



**Submission to the Australian Human Rights
Commission design of the Wiyi Yani U
Thangani Framework for Action for First
Nations Gender Justice and Equality and the
establishment of a First Nations Gender
Justice Institute**

Aboriginal Family Legal Service WA

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1 Introduction

Aboriginal Family Legal Service (AFLS) welcomes the opportunity to provide a submission to the Australian Human Rights Commission (AHRC) on the design of the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality (the Framework) and the establishment of a First Nations Gender Justice Institute (the Institute).

AFLS is a specialist Aboriginal Community Controlled Organisation (ACCO) operating under the Family Violence Prevention Legal Service (FVPLS) program, funded directly by the Commonwealth Government through the National Indigenous Australians Agency. AFLS provides specialist legal assistance and wrap around non-legal supports to Aboriginal and Torres Strait Islander people experiencing or at risk of family and domestic violence and sexual assault.

AFLS services are delivered in seven regions across Western Australia, covering the East and West Kimberley, Gascoyne, Midwest, Goldfields, Pilbara and Perth metropolitan area. Offices are located in Broome, Kununurra, Carnarvon, Geraldton, Kalgoorlie, Port Hedland and Perth, from which outreach services extend to over 30 remote Aboriginal townships and communities. The corporate services office is located in the Perth metropolitan.

AFLS notes that the development of the Framework and the establishment of the Institute build on the Wiyi Yan U Thangani Project and will progress and respond to the themes and priorities set out in the Wiyi Yani U Thangani (Women's Voices): Securing our Rights, Securing our Future Report (2020) and Implementation Framework (2021). We note further that the AHRC's articulated approach to measurement and evaluation aims to bring together and respond to existing Wiyi Yani U Thangani ways of working and principles, and addresses the four key thematic areas, priorities and actions set out in the Implementation Framework.

AFLS seeks to contribute to the design of the Framework and the establishment of the Institute based on the importance of self-determination to AFLS clients, in particular women and girls in Western Australia.

2 AFLS response to selected terms

Measuring change outcomes

Question 1: What change do you want to see for First Nations women and girls, in all their diversity, with their families and communities, to live their lives in the way they want? What would you feel, see, hear, sense or collectively understand if this change was happening?

We note that Aboriginal women and children continue to be victimised by family and domestic violence at disproportionate rates across Australia; they are 35 times more likely to be hospitalised from family violence and 11 times more likely to die from assault than non-Aboriginal women.¹ In some regions in rural and remote Western Australia, Aboriginal women are 45 times more likely to be assaulted by their spouse or partner than non-Aboriginal women.² Aboriginal women experiencing family violence are also at greater risk of experiencing dual victimisation by the child protection and justice systems, whereby their personal experiences of family violence see them at greater risk of having their children removed from their care. We note that at 30 June 2023, there were 5,174

¹ Australian Human Rights Commission, '2022 Wiyi Yani U Thangani First Nation's Women's Safety Policy Forum Delegates Statement', [delegate statement wyut womens safety forum final 2.pdf](https://www.humanrights.gov.au/2022/07/2022-wiyi-yan-i-u-thangani-first-nation-s-women-s-safety-policy-forum-delegates-statement) ([humanrights.gov.au](https://www.humanrights.gov.au)), 2022.

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children in care in Western Australia, 3,068 (59.3%) of whom were Aboriginal.³ When Aboriginal women seek assistance from the justice system to support their recovery from their victimisation, they face myriad complex and interrelated challenges. These range from the trauma of assault, the stress and confusion of legal proceedings, the emotional toll of losing a child, the financial and emotional cost of separation, the complexities of a loved one facing imprisonment, and the frustration of uncoordinated and bureaucratic systems.

AFLS endorses comments by the National FVPLS Forum at pages 6-8 of their submission to the design of the Framework and Establishment of the Institute regarding measuring change outcomes,⁴ and in particular would like to see practical changes to the way that Aboriginal families are supported to:

- stay safe and together, in their own homes;
- access an equitable and non-discriminatory justice system;
- access an equitable and non-discriminatory child protection system;
- have improved physical and mental health and wellbeing outcomes;
- access quality education and long-term pathways for skill development and career progression;
- embrace and celebrate their cultural heritage; and
- experience greater economic outcomes and financial independence.

To enable this, we must see greater tangible investments from State and Federal Governments across the country into the provision of Aboriginal Community Controlled services by Aboriginal Community Controlled Organisations, for Aboriginal people.

The FVPLS units across Australia, for example, require approximately \$40 million in additional annual funding to provide essential legal and non-legal frontline family violence prevention services and programs to support Aboriginal women and children affected by family and domestic violence. Increased investment in frontline service delivery provided by Aboriginal controlled organisations such as the FVPLS units, which are well entrenched in their respective communities and which have a comprehensive understanding of the unique and complex needs of the Aboriginal women and girls in their local communities, is critical.

