

Research Project Overview

First Nations Women's Engagement with the Family Law System

Final Report Available Here: <https://www.cevaw-evidence.org/analysis/reports/first-nations-womens-engagement-with-the-family-law-system-insights-from-womens-legal-services>

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Research Aims

To understand the current research landscape, an initial review was conducted which maps out the existing evidence base. This review is available [here](#).

This review found that the family law system is understood by some as a system that could protect against family violence and child removal, including for First Nations women. Yet limited attention has been given to understanding First Nations women's experiences of the family law system, particularly in the context of family violence.

Although there has been an increase in First Nations families using the family courts, it is likely that First Nations women are still underutilising this system. There have additionally been legislative and court-based reforms to increase cultural safety in the family court, yet no review of these reforms. Critically, we do not know when, why and how First Nations women are engaging (or not) with the family courts and the family law system more broadly.

Women's Legal Services Australia (WLSA) and the Australian Research Council Centre of Excellence for the Elimination of Violence Against Women (CEVAW) sought to address this limitation in knowledge.

Methods

The project was designed in partnership with WLSA, using an Indigenous-centred approach. A First Nations Reference Group, with representatives from various Women's Legal Services, provided advice on all elements of the project including the design, methods, ethics, outcomes, findings and final report.

The final report is based on:

1. Focus groups and interviews with 30 participants from Women's Legal Services that support First Nations clients. Participants were from a variety of professional backgrounds. Of the 30 participants, 8 (27%) identified as First Nations.
2. Anonymised case studies of First Nations women victim-survivors of family violence, provided by Women's Legal Services with prior consent.

Key Findings

The final report outlines findings across four areas.

1. First Nations women's engagements with the family law system are shaped by various structural and systemic barriers (including locality), and intersecting legal matters/issues, which limit their safety. Women's Legal Services support First Nations women to engage with the family law system and their First Nations clients commonly engage in the family court in particular circumstances.
2. First Nations women face barriers to safely engaging with the family law system. These barriers relate to child protection, limits regarding cultural knowledge, safety and competency, material barriers to access, the impacts on First Nations women related to systems abuse through the family law system, misidentification of First Nations women in civil/criminal jurisdictions, and family violence, and resourcing impacts on accessing legal assistance.
3. Recent reforms, including the Indigenous List and Indigenous Family Liaison Officers, are viewed generally positively but are inconsistently available and not a replacement for systemic change. First Nations-led cultural and legal support in Women's Legal Services is critical.
4. The report outlines improvements that would increase First Nations women's safety in the family court. These court-based reforms must be accompanied by First Nations representation, ongoing education and increased funding for culturally safe legal/non-legal supports. Self-determined and First Nations-led mediation is needed in and outside of the family court.

The report makes **13 recommendations** which were developed collaboratively.

See next page for the recommendations.



Final Report Recommendations

1. A commitment to significant additional government investment in the family law system to ensure adequate resourcing for the following recommendations.
2. Increase representation of First Nations staff across the family law system, including the judiciary, registry, lawyers including independent children's lawyers and family report writers. Additionally, a model should be implemented in the family courts to ensure that where a matter involves First Nations children, relevant parties should have access to First Nations family report writers, First Nations independent children's lawyers and First Nations psychologists.
3. Related to increasing representation, the development of a program within the family law system to train and upskill First Nations practitioners as a pipeline to obtaining roles as First Nations registrars, judicial officers, family report writers and lawyers including independent children's lawyers within the family law system.
4. Expand the Indigenous List and Indigenous Family Liaison Officers programs and make available in all family courts. Implement these programs in Western Australia. Adopt a consistent approach across, and within, all States and Territories.
5. Appropriately resource the family courts for family law matters in regional/remote areas, and create culturally safe spaces for matters to be heard, including for remote attendance.
6. Improve access to the Commonwealth Courts Portal, with a focus on accessibility and usability.
7. Provide and promote in-depth, ongoing and mandatory cultural awareness and safety training for the judiciary, registry, lawyers including independent children's lawyers and family report writers. (e.g. a mandatory aspect of continuing professional development).
8. Appropriately resource Women's Legal Services to employ specialist First Nations cultural engagement/access workers, and to deliver First Nations-led and designed programs within Women's Legal Services. Fund these programs adequately to ensure appropriate recognition of the experience and expertise of First Nations workers and programs.
9. Recognise the benefits of integrated service models within Women's Legal Services, and adopt this model across all Women's Legal Services.
10. Resource and develop First Nations-led mediation and self-determined alternatives that sit outside the family law system.
11. Resource First Nations-led and designed community legal education in a variety of formats (written, visual) on family law, for example, on topics like recovery orders, relocation and the family court, and how family law intersects with other areas, including child protection, DVOs and criminal matters.
12. Train other service providers (including police, social service providers and ACCOs) on the family law system, with a specific focus on First Nations women and when to refer someone for legal advice and to non-legal support services, cultural awareness and safety, and the dynamics of family violence.
13. Resource and develop a working group across the family courts, with representatives from each jurisdiction, adequate First Nations representation, and representatives both internal and external to the family courts (e.g. ACCOs), on the intersections between child protection and family law, including the variability across jurisdictions, and the impacts on First Nations peoples. This group should be guided by the aim of working towards a nationally consistent and culturally safe approach.