



# **Inquiry into Family, Domestic and Sexual Violence**

**Submission to the Standing Committee on Social Policy  
and Legal Affairs**

**24 July 2020**



## About Health Justice Australia

Health Justice Australia is a national charity and centre of excellence supporting the effectiveness and expansion of health justice partnerships through:

- Knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders.
- Building capability: supporting practitioners to work collaboratively, including through brokering, mentoring and facilitating partnerships.
- Driving systems change: connecting the experience of people coming through health justice partnerships, and their practitioners, with opportunities for lasting systems change through reforms to policy settings, service design and funding.

Our work supports effective collaboration between health, legal and other services to achieve better health and justice outcomes for individuals and communities made vulnerable by the systemic drivers of health inequity and injustice; and by the barriers to accessing the services designed to support them. Health Justice Australia recognises that social and environmental factors (including legal issues) will also affect those who do not access any services and that community-wide impact is likely to require more than individual assistance. Additional strategies may include service system redesign, and advocacy for policy change around factors which impact upon the social determinants of health.

## About health justice partnerships

Health justice partnerships embed legal help into health care services and teams to improve health and wellbeing for:

- individuals, through direct service provision in places that they access
- people and communities vulnerable to complex need, by supporting integrated service responses and redesigning service systems around client needs and capability
- vulnerable populations through advocacy for systemic change to policies which affect the social determinants of health.

Health justice partnerships provide legal support across a wide range of needs, such as:

- Assisting people with family law, civil law and care and protection issues to reduce the impacts of domestic or family violence on their health and wellbeing;
- Advocating for public housing tenants needing repairs to address untreated mould, or having handrails and other aids installed to continue living independently in their own homes;
- Assisting people with accumulated fines or debt that cause stress or act as a barrier to meeting health costs like filling prescriptions; and
- Advising on wills, powers of attorney and custody – the legal needs that can present at the most unexpected times, like following a diagnosis of serious illness.

Health justice partnerships are an evidence-based model responding to complex health and legal needs in people's lives. Through health justice partnership, people can access legal help that they might not recognise they need, through the healthcare teams and settings they are already in touch with. Integrating legal services into health settings can improve access to justice, address the social determinants of health and increase wellbeing. It offers a more holistic approach to care to individuals and families who are at risk of falling through the gaps of existing service infrastructure.

Health justice partnerships enable legal practitioners to provide support and information to healthcare workers, who are often the frontline in identifying a range of legal or social concerns among their patients.

There are currently over 70 examples of health and legal services working together in partnership across Australia. They are located in a range of health services and settings and support populations that are particularly at risk of poor health and justice outcomes. These include people experiencing domestic and family violence, along with people at risk of elder abuse, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities and people experiencing poverty and inequality.

**These are just some of the many legal issues that people can face in life. By integrating legal services into health settings, we can improve access to justice, address the social determinants of health and increase wellbeing.**

## About this submission

The purpose of our submission is to provide evidence about health justice partnerships as a prevention and early intervention strategy to respond to the health and legal issues that can lead to, and entrench, disadvantage in the lives of people who experience domestic and family violence.

This submission has benefited from the expertise provided by a small group of practitioners working in health justice partnerships, including some funded specifically to support people experiencing domestic and family violence.<sup>1</sup> These organisations are members of a much larger network who inform our work.

Our submission responds to the terms of reference that are exploring:

- The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non government and community organisations, and business.
- The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence.
- The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.
- The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.
- The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

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<sup>1</sup> We acknowledge Eastern Community Legal Centre Vic, Legal Services Commission SA, InTouch Multicultural Centre Against Violence Vic, Women's Legal ACT, Legal Aid ACT, and Justice Connect for their contributions to this submission

## Submission

### Multiple, intersecting problems need collaborative service responses

Since the World Health Organization's ground-breaking Commission on Social Determinants of Health (2008), the evidence has continued to grow about how social and environmental factors drive poor health. These factors include poor-quality housing, unstable or insecure work and family breakdown.

Meanwhile, in 2012 the landmark Legal Australia-Wide (LAW) survey took an in-depth look at the nature of legal problems, the pathways to resolving them and the demographic groups that struggle with the weight of their legal problems in Australia.<sup>2</sup> It established that more than one-fifth of people in Australia experience three or more legal problems in a given year; and that vulnerability to legal need increases with deepening disadvantage. These legal issues may occur in clusters and many legal issues lead to illness. People often seek no advice for these problems but, when they do, they are less likely to seek help from a lawyer than another advisor such as a health professional. Together, the social determinants of health and access to justice literature points to groups of people with intersecting health and legal issues who access health services with symptoms, but who do not seek out legal solutions.