Question 2: In your experience, what practices and approaches are most effective in collecting data, measuring and evaluating change?

Indigenous data sovereignty must be at the forefront of any practice and/or approach to collecting data, measuring and evaluating change with respect to service delivery for Aboriginal people. Per the Maïam nayri Wingara principles of Indigenous Data Sovereignty, data collection, measurement and evaluation processes must uphold Indigenous people's rights to:

- exercise control of the data ecosystem including creation, development, stewardship, analysis, dissemination and infrastructure;
- data that are contextual and disaggregated (available and accessible at individual, community and First Nations levels);

³ Department of Communities Western Australia, 'Child Protection Activity Performance Information 2022-23', https://www.wa.gov.au/system/files/2023-10/child_protection_activity_performance_2022_23.pdf, 2023.

⁴ National Family Violence Prevention Legal Services Forum, 'Submission to the design of the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality and the establishment of the First Nations Gender Justice Institute', December 2023.

- data that are relevant and empower sustainable self-determination and effective self-governance;
- data structures that are accountable to Indigenous peoples and First Nations; and
- data that are protective and respect individual and collective interests.⁵

We note that there are overlaps between the commitments of the National Agreement on Closing the Gap under Priority Reform 4 (Shared Access to Data and Information at a Regional Level) and the concept of Indigenous data sovereignty, but this is not a sufficient approach. This means that in practice, when data is obtained from or about Aboriginal people, agencies and service providers can elect to observe the principles of Indigenous data sovereignty or not.

The NSW Government's Communities and Justice presentation on Ngaramanala: Aboriginal Knowledge Program identified that non-Indigenous data governance has led to the 5D (difference, disparity, disadvantage, dysfunction, deprivation) deficit narrative which has harmed Aboriginal people for generations. Examples include government's concluding that:

- 'Educational outcomes for Aboriginal students are significantly lower than for their non-Aboriginal counterparts' rather than 'Australian past policies of excluding Aboriginal people from education has caused harm, which still impacts Aboriginal students today'.
- 'Aboriginal people are more likely to offend and end up in prison than non-Aboriginal people' rather than 'The over surveillance of Aboriginal people leads to higher likelihood of involvement in the criminal justice system'.
- 'Being Aboriginal is a risk factor' rather than 'Protective abilities and strengths are embedded in Aboriginal culture. Belonging to culture creates resilience leading to better social, emotional and physical health outcomes'.
- 'Aboriginal children are better off with non-Aboriginal families' rather than 'Aboriginal children need to be raised with cultural permanency. Wellbeing for Aboriginal children is correlated with cultural connection'.⁶

Best practice for collecting data, measuring and evaluating change must therefore shift from the continued monopoly by Government Departments over the use and interpretation of data collected about Aboriginal people. It is logical that data collected about Aboriginal communities should be done so by Aboriginal Community Controlled Organisations, should belong to those communities, and that the services that work in and with those communities should have control over how that data is used and the stories it tells.

We recognise the benefits of collecting quality data that can inform service delivery and support organisations to deliver the best most impactful services, whilst also understanding that governments are accountable for the taxpayer funds they provide to services and that service providers must demonstrate their value. However, our experience has been that Commonwealth and State agencies demand data when the need for this data is not demonstrated and where it cannot be meaningfully

⁵ Maiam Nayri Wingara, 'Indigenous Data Sovereignty Principles', Indigenous Data Sovereignty Communique: Indigenous Data Sovereignty Summit 20th June 2018, Canberra, ACT, 2018, <https://www.maiamnayriwingara.org/mnw-principles#:~:text=Maiaam%20Nayri%20Wingara%20Indigenous%20Data%20Sovereignty%20Principles,%2C%20analysis%2C%20dissemination%20and%20infrastructure>.

⁶ NSW Communities and Justice, 'Ngaramanala: Aboriginal Knowledge Program – Responding to Indigenous Data Sovereignty and Indigenous Data Governance', July 2022, https://www.facs.nsw.gov.au/data/assets/pdf_file/0006/842388/Responding-to-IDS-and-IDG-slides.pdf.

use. Data collection is burdensome, and the legal assistance sector has been particularly underfunded to meet demands.

Supporting the development of an ACCO-specific database, similar to the CLASS or Action Step databases used for the collection and storing of information for legal assistance services, for the input of service delivery information by Aboriginal Organisations would be a tangible action that would contribute to best practice in data collection and evaluation of services delivered to Aboriginal people. Where State and Commonwealth Government agencies sought access to the data stored in the ACCO-specific database, requiring them to go through a request process for accessing the data with the relevant ACCO/s would be preferable.

