

## **CHILD PROTECTION AND SOCIAL SERVICES SYSTEM**

**Organisation:** Women's Safety NSW

**Date Received:** 11 December 2020



Advocating for freedom  
from violence



# **Submission to the Committee on Children and Young People**

**11 December 2020**



**Women's Safety NSW acknowledges the Traditional Custodians of Country and pay our respects to Aboriginal and Torres Strait Islander Elders past, present and emerging.**

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# WOMEN'S SAFETY NSW

## **Submission to the Committee on Children and Young People**

### **Inquiry into the Child Protection and Social Services System**

11 December 2020

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## I. Introduction

### 1. About us

Women's Safety NSW is a peak representative body for women's specialist domestic and family violence services in NSW – including the Women's Domestic Violence Court Advocacy Services ('WDVCAS') who both support over 50,000 women per annum through Safer Pathway and advocate for women in the local and family courts. Women's Safety NSW advocate on behalf of our members for systemic reform to increase women's safety, justice and wellbeing in the context of domestic and family violence.

### 2. Background

*“These children are not bystanders. They are victims in their own right... exposure to domestic violence is considered a form of child abuse.”* - (Australian Institute of Family Studies 2020).

There is growing evidence of the extent to which children are exposed to domestic and family violence in Australia and the effects this has on their development. Many children have witnessed violence, with 68% of women who had experienced violence from a previous partner indicating that the children in their care had witnessed this violence (Australian Institute of Health and Welfare 2019). Exposure to domestic and family violence can have serious and prolonged negative consequences for children and young people including psychological, behavioural, health and socioeconomic impacts. Documented psychological and behavioural impacts of domestic and family violence on children and young people have included depression, anxiety, trauma symptoms, increased aggression, low self-esteem, school difficulties, peer conflict, impaired cognitive functioning and increased likelihood of substance abuse (Richards 2011).

Domestic and family violence is also a leading cause of homelessness for children in Australia. In 2017-18, 34% of clients assisted by specialist homelessness services due to domestic and family violence were aged under 18. Of this cohort, more than 1 in 5 were aged 0-9 (22% or 26,500), and 1 in 8 (13% or 15,200) were aged 10-18 (Richards 2011). Homelessness has additional wide-ranging effects on a child's long-term health and wellbeing. It can disrupt their schooling, friendships and activities. Women and children made homeless because of domestic and family violence not only lose their sense of safety and belonging within their homes while the violence is occurring, but additional traumatic effects from the actual loss of the family home itself.

*“Children are victims of domestic violence if they witness it perpetrated against their carer parent. They are not ‘add ons’ to women. They need specialist case management support in their own right to break the cycle and recover from trauma.”* - Domestic and Family Violence Specialist, WDVCS Metropolitan

In this submission, Women’s Safety NSW seeks to examine the child protection system specifically in the context of domestic and family violence. A significant number of children who engage with the child support system have experienced domestic violence. Children who are exposed to domestic and family violence are also at a higher risk of being abused themselves (Australia’s National Research Organisation Women’s Safety [ANROWS] 2017). This highlights the importance of supporting children who are exposed to domestic violence in a holistic way, and better integrating child protection services with existing domestic and family violence services. We strongly believe that acknowledging the connection between domestic and family violence and exposure to the child protection system is critical to providing children the best possible care and protection. The child protection system, domestic and family violence support system, and the justice system need a more targeted and collaborative response when working with families affected by domestic and family violence to ensure safety and recovery is prioritised.

In a survey of specialist domestic and family violence workers conducted by Women’s Safety NSW in July 2020, **only 46% of workers said they have specialist child-focused domestic and family violence case management support available in their local area**, yet **86% said specialist supports for children and young people that are integrated with supports for non-offending parents are ‘extremely important’**. Unfortunately, children and young people are most often not getting this support. Correspondingly, in a survey of victim-survivors of domestic and family violence conducted by Women’s Safety NSW in July 2020, **less than half of women with children (47%) were able to access support for their children**, yet **only 11% of those women accessed support for their children that was integrated with the support they had already received**.

Children and young people affected by domestic and family violence need comprehensive, targeted support that is distinct from, yet integrated with, the support provided for their non-offending parents and caregivers. More training for workers in the child protection and justice sectors would empower workers to respond appropriately to domestic and family violence. Services are also needed to support non-offending parents to build their capacities and to support the relationship between the child and the non-offending parent. For children, a strong relationship with their non-offending parent may improve some of the negative impacts of being exposed to domestic and family violence (ANROWS 2017).



Current policy emphasis in this area is very short term, it focuses on reducing the rates of domestic and family violence in terms of re-offending and re-victimisation in the immediate future. For example, in NSW, the Premier's Priority has been on reducing the rate of re-offending or, most recently, the percentage of re-offenders (Department of Community and Justice [DCJ] 2020). **However, one of the biggest risk factors for a young person becoming a perpetrator of domestic and family violence is having experienced domestic and family violence in the past without access to adequate support and recovery.** Women's Safety NSW therefore recommends that the NSW Government implement a state-wide specialist domestic and family violence case management model for children and young people, specifically targeted to their needs, yet also fully integrated with the support for their non-offending parent or caregiver where appropriate.

### 3. Existing Policy Framework

There are currently a range of legislative and policy frameworks in place that aim to address the welfare of vulnerable children and young people in Australia, at both a federal and state level. Whilst efforts have been made to integrate the approaches of various jurisdictions to child protection and welfare, the success of these efforts vary greatly. In addition to overarching Federal frameworks and policy, the states and territories continue to maintain independent systems and structures to address child protection.

#### 3.1 At the State Level

In NSW the key pieces of legislation in relation to the care and protection of children and young people within include:

- *Children and Young Persons (Care and Protection) Act 1998* (NSW)
- *Crimes Act 1900* (NSW)
- *Privacy and Personal Information Protection Act 1998* (NSW)

Additional legislation which is also of relevance in this area include:

- *Advocate for Children and Young People Act 2014* (NSW)
- *Education Act 1990* (NSW)
- *Health Records and Information Privacy Act 2002* (NSW)
- *Ombudsman Act 1974* (NSW)

Further, operating alongside this legislative framework are the key policy frameworks, namely initiatives such as the 'Keep them Safe' action plan, the 'Their Futures Matter'



reform, the 'Stronger Communities Investment Unit', the NSW Practice Framework and corresponding Framework Standards, and the Premier's Priorities.

### 3.1.1 Keep them Safe (2009-2014)

The *Keep Them Safe: A Shared Approach to Child Wellbeing* 5-year action plan was announced by the NSW Government in 2009 in response to the Wood Special Commission of Inquiry into Child Protective Services in NSW established on 14 November 2007. The action plan established a shared approach to ensuring child wellbeing by reshaping the way families and community services are delivered within NSW. It 'provides the framework for parents, communities, government and non-government agencies to work together to support children and families (NSW Department of Education 2010).

Keep Them Safe introduced a suite of reforms to the child protective system, including:

- Increasing the relevant threshold for reporting children to the Child Protection Helpline from 'risk of harm' to 'risk of significant harm'
- Establishing Child Wellbeing Units in NSW Health, NSW Police Force Department of Education, and FACS
- Establishing a network of Family Referral Services
- Focus on prevention and early prevention services and acute services
- Expanding the role of NGOs in service delivery
- Streamlining processes in the Children's Court
- Improving services available to Aboriginal and Torres Strait Islander children
- The introduction of Child Wellbeing and Child Protection NSW Interagency Guidelines
- Introducing Family Case Management in some areas of NSW
- Improvements to acute services (DCJ 2020)

The Keep Them Safe reforms package also resulted in legislative change. The *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009* (NSW) was enacted to implement several of the Inquiry's recommendations and amended numerous key aspects of the child protection system. Notably, these included earlier family preservation and restoration through an increased focus on alternative dispute resolution for families, priority access to services for children at significant risk of harm, and increased scope for the Children's Court to assess the possibility of restoration (DCJ 2020). The Act also saw an enhanced focus on permanency for young people and reducing the time spent in out of home care (DCJ 2018). Significantly, the amendments also facilitated the streamlining of court processes, in an attempt to

reduce unnecessary delays and better prioritise the best interests of the child (DCJ 2020).

### **3.1.2 Their Futures Matter**

Their Futures Matter is a reform established by the NSW government in 2016, in response to the 2015 Independent Review of Out of Home Care ('the Tune Review'). The Review identified significant issues with the NSW child protection system and found that the number of children in out of home care was increasing substantially, having doubled in the last ten years (NSW Government, p.3, 2015). The Tune review also found that the current service model did not sufficiently centre the needs of children and families, and that there was a need for greater collaboration between government agencies, and integration of key services (NSW Government, p.4, 2015). Their Future Matters is a long-term strategy that aims to create systemic change in NSW child protection services. The reform seeks to improve life outcomes for vulnerable children and families living in NSW, by establishing an evidence-based, whole of government approach to addressing the issue of child abuse and neglect.

### **3.1.3 Stronger Communities Investment Unit**

Formerly known as the "Their Futures Matter Implementation Unit", the Stronger Communities Investment Unit is responsible for coordinating the implementation of the Their Futures Matter reform. The unit has taken an 'investment' approach to child protective services, developing a 'future system' that is easy to navigate, centres the needs of children and families, and unites services from across government (DCJ 2020). The aim of the unit is to create an effective, integrated approach to child protection in NSW. It places a strong emphasis on prevention and early intervention as a means to reduce the number of children entering out of home care and reduce escalating risk for vulnerable young people.

Key achievements of the Stronger Communities Investment Unit under the Their Futures Matter reform includes the development of a framework to monitor and evaluate the outcomes for young vulnerable people in NSW, the establishment of a cross-agency data-set model to analyse expenditure on child protection across the whole system, increasing the evidence base regarding removals of young people, and the redesign of the intake, assessment and referral 'access' system (DCJ 2020).

Despite these achievements, a performance audit report released by the NSW Auditor-General in July 2020 found that, while the Their Futures Matter reform had built important foundations for an improved system, 'an evidence-based whole-of-government early intervention approach for vulnerable children and families in NSW –

the key objective of the reform – was not established (Audit Office NSW 2020). The report found that the reform had been ineffective in properly integrating government agency responses and had not developed a sufficient evidence base to direct a shift in funding from crisis response to early intervention (Audit Office NSW 2020). It also found that the Their Futures Matter Board and Unit were not matched to the scale and complexity of the reform and did not have the necessary power or influence to drive the reform's goals (Audit Office NSW 2020). Further, the Board did not effectively brief the government on risks to achieving the reform's objectives (Audit Office NSW 2020). As a result, the goal of establishing an investment approach to supporting children and families was not fully realised. This failure is corroborated by Women's Safety NSW's most recent survey results. **When asked if they were aware of any pilot early intervention programs commissioned under Their Futures Matter, 98% of our surveyed members said 'no'.**

The audit also found that the Board was unable to reach a consensus on cross-agency funding for early intervention, or on repurposing existing programs found to be misaligned with the reform. It was also established that the Board did not have sufficient external access to Indigenous stakeholders. The audit produced an extensive list of recommendations that can be found in the full report [here](#).

The Their Futures Matter Board is in the process of transitioning into the 'Stronger Communities Investment Coalition.' The Coalition will include senior ministers from across government, as well as representatives from non-government service providers and independent subject matter experts, creating an integrated and holistic approach to the direction of this reform initiative (DCJ 2020). The effectiveness of this coalition will continue to be evaluated as the program is reformed and rolled out.

### 3.1.4 NSW Practice Framework and Practice Framework Standards

The NSW Practice Framework was launched in 2017 and outlines how the NSW Department of Communities and Justice operates in respect of children and families, and accordingly what families can expect when interacting with employees therein. The framework centres children in decision-making processes and emphasises the importance of an evidence-informed approach to child protection (DCJ 2020). It also sets out the 'practice first' principles, which highlight the importance of culture, language, ethics and values, a perception of critique leading to improved practice and the importance of positive relationships with child protection practitioners (DCJ 2020). 'Relationships create change and restore dignity' (DCJ 2020). The Framework reiterates the NSW government's commitment to high quality service, integrity and accountability, and its commitment to partnering with NGOs and community groups (DCJ 2020).

This Framework is brought 'to life as expectations in daily practice with children' through the *Practice Framework Standards*— they are 'the next layer of detail...[and] outline the practical and analytical skills thinking, behaviours and interactions that practitioners are expected to use' (DCJ 2020). These standards set out clear standards that families can expect to see in their interactions with staff and help to achieve better outcomes for children— 'sustained safety with family, emotional and legal permanency, safety in care and lifelong belonging in community' (DCJ 2020). The Standards were first introduced in 2014 and have since been updated in 2020 (DCJ 2020). These standards can be accessed [here](#).

### 3.1.5 Premier's Priorities

In June 2019, NSW Premier Gladys Berejiklian announced fourteen Premier's Priorities— key areas of focus for the NSW government that aim to target disadvantage and improve quality of life for people living in NSW. The priorities included 'protecting our most vulnerable children' and 'increasing permanency for children in out of home care'. Three new areas of focus have also been recently brought to the fore: better support for caseworkers, reducing re-reporting for Aboriginal children, and driving continuous improvement in practice quality (NSW Government & Premier & Cabinet 2020). The emphasis on these focus areas will assist the Premier in achieving her key priority of reducing the proportion of children and young people re-reported at risk of significant harm by 20 per cent by 2023 (NSW Government & Premier & Cabinet 2020). This goal targets vulnerable children who are made known to child protective services but are subsequently re-reported as still being at risk. In 2017, the proportion of children who were re-reported to protective services was 36.5% (NSW Government & Premier & Cabinet 2020). By specifically targeting these children who are continually being identified as at risk of significant harm, the government is able to identify the gaps and shortcomings of current child protective services and ensure that the most vulnerable children in NSW are closely monitored and attended to.

The NSW government also specified one of its key targets as being to double the number of children in safe and permanent homes for children who are in, or at risk of entering, out of home care (NSW Government & Premier & Cabinet 2020). As part of this goal, the government noted that its priority remained ensuring that families are sufficiently supported to allow children to stay safely at home. This includes continuing to develop and support early intervention strategies that connect families with the services they need to keep children safe and healthy. However, in instances where out of home care proves necessary, the NSW government aims to ensure that children and young people are placed in stable and permanent alternative care environments.