This evidence has direct implications for people at risk of or experiencing domestic and family violence. The Law and Justice Foundation of NSW has found that people experiencing domestic or family violence are ten times more likely than others to experience a clustering of other legal

problems and to experience health and other impacts from these legal problems. It showed that people experiencing domestic and family violence:

- were 10 times more likely than others to experience other legal problems, including a wide range of family, civil and criminal law issues. Their odds of experiencing family law problems were especially elevated – 16 times higher than for other respondents;
- were at least three times more likely to experience 10 of the other 11 legal problem types examined, including criminal law problems and civil law problems related to employment, financial, government payment, health, housing, personal injury and rights issues;
- were more likely to have legal problems that were severe, have greater adverse knock-on effects on health, housing and income;
- were more likely to require assistance from professionals, particularly lawyers and health and welfare professionals, and require recourse to formal legal processes to achieve resolution;
- had legal problems that led to greater adverse impacts in a number of areas including the likelihood of leading to stress-related illness (53% vs 19% of problems) and physical ill health (43% vs 18%) compared to other respondents' legal problems.<sup>3</sup>

Health justice partnership responds to this evidence through collaboration to address the interconnected and often concurrent health and legal issues that can lead to and entrench disadvantage. A central rationale for health and legal services coming together is to assist shared client groups with problems that have both health and legal implications.<sup>4</sup> In addition to

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<sup>2</sup> Coumarelos C, Macourt D, People J, McDonald HM, Wei Z, Iriana R and Ramsey S (2012) Legal Australia-Wide Survey: Legal Need in Australia Law and Justice Foundation of New South Wales.

<sup>3</sup> Coumarelos, C (2019) Quantifying the legal and broader life impacts of domestic and family violence, Justice issues paper 32, Law and Justice Foundation of New South Wales.

<sup>4</sup> See Bachrach, D, H Pfister, K Wallis, and M Lipson (2014) 'Addressing Patients' Social Needs: An emerging business case for provider investment', The Commonwealth Fund, United States of America; See also: Beeson, T, BD McAllister, and M Regenstein (2013) 'Making the Case for Medical-Legal

### **Francine's story**

*Francine (19) lives with her boyfriend who has a history of domestic violence including physical violence, financial abuse and controlling behavior. Francine is extremely vulnerable. As a child she was the victim of abuse and neglect and was taken into the state care. She has a long history of substance abuse and self-harm. Her civil law issues include fines, loans, difficulties with Centrelink, help accessing her leaving care plan entitlements, being a victim of crime and difficulties being under a financial management order.*

*Due to her experiences in care and difficult experiences with a range of government and non-government agencies Francine is distrustful of workers and services requiring time and face to face support to build trust and rapport.*

*Through 18 months of assertive outreach, face to face casework and counselling Francine has re-engaged in services and support. She has been supported to negotiate Centrelink and Housing processes that she would not have the emotional regulation skills to manage without face to face services. Last year she was charged with criminal offences after complying with demands from her boyfriend. Attending court was extremely triggering for her but she was able to attend and participate because of face to face support services provided. After 18 months of intervention she made the brave step to leave her partner and moved into a women's refuge. She completed an AOD detox program and applied for residential rehabilitation.*

*Sadly Francine didn't make it to residential rehab and returned to living with her partner. Meeting with her support services is one of the only opportunities she has to get a break from her partner and to experience healthy ways of relating to and being treated by adults. Phone support is often difficult as her partner has smashed her phone on numerous occasions and when she is contactable by phone her partner is often evident in the background.*

providing direct legal assistance this approach allows for practitioners and services to collaborate in other ways. For example; by providing secondary consultation, whereby a health practitioner seeks advice from a legal practitioner about whether a patient's problem has a legal solution; or by investing in ICT infrastructure to expand the avenues through which people who are vulnerable can contact and receive information from services.

The assumption is that health and legal strategies pursued in partnership will have better outcomes than standard services provided in health and legal silos.

### **Health justice partnership provides a model to assist the needs of diverse people and communities**

The LAW survey highlighted that people experiencing domestic and family violence were particularly vulnerable to multiple and intersecting problems that put them at risk of poor health and justice outcomes. More broadly, it identified groups of people who were more likely to experience legal problems overall and who have increased vulnerability to substantial legal problems and multiple legal problems. These groups included people living with disability, Aboriginal and Torres Strait Islander

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Partnerships: A Review of the Evidence,' School of Public Health and Health Services, Washington DC; See also: Williamson, A, J Trott, and M Regenstein (2018) 'Health Center-Based Medical-Legal Partnerships: Where they are,

how they work, and how they are funded,' Milken School for Public Health, George Washington University, Washington DC.

people, culturally and linguistically diverse communities and people experiencing poverty; which are some of the groups of interest to this Inquiry. The LAW survey findings have been reflected in our own research.