We would like to see improved capacity of service providers and appetite from Governments to collect data that reflects Indigenous priorities, values and culture, and reinforces rather than restricts Indigenous community goals and ambitions. This means investments in building the skills and capabilities, particularly across the ACCOS sector, to collect data about service delivery in a way that:

- protects Indigenous data integrity;
- supports Indigenous leadership in data decision making;
- is accountable to Indigenous people around data collection and use;
- recognises Indigenous data interests, including collective interests, in relation to data;
- ensures Aboriginal governance and oversight of data;
- enables data to be contextualised and disaggregated at local levels that are meaningful to Aboriginal communities;
- ensures consistent, transparent and contextualised reporting and dissemination of data;
- interprets data from an Aboriginal perspective to ensure that reporting is respectful of Aboriginal people; and
- centres Aboriginal priorities and community needs.

Regarding measuring and evaluating change specifically, we suggest that there is a significant need to shift to outcomes measurement as opposed to quantitative based data and reporting methods. In an FVPLS context, a focus on number of clients and time spent with clients data and reporting processes fails to reflect the reality that service providers like AFLS seek to support the 'whole' client, with varying degrees of complexity. We would like to see a shift towards outcomes based data collection to demonstrate the broader impact of our service delivery.

In a family violence context, for example, there is an opportunity to collect short term outcomes data about a client's broader story and their connection with the service by adding priority questions to existing data collection tools such as client interviews or surveys, about safety and wellbeing. This would be critical to demonstrating the impact of services such as AFLS on enabling women to seek support, and have broader community implications for understanding best practices in the provision of integrated, wrap-around assistance for Aboriginal victims of family and domestic violence.

Question 3: How do you want to see local change practices and data collection inform national priorities and achieve systemic outcomes, and how could this relate to the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality?

Refer to the above.

Ensuring a strong accountability and evaluation approach

Question 5: Should government (and other stakeholders) be accountable to community determined outcomes? How can this be included in the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality?

All levels of Australian Governments, policymakers and stakeholders must be accountable to community determined outcomes. In a service delivery context, there must be improved accountability and Aboriginal decision making over the allocation of funding for services to Aboriginal people, accountability for the achievement of social and economic outcomes that represent successful service delivery for Aboriginal communities, and greater clarity around governance arrangements for service delivery to ensure effective service provision that is coordinated around and responsive to the unique and complex needs of the various Aboriginal communities across Australia.

With specific reference to service delivery for Aboriginal women and girls who are victims of family and domestic violence, there must be greater transparency around funding for family violence service providers, and as a best practice a redirection of funding from non-Aboriginal organisations to ACCOs specialising in the provision of family violence support to Aboriginal women and girls in their local communities. The basis of government actions and decisions around allocating of funding to service providers must be linked to community need, as demonstrated by demand for services delivered by ACCOs such as the FVPLS units. While being flexible and adaptable to respond to community need is critical, service agreements between Governments and service providers for the provision of services to Aboriginal communities must also include performance requirements that reflect what the community considers success to look like. In a family violence context, there should be an increased focus on outcomes based performance reporting, and accountability and evaluation mechanisms that reflect this.

Per the Wiyi Yani U Thangani Women's Voices Report 2020, for accountability to be effective there must be:

*Appropriate laws, policies, institutions, administrative procedures and mechanisms of redress.*⁷

The initiatives within the Framework for Action must therefore be strategically aligned to the priorities within the National Agreement on Closing the Gap, to ensure there is a higher level of entrenched government obligation to implement those measures. AFLS further endorses comments by the National FVPLS Forum at pages 17-21 of their submission to the design of the Framework and Establishment of the Institute regarding ensuring a strong accountability and evaluation approach,⁸ and in particular their recommendations relating to integrating accountability into the Framework by:

- establishing community oversight committees consisting of community representatives responsible for monitoring and ensuring accountability;
- integrating the concept of participatory budgeting and resource allocation by Aboriginal communities with respect to funds allocated to gender justice and equality related initiatives within the Framework;

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⁸ National Family Violence Prevention Legal Services Forum, 'Submission to the design of the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality and the establishment of the First Nations Gender Justice Institute', December 2023.

- emphasising the co-design of policies and programs for Aboriginal communities, by Aboriginal communities;
- highlighting the importance of community-controlled data governance;
- enabling community-controlled impact assessments as a regular part of the policy and program cycle;
- incorporating Indigenous evaluation frameworks within the Framework, rooted in cultural values and traditions aligned with Indigenous worldviews and community determined success;
- advocating for the development of performance indicators rooted in Indigenous knowledge systems;
- advocating for regulations requiring mandatory reporting by government and stakeholders on the impact of policies and programs, particularly regarding their alignment with community defined outcomes;
- integrating cultural safety audits into accountability mechanisms to assess the cultural competence of government and stakeholder initiatives;
- promoting the establishment of community feedback platform;
- advocating for legislative amendments that embed the principles of accountability to community determined outcomes;
- supporting capacity building initiatives focused on community advocacy;
- integrating the establishment of mediation processes within the framework;
- proposing periodic community-driven policy reviews;
- acknowledging the diverse ways in which communities engage in decision making and having respect for community protocols;
- advocating for a national framework for Indigenous Data Sovereignty; and
- proposing the inclusion of cultural impact assessments within policy development processes.