## **3.2 At the Federal Level**

### **3.2.1 National Framework for Protecting Australia's Children 2009-2020**

The National Framework for Protecting Australia's Children (2009-2020) is a long-term, nationally coordinated approach to addressing the concerning rise in child abuse and neglect across Australia. Endorsed by the Coalition of Australian Governments (COAG) on 30 April 2009, the framework aims to unite the efforts of Commonwealth, state and territory governments, as well as the non-government sector, to improve child protective services and ensure all Australian children are safe, healthy, and free from abuse.

The National Framework established six core outcomes to guide this goal (Department of Social Services National Framework for Protecting Australia's Children – Fourth Three Year Action Plan 2018–2020):

1. Children live in safe and supportive families and communities
2. Children and families access adequate support to promote safety and intervene early
3. Risk factors for child abuse and neglect are addressed
4. Children who have been abused or neglected receive the support and care they need for their safety and wellbeing
5. Aboriginal and Torres Strait Islander children are supported and safe in their families and communities
6. Child sexual abuse and exploitation is prevented, and survivors receive adequate support.

The Framework is implemented through a series of action plans. Key achievements of the First Action Plan (2009-2012) included the establishment of a National Children's Commissioner within the Australian Human Rights Commission. The Commissioner advocates for the rights and needs of Australian children and young people, conducts research, and evaluates relevant legislation and policies to ensure they are in keeping with children's rights standards (Department of Social Services 2018). The Second Action Plan (2012-2015) recognised the need to engage and partner with local stakeholders to create localised solutions that target the specific needs of diverse communities.

The Third Action Plan (2015-2018) emphasised the need for a renewed focus on research and reporting, and on outcomes for Aboriginal and Torres Strait Islander children. It also identified three key priority areas:

1. Early intervention, with a focus on the early years — particularly the first 1,000 days for a child
2. Helping young people in out-of-home care to thrive in adulthood
3. Organisations responding better to children and young people to keep them safe.

A key achievement under the Third Action Plan was the development of the National Principles for Child Safe Organisations, which came about in response to the findings of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The principles outline the required standards for organisations with regards to child protection.

### 3.2.2 The Fourth Action Plan: 2018-2020

The current plan under the National Framework is the Fourth Action Plan (2018-2020). This plan continues to build on the work previously done under the national framework, and highlighted four key priority areas for the next four years (Department of Social Services 2018 - 2020):

1. Improving outcomes for Aboriginal and Torres Strait Islander children at risk of entering, or in contact with child protection systems.
2. Improving prevention and early intervention through joint service planning and investment.
3. Improving outcomes for children in out-of-home care by enhancing placement stability through reunification and other permanent care options.
4. Improving organisations' ability to keep children and young people safe from abuse.

The plan places specific emphasis on the importance of improving outcomes for Aboriginal and Torres Strait Islander children, in recognition of the disproportionate rates at which Aboriginal and Torres Strait Islander children continue to experience abuse and neglect, and face removal from their homes.

## 4. Existing Services and Programs

### 4.1 At the State Level

#### 4.1.1 'Brighter Futures Program'

The Brighter Futures Program ('BFP') is a support program provided by Community Services, Department of Human Services NSW and non-government agencies. The program is provided to families with children under nine years of age, or who are



expecting a baby, and who face problems of domestic and family violence, drug and alcohol abuse, mental health issues, and who involve parents with intellectual disabilities and significant learning disabilities (DCJ 2019). The program is also extended to families who receive limited support in raising their children and those who are struggling to manage their children's' behaviour (DCJ 2019). The program is run by the Benevolent Society and is offered through their support centres in Armidale, Bathurst, East Maitland, Inverell, Lithgow, Liverpool, Macquarie Park, Moree, Mudgee, Muswellbrook, Orange, Parkes, Tamworth and Tenterfield (Benevolent Society). The aim of this program is to provide for early intervention in situations of family and domestic violence and where substance misuse and parental mental health issues are present, so as to ensure that families can stay together - and children are able to continue living with their families in their own homes safely (Benevolent Society). This mission is reflected in their slogan: 'Being a parent can be tough...help and support can make a real difference'.

There are a number of pathways to entry into this program. The Department of Education, NSW Police and staff members of NSW Health are able to make referral through their respective Child Wellbeing Units; families can be referred by reason of a report being made to Child Protection Helpline, or through Aboriginal maternal health services (DCJ 2019); or alternatively Family and Community Services ('FACS') Community Services Centres are able to refer a family upon receiving the families' permission to do so (DCJ 2019).

Families are able to take part in the program and receive the support of a Brighter Futures worker for 18 months with a possible extension of 6 months, however families can determine how long they want to be part of the program and can leave at any time (DCJ 2019). The program provides services and support through:

- Child development programs including playgroups, home visits and childcare as well as providing literacy support, referral to specialist support and case management in order to assist children to 'meet developmental milestones, be school ready and develop resilience'; (Benevolent Society).
- Mental health and wellbeing programs including counselling and connecting families with mental health and wellbeing support services, peer support groups, and youth services like headspace and The Shack (Benevolent Society).
- Parenting coaching programs like ReachOut Parent Coaching (Benevolent Society).
- Referrals to various other services including drug and alcohol counselling, financial management and employment services (DCJ 2019).



However, our survey results reveal a disconnect between the Brighter Futures Program and frontline workers and victims/survivors. For example, **91% of victim-survivor survey respondents have not used the Brighter Futures Program.** A victim-survivor from Outer Metropolitan, aged 40 - 49, expanded on this, sharing that she *'[had] not heard of them'*.

#### 4.1.2 'Joint Child Protection Response Program'

The Joint Child Protection Response Program ('JCPRP') is a state-wide program delivered by the NSW Department of Communities and Justice ('DCJ'), the NSW Police Force and NSW Health (DCJ 2020). This program seeks to provide a comprehensive and coordinated response to children and young people who have been alleged to have experienced sexual abuse, serious physical abuse and serious neglect (DCJ 2020). The agencies to this program believe that such a coordinated response will allow for each parties' specialised expertise to be best wielded to meet the child or young person's needs. The NSW Police force leads and coordinates the initiation of criminal proceedings into alleged child abuse where there are sufficient grounds, and staff within these three agencies are better equipped to ensure that processes surrounding the care, health and wellbeing, and criminal investigation assessments are 'as seamless as possible' (DCJ 2020). The coordination of these efforts is also expected to ensure that all parties to these processes are better provided with emotional and legal support and are better informed as to what further action needs to be taken (DCJ 2020).

Referrals to this program will occur by the Child Protection Helpline to the Joint Referral Unit ('JRU') where considered appropriate to do so (DCJ 2020). The JRU is the sole entry point into the JCPRP (DCJ 2020). Entry will occur through a tri-agency assessment of Risk of Significant Harm reports (DCJ 2020). These reports will provide information as to allegations of potential criminal offences, as well as other information held by each of the agencies in connection with the child or young person in question (DCJ 2020). Importantly, these reports will also contain an agreement or otherwise of the threshold having been met (DCJ 2020). Further information will be shared between these agencies, in accordance with the *Children and Young Persons (Care and Protection) Act 1998* (NSW), and as part of the Local Planning and Response process, so as to support efforts to provide real time access to victim interviews, to culminate relevant information and to provide an overall more effective and efficient safety and risk assessment (DCJ 2020).

Where the threshold has not been met and the JRU therefore determines that the specialised tri-agency response provided by the JCPRP is not necessary, the matter may still be referred to a CSC, the NSW Police Force and/or NSW Health where

appropriate, so as to ensure the matter continues to be dealt with in a specialised, local and informed way (DCJ 2020).

#### **4.1.3 Integrated Domestic and Family Violence Services**

The Integrated Domestic and Family Violence Services ('IDFVS') is a collaborative program run by DCJ, NSW Police and non-government support agencies in response to escalating domestic and family violence (DCJ 2019). The IDFVS seeks to provide multi-disciplinary and coordinated support, both practical and emotional, to victims and their children to help them escape and recover from situations of violence and abuse, and where appropriate, works with perpetrators (DCJ 2019). Services and support can be provided directly to the children in these situations, where negotiated and agreed to by the parents. Services provided may include emotional and practical support, safety planning, risk assessment in accordance with mandatory reporting guidelines and therapeutic support (DCJ 2019). The program seeks to encourage advances in:

- Empowering women to keep themselves and their family safe.
- Supporting the pursuit of prosecution through the courts.
- Referring perpetrators to domestic violence behaviour change programs.
- Meeting case plan goals if one is created after an assessment of the family's situation (DCJ 2019).

The program operates out of eleven locations: Bankstown, Brisbane Waters, Cabramatta, Eastlakes, Green Valley - Liverpool, Mt Druitt, Mullumbimby, North Bondi, Nowra, Port Macquarie, Tuggerah lakes and Taree/Forster/Tuncurry & Gloucester (DCJ 2019). The program also operates by giving priority to high-risk groups such as:

- people from disadvantaged and from rural and remote communities
- people with a disability or special needs
- Aboriginal people
- people from culturally and linguistically diverse backgrounds
- repeat victims of domestic and family violence
- victims of domestic and family violence who previously refused services (DCJ 2019).

#### **4.1.4 'Intensive Family Preservation' Service**

The Intensive Family Preservation service ('IFP') is described as Community Services' 'highest-intensity placement prevention program' (DCJ 2019). The IFP works with families in 'crisis', those whose children are at 'imminent risk' of removal and placement in out-of-home care ('OOHC'), where it would be both safe and in the best interests of the child to remain in the care of their family (DCJ 2019). The program

seeks to promote the safety, permanency of placement, and wellbeing of families with children under 18 who meet the eligibility criteria (DCJ 2019). The IFP provides an intensive support including 24-hour access to a caseworker for a three month period, followed by less-intensive, more individualised support services including: advice and referral, assessment and case planning, counselling, casework with a family focus, home visit, parental support groups and skills-focused groups (DCJ 2019). Referrals to the program can only be made by Community Services or through a Court order (FACS 2019).

#### 4.1.5 State-Funded Family Support Services

Child, Youth and Family Support (CYFS) is an early intervention program administered by FACS (DCJ 2019). Specifically, the program delivers a broad range of services to meet the needs of vulnerable children, young people and families who fall below the threshold for statutory child protection intervention - 'risk of harm' (ROSH). These services include advice and referral, assessment, and case planning and management, as well as parenting supports such as parenting programs and support groups (DCJ 2019). The program also provides skills focussed groups for young people, counselling and home visits (DCJ 2019). There are two streams of service delivery:

1. The Child and Family Support (CFS), which targets families with children aged 0-12
2. The Youth and Family Support (YFS) stream, which targets young people aged 12-17 (DCJ 2019).

The program has the following high-level aims:

- To prevent families for entering or re-entering child protection
- To provide parents and carers with improved parenting knowledge and skills
- To ensure that young people remain engaged with education or are in employment
- To assist families and young people to achieve their goals (DCJ 2019)

Certain families receive priority in accessing the services. These families include those who:

- are referred by a Family Referral Service
- are referred by a Specialist Homelessness Service
- are Aboriginal or Torres Strait Islander
- have been on the eligibility list the longest (DCJ 2019).

#### **4.1.6 Macarthur Women's Domestic Violence Court Advocacy Service Case Management**

Attempts to better integrate child protection measures with existing specialist domestic and family violence services have proved highly successful in select WDVCSs across NSW. Macarthur and Wagga Wagga WDVCS currently have case management services and designated youth-focussed workers employed within their services. Specialist workers at Macarthur report that this is a highly efficient service model, as it allows for a collaboration between services to ensure the most appropriate support is provided to at-risk young people who are exposed to domestic violence.

The introduction of case management to all WDVCSs would vastly increase their capacity to assist at-risk children and young people, and to effectively partner with child protection services. Frontline workers at Macarthur WDVCS report having established a more productive relationship with child protective services due to the presence of case management, and a recognition that WDVCSs are often better situated to respond to issues of child safety. Child protective services have the option to refer cases to a domestic violence case manager, who is then able to provide ongoing support to that child and their family, and to make appropriate referrals to other local services.

The relationship between WDVCS workers and their clients also makes these services critical to. In many cases, women may feel more comfortable disclosing their experiences and sensitive information to specialist domestic and family violence workers than they would be to Family and Community Services, due to the degree of trust and rapport that specialist workers are able to build with their clients. Historic failings within the child protection system and fears of having their children removed may prevent women from disclosing certain details of their experience to government agencies. Children and young people may also feel more comfortable informally reporting abuse to a domestic violence service than to police or Family and Community Services. This means that WDVCS workers will often have access to sensitive and important information about clients that child protective services are not privy to and will be best placed to make judgments about the best ongoing care for a child.

The presence of youth-focussed workers in WDVCSs is also critical. These workers have specialist knowledge and training in domestic and family violence, as well as the ability to target the specific needs of young people and effectively connect with them. It is vital that children and young people are supported by youth workers who have an understanding of the complexities of both intimate partner violence and violence perpetrated by family members within the home. Further, while Family and Community Services are required to focus on the family unit as a whole, the nature of a youth-

focused specialist worker enables them to centre the needs of their client and advocate specifically for the wellbeing of an individual child or young person.

Youth-focused specialist workers also have the advantage of being situated within an organisation providing support and care to women experiencing domestic and family violence. This means that they can support families holistically, providing children care in the context of also supporting their non-offending parent. WDVCSs will therefore have a clearer understanding of the impacts of violence on the child and the family as a whole, including its impact on the victim's ability to effectively parent their child.

Specialist youth-focused workers are also invaluable due to their capacity to build connections with other youth agencies in their local area, who regularly come into contact with young people experiencing domestic abuse. This creates improved referral pathways between services, as this network of youth agencies and workers can be used to effectively identify at-risk children. When paired with an integrated approach from WDVCS, child protective services, health services, police, and housing services, this will lead to substantially improved outcomes for children and young people.

Women's Safety NSW strongly believes that the child protection system stands to improve substantially through greater investment in and collaboration with WDVCS. These frontline services are currently a missing link that could assist not only with identifying young people at risk but determining the most appropriate care for them. The specialist training and local connections of youth-focused specialist domestic violence workers are invaluable and must be better utilised. Introducing case management and youth-focused workers in every WDVCS would transform the ability of these services to support vulnerable children and young people and make them an integral component of the broader child protective services network.