In 2018, our census of services on the health justice landscape highlighted that one in five health justice services specifically targeted family and domestic violence. Beyond these targeted approaches, people at risk of or experiencing family violence are seen in nearly 90% of all services on the landscape. This is due to the complex nature of the multiple and intersecting problems that face people experiencing domestic violence. Overall, the most common legal issues being dealt with in health justice services were family and domestic violence and/or family law (a 'top three' issue for 62% of 65 respondents).<sup>5</sup>

While 20% of health justice partnerships target domestic and violence, over 90% are responding to people at risk of or experiencing domestic and family violence.

Joining the dots: 2018 census of the Australian health justice landscape, Health Justice Australia

Health justice practitioners providing input to this submission emphasised that sexual violence is frequently part of the experience of domestic and family violence. Their services respond to sexual violence in this context and they provide a holistic service model accordingly. The use of 'domestic and family violence' in our submission reflects this understanding.

The benefits of health justice partnership as an approach for supporting people experiencing

<sup>5</sup> Forell, S, and Nagy, M (2019) *Joining the dots: 2018 census of the Australian health justice landscape*, Health Justice Australia, Sydney

<sup>6</sup> Social Compass (2019). *Evaluation of the pilot program of specialist domestic violence units and health justice partnerships established under the women's safety package*, Final Report.

domestic and family violence were highlighted in a recent evaluation of specialist domestic violence units and health justice partnerships established under the Australian Government-funded women's safety package. The evaluation showed that clients who are experiencing domestic and family violence are also likely to be dealing with other issues including financial, parenting, housing, health, mental health, and employment issues. Through collaborative service models, services increased their clients' access to timely, reliable legal information and support, which led to positive legal outcomes for their issues related to domestic and family violence, family law and other matters. Overall, their clients reported having less stress, increased wellbeing and a greater sense of positivity about the future.<sup>6</sup>

The experience of Aboriginal and Torres Strait Islander people is a key area of interest for this Inquiry. Across the landscape of health justice services, Aboriginal community controlled health and legal service partners are collaborating with the communities they serve and are responding to the multiple, intersecting health and legal needs within these communities. This includes the impact of family violence on individuals, families and the wider community. This work responds to data from the LAW survey which indicate that, of the respondents who had experienced domestic and family violence, there were significantly more Indigenous respondents than non-Indigenous respondents (5.5% of DFV respondents versus 1.7% of other respondents).<sup>7</sup>

Evaluation of one health justice partnership involving an Aboriginal community controlled health service highlighted the value of this model when delivered within an Indigenous context.

<sup>7</sup> Coumarelos, C (2019) *Quantifying the legal and broader life impacts of domestic and family violence*, Justice issues paper 32, Law and Justice Foundation of New South Wales.

When identifying the key factors that resulted in their particular needs being met through the health justice partnership, clients spoke of the importance of having a First Nations lawyer to talk with, being able to access legal help in an Aboriginal community-controlled organisation and having their cultural needs met.<sup>8</sup>

An evaluation has been undertaken of a Victorian health justice partnership funded to provide health and legal services to culturally and linguistically diverse groups of women who experience family violence. It highlights that women in these communities are likely to encounter barriers to support, in particular legal support services, which is seen to contribute to a cycle of further marginalisation, poorer health, isolation and potential exposure to greater harm.<sup>9</sup> The evaluation includes multiple case studies that highlight the diverse, complex experiences of culturally and linguistically diverse clients accessing services through the health justice partnership.

Comprehensive data is available about health justice partnerships that provide services to people living with mental health related disability and can be found in our response last year to the Royal Commission into Victoria's mental health system.<sup>10</sup>

In addition, national research about women, disability and violence and barriers to accessing justice provides valuable evidence about the challenges for women with disability who have experienced violence trying to access siloed service systems; barriers that health justice partnerships seek to overcome.<sup>11</sup>

## Domestic and family violence and COVID19

In the early days of the pandemic, Health Justice Australia and practitioners from our national network recognised that there were people in Australia for whom the indirect impacts of COVID19 could be as dire as the virus itself. We were particularly concerned about people in need of legal assistance for whom telephone or remote services are not appropriate, therefore limiting their access to services at a time when they are most critical. This includes women and children who may be trapped at home with the perpetrator of domestic or family violence.<sup>12</sup>

Recognising the need for action, Health Justice Australia convened the COVID19 Legal Assistance Working Group to identify emerging and unmet legal needs likely to drive or exacerbate disadvantage in the context of COVID19; and to develop policy and program solutions to address these needs. The working group comprised of the national peak bodies for community legal centres; Aboriginal and Torres Strait Islander legal services; family violence prevention legal services; and the two largest legal aid services, NSW and Victoria. An analysis was conducted of emerging legal needs, who was most vulnerable to them, and the experience of services responding to that need. The working group agreed that the risk of escalating domestic and family violence was a leading concern.<sup>13</sup> This work informed the Federal Government's initial investment to support legal assistance services responding to COVID19. Resulting from this, Health Justice Australia recommended a set of principles to support decision making about the

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<sup>8</sup> Allison, F (2019) Evaluation of the Law Right Wuchopperen Health Justice Partnership and Law Yarn

<sup>9</sup> Kalapac, V (2016) inLanguage, inCulture, inTouch: Integrated model of support for CaLD women experiencing family violence. Final Evaluation Report. Jean Hailes for Women's Health, Melbourne, Australia.

