



Commission for Children
and Young People

improving young lives



15 June 2015

CCYPD/15/296

Ms Megan Mitchell
National Children's Commissioner
Australian Human Rights Commission
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Dear Ms Mitchell

Thank you for an opportunity to provide you with a submission for on the impact of family violence on children aged 0-17 years.

My submission has a focus on Aboriginal children and young people drawing upon experiences in Victoria.

I am unable to attend the roundtable on 14 August in Perth exploring issues around how family violence impacts children. However I am pleased that Brenda Boland, CEO of the Commission for Children and Young People is able to attend to talk to this submission and related issues.

Yours sincerely

Andrew Jackomos PSM
Commissioner for Aboriginal Children and Young People

**Submission from the Victorian Commissioner for
Aboriginal Children and Young People
to the National Children's Commissioner:
'Examination of children affected by family violence'**

15 June 2015

What are the definitional issues in relation to family violence affecting children?

Aboriginal¹ definitions

Aboriginal definitions of the nature and forms of family violence are broader and more encompassing than those used by the wider community. These definitions are not currently reflected in policies and legislation impacting on Aboriginal children and young people.

The *Victorian Family Violence Taskforce* defines family violence as 'an issue focused around a wide range of physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuses that may be perpetrated within families, intimate relationships, extended families, kinship networks and communities.'²

This definition is reaffirmed in *Strong Culture, Strong People, Strong Families – Towards a safer future for Indigenous families and communities* 10 year plan. (Department of Planning and Community Development Victoria 2008 pg 11); and reiterated in the *Overcoming Indigenous Disadvantage 2014 Report* definition which also recognises the 'broader impacts of violence on extended families, kinship networks and community relationships.' (OID 2014 p.4.89)

Child Abuse Definitions are not inclusive of family violence

There is an unarguable impact of family violence and children entering out of home care (OOHC).

Policy documents such as the 2008 *Strong Culture, Strong People, Strong Families – Towards a safer future for Indigenous families and communities* plan identifies 64% of Aboriginal children are in OOHC due to family violence. This

¹ In this submission the term Aboriginal is used. It is inclusive of Aboriginal and Torres Strait Islander peoples

² Indigenous Family Violence Primary Prevention Framework 2008

figure along with the police incident reporting data has increased significantly over the seven years.

In Victoria the past *Children, Youth and Families Act 2005* does not include a definition of family violence or of the term amongst stated definitions at the beginning of the Act. The 'Best Interest Principles' which underpin practice and decision making, do not explicitly refer to family violence, but rather talk to 'unacceptable risk of harm to the child (p. 23) and the responsibility of the Department of Health and Human Services (DHHS) 'to promote the prevention of child abuse and neglect' (p. 30).

Given that family violence is a significant driver of Aboriginal children into OOHC and the overrepresentation is unacceptably high, legislation and any supporting practice guides should include explicit definitions of family violence and how it (ie: trauma, cumulative harm, physical emotional harm, cultural and spiritual abuse)

The Victorian *Family Violence Prevention and Legal Service (FVPLS)* has extensively published concerns regarding the need to reform and strengthen responses to family violence in Family courts, 'including expanding the definition of family violence under the Family Law Act (FVPLS Victoria Policy Paper Series June 2010 p. 24). They also raise concerns regarding the 'often clumsy interaction between the Family Courts and child protection intervention (p. 25)'.

What do we know about the prevalence and incidence of family violence affecting children, including who is involved in family violence events? (including data gaps)

No agreed indicator or data to measure the impact

There is no main measure for family violence. The *National Aboriginal Torres Strait Islander Social Survey (NATSIS)* provide data on prevalence and in Victoria *Family Incident Reports* (Victoria Police) provide an indication of events.

Other data can be analysed for family violence indicators, such as: police victim rates; court orders; hospitalisation and emergency department data; homicide data and service provision data (i.e.: homelessness/child protection).

As well as being inconsistent, data doesn't capture the full extent of Aboriginal family violence as per the definition agreed by the community. Police and court data mostly records reported violence and this is likely to be a gross underestimation of incidence and impact on children.

While there is not an agreed approach and much of the data is not released publicly, all jurisdictions have committed to a National Data Collection by 2022 as part of the *National Plan to Reduce Violence Against Women and their Children 2010-2022*.

To measure the impact of family violence on children there needs to be national agreement on the data which best indicates this. The Aboriginal community must be working in partnership with government to address family violence and over-representation in OOHC. Evidence is required and data must be publicly released to enable effective planning for better outcomes.

Current national indicator

The Council of Australian Government's (COAG) target on family and community violence is to *close the gap for Aboriginal people by 2018*.

The *Overcoming Indigenous Disadvantage Key Indicators Report 2014* provides national data on all COAG areas with some jurisdictional breakdown of prevalence.

Data reported in OID relating to family violence is a combination of data sets including:

Indicator	Aboriginal	Non-Aboriginal
Adults reported experiencing at least one incident of physical or threatened violence.	2002 (23.3%) 2008 (22.9%).	2002 (10.6%) 2008 (8.7%)
Hospitalisation rates for family violence-related assault (NSW, Vic, Qld, WA, SA and NT)	2004-05 (rate 25.1) 2012-13 (rate 32.8)	Aboriginal rates indicate times higher than non-Aboriginal
Hospitalisations for non-fatal family violence related assaults	2012-13 (rate 34.2) women 2012-13 (rate 28.3) men	Aboriginal rates indicate times higher than non-Aboriginal
Supported accommodation clients	2011 (22%)	
Children accompanying supported accommodation clients escaping family violence	2012-13 44:10000	14:10000

Source: OID 2014 page 4.91

www.pc.gov.au

Good and current data is difficult to locate

In Victoria data provided across departments with service and/or policy responsibility is not always published or coordinated to provide a snapshot of family violence prevalence and where children are affected.