## 4.2 At the Federal Level

The Family Relationship Services Program (FRSP) is run under the Attorney-General's Department and administered by the Department of Social Services. It aims to improve the wellbeing of families who are separated, or who are experiencing relationship breakdown. In particular, the FRSP focuses on the safety and wellbeing of children in families going through separation (Attorney General's Department). Numerous programs and services are run under the umbrella of the FRSP. Family Relationship Centres provide information about relationships, including relationship issues and separation, and can provide Family Dispute Resolution (FDR) mediation sessions to assist couples who are undergoing separation (Family Relationships Centres). FDR can assist families in

making parenting arrangements that are in the best interests of children and both parents. Family counselling are also available under the FRSP, and can be accessed by individuals, partners and families. Counselling services can help enable families to work through their issues, build healthy communication strategies, and cope with crises (Family Relationships Centres).

Children's Contact Services are run under the FRSP to provide families with safe options to conduct child handover or have supervised visits. Supervised handover can assist estranged parents who have shared care of a child to conduct handover in a controlled and safe environment. This is particularly crucial in families where domestic violence has been present, as parents do not need to have direct contact with each other. For parents who have spent limited time with their children, supervised visitation through children's contact services creates an opportunity to re-establish that relationship (Relationships Australia 2020).

The Parenting Orders Program and Post-Separation Cooperative Parenting Program assist separated families who are struggling to adhere to parenting orders by providing individual and group sessions where they can identify issues with their current arrangements (Relationships Australia 2020). These interventions reduce conflict in families and seek to prevent parties from breaching parenting orders by providing them a forum to discuss issues proactively. In recognition of the distress and emotional toll that separation can have on children, the FRSP also administers the Supporting Children After Separation Program. This program provides children with counselling, peer support and other critical resources to help them cope with and understand their parents' separation (Supporting Children after Separation Program).

While these programs serve an important purpose in supporting family units undergoing stress frontline specialist workers report concerns that services provided at the Federal level are not sufficiently integrated with state services. Many of the Federal services available are run in connection with the Family Law System.

## 5. Recommended models

### 5.1 Safe & Together' model

International best practice in domestic violence necessarily includes the David Mandel child-centred **Safe & Together** model developed by the Safe & Together Institute in the United States of America. The model is used across several states in the United States of America and was developed through collaboration with child welfare and child services in the United Kingdom as well as relevant elected officials in Australia (Safe &



Together Institute 2020). The model provides a framework for domestic violence-informed policies and practices by addressing the critical use of language in policy and practice definitions, interpretations and their potential outcomes with specific situational examples (Safe & Together Institute 2020).

The institute supports international and national organisations and government from their initial organisational assessment to sustainable and integrated technical assistance. In Australia, this has meant providing training and technical assistance to our child welfare agencies and community partners (Safe & Together Institute 2020). Some of the specific work undertaken in Australia which reflects this international best practice includes the Pathway and Research In Collaborative Inter-Agency working ('PATRICIA') project (Humphreys 2017),<sup>1</sup> Invisible Practices: intervention with fathers who use violence ('Invisible Practices') project (Healey 2018), and the Safe and Together Addressing Complexity focusing on children ('STACY') project (Humphreys 2017).

## 5.2 'Pathway and Research In Collaborative Inter-Agency' working project

The **PATRICIA** project completed in June 2017 aimed to examine women's pathways to service across NSW, WA and VIC in comparison to international experience. It included five strands being the:

1. State of Knowledge;
2. Pathways;
3. Case Studies;
4. Perpetrator Accountability; and
5. Action Research (Humphreys 2017).

The study found that there was much needed collaboration between the two systems of domestic and family violence and child protection services to ensure the safety and wellbeing of women and children experiencing or at risk of experiencing violence. This could be done through a '**Collaborative Practice Framework**' which integrated the services' focus, democratised practice, built partnership, supported safe decision-making for women and children, sustained collaboration and was supportive of collaborative partnerships. Key questions for determining collaborative practice would include, for example (Connolly, Healey & Humphreys 2017):



- Are cross-agency service protocols in place, including meaningful involvement with family law?
- Does the partnership embrace diversity with meaningful representation – e.g. Indigenous, culturally and linguistically diverse (“CALD”), disability, lesbian, gay, bisexual, transgender, intersex and queer (“LGBTIQ”) persons and communities?
- To what extent is information sharing based on victim-centred practice?
- Are decisions focused on perpetrator accountability?
- In what ways are we sharing data and data analysis to inform service improvement?
- Are we monitoring progress against the collaborative vision?
- Is the collaboration formalised within a supportive authorised environment?
- Are women and children safer through the collaboration, and how do we know?
- In what ways is the collaboration fostering stability and managing change?

Many of these framework questions relate directly to the terms of reference of this inquiry and reflect the Safe & Together model. The recommendations found in the [final report](#) of the project are based on evidence from both Australian and international data and Women’s Safety NSW commend this to the Committee.

This is particularly important given a majority of our members consistently indicated that *‘barriers in accessing justice’* in terms of police, courts, child protection and other agencies is one of the specific issues facing a range of diverse women. **Seventy-seven per cent (77%)** of members identified this as a specific issue facing Aboriginal and Torres Strait Islander women, **68%** of members identified this as a specific issue facing women with a disability, **84%** of members identified this as a specific issue facing culturally and linguistically diverse women, **68%** of members identified this as a specific issue facing women from the LGBTIQ community and **76%** of members identified this as a specific issue facing women living in regional, rural and remote areas.

While a majority (**43%**) of our victim-survivors indicated that child protection services were not applicable to them, a worrying **55% of victim-survivors indicated that they did not feel at all supported** by the child protection agency.

- **55%** indicated that they **did not feel supported at all**
- **36%** indicated that they **did not feel very supported**
- **0%** indicated that they **felt moderately supported**
- **9%** indicated that they **felt very supported**
- **0%** indicated that they **felt extremely supported**

### 5.3 'Invisible Practices' project

The **Invisible Practices** project completed in April 2018 aimed to provide an *"evidence-informed Practice Guide for workers and organisations"*. The project was a follow-on project from the PATRICIA project, and focuses on perpetrator accountability (Humphreys et al 2017).

The project again referred to the Safe & Together model with emphasis on the need for partnering with the child's mother as much as working with the child's father and the need for organisations to create a violence-informed culture with skilled individual workers. For example, some recommendations found in the [final report](#) of the project indicated: Key skills for practitioners working with fathers who use violence and control should consider *"pivoting to the perpetrator"* by using a structured tool such as the '**Safe & Together's Mapping Perpetrators' Patterns - Practice Tool**' and shifting the conversation from a partner blaming to a parenting focus.

- Key factors in partnering with women should consider safety planning and advocacy for women and exploring their community and kinship networks.
- Key skills in ensuring a focus on children should consider the child's needs and feelings with recognition and assessment tools for child abuse.
- Organisations need to support practitioners in shifting practice approaches through ensuring practitioner's physical and psychological safety as well as providing ongoing training and collaboration for capacity building (Humphreys et al 2017).

This project has produced paradigm-shifting changes across child protection service culture resulting in substantial improvements to women and children's safety and family functioning for improved outcomes and Women's Safety NSW recommends the Committee look to integrate its learnings into more integrated national women's safety and child protection plans.

Without such necessary change, situations like victim-survivor Diana's\* will continue to occur: *"...my child told another CS officer about what the perpetrator had done, and weeks later they sent a letter saying he was a fit parent, which he used to try to pressure me to make the child see him."*

There needs to be a parenting focus that prioritises child safety and protection and partners with women. Victim-survivor Mary\*, aged 30-39, heterosexual and living with a disability in outer metropolitan NSW shares her lack of trust in the current system's service culture stating that *"[t]hey serve perpetrators, not the victim. I have no trust in family court or police."*

Another victim-survivor shared that *"[d]uring the initial ADVO hearing it was **advised to remove children from the order to allow for contact between children and the perpetrator**".*

Victim-survivor Donna\*, aged 40-49, heterosexual, living in inner metropolitan NSW shares *"I've been made to feel like it's all my fault and because domestic violence was apart of my life I'm a bad mother"*.

## 5.4 'Safe and Together Addressing Complexity' focusing on children project

The **STACY** project completed in December 2019 aimed to provide an evaluation of the implementation of the Safe & Together model on statutory and non-statutory child protection services. The project was a further follow-on project from the PATRICIA project and Invisible Practices project focusing on Case Studies. It consisted of two studies:

1. A quantitative, comparative study of control sites and a site in which the Safe & Together model was implemented to determine how interactions with the statutory agency changed, whether there were higher rates of Domestic and Family Violence ('domestic and family violence') identified, and the impacts of intersecting complexities between domestic and family violence, Alcohol Or Drug misuse ('AOD'), parental Mental Health issues ('MH') and child protection.
2. A qualitative, case study of adult survivors, perpetrators and children and young people who have experienced a response from a worker trained in the Safe & Together model across NSW, QLD and VIC with viewpoints of both individual family members and workers (Humphreys et al 2017).

When the child protection and specialist domestic and family violence services were not collaborating effectively, workers shared the sentiments that: *"It's not helpful to be coming at it from completely different principles, completely different values sets, but when we're coming at it from a similar value set or similar framework...then it's easier to have the conversations"* (Healey et al 2017).

Our victim-survivors shared similar sentiments through first-hand experiences:

Gail\*, aged 60 or older, heterosexual, living in an Outer Metropolitan NSW area shared her experience: *"We suffered 9 long years of further abuse after leaving the perpetrator due to Family Court. **Police and Child Protection did nothing to protect the child due to family court proceedings then the family court said***

*since those services did nothing to protect the child then the child is safe with the perpetrator."*

Anita\*, aged 30-39, asexual, culturally and linguistically diverse, living in an Inner Metropolitan NSW area shared her frustrations: *"CHILD PROTECTION LAWS Must Be APPL[IED] as well as DUTY OF CARE When issues of Parental Contact Visits - Access arise at the FAMILY COURT , It is an URGENT ISSUE of State-Federal LEGISLATION by stopping any unsupervised Child/Minor Contact with a Violent Charged Perpetrator Parent for ONLY SUPERVISED CONTACT ORDERS unless further positive behaviour changes are proven otherwise!"*

## II. Terms of reference

On 23 September 2020, the Committee on Children and Young People of the Parliament of New South Wales self-referred an inquiry into the child protection and social services system, to examine the effectiveness of those systems in responding to vulnerable children and families. Submissions to the inquiry were scheduled to close on 11 December 2020. Women's Safety NSW is pleased to make a submission to the inquiry as at this date, addressing the terms of reference set out by the committee as follows:

1. How vulnerable children and families are identified and how the current system interacts with them including any potential improvements, particularly at important transition points in their lives;
2. The respective roles, responsibilities, including points of intersection, of health, education, police, justice and social services in the current system and the optimum evidence-based prevention and early intervention responses that the current system should provide to improve life outcomes;
3. The adequacy of current interventions and responses for vulnerable children and families and their effectiveness in supporting families and avoiding children entering out of home care;
4. The child protection intake, assessment, referral and case management system including any changes necessary to ensure that all children assessed as being at risk of significant harm receive a proactive and timely in-person response from child protection staff;
5. The availability of early intervention services across NSW including the effectiveness of pilot programs commissioned under Their Futures Matter program;
6. The adequacy of funding for prevention and early intervention services;
7. Any recent reviews and inquiries; and
8. Any other related matters.

### III. Methodology

In order to inform our submission, Women's Safety NSW conducted two online surveys in November of 2020, one for frontline Women's Domestic Violence Court Advocacy Services (WDVCAS) and the other for victim-survivors of domestic and family violence. Women's Safety NSW does not seek to replicate the wealth of research that has been conducted in previous comprehensive reviews of the child protection system. Rather, in recognition of the significant proportion of Australian children and families engaging with the child protection system, we believe it is essential that the issues present in the system must be examined specifically within this context. These surveys provide valuable insight into the experiences of victim-survivors of abuse and the frontline workers who support them, shedding light on the intersection between domestic and family violence and the child protection system.

The frontline worker survey was conducted with a diverse range of **43** frontline domestic and family violence specialists from 23 WDVCASs across Metropolitan (**34%**), Regional (**50%**), rural (**12%**) and remote (**4%**) areas of NSW. These specialists included Managers, Assistant Managers, Domestic & Family Violence Specialist Aboriginal Focused, Case Workers, Safety Action Meeting (SAM) Coordinators, Domestic Violence Court Advocates, Family Advocacy Support Workers, and Youth Focused Domestic and Family Violence Case Workers.

With regards to victim-survivors of domestic and family violence, **25 victim-survivors** of domestic and family violence whose incident(s) occurred in NSW participated in our online survey. All respondents to the survey identified as women. **Eighty one percent (81%)** of participants identified as heterosexual, **nine percent (9%)** as being bisexual, **five percent (5%)** as asexual and **five percent (5%)** as lesbian. Respondents were aged from 18 years of age to over 60 years of age which comprised of **fifty seven percent (57%)** of respondents between 40-49 years of age, **twenty two percent (22%)** being between 50-59 years of age, **nine percent (9%)** being 60 or older, **four percent (4%)** being between 30-39, **four percent (4%)** being between 21-29 and **four percent (4%)** being between 18-20. **Nine percent (9%)** respondents identified as being Aboriginal or Torres Strait Islander. No respondents of the survey identified that they spoke any other language other than English at home. Only **four percent (4%)** of participants identified that they were born overseas. **Forty-one percent (41%)** of respondents reported having a disability or chronic health condition. At the time of the survey, **sixty six percent (66%)** were living in Metropolitan areas, **seventeen percent (17%)** in regional areas and **seventeen percent (17%)** in rural areas. Victim-survivors identified how old the children were when the domestic violence started as follows:

- **36%** identified that it started from conception (in utero)
- **18%** identified that it started during pregnancy
- **27%** identified that it started from 0-2 years of age
- **14%** identified that it started from 3-5 years of age
- **18%** identified that it started from 6-12 years of age
- **14%** identified that it started from 13-17 years of age
- **5%** identified that it started from 18+ years

Further, Victim-survivors identified the types of abuse their child(ren) witnessed/experienced as follows:

- **71%** of victim-survivors stated that their child(ren) **witnessed the violence/abuse by the abuser**
- **67%** of victim-survivors stated that their child(ren) witnessed/experienced **physical abuse** (i.e., pushing, hitting, choking, grabbing, throwing, destroying property)
- **90%** of victim-survivors stated that their child(ren) witnessed/experienced **emotional abuse** (i.e., manipulation of self-esteem, name calling, putdowns)
- **90%** of victim-survivors stated that their child(ren) witnessed/experienced **psychological abuse** (i.e., anxiety, intimidation and coercive control)
- **24%** of victim-survivors stated that their child(ren) witnessed/experienced **sexual abuse** (i.e., inappropriate touching, assault, degrading acts)

Our members and victim-survivors surveys asked for feedback, opinions and experiences relating to domestic and family violence, child protection and social services including critical service gaps, common issues facing women and children, the nature and prevalence of abuse and the short-term and long-term consequences of abuse. Women's Safety NSW also relied upon other member and victim-survivor surveys previously undertaken by Women's Safety NSW as referenced throughout this submission, in addition to a range of other primary and secondary sources as appropriate and also referenced throughout this submission.



