



# WIRRINGA BAIYA

## ABORIGINAL WOMEN'S LEGAL CENTRE INC.

Wurringga Baiya provides free legal advice to Aboriginal and Torres Strait Islander women, children and youth who are or have been victims of violence.

8 October 2019

Ms Cate Denning  
Policy Manager  
Domestic Violence Strategy  
Justice Strategy and Programs  
Department of Communities and Justice  
By email: [domesticviolencepolicy@justice.nsw.gov.au](mailto:domesticviolencepolicy@justice.nsw.gov.au)

Dear Ms Denning,

### **Consultation: Options for Improving the family violence competency of legal practitioners**

Wurringga Baiya Aboriginal Women's Legal Centre thanks the Department of Communities and Justice for the opportunity to comment on the consultation paper: *Options for Improving the family violence competency of legal practitioners*.

### **Our Centre**

Wurringga Baiya Aboriginal Women's Legal Centre (Wurringga Baiya) is a New South Wales state-wide community legal centre for Aboriginal women, children and youth. The focus of our service is to assist victims of violence, primarily domestic violence, sexual violence and child sexual assault. We have been operating a legal service for twenty-two (22) years.

Our Governing Committee is comprised of all Aboriginal women. We currently have four Aboriginal identified positions and our legal staff consists of two full-time solicitors and three part-time solicitors.

We have extensive experience working with and supporting Aboriginal women whom have experienced domestic and family violence and sexual violence. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, victims support, care and protection, human rights and access to justice. We work with many other services, workers and members of the Aboriginal community who do the same.

As Wirringa Baiya is a Centre run by Aboriginal women for Aboriginal women, our staff understand Aboriginal cultural issues. We are also trauma informed and are sensitive to the serious impact of family violence upon Aboriginal women.

Our Centre provides legal and non-legal court support to Aboriginal women whose matters are listed in the specialist Indigenous List at the Sydney Registry of the Federal Circuit Court of Australia. Both our Aboriginal staff and non-Aboriginal solicitors are on the roster to provide court support for Aboriginal women seeking domestic violence protection orders at the Local Court ADVO list days across Sydney.

We also participate in the Legal Education and Advice in Prison program (LEAP) which we attend at Emu Plains Correction Centre and Berrima Correction Centre to provide legal advice to Aboriginal women in custody. Most of the advice involves domestic violence, sexual assault and work around the family of the women whose children are removed from them due to their incarceration. This is either family law or care and protection work.

We regularly deliver community legal education workshops to support workers and community members in New South Wales, in both regional and metropolitan locations. We have provided community legal education workshops on family violence and sexual violence. In the past, we have also provided training to police on working with Aboriginal communities in family violence matters.

Although our service is available to both Aboriginal and Torres Strait Islander women, children and young people, close to 99% of our clients are Aboriginal. For this reason, throughout this submission we will refer to the issues and needs of Aboriginal women and their communities.

### **Wirringa Baiya's Response to the consultation paper**

We have had the benefit of reading Women's Legal Services NSW (WLS) response to this consultation paper dated 27 September 2019 and we endorse all of the submissions and views contained in that response.

In addition, we would like to take this opportunity to make the following points concerning 'family violence capabilities':

- 1. Understanding family violence: Specifically identifying sexual violence as a form of family violence**

We strongly agree with the WLS Response that it is important for sexual violence to be specifically identified as a form of family and domestic violence. It is essential that the training for legal practitioners includes an understanding of how frequently sexual violence occurs in relationships where there is family violence, and the serious impact that it has on those women who have experienced it.

For some of our clients, their children were conceived through sexual violence from their partner. Sexual violence is an issue that clients are particularly reluctant to disclose for reasons of deep shame, trauma and on occasions a need to protect their children conceived from that trauma. Legal practitioners need to understand the concept of this deep shame in Aboriginal culture and that sexual violence is especially difficult to disclose.

## **2. Cultural competency: Training on the intersection of Aboriginal culture and family violence**

Aboriginal cultural competency training should provide legal practitioners with a strong understanding of transgenerational trauma that many Aboriginal people experience as a result of the Stolen Generations and the impact of Australia's history which has resulted in profound levels of mistrust of government, the legal system and mainstream service systems by Aboriginal communities. We submit that legal practitioners need to understand the impact of historical trauma and how those who have experienced that trauma may present when being interviewed or providing evidence.

An understanding of the significant barriers, deep shame and fears that Aboriginal women experience when disclosing family and/or sexual violence must also be understood by legal practitioners. The barriers for Aboriginal women reporting family violence (to police or to legal practitioners) include: deep shame; systemic racism; general poor response from non-Aboriginal agencies; fear of repercussions by the offender, his family and community; fear of children being removed by Family and Community Services and a desire to keep the family together (especially against the backdrop of the Stolen Generations).

We believe that specialist Aboriginal women's legal services such as our service, are well placed to provide training around the intersection of Aboriginal culture and family violence and recommend funding such services to provide this training.

## **3. Working with victims: Training legal practitioners to obtain evidence of family violence**

When relevant, evidence of family violence is usually presented to the Court through the affidavit of a party. A number of Judges have stated at Conferences that the affidavit evidence

presented at court is often poor, and just a summary of the family violence without a detailed account of what has occurred. We consider that family lawyers should be fully trained in how to obtain and draft detailed accounts of family violence.

This may not be an easy task. It is our experience that family violence causes significant psychological trauma to those who have experienced and those that have witnessed it. Many Aboriginal women who have been subject to family violence have significant levels of anxiety, depression and PTSD. It can be very difficult to obtain instructions from a victim of violence as the trauma they have experienced may affect their memory and cause them to block out chunks of what has happened. The loss of memory may then affect the reliability of their evidence.

Legal practitioners may consider that the inconsistencies in a woman's story of family violence make that story "less credible". However, those inconsistencies may actually be a symptom of the trauma which a woman has experienced.

If you have any questions about this response, or wish to speak to our Centre staff further, please do not hesitate to contact Rachael Martin or Helen Taranto on (02) 9569 3847 or email: [r.martin@wurringabaiya.org.au](mailto:r.martin@wurringabaiya.org.au)

Yours faithfully,

**Wurringa Baiya Aboriginal Women's Legal Centre**



**Per: Rachael Martin**  
**Principal Solicitor**