim-survivors of sexual violence. This includes applications for financial assistance through VOCAT and will include the Financial Assistance Scheme once this commences later in 2024.

The VLS has also expanded from 1 March 2024 to include to provide legal assistance, advice, and representation to Aboriginal women and children experiencing sexual violence to protect their confidential communications and health information. This includes medical and counselling records in a court proceeding.

Djirra’s VLS experience of VOCAT processes is generally favourable. However, the expectation that the person experiencing family and/or sexual violence must make a report to the Police and support an investigation/prosecution, is problematic. Djirra recommends that this is removed as a requirement from the Victims of Crime Financial Assistance Scheme guidelines.

Conclusion

The justice system must change to become a safe and trusted option for Aboriginal women and children to be able to disclose and seek redress for sexual violence. Djirra urges the ALRC to recommend reforms that will recognise the ongoing harms caused by continuing colonisation and the entrenched systemic racism in our justice systems, and to change how we approach sexual violence perpetuated against Aboriginal women and children.

Solutions must be grounded in self-determination and respect for Aboriginal culture and ways of doing things. This will come from:

- Sustainable funding of the ACCOs, particularly specialist family violence ACCOs;
- The availability of diverse, accessible and culturally safe options for addressing the impacts of sexual violence;
- Real culturally safe, self-determined options for disclosure and justice of sexual violence against Aboriginal women and children, not limited to criminal action; and
- Specific training on supporting Aboriginal women and children who experience sexual violence and anti-racism training for all personnel in systems responding to Aboriginal women and children who experience sexual violence.

Thank you again for the opportunity to contribute to this important work.

Yours sincerely,



Antoinette Gentile
Acting CEO, Djirra



Attachment A

Djirra's programs

Koori Women's Place

Djirra's Koori Women's Place (**KWP**) is a unique cultural program based in our head office in Melbourne and provides a diverse range of supports. Aboriginal women can visit or call the KWP to:

- Join cultural, wellbeing and social activities, for example damper making or basket weaving. These activities are delivered in person and online.
- Access practical support.
- Connect with other Djirra services (Lawyers, Case Managers, Counsellors).
- Access our visiting services to get information and advice (e.g. Centrelink, Births, Deaths and Marriages).
- Learn about upcoming Sisters Day Out, Dilly Bag and Young Luv workshops.

Sisters Day Out®

- Sisters Day Out is a one-day wellbeing workshop held regularly in communities throughout Victoria.
- This workshop breaks down social isolation and provides a space for Aboriginal women to support each other, gain knowledge about legal rights and options, and engage with mainstream and Aboriginal support services.

Sisters Day In

- A specialised version of Sisters Day Out delivered to our sisters in the Dame Phyllis Frost Centre and Tarrengower Prison.
- Our women on the inside gain access to Djirra services, and other mainstream and Aboriginal services that we invite to attend.

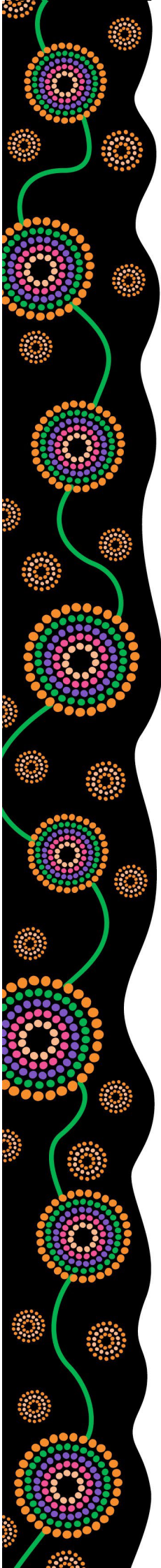
Dilly Bag

- Dilly Bag is a three-day retreat held on Country.
- It is a gathering of Aboriginal women that draws from cultural principles to inform Aboriginal women's ways of being in order to live a culturally safe and meaningful lifestyle.

Young Luv®

- For young Aboriginal women, aged 13 to 18.
- A half day workshop to engage Aboriginal teenagers in a culturally safe space where they can talk about, reflect on, and better understand important issues affecting their lives.
- The workshop equips young women with information and skills to challenge unhealthy relationships, and to apply positive and safe behaviours.

The ISS includes a case management program for women who are experiencing or are at risk of family violence and specialist teams that provide assistance with substance abuse issues and work with women in prison and post-release. Our staff are able to make warm referrals to Centres for Sexual Assault and other external programs when required. Our holistic, streamlined framework ensures a flexible and client centred approach, that upholds the principle of self-determination, by our response services. Women are informed of their legal and non-legal options and actively supported to select options and secure services as and when they require them.



Djirra's Individual Support Service provides culturally safe wrap around support for Aboriginal women experiencing family violence. Services include:

- Case management, (short to medium term practical support for issues including family violence and safety, housing stress and concerns related to health needs, finances and children and/or family).
- Alcohol and other drug support.
- Financial assistance support packages.
- Counselling (including phone and online support)
- Warm referrals to other services.
- Assistance to reconnect to mob and Country.

Legal Service

Our legal service provides opportunities for women to disclose instances of sexual harm and assists them to explore their legal options while informing them of their non-legal support options. A crucial part of what our staff do is supporting women to report incidents to police where the client makes an informed choice to do so, and assistance with following up and communicating with Police. This includes accompanying clients to make statements, as required.

Djirra's Legal Team provides legal representation and non-legal support to Aboriginal people experiencing family violence. This includes legal advice, casework and court representation in relation to:

- Intervention Orders
- Family Law
- Child Protection
- Victims of Crime Assistance
- Other family violence related legal issues

Prison Support Program

Djirra's Prison Support Program provides legal and non-legal support to Aboriginal women at the Dame Phyllis Frost Centre and Tarrengower. The Program includes Lawyers, Paralegal Support Workers and Case Managers who connect with and support Aboriginal women in prison. The Program links women to other culturally appropriate services and programs that assist women to maintain connection to family, culture, and community.