## IV. Responses to Terms of Reference

### 1. How vulnerable children and families are identified and how the current system interacts with them including any potential improvements, particularly at important transition points in their lives

#### 1.1 Current services operating within local areas

Frontline domestic and family violence workers surveyed across NSW reported the following services to be currently operating within their local area:

- **100%** stated that *'Family and Community Services - DCJ Child Protection'* operates in their area
- **100%** stated that *'Brighter Futures'* operates in their area
- **95%** stated that *'Children and family relationship services'* operates in their area
- **88%** stated that *'Family and/or youth support service'* operates in their area
- **66%** stated that *'Aboriginal-specific family support worker or service provider'* operates in their area
- **22%** stated that *'Integrated Domestic and Family Violence Service (IDFVS)'* operates in their area
- **24%** stated that *'Child focused worker in women's specialist Domestic and Family Violence service'* operates in their area

Victim-survivors also indicated the services that their children had access to:

- **40%** of victim-survivors revealed that their child had access to *'Family and Community Services - DCJ Child Protection'*
- **10%** of victim-survivors revealed that their child had access to *'Brighter Futures'*
- **20%** of victim-survivors revealed that their child had access to *'Children and family relationship services'*
- **40%** of victim-survivors revealed that their child had access to *'Family and/or youth support service'*
- **0%** of victim-survivors revealed that their child had access to an *'Aboriginal-specific family support worker or service provider'*
- **10%** of victim-survivors revealed that their child had access to *'Integrated Domestic and Family Violence Service (IDFVS)'*



- **0%** of victim-survivors revealed that their child had access to *'Aboriginal-specific family support worker or service provider'*
- **10%** of victim-survivors revealed that their child had access to *'Child focused worker in women's specialist Domestic and Family Violence service'*

**Where child protection is a concern in the context of domestic and family violence**, having specialist child-focused domestic and family violence case management services available is of utmost importance in ensuring that children have genuine access to safety and support. Concerningly, of the members surveyed, **58%** indicated that there are no specialist child focused domestic and family violence case management services available in their local area, or in parts of their local area.

*'Some areas do (have them) and others do not, the services are inadequately staffed and mostly all at capacity'* - Betty\*, Regional Domestic and Family Violence Specialist, WDVCAS

Similarly, a significant proportion (**59%**) of victim-survivors indicated that **their child/ren did not have access to targeted support after being impacted by domestic and family violence.**

*"I tried to find support - but was told by a number of psychologists that they don't work with children who are so young. I understand the difficulties of working with preschoolers and the theory of working through parents, but in the context of abusive personalities, working through parents is a self-limiting concept, which means kids are left vulnerable".* - Georgia\*, Victim-Survivor

*"But only after my daughter and I finally escaped from the violence, my son did not receive any targeted assistance, and remains under the influence of my ex-husband"* - Lisa\*, Victim-Survivor

Of those victim-survivors' children that did receive targeted support, the effectiveness of it was stated as follows:

- **10%** of victim-survivors found the targeted support *'extremely effective'*
- **30%** of victim-survivors found the targeted support *'very effective'*
- **40%** of victim-survivors found the targeted support *'somewhat effective'*
- **10%** of victim-survivors found the targeted support *'not so effective'*
- **10%** of victim-survivors found the targeted support *'not at all effective'*

*“Both children have been coping much better, both at home and at school” - Heather\*, Victim-Survivor*

## 1.2 Current systems interaction with vulnerable children and families in a culturally safe and trauma informed

Families in contact with the child protection system often have multiple and complex needs, it is critical that the system interacts with these families and the children in a culturally safe and trauma informed manner. This involves having trauma-informed interpreter services and service providers who are able to resonate and connect with a child's intersectional experience. Victim-survivors have voiced that there is a *‘lack of consistency’* across the board, and there are reports of particular local DCJ offices as having *‘little to no understanding of domestic and family violence’*. Indeed, when members were asked if the current system is effective in interacting with vulnerable children and families **over half (58%)** of frontline workers believe that the current system is only *‘Somewhat effective’*. The full range of results are as follows:

- **0%** stated that the current system was *‘extremely effective’* interacting with vulnerable children and families
- **7%** stated that the current system was *‘very effective’* in interacting with vulnerable children and families
- **57%** stated that the current system was *‘somewhat effective’* in interacting with vulnerable children and families
- **31%** stated that the current system was *‘not so effective’* in interacting with vulnerable children and families
- **5%** stated that the current system was *‘not at all effective’* in interacting with vulnerable children and families

*“(The current system is) minimally effective, there is not enough capacity to meet the need, DCJ, child protection have very minimal understanding of DFV in our areas and CAMHS have little to no capacity for children and have stated they are not funded to work with children who have experienced trauma. There is a local Headspace but they are also over capacity and young people experience long [waits] for service. They will refer to the Headspace which is in the next town over but they will not work with young people who have experienced DFV.” - Charlotte\*, Regional Domestic and Family Violence Assistant Manager, WDVCS*

*“Safer Pathway has certainly made a difference for the immediate at risk families - the response and overall intervention strategies for those not deemed at an*

*IROSH level, that is those families that don't report or are somehow not detected early and the family violence is generational, there seems to be a huge gap in service provision at the early intervention level - hence the children grow into adults and the problems are huge" - Sam\*, Regional Domestic and Family Violence Manager, WDVCAS*

Of similar concern, the majority (**43%**) of members also believed that their local child protection services only interacted in a culturally safe and trauma informed manner '*a moderate amount*'. This indicates there is much needed change in the way services are interacting with children to ensure their safety, wellbeing and engagement. The follow responses were as follows:

- **0%** stated that their local child protection services is '*a great deal*' culturally safe and trauma informed
- **15%** stated that their local child protection services is '*a lot*' culturally safe and trauma informed
- **43%** stated that their local child protection services is '*a moderate amount*' culturally safe and trauma informed
- **35%** stated that their local child protection services interacts in a culturally safe and trauma informed '*a little*'
- **7%** stated that their local child protection services interacts in a culturally safe and trauma informed '*none at all*'

### 1.3 Child protection services interaction and understanding of domestic and family violence

Being exposed to family violence can have a wide range of detrimental impacts on a child's development, mental and physical health, housing situation and general wellbeing (AIHW 2020). It is therefore critical that child protection services have an understanding of the complex dynamics surrounding domestic and family violence in order to provide the most appropriate support to a non-offending parent, usually the mother, and her children. If the system has a poor understanding of the complex relationship dynamics surrounding domestic and family violence there is a heightened risk for women and children in co-parenting arrangements (ANROWS 2016).

However, despite the cruciality of this support being well researched it is clear from our survey results with frontline workers that local child protection services do not consistently, throughout the state, demonstrate a clear understanding of the dynamics, patterns, impacts and complexities of domestic and family violence. Half (**50%**) of members who participated in the survey indicated that they felt their local child protection

services only had *'a moderate amount'* of understanding of the dynamics, patterns impacts and complexities of domestic and family violence. The full responses were as follows:

- **0%** of respondents felt that their local protection services had *'a great deal'* of understanding of the dynamics, patterns, impacted and complexities of domestic and family violence
- **16%** of respondents felt that their local protection services had *'a lot'* of understanding of the dynamics, patterns, impacted and complexities of domestic and family violence
- **50%** of respondents felt that their local protection services had *'a moderate amount'* of understanding of the dynamics, patterns, impacted and complexities of domestic and family violence
- **29%** of respondents felt that their local protection services had *'a little'* understanding of the dynamics, patterns, impacted and complexities of domestic and family violence
- **5%** of respondents felt that their local protection services had *'none at all'* understanding of the dynamics, patterns, impacted and complexities of domestic and family violence

It is crucial that services provide support to non-offending parents to recover and rebuild following domestic and family violence and to support the relationship between the child and the non-offending parent whilst holding the person using abuse to account. For children, a strong relationship with their non-offending parent may improve some of the negative impacts of being exposed to domestic and family violence (ANROWS 2017). Worryingly, **48%** of frontline workers reported that child protection services in their area support the non-offending parent and hold the person using violence to account *'a little'* of the time.

- 0% reported that the child protection services operating within their area provides support to the non-offending parent and holds the person using violence to account *'a great deal'*
- 5% reported that the child protection services operating within their area provides support to the non-offending parent and holds the person using violence to account *'a lot'*
- 40% reported that the child protection services operating within their area provides support to the non-offending parent and holds the person using violence to account *'a little'*

- 48% reported that the child protection services operating within their area provides support to the non-offending parent and holds the person using violence to account *'a little'*
- 7% reported that the child protection services operating within their area provides support to the non-offending parent and holds the person using violence to account *'none at all'*

*"Very little. I feel that the victim in the family is held accountable for the upbringing of the child(ren). There is a lot of pressure on the parent who is the non-offender."*

- Christine\*, Outer Metropolitan Family and Domestic Violence Specialist, WDVCS

**57%** of victim-survivors had experiences with child protection services and they similarly revealed the extent that they were supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their own behaviour:

- **0%** of victim-survivors felt that they were *'extremely'* supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their behaviour
- **9%** of victim-survivors felt that they were *'very much'* supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their behaviour
- **0%** of victim-survivors felt that they were *'moderately'* supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their behaviour
- **36%** of victim-survivors felt that they were *'not very'* supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their behaviour
- **55%** of victim-survivors felt that they were *'not at all'* supported by the child protection agency, as the non-offending parent, with the abuser being held to account for the impacts of their behaviour

When asked on the impact of the intervention of child protection services in their case, victim-survivors revealed the following:

*"We had already escaped from the situation, so their input was mostly to interview myself and take down the evidence, and then to link my daughter and I in with other support services"* - Lisa\*, Victim-Survivor

*“One child was placed into care for two years while the other remained home. Long term anxiety, depression and lack of confidence” - Savannah\*, Victim-Survivor*

*“They took my daughter and separated us and drugged her and prevented her from seeing me. Now i haven't seen her in 14 years.” - Eloise\*, Victim-Survivor*

## 1.4 Current Systems Interactions with Indigenous Children, Young People and their Families

Aboriginal and Torres Strait Islander Children are significantly over-represented in child protection and out-of-home care services compared to non-Indigenous children (Australian Institute of Family Studies 2020). Currently in Australia, more Indigenous children are being removed from their parents than what was occurring during the Stolen Generation. Indigenous children make up almost 40% of children in out of home care, despite being just 5% of the population under the age of 18 (ABSEC). This represents a significant failure on the government's part to learn from the atrocities of the past (Wahlquist 2018).

### 1.4.1 The Aboriginal and Torres Strait Islander Child Placement Principle (ACPP)

The ACPP is a broad principle made up of five elements – prevention, partnership, placement, participation and connection - that are aimed at enhancing and preserving Aboriginal children's sense of identity, as well as their connection to their culture, heritage, family and communities (Family is Culture 2019). Despite the fact that the ACPP has been enshrined in legislation, and its elements recognised by all states and territories, there are widespread concerns about the way in which the ACPP is interpreted and applied throughout all of Australia (Family is Culture 2019).

A 2020 report conducted by SNAICC found that in the past year NSW has regressed in its implementation of ACPPT and remains a long way from full implementation. Indigenous children are now 10.5 times more likely to be removed from their families (SNAICC 2019). The proportion of Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander kin or other family, or an Aboriginal home-based carer has continued to fall, reducing from 79.3% in 30 June 2016 to 74.4% in 30 June 2018 (SNAICC 2019).



### 1.4.2 Permanent Care Orders

It has long been recommended for Indigenous children to remain at home with their families wherever possible and that early intervention and holistic family support be the first option explored when intervening (ABSEC). Permanent care orders are considered the most undesirable option for Indigenous children as under a permanent care order, guardians and adoptive parents have full care and responsibility for a child or young person, until they are 18. Permanent care orders such as guardianship and adoption lack key features to uphold the rights of Indigenous children and young people and they do not have safeguards or checks in place to ensure children are safe and well cared for (ABSEC).

At the end of 2018, the NSW Government made serious changes to the *Children and Young Persons (Care and Protection) Act 1998*, and these changes expanded the powers of family and community services to permanently remove children from their families (Ireland 2018). This was done without any significant consultation or input from the Indigenous community including from stolen generation survivors themselves. The laws expanded the powers of Family and Community Services to permanently remove children from their parents, by:

- Making it easier for a child to be adopted without permission from their parents
- Introducing a two-year limit when deciding whether the child can safely return home or remain in permanent placement
- Limiting opportunities for families to petition to the court to have their children returned home safely (ABSEC)

While not intentionally targeting Indigenous children, this policy disproportionately affects them (Ireland 2018). The system removes Indigenous children and young people from their families at 10 times the rate of non-Indigenous children and almost 40% of all children removed are indigenous. It is arbitrary to believe that the factors behind a child's removal – especially an Indigenous child – can be resolved within two years. These changes ultimately result in fast-tracked adoptions and guardianship orders, removing key safeguards that ensure the safety of children and significantly increase the likelihood that Indigenous children will be permanently disconnected from their family, community and culture (ABSEC).