The key Aboriginal affairs policy in Victoria is the *Victorian Aboriginal Affairs Framework 2013 – 2018* (VAAF) which aims to coordinate government effort that is reported upon annually. The VAAF committed to developing a target to measure the incidence of Aboriginal family violence and in the two years since the release a target has not been agreed.

At this stage Victoria reports the number of Family Incident Reports where the affected family member identified as Aboriginal. Between 2006-07 and 2012-13 this number tripled from 794 to 2143 incidents. The number of repeat attendances also almost tripled over the same period to 1644 attendances. (Victorian Government Aboriginal Affairs report 2013 p.48) What is not reported in this data is where children are present at incidents.

Whilst not explicitly related to family violence other data reported includes the over-representation of Aboriginal people as clients of government funded services such as homelessness assistance. Whilst we know that the proportion of Aboriginal clients accessing homelessness services in Victoria has increased from 8.0 per cent in 2011-12 to 8.9 per cent of all clients in 2012-13 (Report on Government Services p.46) this does not breakdown where children or young people are accessing these services with or without a parent/carer.

The 2104 DHS *Working with families where an adult is violent* publication quotes 2006 prevalence data that 'Aboriginal women are 45 times more likely to suffer family violence and 10 times more likely to die as a result than non-Aboriginal women.' (*Domestic Violence Victoria 2006*, in DHS 2014 p. 34).

Given the rapid growth of the Victorian Aboriginal population and the changes to awareness, reporting and police responses to family violence, this is likely to be an inaccurate illustration of the current situation, however it is useful in general trend information.

The Victoria Police *Living Free from Violence- upholding the right* 2009 publication is more explicit about the link between family violence and child abuse. The report notes that in 2008-09 there were 33,918 Family incident reports to Victorian police. In 12,047 of these children were present. Police made notification to DHS for 4,079. (p17) While Aboriginal status is recorded in Family Incident Reports and data regarding Aboriginal children would be available, it is not provided in this report.

Taskforce 1000 project 2014-15

Taskforce 1000 (T1000) is a unique project led by the DHHS in partnership with the Victorian Commission for Children and Young People (CCYP).

T1000 is examining the needs of all Aboriginal children and young people in out of home care (OOHC) in Victoria and seeks to identify practice, policy and system issues that impact on children's care, cultural connectedness, education, health and wellbeing.

To understand findings of the T1000 an appreciation of the process is necessary to illustrate the richness of information and data. There are three main phases:

- **File Audits:** DHHS child protection use a survey of some 150 questions to review each Aboriginal child in out of home care's file. Data from this is collated by the Department on an Area level³. Summaries for each child are developed.
- **Area Panels:** Co-chaired by the DHHS Area Director and Commissioner for Aboriginal and Young People (CACYP) panels made up of local service organisations and government agencies come together. Child Protection staff present each case summary (unidentified) to the panel to discuss all aspects of care and reflect on current practice and quality of care. The Panels are opportunities to collaborate, identify enablers to success, and address barriers that may be impeding outcomes for individual children and young people. Actions for individual children are identified and systemic themes are recorded.
- **Statewide Governance Committee:** Co-chaired by Secretary DHHS and CACYP and attended by CEOs of family and children services, senior public service officers from a range of portfolios.

Prevalence of family violence in OOHC is unpacked through the data both on a statewide and local area level. After reviewing and discussing over 400 (out of approximately 1300) Aboriginal children in out of home care; the primary driver into child protection for Aboriginal children is Family Violence, and it is often accompanied with alcohol and drug misuse. This has been in approximately 85% of cases. Specific data collected in the T1000 is the responsibility of DHHS and has not been published.

³ DHHS Areas include approximately 5 local government areas.

What are the impacts on children of family violence?

Out of home care

One of the key impacts on children of family violence is child abuse and neglect. The impact of family violence is represented by the significant over-representation of Victorian Aboriginal children in out-of-home-care (OOHC), with the Productivity Commission's *2015 Report on Government Services (RoGS)* reporting that the number of Victorian Aboriginal children and young people removed and living away from their immediate family homes rose by 922 to 1308 or 42 per cent in just 12 months to 30 June 2014.

Disconnection form identity and culture

Aboriginal children in OOHC are predominantly placed with non-Aboriginal carers and case managed by Government or non Aboriginal organisations. Discussions at T1000 indicate that approximately 70 per cent of Aboriginal children are placed with non-Aboriginal carers. The majority of children are case managed by DHHS or mainstream community service organisations with limited Aboriginal knowledge of familial connections and protocols. T1000 noted in some areas that a high number of children and families were from Tasmania and unable to establish family origins. The development of relationships with Tasmanian Aboriginal organisations and government by Victorian child protection could be established to respond to this barrier to cultural identity and connection.

The *Permanent Care and Other Matters Bill* passed in the Victorian parliament in October 2014 will bring changes to the Children Youth and Families Act 2005 (CYFA) that will see all Aboriginal children in OOHC requiring Cultural Support Plans, a change from just those on guardianship orders to the Secretary. Early identification, plans that are developed with the family and child and plans that are regularly reviewed to create meaningful relationships with other Aboriginal people and family are critical.

The T1000 has seen examples of late identification of Aboriginal children which has impacted the child's identity and cultural connection as well as loss of sibling and family connection.

Overrepresentation of Aboriginal children is known in homelessness, poor educational outcomes, health and mental health issues, school suspensions and expulsions and youth justice; however connecting these to family violence is generally anecdotal. We need to have better data and systems across portfolios that talk to each other to understand family violence impacts in a holistic way. More also needs to be known about the cumulative harm of family violence on babies and children.