Question 6: What does the Framework for Action for First Nations Gender Justice and Equality and First Nations Gender Justice Institute need to do to incorporate diverse lived experiences and to ensure that no one misses out on opportunities to contribute to and hear this work?

Comprehensive engagement with Aboriginal women and girls across Australia is critical to reflecting the diversity of lived experiences in the context of gender justice and equality. As a best practice, Aboriginal Community Controlled Organisations delivering trusted services to their local communities should be appropriately engaged and remunerated to deliver the work required.

We further endorse comments by the National FVPLS Forum at pages 22-25 of their submission to the design of the Framework and Establishment of the Institute regarding methods to incorporate diverse lived experience into this work, including:⁹

- conducting a comprehensive demographic mapping and analysis to identify and understand the unique characteristics, needs and challenges of different demographic groups of women and girls within First Nations communities;
- developing tailored in- and outreach strategies for specific demographic groups and using culturally appropriate channels to reach diverse audiences;

⁹ National Family Violence Prevention Legal Services Forum, 'Submission to the design of the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality and the establishment of the First Nations Gender Justice Institute', December 2023.

- facilitating Elder-led consultations that prioritise the wisdom and experiences of older community members, to ensure the Framework is grounded in intergenerational knowledge;
- forming community-based research partnerships to conduct in-depth studies on specific issues affecting different communities of women and girls;
- implementing accessible technology initiatives that bridge digital divides;
- using interpreting and sign language services in engagements to ensure equal opportunities for participation;
- providing training on trauma-informed practices for those engaged with communities;
- developing strategies to engage with remote and isolated communities;
- offering customised capacity-building workshops based on identified community needs;
- providing diversity and inclusion training for stakeholders involved in the development of the Framework;
- developing collaborative data governance protocols that establish how data will be collected, shared and utilised;
- facilitating cross-sectoral workshops that bring together representatives from health, education, justice and other sectors; and
- implementing community controlled monitoring and evaluation processes that empower communities to actively assess the impact of the Framework over time.

Protecting and strengthening data sovereignty and governance

Question 9: What are your hopes and aspirations for what the First Nations Gender Justice Institute’s database on First Nations women’s and girl’s lived experience and voices could look like? How can we ensure safe and considered access and use of the database?

The database on First Nations women’s and girl’s lived experiences and voices must have mechanisms in place to ensure its safety and to ensure that access to the database itself is well considered. To ensure this, we strongly support the recommendations of the National FVPLS Forum at pages 26-29 of their submission to the design of the Framework and Establishment of the Institute regarding safe and considered access and use of the database, including:¹⁰

- tailored consent processes for data collection which are culturally sensitive and gender specific;
- incorporating a gender-inclusive perspective in the database design, recognising the diverse experiences of Indigenous women and girls by collecting disaggregated data to capture the nuances of their experiences;
- establishing community-led governance structures with a specific focus on ensuring the representation and voice of Indigenous women and girls;
- implementing robust cultural safety measures within the database infrastructure, including the use of culturally appropriate language, imagery and symbols;
- prioritising gender-responsive data protection measures that specifically address the heightened risks and vulnerability that Indigenous women and girls may face concerning the confidentiality of their information;
- ensuring that data administrators and personnel responsible for database management undergo specific training in cultural competency with a focus on gender considerations;

¹⁰ National Family Violence Prevention Legal Services Forum, ‘Submission to the design of the Wiyi Yani U Thangani Framework for Action for First Nations Gender Justice and Equality and the establishment of the First Nations Gender Justice Institute’, December 2023.

- employing inclusive data collection methods that respect cultural norms and preferences such as oral histories or storytelling;
- adopting trauma informed data practices, recognising the potential impact of historical trauma on women and girls, and implementing protocols for handling sensitive information with care;
- developing initiatives to empower Indigenous women and girls with data literacy skills;
- conducting periodic gender impact assessments of the data base, evaluating how data collection and usage may impact Indigenous women and girls and adjusting database practices based on assessment findings;
- providing options for Indigenous women and girls to control who has access to their data, ensuring that they have agency over the information shared and the purposes for which it is used; and
- implementing continuous consultation and feedback mechanisms specifically tailored for Indigenous women and girls.

Question 10: How do we ensure that this living database is used and owned by First Nations women and girls?

Refer to comments in response to Question 2 above.