### 1.4.3 Family Group Conferencing

Family Group Conferencing is a method of resolving issues in relation to child protection. A conference would involve the family of the child for whom a decision needs to be made and focuses on how best to protect the child. The reason for the



conference is to let the family hear the child protection concerns about the child, to discuss the concerns and decide whether the child is in need of care and protection (SNAICC 2020).

Family group conferencing is how child and family participation is facilitated. However, the conferencing is administered by the Department and as a result of policies, practices and actions of previous and current government agencies, there is often mistrust of the involvement of welfare and other government agencies in Indigenous communities. The fact that the program is facilitated by the Department also renders it unable to meet the requirements of ACPP (SNAICC 2019). SNAICC recommends shifting the administration of this program to Aboriginal Community control under Aboriginal Family Led Decision Making to assist in overcoming the significant power imbalances between the Department and families and support a more culturally safe process to strengthen participation and accountability (SNAICC 2019).

#### **1.4.4 Their Futures Matter**

Their Futures Matter partnered with Aboriginal communities to develop stronger evidence of what works for Aboriginal children, young people, families and communities. The Aboriginal Evidence Building Partnership Project (AEBP) was established to ensure the service system is culturally appropriate and supports the needs of Indigenous children, families and culture (DCJ 2019).

However, it has been reported that sector leaders to date believe that TFM has had limited focus on the specific needs of Indigenous children, families and communities, and discussion around involving Aboriginal people in the governance of TFM has never been action (SNAICC 2019). Moreover, an audit of TFM found that the evidence-based program models were developed overseas and failed to consider the complexities of the NSW context and then unintended impacts these programs had on Aboriginal families. This ultimately affected Aboriginal client uptake and engagement. The TFM Unit made some adjustments to the pilots in consultation with Aboriginal service providers but was limited by the program licences from significantly changing them (Audit Office NSW 2020).

#### **1.4.5 Grandmothers against removal**

Grandmothers Against Removal ('GMAR'), was founded in Gunnedah NSW by Aunty Hazel Collins, after Hazel's daughter had her baby son removed by FACS (Verass 2018). GMAR has now become a national network for families. In 2015, GMAR worked in partnership with the NSW Ombudsman and the New England DCJ District Office to develop and implement The Guiding Principles for Strengthening the Participation of

Local Aboriginal Community in Child Protection decision-making ('Guiding Principles') (DCJ 2019). They key principles are to:

- Ensure Aboriginal community participation in decision making about the care and protection of Aboriginal children
- Support Aboriginal families and reducing the number of removals of Aboriginal children from their immediate and extended families
- Improve the access of Aboriginal people to local services and supports
- Develop pathways for family restoration for Aboriginal children currently in out of home care (DCJ 2019)

The Guiding Principles inform collaboration and cooperation between DCK offices across NSW and Aboriginal communities on child protection matters. In particular, they highlight the role of Local Advisory Groups (LAGs) through which local Aboriginal communities can participate in decision making in child protection and out of home care service delivery (DCJ 2020).

## 1.5 Working Collaboratively with the WDVCS

While the vast majority (**74%**) of those frontline workers surveyed indicated that their local FACS Team does work collaboratively with their service it does appear that this does not always occur on a consistent basis. Those who did stated that the FACS team works collaboratively with them expanded on this collaboration:

*"Some staff utilise the partnership well however not all staff see the positive of working collaboratively. I believe some of the attitudes by some of the FACS team is very biased towards clients and tend to provide more rights for abusive fathers then clients."* - Amani\*, Metropolitan WDVCS worker

*"(Collaboration occurs) only through the SAM attendance and (they) need reminding to respond in feeding back actions. I would not say they are proactive."*  
- Celica\*, Regional Frontline worker

*"From my experience we are only in contact when we make a report."* - Belinda\*, Metropliation Support Worker

*"On a case by case basis."* - Indira\*, Regional Case Manager

*"They will somewhat work with us when the client is at serious threat but otherwise not at all."* - Anne\* Regional WDVCS worker

However, despite this it is clear that the initiation of Safety Action Meetings (SAMs) has improved this collaboration with Child Protection Services and other stakeholders, with almost all **(92%)** of those surveyed indicated this. Respondents also suggested other opportunities that could lead to further improve collaboration through the SAMs:

*“Any clients referred to the SAM should be taken seriously & more funding is needed to ensure safety needs are met immediately” -*

*“(Having) a SAM Meeting for children, rather than the victim being the parent.”*

*“Building networks of support, and relationships between Health, DCJ, Police, WDVCS, Education, Corrections and other services.”*

When asked how early intervention and crisis responses for children at risk due to domestic and family violence be better integrated with specialist domestic and family violence services such as the WDVCSs, members responded with the following:

*“Youth focussed worker or have age referrals lower” - Denika\*, Metropolitan support worker*

*“Being able to take direct referrals from WDVCS after a referral incident” - Olivia\*, Metropolitan Coordinator*

*“WDVCS should be able to access all early intervention services especially if they are able to provide a case plan for the children in the family.” - Anne\* Regional WDVCS*

*“Building stronger relationships with WDVCS workers to ensure when reports are received there are ongoing conversations and that FACS aren’t gate keepers and they acknowledge the information and expertise of WDVCS workers on matters relating to FDV” - Hannah\*, Metropolitan Case worker*

## 1.6 Our recommendations

Australia needs to take away from these projects, the key points from international best practice and lessons learnt from international experience across the United States of America, the United Kingdom and our very own contextual studies, that a properly integrated and collaborative approach between child protection and domestic and family violence services – which is violence-informed, focused on parenting, utilises structured tools, holds perpetrators accountable, partners with women and children, supports

practitioners, and supports positive organisational change, with critical, appropriate, inclusive and consistent use of language in developing and implementing evidence-based and data-driven policies and practice – is the very foundation of ensuring the safety of women and children.

**Women's Safety NSW is also of the view that this model should be applied across the family law and relationship service sectors** so as to ensure the effective integration between domestic and family violence, child protection and family law responses with a focus on safety. Accordingly, Women's Safety NSW makes the following recommendations:

#### **Recommendation 1**

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the child protection system to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

#### **Recommendation 2**

**Women's Safety NSW recommends** the NSW and Federal Government invest in training and system reform throughout the family law and family and relationship service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

#### **Recommendation 3**

**Women's Safety NSW recommends** the NSW Government invest in specialist child-focused domestic and family violence case management services within specialist domestic and family violence services in each local area across NSW.

#### **Recommendation 4**

**Women's Safety NSW recommends** the NSW Government invest in specialist domestic and family violence case management services for adult victim-survivors of domestic and family violence within specialist domestic and family violence services in each local area across NSW.

#### **Recommendation 5**

**Women's Safety NSW recommends** the NSW Government invest in a state-wide model of specialist accredited behaviour change programs in NSW, so they are available in each local area.

## 2. The respective roles, responsibilities, including points of intersection, of health, education, police, justice and social services in the current system and the optimum evidence-based prevention and early intervention responses that the current system should provide to improve life outcomes

### 2.1 Key bodies and their roles and responsibilities

When asked what role key bodies such as health, education, police, justice and social services play in the prevention and early intervention responses for children at risk in domestic and family violence matters, our members responded that these bodies should play *“[a] huge role in education and support”* but *“they need the resources to do more work in the area of prevention and early interven[t]ion”*.

Alarming, a number of members also indicated that in fact, they are *“unsure”* of key bodies' roles *“apart from making mandatory reports”* and that *“most services listed do not participate in prevention or early intervention responses [and] are a last resort after ongoing violence occurs in the home”*. Instead of being preventative, they are *“rather reactive”*.

Early intervention and prevention services are of critical importance in the lives of children, young people and their families and assisting them in reducing the potential development or emergence of problems and issues.

#### 2.1.1 Health

The role of NSW Health is to promote health and wellbeing of children and young people and identify and protect children and young people at risk. The services operating within NSW Health are categorised into Universal Services or Targeted health services. Universal are those which are available to the whole community and have a critical role in the identification, early intervention and prevention of abuse.

Targeted services are those for specific groups of children and young people who are considered potentially at risk (DCJ 2019).

Early childhood health services operate within the Universal Services sector and are available for children aged 0-5 and their families. They provide advice and information on a range of parenting and child health matters, assessment of growth and developmental progress of children, dealing with behaviour and developmental issues and early identification of child abuse and post-natal depression (DCJ 2019).

The Department of Health's National Women's Health Strategy aims to improve the health and wellbeing of all women and girls in Australia, particularly those at greatest risk of poor health (Department of Health 2019). The three key priorities for health impacts of violence against women and girls identified in the Strategy are:

1. Raise awareness of the health impacts of violence against women and girls
2. Address health and related impacts of family and sexual violence
3. Co-design and deliver safe and accessible services for women experiencing family intimate partner and/or sexual violence

### **2.1.2 Education**

The role of the Department of Education and Training is to promote the safety, welfare and wellbeing of children and young people when they engage in any department of education facilitated environment (DCJ 2019). That is, schools, colleges, workplaces or any other programs conducted by the Department or under the auspices of the Department.

Principles, school counsellors and other staff with student support roles also have the responsibility of referring students and their families to outside specialist support services when the situation requires (DCJ 2019). Additionally, it is also the responsibility of the Department of Education to collaborate with other agencies for the care and protection of children and young people in ways that strengthen and support the family and in a manner that respects the functions and expertise of each service provider (DCJ 2019).

### **2.1.3 Police**

The NSW Police plays a significant role in the care and protection of children and young people. Through the Child Wellbeing Unit, which was established in 2010, the NSW Police is able to help ensure that children and families who need help, but do not require statutory intervention are directed to services outside the statutory child

protection system. The Child Wellbeing Unit is designed to help police and other government agencies identify whether a child is at risk and then assist the children and their families in gaining access to appropriate services.

DVLO's also have a crucial role in supporting and monitoring the protection of children in domestic and family violence situations. This is done through ensuring that protection orders are sought for victims including children and young people.

## 2.2 Justice

*"You can see the cracks in the system when you are in it, experiencing it"* – Remi\*, Victim-Survivor aged 30-39 years of age, Outer Metropolitan NSW

### 2.2.1 The Children's Court of NSW

The Children's Courts are NSW's primary courts for dealing with certain cases involving children and young people. The Court sits in courthouses specifically designed for the Court in Parramatta, Surrey Hills, Broadmeadow and Woy Woy, in addition to sitting at courts located in Campbelltown, Port Kembla, Sutherland, Norwa and Wyong (Children's Court NSW 2020). The Court also undertakes a series of circuits in regional areas (Children's Court NSW 2020). Matters dealt with by the courts include:

- Cases involving the care and protection of children and young people under 18 years of age
- Criminal cases in which the defendants were under 18 years of age at the time of the alleged offence
- Traffic cases where the defendant is not old enough to hold a driver's licence or permit, or where the Children's Court is already dealing with other related criminal offences
- Applications for Apprehended Violence Orders where the defendant is under 18 years of age
- Applications for Compulsory Schooling Orders where a child or young person is required by law to attend school
- Breaches of parole and in some cases the eligibility of children and young persons for release on parole (Children's Court NSW 2020).

However, the Children's Court deals solely in matters involving children under the age of 18. Accordingly, in cases involving a person over the age of 18, namely a parent or guardian, the case will be dealt with by another court. Cases in which an adult commits a crime against a child will be heard by a Magistrates or appropriately more senior



court (DCJ 2019). Cases involving adoption will be heard by the Supreme Court of NSW (DCJ 2019). Appeals to decisions of the Children's Court will be heard by the District Court of NSW (DCJ 2019).

### 2.2.2 Inclusion of children as protected persons on ADVO applications

ADVO's provide a critical form of civil protection for women and children impacted by domestic violence. Sections 48(3), 38(2), 39(3) and 42 of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) clearly outlines the requirements for an ADVO with regards to an application for children to be included as a protected person. However, the application of these sections **should not override concerns for safety**. Pursuant of Section 68R of the *Family Law Act 1975* (Cth), police and local courts may override, suspend or vary an existing parenting order. However, reluctance to do so can be traced back to culture and inherent ideas surrounding a father's right to their children. This is underpinned by the primary consideration in s 60CC(2)(a) of the *Family Law Act* (Cth), which places importance on the child having a meaningful relationship with both parents.

In Women's Safety NSW Submission [Police Domestic and Family Violence Policy and Practice](#) 89% of WDVCS workers surveyed reported **'sometimes' or 'often' encountering issues with police not including children as protected persons on ADVO applications, with only 9% reporting 'rarely' having such issues**. This represents a critical gap in the policing system and their duty to protect children. A failure to place children as protected persons means that children could potentially still be exposed to violence within the family.

Victim-survivors revealed the following when asked about the process they went through in attempting to have their children included as protected persons on ADVOS.

*'Didn't have a gay friendly DVLO'* Victim-survivor Ella\*, aged 40-49, lesbian, living in outer metropolitan NSW.

*'As hard as I tried, my DVLO and the whole DV Team deemed it unnecessary because I was the birth mother (even though the perpetrator coerced me to put them on the birth certificate). They failed to understand that my son was in danger'* Victim-survivor Ella\*, aged 40-49, lesbian, living in outer metropolitan NSW.

*'Police attended. Their notes accurately reflected my ex's behaviour, and our son's distress - however they said there was nothing they could do as it was a family law matter. They appeared supportive at the time. Afterwards I called through to the station, and spoke to the DV officer about an AVO. She refused*

*to support one ADVO ("Im not going to override my superior officer" - I don't know where this comment came from - I wasn't aware of a superior officer having an opinion one way or the other). The FCC judge said the police could have and should have acted to immediately return our child'* Victim-survivor Georgia\*, aged 40-49, bisexual, living in outer metropolitan NSW.

*'Magistrate unwilling to include children as this would impact upon the perpetrators contact with the children'* Victim-survivor Rebecca\*, aged 40-49, heterosexual, living in rural NSW.

*[Inclusion of children under the ADVO was] 'not given as an option'* Victim-survivor Savannah\*, aged 30-39, heterosexual, living in rural NSW.

*'2nd AVO did not include child as police were more concerned about access rather than my sons safety'* Victim-survivor Yanna\*, aged 40-49, heterosexual, living in rural NSW.

Victim-survivors also outlined the impacts of not having children included on the order or the other party being able to contact them in order to have access to the children:

- 77% stated that they had ongoing safety concerns for themselves and their children
- 62% stated that they experienced continued harassment from the perpetrator
- 69% stated that their children were forced to have contact with the perpetrator
- 54% stated that they had complications with family law proceedings
- 15% stated that they had complications with child protection authorities

*'By Sydney Family Court Contact Orders, my 11 year old was forced to visit his perpetrator father. The NSW POLICE had charged him several times with DV and had several AVO['s] which he had breached and charged a couple of times, yet no matter what I did to stop our child visiting his father, I was informed by a Lawyer that I will be charged with Court Contempt if I didn't allow our child visiting his perpetrator-father. Some years later, after divorced, my child, then a young adult, disclosed to me he had been **sexually assaulted by his perpetrator- father**. My son has **lifelong Complex PTSD**. His father [went] overseas after [we] divorced. FAMILY COURT PARENTAL ACCESS LAWS MUST BE CHANGED . A Violent Charged PERPETRATOR PARENT MUST NEVER BEING LEFT UNSUPERVISED WITH A MINOR, UNLESS IS SUPERVISED. The PARENTS RIGHTS STOPS WHEN THAT PARENT HAS BEEN CHARGED WITH ACTS OF VIOLENCE! I can not comprehend HOW*

*THE FAMILY COURT allows MINORS to be ALONE with a CHARGED PERPETRATOR PARENT?* Victim-survivor Cindy\*, aged 60+, heterosexual.

*'Police didn't act (when, according to the FCC judge they could have and should have). As a consequence, I had to initiate court proceedings for recovery. Legal costs for the month of recovery were 17K - I'm lucky I had access to funds (how many mums have access to 17K???)!. That then triggered ongoing court proceedings - which have cost >70K over 2 years, and continuing. Again - how many single mums have access to that? My ex has a child with another ex. He has been abusive to her, and continues to be financially abusive/controlling, ensuring she's dependent and can't afford to fight'.* Victim-survivor Georgia\*, aged 40-49, bisexual, living in outer metropolitan NSW.

*'I had to make contact as my son wanted to see his father. Then [I] had to work super hard at establishing my own boundaries due to the lack of services.'* Victim-survivor Jenny\*, aged 40-49, asexual, living in outer metropolitan NSW.

*'Police [were] unable to retrieve [the] child as court orders were not in place for [the] oldest child. Financial abuse - CSA manipulate[d] to suit payer, resulting in over payments of ftb and recurring debts.'* Victim-survivor Savannah\*, aged 30-39, heterosexual, living in rural NSW.

### 2.2.3 Children's safety not assessed at the point an ADVO is made by police or local courts

While ADVOs provide a critical form of civil protection for women and children impacted by domestic and family violence, Women's Safety NSW finds that the child's assessment continues to be neglected. This is demonstrated on the fact that **there is currently no assessment being undertaken as to the safety of care and living arrangements for children at the first mention for Apprehended Domestic Violence Order ('ADVO') matters.** In the absence of a systematic assessment mechanism, children are being subjected to a potential risk of harm. Judicially, Local Court magistrates are not able to make an informed decision on the child's living and care arrangements.

It is extremely concerning that there is no mechanism for an assessment of child safety as to care and living arrangements to take place at this point. **Children themselves are not even provided the opportunity to be heard as to whether they themselves feel safe with the proposed care and living arrangements being made for them.** Presently, if the parent who is the person of interest (POI) is not specifically

prevented from contacting their child through an exclusion order which names the child as a protected person, there is scope for a negotiation to take place around the arrangements for child care and live with arrangements so that the conditions of the order are agreed to.

According to Hannah\*, aged 40-49, victim-survivor from Regional NSW, *"We suffered 9 long years of further abuse after leaving the perpetrator due to Family Court. Police and Child Protection did nothing to protect [the] child due to family court proceedings then family court said since those services did nothing to protect [the] child then the child is safe with the perpetrator."*

It is evident that the child's safety is neglected during this process which highlights the pressing need for a systematic assessment. Frontline workers also agreed with these sentiments and further identified the need for specialist domestic violence children workers to manage these cases:

*Snezana\*, a Rural WDVCS Service Coordinator/Manager, suggested we implement "[s]pecialist domestic violence children workers - workers who have a comprehensive understanding of domestic violence and the impacts on children and who are trained to interview children so that children are not used as pawns in family law disputes or as a means to perpetuate the violence and abuse".*

If these recommendations were to be implemented, Local Court magistrates would possess extensive and specialised advice on the implications of their decisions on the child's safety, wellbeing and development.

#### 2.2.4 Family Courts

The purpose of the Family Court is to assist in determining complex family law matters and these matters include those that involve a child welfare agency and cases of family violence. The ALRC recently conducted a wide-ranging review of the federal family court system and found it posed an *"unacceptable risk to children"*. The ALRC identified that *"children are falling into harm because of gaps between the federal family court and state and territory courts, child protection services and police"*

These gaps exist because federal family courts often hear allegations of family violence and child abuse, but they have limited powers to investigate them. They rely on state and territory courts and agencies to conduct that work and to subsequently share information about the risks to families and children. However, it is apparent that there is a lack of information **sharing between state and territory domestic violence**

**and child protection systems and the federal family law system** victims forced to reprove the violence and abuse they have experienced yet again as they navigate the family law system.

Moreover, a critical jurisdictional gap exists as a result of the split court system whereby the federal courts primarily deal with parenting and property matters, and the state and territory courts deal with child protection and family violence matters. As a result, crucial evidence of domestic and family violence (such as domestic violence charges, convictions and AVO records, as well as corrective services records and child protection reports) are sometimes not being shared with or presented in the federal family courts. Consequently, orders are often made which do not take into account the histories of violence toward women and / or children, such as children being ordered to spend equal or substantial and significant time with a parent who is using violence and abuse.

With no nationally recognised risk assessment screening process for professionals working in family law and a lack of information sharing between the state systems and federal family law system, much violence experienced by women and children goes undetected.

Section 60cc in the *Family Law Act 1975* (Cth) further places children's safety at risk as it stipulates that the primary considerations in determining the child's best interests are:

- a) the benefit to the child of having a meaningful relationship with both of the child's parents; and
- (b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.

While Section 60CC(2A) states that the need to protect a child from harm should be given greater weight than the need for a child to have a meaningful relationship with their parents, in practice, this does not always occur. This was reflected in a survey conducted by Women's Safety NSW for the [Submission to the Joint Select Committee on Australia's Family Law System](#), where **63% of survivors surveyed and 71% of our members surveyed reported that the Courts may actually prioritise the need for a child to have a meaningful relationship with both parents over their safety.**

The implementation of a national risk assessment screening coupled with better information sharing process, would work towards closing the gaps between the different family law services. This would result in a uniformed approach to protecting children from violent living or care arrangements.

#### 2.2.4.1 *New Developments in Family Courts*

In acknowledging the serious safety gap between state domestic violence and federal family law systems was part of the reason for the introduction of the Urgent COVID List, which is anticipated to become an ongoing Urgent List enabling high risk domestic and family violence matters to be heard in the Family Courts within 72 hours of assessment, for the purpose of establishing interim arrangements which are safe for children.

Additionally, the commonwealth government is piloting the co-location of state and territory child protection and other officials in Family Law Court Registries across Australia. These officials will facilitate timely access to relevant information and records held by state authorities and other courts, which is critical to decision-making that promotes the best possible outcomes for children and a court system that is responsive to safety risks (DSS 2020).

The government has also initiated the Lighthouse Project, which is a pilot program that will screen participants involved in family law parenting matters for risk factors when a matter is filed, Cases will be triaged according to the level of risk, and support provided to families identified as being in need.

While these are welcomed developments, it is undeniable that a significant cultural shift is still needed within the family court system. In family law, the government is in the position of determining the conditions under which some of society's most vulnerable citizens must navigate their safety - domestic and family violence abuse survivors, mostly women and children. Their safety should be put first.

#### 2.2.5 **State-based police and courts reluctant to enact ADVOs or charge where children are involved, especially in the context of family law disputes**

*[Police were reluctant to] 'interfere with family law arrangements'* Victim-survivor Georgia\*, aged 40-49, bisexual, living in outer metropolitan NSW.

Family law parenting orders are made by the family court and relate to the arrangements of care of children. They often require separate parties to co-operate around sharing the care of children, meaning that they may require parents to have contact in order to deliver children into each other's care.<sup>135</sup> ADVOs differ from this in that they are court orders that are designed to protect someone from the violence and abuse or threats of violence and abuse of another person. A family court order allowing a child to spend time with a parent does not prevent an ADVO from being



made. It is possible for ADVOs and parenting orders to operate at the same time.<sup>136</sup> Sections 68R, 60B and 68T of the *Family Law Act 1975* (Cth) outline the clear mechanisms and requirements for the states and territories to address inconsistency between ADVOs and the *Family Law Act 1975* (Cth).

Ultimately, the effectiveness of protection orders depends on the willingness and ability of police and courts to enforce them. When police fail to enact an ADVO breach, the victim's faith in the protection provided by the order is severely undermined.

In Women's Safety NSW Submission [Police Domestic and Family Violence Policy and Practice](#), 37.8% of frontline workers found that police can particularly show reluctance to enact an ADVO breach in circumstances where there are family law orders in place or proceedings afoot.

A dismissal of an ADVO breach as a family law matter is inherently wrong. A breach of an ADVO is a criminal offence in NSW and is thus a matter for state-based police and courts. It should not be left to be addressed within family law courts which often involve extensive cost and delay. If police continue to misunderstand and/or misrepresent the role of family law so as to abdicate their duty to protect victims, these save victims - both adults and children will remain unprotected or indeed be placed at higher risk.

### 2.2.6 Social services

Services Australia plays a critical role in assisting victim-survivors of domestic and family violence. It is the role of the department to help victim-survivors access payments and connect them to local support services, such as legal and housing support. Services Australia is uniquely positioned in that it works with specialist providers and other areas of government to find better ways to support victim-survivors of domestic and family violence (Services Australia 2020). Staff are trained to recognise customers who may be affected by domestic and family violence and then ensure that they are referred to the most appropriate services (Services Australia 2020).

Women's Safety acknowledges the importance of this role and the potential that it has in providing support for victim-survivors of domestic and family violence. However, Women's Safety NSW does have significant concerns that Social Services are not consistently providing this support to women and children. It is clear that there are issues that domestic and family violence is not being adequately picked up by employees when women choose to engage with these services and when it is noticed it is not responded to appropriately and victim-survivors are subsequently not referred



to domestic violence services for support. Other concerns that Women's Safety NSW holds are as follows:

- There being a lack of trauma informed training and understanding for employees of human services and this impacts victim-survivors while they are engaging with these agencies
- Safety and stalking concerns from victim-survivors as the services send documents to the residence of abusive partner that contain client details that are easily traceable such as their Medicare number
- Backlogs in payments and automated replies can cause extreme delays resulting in women and their children being forced to remain in unsafe environments
- The difficulties women face in accessing crisis payments, in terms of eligibility, application and processing
- An apparent basic lack of eligibility and access for women on temporary visas experiencing violence, placing them in critical danger

In Women's Safety NSW [Submission to the House Standing Committee on Social Policy and Legal Affairs](#) 100% of frontline workers surveyed stated that the Centrelink crisis payments for victim-survivors of domestic and family violence were not operating effectively. Respondents also urged for trauma informed training for employees emphasising that the constant pressure to retell events is highly stressing on victims. Moreover, the complexity of these systems and the documents required to ensure payments and support are accessible were described as impossible by numerous respondents. **With 89% of respondents acknowledging the failures of the Child Support system to function effectively**, it is evident that the system's ability to protect women and their children in the context of domestic and family violence is lacking.

## 2.3 Early Intervention Services

Early intervention services play a critical role in the lives of children, young people and their families in setting the foundation for lifelong health and learning outcomes (DCJ 2020). This role is based on well-established evidence that the first years of a child's life and the commencement of changes or stages of development are crucial times in preventing problems from occurring or escalating. It is therefore of utmost importance that early intervention services are located throughout NSW to ensure that all children have access to them. Of our respondent members, **76%** stated that they knew who the early intervention services in their area are.

WDVCASs are perfectly placed to provide direct referrals for children to early intervention services. Of those surveyed:

- **39%** stated that their early intervention service provider takes referrals directly from their service
- **13%** stated that their early intervention service provider does not take referrals direction from their services
- **47%** stated that their early intervention service provider takes referrals directly from their service on a 'case by case basis'

When asked to what extent their local early intervention and prevention services demonstrate a clear understanding of the dynamics, patterns, impacts and complexities of domestic and family violence, respondents revealed the following:

- **3%** believed that their local early intervention and prevention services have '*a great deal*' of understanding of the dynamics, patterns, impacts and complexities of domestic and family violence
- **26%** believed that their local early intervention and prevention services have '*a lot*' of understanding of the dynamics, patterns, impacts and complexities of domestic and family violence
- **47%** believed that their local early intervention and prevention services have '*a moderate amount*' of understanding of the dynamics, patterns, impacts and complexities of domestic and family violence
- **21%** believed that their local early intervention and prevention services have '*a little*' understanding of the dynamics, patterns, impacts and complexities of domestic and family violence
- **3%** believed that their local early intervention and prevention services have '*none at all*'

## 2.4 Health, education, police, justice and social services working with WDVCAS

*"From my experience it takes many phone calls before I find the right person or department"* - #17, Social Support Worker, Family Advocacy and Support Services, Inner Metropolitan

Health, education, police, justice and social services have significant potential to work with WDVCAS in order to support prevention and early intervention for children at risk in domestic and family violence matters. Our members revealed the extent to which these services work with them to support prevention and early intervention:

- 8% indicated *'a great deal'*
- 10% indicated *'a lot'*
- 54% indicated *'a moderate amount'*
- 26% indicated *'a little'*
- 3% indicated *'none at all'*

Furthermore, those surveyed also indicated how well their local Child Wellbeing Units in Police, Health and Education work with the WDVCAS, their responses were as follows:

- 0% stated that Child Wellbeing Units work with their service *'a great deal'*
- 25% stated that Child Wellbeing Units work with their service *'a lot'*
- 30% stated that Child Wellbeing Units work with their service *'a moderate amount'*
- 30% stated that Child Wellbeing Units work with their service *'a little'*
- 15% stated that Child Wellbeing Units work with their service *'none at all'*

*"They send us inquiries around certain cases wanting to know if referrals were accepted. I often ask (when these referrals are not accepted\_ what they plan to do with their referral and only once have I had a reply. We only get referrals from the Police CWI. I am unaware of any referrals made or discussed form Health or education."* - Celia\*, Regional WDVCAS

*"They often ring to ascertain if we are working with families, however they do not collaboratively work with us."* - Roxanne\*, Regional WDVCAS

## 2.5 Health, education, police, justice and social services working together to support crisis responses for children at risk in domestic and family violence matters

*"We all have a crucial role to play in identifying and ensuring children are heard and assisted."* - #17, Social Support Worker, Family Advocacy and Support Services, Inner Metropolitan

As alternate first points of contact for children in crisis situations, it is crucial for health, education, police, justice and social services to not only work with WDVCAS but to also collaborate effectively with each other in making appropriate crisis responses. Unfortunately, however, our members revealed a sometimes-fractured relationship between each of these services, ultimately allowing child victim-survivors to fall through the cracks of a disjointed system.

When asked how well these areas work together to support crisis responses for children at risk in domestic and family violence matters, they answered:

- 8% responded with *'a great deal'*
- 10% responded with *'a lot'*
- 54% responded with *'a moderate amount'*
- 26% responded with *'a little'*
- 3% responded with *'none at all'*

## 2.6 Our recommendations

### Recommendation 6

**Women's Safety NSW recommends** establishing an assessment of child safety at the first mention of ADVO matters in the Local Court. Assessed risk in accordance with the DVSAT must be considered and children must be provided the opportunity to be heard as to whether the proposed living and care arrangements made on their behalf allow them to feel safe.

### Recommendation 7

**Women's Safety NSW recommends** that there be greater efforts made to educate early intervention and prevention services of the dynamics, patterns, impacts and complexities of domestic and family violence.

### Recommendation 8

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the health, education, police, justice and social service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### Recommendation 1

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the child protection system to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### Recommendation 2

**Women's Safety NSW recommends** the NSW and Federal Government invest in training and system reform throughout the family law and family and relationship service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### **Recommendation 3**

**Women's Safety NSW recommends** the NSW Government invest in specialist child-focused domestic and family violence case management services within specialist domestic and family violence services in each local area across NSW.

### **Recommendation 4**

**Women's Safety NSW recommends** the NSW Government invest in specialist domestic and family violence case management services for adult victim-survivors of domestic and family violence within specialist domestic and family violence services in each local area across NSW.

### **Recommendation 5**

**Women's Safety NSW recommends** the NSW Government invest in a state-wide model of specialist accredited behaviour change programs in NSW, so they are available in each local area.

### **Recommendation 9**

**Women's Safety NSW recommends** resourcing to facilitate greater collaboration and streamlined referral pathways between the WDVCSs and other women's specialist domestic and family violence services and child protection and early intervention and prevention services.

### **Recommendation 10**

**Women's Safety NSW recommends** the development of automatic referral pathways between Child Wellbeing Units in Police, Health and Education and Safer Pathway providers to ensure women and children are offered appropriate advocacy and support.

### **Recommendation 11**

**Women's Safety NSW recommends** that all ADVOs have children impacted by domestic violence included as a protected person. Notions of children having a meaningful relationship with both parents, cultural norms and inherent beliefs as to a father's right to see their children should not override the need to protect the child.

#### **Recommendation 12**

**Women's Safety NSW recommends** the development of a streamlined referral pathway between the state child protection and domestic violence courts and the federal family law courts.

#### **Recommendation 13**

**Women's Safety NSW recommends** that the urgent list in the family court be extended and maintained.

#### **Recommendation 14**

**Women's Safety NSW recommends** that the Lighthouse Pilot in the family courts be extended and maintained subject to positive evaluation.

#### **Recommendation 15**

**Women's Safety NSW recommends** that the co-location model of police and child protection services at family law registries be extended and maintained subject to positive evaluation.

### 3. The adequacy of current interventions and responses for vulnerable children and families and their effectiveness in supporting families and avoiding children entering out of home care

#### 3.1 Interventions and responses for vulnerable children and families within the context of domestic and family violence

Women's Safety NSW seeks to provide targeted feedback with respect to the adequacy of current interventions and responses vulnerable children and their families within the specific context of domestic and family violence.

When asked about potential improvements that could be made in how the system supports vulnerable children at various stages of their lives within the context of domestic and family violence, the primary recommendation was for **specialist domestic and family violence services, such as WDVCASs, to be funded to employ child focussed, trauma-informed workers to provide targeted support for children and work more collaboratively with child protection. In fact, almost all (91%) respondents reported this.**

*“Children are often the unseen victims, who often as studies show deal with the effects silently as they are not given a voice (and) end up as adults (who) may become perpetrators or are involved in abusive relationships.”* - Jessica\*, Inner Metropolitan Domestic and Family Violence Social Support Worker, FASS

*“We currently sit at an MDT meeting her in (specific location) but this is not common practice. Having the space to specifically talk about the impact on children allows for services to tailor their approach with the parent to ensure that there are better outcomes.”* - Debbie\*, Regional Domestic and Family Violence Specialist, WDVCAS

*“Definitely, this is a huge gap in our area”* - Charlotte\*, Regional Domestic and Family Violence Assistant Manager, WDVCAS



*“Yes absolutely. There needs to be specialist workers employed in these roles that collaborate with FACS with these matters.” - Mia\*, Outer Metropolitan Domestic and Family Violence Youth Focused Case Worker, WDVCAS*

*“Most services over-identify with the victim of violence, and rarely hear the 'child's voice' in the situation. Only DCJ (CP) will interview children to hear what they have to say. More child focussed responses should be included in family Interventions” - Taylor\*, Regional Domestic and Family Violence SAM Coordinator, WDVCAS*

*“I think it [funding to employ child focused, trauma informed workers to provide targeted support for children] should not be just in WDVCAS but across DV services” - Lorraine\*, Inner Metropolitan Domestic and Family Violence Manager, WDVCAS*

**Victim-survivors also agreed that women’s domestic violence services should have funding to employ child focussed workers to provide targeted support for children as follows:**

*“Yes, absolutely. One of the risks for the non-violence parent is that child protection services will take their children away if they remain in the situation/violence, however, it's really hard to get assistance to get out safely with children as well. My ex orchestrated my son leaving home shortly before my daughter escaped, blaming it on me, but the person he placed my son with is a child predator as well. My son needed further assistance that wasn't available to him because he wasn't in my care - but that doesn't mean that he didn't need assistance or a safe, independent, third party source of assistance to help him navigate the situation better, and offer him advice, options and safety.” - Lisa\*, Victim-Survivor*

*“YES! Definitely. Finding support for my children helped my recovery so much. My son’s violent behavior especially was having a big impact on our whole family and we needed help” - Heather\*, Victim-Survivor*

*“INDEED - A MUST - It would prevent some children to be further abused by perpetrators and women would feel further supported” - Cindy\*, Victim-Survivor*

*“YES! Children’s brains are still developing and witnessing abuse between their parents or the parents only serves to show a dysfunction and abusive*

*relationship. This can lead to PTSD or BPD in which the child themselves may fall victim to DV in their intimate adult relationships” - Tamara\*, Victim-Survivor*

*“Absolutely as children and the impacts of DFV are forgotten. They are bargaining tools or collateral damage but they have a voice that needs to be listen[ed] to” - Hannah\*, Victim-Survivor*

*“Child specialist workers in NGOs. Cases are not picked up if the wom[a]n leaves even though the threat is there. They do not pick up [when] there are services involved.” - Lorraine\*, Inner Metropolitan Domestic and Family Violence Manager, WDVCS*

Other suggestions from frontline respondents of potential improvements that could be made in how the system supports vulnerable children at various stages of their lives include the following:

*“[T]he child protection agency needs to look into the options to become a party to a Family Law Court matter more often. The 2 systems do not work together very well and it leave[s] children vulnerable.” -Sally\*, Regional Domestic and Family Violence Specialist, WDVCS*

*“Focus on early intervention services for families experiencing family & domestic violence and acknowledge the importance of the victim and the children and not facilitating a process where the victim is penalised for the behaviours of the perpetrator.” - Mia\*, Outer Metropolitan Domestic and Family Violence Youth Focused Case Worker, WDVCS*

*“Support all vulnerable children not just the 0-2 year age group” - Charlotte\*, Regional Domestic and Family Violence Assistant Manager, WDVCS*

*“Being involved from the beginning, at this stage services are not getting involved for weeks after incidents occur, DJC also never have "capacity" to work with families, this is unsafe for children at risk to wait 3 weeks after ROSH reports are made to then start discussing how DCJ can work with a CALD family! We don't see this here in just CALD communities, many children are at risk and there is never capacity.” - Natalia\*, Regional Domestic and Family Violence Specialist, WDVCS*

*“More programs that are age appropriate for children addressing DV emotions etc” - Jean\*, Regional Domestic and Family Violence Specialist, WDVCS*

*“Stop allowing abusive parents to have unsupervised visits with children until they have completed domestic violence training and proven an understanding on the impact it has on children.”* - Susan\*, Regional Domestic and Family Violence SAM Coordinator, WDVCS

*“[B]eing open to working collaboratively with other services, free flowing of information sharing under Part 13a/ Part16.”* - Maria\*, Outer Metropolitan Domestic and Family Violence SAM Coordinator, WDVCS

*“DCJ are the only service that covers the far west. These services are not local based workers, they travel and sit in an office elsewhere. They then acknowledge that it is not practical for the family to be supported due to being 'to[o] far' from support.”* - Jenny\*, Remote Domestic and Family Violence Manager, WDVCS

*“Have consistent check in and check up's in school time with the child without parents. Assess attendance and school grades and indicators and risk factors when assessing.”* - Debbie\*, Regional Domestic and Family Violence Specialist, WDVCS

*“Women should not be held accountable for the perpetrators['] abuse. children's voices should be heard and the perpetrator should be removed from the household.”* - Kasey\*, Regional Domestic and Family Violence Specialist, WDVCS

*“More preventative services, earlier intervention to avoid complexes later in life.”*  
- Elise\*, Regional Domestic and Family Violence Outreach Case Manager, Homelessness Service

*“We can improve in understanding a child's mind and their perspective in the dynamics of being a child who witnesses or is a victim of domestic violence... Giving them a voice and safe space to speak”* - Jessica\*, Inner Metropolitan Domestic and Family Violence Social Support Worker, FASS

### **3.2 Effectiveness in supporting families and avoiding children entering out of home care within the context of domestic and family violence**

The *National Framework for Protecting Australia's Children 2009-2020* stated that out of home care (OOHC) is a last resort for keeping children safe. Providing support to families and children so the child can safely remain in their home is the preferred option (AIFS

2018). However, it is apparent that this does always occur with the vast majority (**78%**) of victim-survivors surveyed indicated that they **did not** feel that interventions from child protection services helped to prevent their children from entering out of home care.

*“The opposite. The perpetrator found us at the refuge and there were no staff.” - Savannah, 30-39-year-old Victim-Survivor in a Rural Area of NSW*

### 3.3 Our recommendations

#### Recommendation 7

**Women's Safety NSW recommends** that there be greater efforts made to educate early intervention and prevention services of the dynamics, patterns, impacts and complexities of domestic and family violence.

#### Recommendation 16

**Women's Safety NSW recommends** investment in community education as to the role and function of child protection and early intervention services.

#### Recommendation 17

**Women's Safety NSW recommends** investment in community awareness as to the social services available to them, including specialist domestic and family violence services.

#### Recommendation 18

**Women's Safety NSW recommends** that early intervention services be provided more extensively and consistently throughout NSW.

#### Recommendation 1

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the child protection system to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

#### Recommendation 2

**Women's Safety NSW recommends** the NSW and Federal Government invest in training and system reform throughout the family law and family and relationship service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

#### **Recommendation 8**

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the health, education, police, justice and social service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

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**Recommendation 10**

**Women's Safety NSW recommends** the development of automatic referral pathways between Child Wellbeing Units in Police, Health and Education and Safer Pathway providers to ensure women and children are offered appropriate advocacy and support.

#### **4. The child protection intake, assessment, referral and case management system including any changes necessary to ensure that all children assessed as being at risk of significant harm receive a proactive and timely**

Child protection services within Australia are “provided to anyone under the age of 18 who has been or is at risk of being abused, neglected or otherwise harmed, or whose parents are unable to provide adequate care and protection” (Australian Human Rights Commission 2019, p. 105).

Having an effective child protection intake, assessment, referral and case management is of utmost importance as it is through these processes that determine if children are not only at risk of harm but also organise the services that children can be provided with.

When asked of the effectiveness of child protection intake, assessment, referral and case management systems members revealed the following:

- **0%** stated that the child protection intake, assessment, referral and case management systems operating in their area are *‘extremely effective’*
- **12%** stated that the child protection intake, assessment, referral and case management systems operating in their area are *‘very effective’*
- **58%** stated that the child protection intake, assessment, referral and case management systems operating in their area are *‘somewhat effective’*
- **25%** stated that the child protection intake, assessment, referral and case management systems operating in their area are *‘not so effective’*
- **5%** stated that the child protection intake, assessment, referral and case management systems operating in their area are *‘not at all effective’*

The qualitative data further reveals the lack of resourcing within the intake, assessment referral and case management systems and the impact that this has on children:

*“The ROSH reports can sit an intake for up to 28 days. This is not fast enough”*

*“If a matter is accepted it is very effective to address child protection concerns. However, DCJ does often not have capacity and many reports that meet ROSH are not accepted for ongoing casework due to competing priorities.”*

*“All the DCJ offices that work across our locations only have capacity to support the very vulnerable as in 0-2 years (prenatal also).”*

Ensuring that children who have been assessed as being at risk of significant harm (ROSH) receive a proactive and timely in-person response from child protection staff is of critical importance. However, it is clear from frontline workers that this does not always occur, with **74%** of respondents indicating that this only occurs only *‘sometimes’* or *‘not often’*. The full range of results is as follows:

- 0% stated that children who are assessed as being at ROSH receive a proactive and timely in-person response *‘very often’*
- 20% stated that children who are assessed as being at ROSH receive a proactive and timely in-person response *‘often’*
- 43% stated that children who are assessed as being at ROSH receive a proactive and timely in-person response *‘sometimes’*
- 31% stated that children who are assessed as being at ROSH receive a proactive and timely in-person response *‘not often’*
- 6% stated that children who are assessed as being at ROSH receive a proactive and timely in-person response *‘never’*

Moreover, **70%** of respondents agreed that the threshold for ROSH is too high in the context of domestic and family violence.

*“The ROSH level is set to a standard based on the research, the triage and assessment timeframe is the issue in addressing child protection concerns.”*

*“DCJ have verbally communicated to us that ‘homelessness is not a child protection concern’. If the child is over the age of 11 it is extremely difficult to have DCJ engage in case management with the family.”*



*“Psychological and emotional abuse has to be severe before it is recognised, however children’s experience of this feels so severe to them that it affects their long term mental health. They could suffer PTSD, anxiety and depression as adults and often become victims or perpetrators when they are adults. The DV cycle passes on to the next generation.”*

*“There needs to be a sliding scale of ROSH that takes into account the parents’ situation potentially having an impact on the child in the future if there is ongoing DV or a recent separation.”*

*“Some children’s threshold is high due to a history of risk factors and these are not taken into account”*

## 4.1 Our recommendations

### Recommendation 19

**Women’s Safety NSW recommends** the NSW Government increase investment in child protection services to facilitate the reduction in the ROSH threshold in the context of domestic and family violence.

### Recommendation 18

**Women’s Safety NSW recommends** that early intervention services be provided more extensively and consistently throughout NSW.

### Recommendation 1

**Women’s Safety NSW recommends** the NSW Government invest in training and system reform throughout the child protection system to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### Recommendation 2

**Women’s Safety NSW recommends** the NSW and Federal Government invest in training and system reform throughout the family law and family and relationship service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

**Recommendation 8**

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the health, education, police, justice and social service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

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**Women's Safety NSW recommends** resourcing to facilitate greater collaboration and streamlined referral pathways between the WDVCSs and other women's specialist domestic and family violence services and child protection and early intervention and prevention services.

**Recommendation 10**

**Women's Safety NSW recommends** the development of automatic referral pathways between Child Wellbeing Units in Police, Health and Education and Safer

Pathway providers to ensure women and children are offered appropriate advocacy and support.

## 5. The availability of early intervention services across NSW including the effectiveness of pilot programs commissioned under Their Futures Matter program

The adoption of early intervention as a policy has certainly impacted the delivery of child protection services in NSW. Early intervention has positive effects on both short- and long-term developmental outcomes for children and young people. Engagement with these programs is essential, with at-risk families standing to gain the most from participation (DCJ 2019). Early intervention programs cover a diverse range of needs and can be targeted to different groups, from 'families who need minimal basic support or guidance right through to intensive, integrated, multi-component programs for families with complex issues' (DCJ 2020).

Their Futures Matter reform aimed to transform the state child protection system by creating an evidence-based, whole of government approach, and placing strong emphasis on early intervention. However, as noted in the audit report released by the NSW Auditor-General in July 2020, several shortcomings in the Their Futures Matter reform and board prevented this goal from being fully achieved (see [Section III](#)). There remains a strong need for increased early intervention programs in NSW, and better integration of these programs with existing services to ensure that they are being effectively utilised to assist children who are most at-risk.

The ineffectiveness of current early intervention services in NSW is reflected in recent survey results obtained by Women's Safety NSW. **An overwhelming 98% of member survey respondents indicated that they were not aware of any pilot early intervention programs commissioned under Their Futures Matter.** This exposes a significant and concerning gap in service availability and referral pathways. The early intervention services that do exist in NSW are evidently not made known or accessible to frontline domestic and family violence workers and other critical support services that routinely engage with at-risk children. If these programs are not known to critical frontline workers and services, it is inevitable that young people in contact with these services will lose the opportunity for diversion and early intervention and will fall through the cracks of the system. Early intervention services can only be successful if they are made widely available, and effectively promoted amongst professionals in all sectors engaging with vulnerable children and young people. At present, it is evident that the programs available

in NSW, including those commissioned under Their Futures Matter, are failing to achieve this.

## 5.1 Our recommendations

### Recommendation 18

**Women's Safety NSW recommends** that early intervention services be provided more extensively and consistently throughout NSW.

### Recommendation 7

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## 6. The adequacy of funding for prevention and early intervention services

Annually, state and territory governments currently spend approximately \$2 billion on child protection (DSS 2009). However, increased resources and funding is needed for prevention and early intervention services if there is to be a substantial reduction in the number of children reaching high-risk levels and facing placement into out of home care. Prevention and early intervention must be the cornerstone of NSW child protection strategy. Without significant and sustained investment in services that will identify and assist at-risk children and their non-offending parents early, there will continue to be high numbers of young people facing serious and often rapidly escalating abuse. This results in high rates of removals and continued need for out of home care services, which are not only devastating for children and families, but significantly costly. Investing in early prevention is not only essential for the wellbeing of Australian children, but also cost-effective in the long term.

Additional funding for prevention and early intervention would also allow for an expansion of existing services, and increased capacity for services across different sectors at both state and federal level to work collaboratively and ensure that vulnerable children do not fall through the gaps in the current system. Increasing funding for services in sectors such as specialist domestic and family violence support would enable services that already have regular contact with vulnerable and at-risk children to take on an expanded role and assist with early intervention. Increased funding is also needed to ensure there are adequate specialist programs and services, including specialist support for Aboriginal and Torres Strait Islander children.

**Ninety one percent (91%)** of member respondents believe that **specialist domestic and family violence services should be funded** to employ child focused, trauma informed workers to provide targeted support for children and work more collaboratively with child protection. Members reported that they had need for increased funding to expand their staff in order to provide sufficient protection to young people and children who come into contact with their services. Our members shared the following comments:

*“Any clients referred to the SAM [Safety Action Meeting] should be taken seriously [and] more fund[ing] is needed to ensure that safety needs are met immediately” - #17, Social Support Worker, Family Advocacy and Support Services, Inner Metropolitan*

*“This [funding] would be amazing. There is not enough staff.” - #18, SAM Coordinator, WDVCAS, Rural*

*“...CAMHS [Child and Adolescent Mental Health Service] have little to no capacity for children and have stated to us they are not funded to work with children who have experienced trauma.” - #6, Assistant Manager, WDVCAS, Regional*

While the government has indicated its commitment to prevention and early intervention as key child protection strategies, the reality is that many services remain without the resources needed to properly support young people facing abuse and neglect. Additional funding is urgently needed to support these services, and ensure they are properly equipped with the staff, training and resources they need to provide trauma-informed specialist care. Funding should also be directed towards building partnerships between services to ensure there is effective collaboration, and that young people can be connected with the most appropriate support available.

## 6.1 Our recommendations

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## 7. Most Recent Inquiries

Over the past decade and more, there have been a multitude of child protection related reviews and inquiries both at the state and federal level. The most notable of these include the following:

- The Special Commission of Inquiry into Child Protection Services in NSW (“the Wood Inquiry”) (2007)
- Keep them safe: A shared approach to child wellbeing (2009)
- The Ombudsman’s 2011 review: Keep them safe?
- The Royal Commission into Institutional Responses to Child Sexual Abuse (2013-2017)
- The Ombudsman’s 2014 review: Are things improving?
- The Safe Home for Life reforms (2014)
- The Senate Inquiry into Out of Home Care (2014)
- The Auditor General’s 2015 report on transferring out of home care services to non-government organisations
- Independent review of the out of home care system in New South Wales (“the Tune Review”) (2015-2016)
- Their Futures Matter; a new approach (“Family is Culture”) (2016-2019)
- The Auditor General’s 2016 performance audit report
- Independent review of Aboriginal children and young people in out of home care (2019)
- Children’s Rights Report 2019 — In Their Own Right: Children’s Rights in Australia

This submission does not seek to outline any of these existing reviews and inquiries in detail. However, Women’s Safety NSW observes the sheer number of these, and the extensive recommendations contained therein, many of which have yet to be implemented.

Women’s Safety NSW draws particular attention to the most recent federal review by the National Children’s Commissioner, Megan Mitchell, and the resulting report, [\*Children’s Rights Report - In Their Own Right\*](#), in addition to the earlier state-wide [\*Independent review\*](#)

[of Aboriginal children and young people in out of home care in NSW](#), which was also chaired by Professor Megan Mitchell. The key themes from these reviews are that:

- Our current system for protecting the rights of children in Australia is too weak and too
- passive. We must adopt a more proactive, systematic or coordinated approach.
- Critical issues continue to fall through the gaps.
- We have an implementation gap between the human rights standards that Australian governments have committed to uphold, and the actual protections that are afforded.
- We must focus on the drivers of child abuse and neglect.
- We must engage directly with children about the laws, policies and processes of government that affect them.
- There needs to be a recognition and actualisation of self-determination of Aboriginal children and families in the protection of children.
- We must commit to the use of early intervention tools and processes and provide adequate support to these services.
- We must recognise the fundamental harm of child removal and adopt alternatives wherever possible.
- We must acknowledge and prioritise connection to family, community, culture and country and commit to the participation and partnering of families, particularly Aboriginal families.
- We must acknowledge that adoption is not an acceptable practice in Aboriginal cultures and should not be an option for Aboriginal children.
- We must require systematic compliance with the five different elements of the Aboriginal Child Placement Principle: prevention, partnership, participation, placement and connection.
- We must strengthen transparency, accountability and enforcement mechanisms.
- We must invest in the development of non-custodial services for younger children and raise the age for criminal responsibility. As a fundamental principle, detention should be a measure of last resort.

Women's Safety NSW supports the recommendations from these respective reviews and calls for a focus on implementation and actualisation of these as a matter of urgency. Women's Safety NSW draws particular attention to the need to focus on the drivers of child abuse and neglect, engage directly with children about the laws, policies and processes that affect them, commit to the use of early intervention tools and processes, and provide adequate support to these services. The opportunity to support children and families, particularly mothers and other non-offending caregivers, where domestic and family violence is a factor, is a substantial one. We know domestic and family violence is

the most common reason cited for a child protection complaint. Supporting families effectively, in a way that prioritises child safety, supports non-offending parents, and holds abusers to account will transform the face of our child protection system, and ultimately improve the safety and wellbeing of children in NSW.

## 7.1 Our recommendations

### Recommendation 20

**Women's Safety NSW recommends** that all key recommendations from the previous reviews and inquiries be implemented and actualised.

## V. Concluding list of recommendations

Women's Safety NSW makes the following recommendations:

### Recommendation 1

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the child protection system to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### Recommendation 2

**Women's Safety NSW recommends** the NSW and Federal Government invest in training and system reform throughout the family law and family and relationship service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

### Recommendation 3

**Women's Safety NSW recommends** the NSW Government invest in specialist child-focused domestic and family violence case management services within specialist domestic and family violence services in each local area across NSW.

### Recommendation 4

**Women's Safety NSW recommends** the NSW Government invest in specialist domestic and family violence case management services for adult victim-survivors of domestic and family violence within specialist domestic and family violence services in each local area across NSW.

#### **Recommendation 5**

**Women's Safety NSW recommends** the NSW Government invest in a state-wide model of specialist accredited behaviour change programs in NSW, so they are available in each local area.

#### **Recommendation 6**

**Women's Safety NSW recommends** establishing an assessment of child safety at the first mention of ADVO matters in the Local Court. Assessed risk in accordance with the DVSAT must be considered and children must be provided the opportunity to be heard as to whether the proposed living and care arrangements made on their behalf allow them to feel safe.

#### **Recommendation 7**

**Women's Safety NSW recommends** that there be greater efforts made to educate early intervention and prevention services of the dynamics, patterns, impacts and complexities of domestic and family violence.

#### **Recommendation 8**

**Women's Safety NSW recommends** the NSW Government invest in training and system reform throughout the health, education, police, justice and social service systems to fully actualise the Safe and Together model consistent with the PATRICIA, Invisible Practices and STACY Projects.

#### **Recommendation 9**

**Women's Safety NSW recommends** resourcing to facilitate greater collaboration and streamlined referral pathways between the WDVCASs and other women's specialist domestic and family violence services and child protection and early intervention and prevention services.

#### **Recommendation 10**

**Women's Safety NSW recommends** the development of automatic referral pathways between Child Wellbeing Units in Police, Health and Education and Safer Pathway providers to ensure women and children are offered appropriate advocacy and support.

#### **Recommendation 11**

**Women's Safety NSW recommends** that all ADVOs have children impacted by domestic violence included as a protected person. Notions of children having a meaningful relationship with both parents, cultural norms and inherent beliefs as to a father's right to see their children should not override the need to protect the child.

#### **Recommendation 12**

**Women's Safety NSW recommends** the development of a streamlined referral pathway between the state child protection and domestic violence courts and the federal family law courts.

#### **Recommendation 13**

**Women's Safety NSW recommends** that the urgent list in the family court be extended and maintained.

#### **Recommendation 14**

**Women's Safety NSW recommends** that the Lighthouse Pilot in the family courts be extended and maintained subject to positive evaluation.

#### **Recommendation 15**

**Women's Safety NSW recommends** that the co-location model of police and child protection services at family law registries be extended and maintained subject to positive evaluation.

#### **Recommendation 16**

**Women's Safety NSW recommends** investment in community education as to the role and function of child protection and early intervention services.

#### **Recommendation 17**

**Women's Safety NSW recommends** investment in community awareness as to the social services available to them, including specialist domestic and family violence services.

#### **Recommendation 18**

**Women's Safety NSW recommends** that early intervention services be provided more extensively and consistently throughout NSW.

#### **Recommendation 19**

**Women's Safety NSW recommends** the NSW Government increase investment in child protection services to facilitate the reduction in the ROSH threshold in the context of domestic and family violence.

#### **Recommendation 20**

**Women's Safety NSW recommends** that all key recommendations from the previous reviews and inquiries be implemented and actualised.



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