<sup>10</sup> Health Justice Australia, (2019) Submission to Royal Commission into Victoria's mental health system.

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<sup>11</sup> Maher, J. M, Spivakovsky, C, McCulloch, J, McGowan, J, Beavis, K, Lea, M, ... Sands, T. (2018). Women, disability and violence: Barriers to accessing justice: Final report (ANROWS Horizons, 02/2018). Sydney: ANROWS

<sup>12</sup> Health Justice Australia, (March 2020) HJA position statement on COVID19

<sup>13</sup> Health Justice Australia, Covid19 Legal Assistance Working Group Communique (May 2020)

distribution of this funding and we recommend these principles to you below to guide the distribution of funding responding to domestic and family violence particularly.

Health Justice practitioners who have been working closely with people experiencing domestic or family violence during COVID19 have described a range of impacts on their clients, and the way they are providing services. For example:

- Depending on factors such as the service location and client group served, there have been variations in legal assistance partners' ability to access clients, particularly those who are hard to reach.
- Many legal assistance partners have reported a downturn in referrals from their health partners during COVID19. Most are still providing referral pathways and remote contact, however being unable to work onsite in the healthcare service has had a significant impact.
- Social distancing and changed hours of service operations have impacted significantly on some services' ability to provide holistic support to clients who are vulnerable to domestic violence.
- Some services have noticed that their contact with clients already known to them has increased slightly after they moved from using a standard office number during regular working hours, to contacting clients via text or other messaging services, often outside 9-5. This included an increase in contact from clients from culturally diverse backgrounds; and people who had previously accessed a service for information or advice but were now preparing to act on that advice following prolonged proximity to their partners during lockdown. While enabling clients to make contact at the time that is convenient and safe for them (often out of office hours by necessity), the use of text or other messaging services has, for some services, increased the pressure experienced by practitioners.

- One legal service who has returned to onsite service provision after the COVID19 lockdowns described that, since being back on site at their partnering hospital, they had seen the same number of clients in a week as were referred in a month during lockdown.

Organisations providing domestic and family violence services to people from culturally and linguistically diverse backgrounds have noticed since COVID19 that:

- there is a wide range of clients under different visa status contacting them for support.
- many clients working in vulnerable industries such as the hospitality and beauty industries have lost jobs quickly and have not been able to return to paid employment.
- many clients are experiencing an increased vulnerability to complex legal issues, for example women who are attending court hearings to get protection on the basis of permanent residency are being asked for higher levels of evidence such as psychological reports.
- there is an increase in third part referrals and people ringing on behalf of others. This has included other agencies, for example disability providers who want to find support for their clients experiencing historic family violence and financial difficulty or ongoing mental health issues.
- they are having increased difficulty in following up clients.

Organisations that respond to older people experiencing elder abuse have noticed since COVID19 that:

- They've consistently had high numbers of referrals.
- There's been an increased amount of economic abuse of older people at the hands of family members
- older people are less willingness to pursue intervention orders. This has been informed partly by the way courts have encouraged older clients not to attend in person



because of their vulnerability to COVID19; and partly because they can't always be guaranteed representation in court for these hearings. This lack of representation for clients has resulted in a conflict between their health needs (being protected from the virus) and their legal needs (asserting their rights). In addition, services reported that when their elderly clients are not represented in a hearing, sometimes they don't hear back from the Court about the outcome of their matter.

In seeking ways to work collaboratively and sustain a holistic service response during COVID19, some legal partners have increased phone check-ins with health partners, joined team meetings remotely, or increased their use of secondary consultations. The latter has allowed them to continue providing their expert legal support to health care provider who are responding to the complex legal needs of their patients.

The reduction in referrals experienced during COVID19 highlights the value of colocation in the health justice partnership model. It enables health and legal assistance practitioners to wrap their services around mutual clients, particularly those who are hard to reach, while they are accessing their trusted health care location. Having key staff on-site when a client is available also increases the number of 'opportunistic' referrals that meet a client's needs at a point in time and in a place where they feel safe and comfortable to seek help.

*"Our Health Justice Partnerships have enabled us to remain accessible to women who are attending essential health services. Considering that the health services are seeing less patients/mothers the fact that referrals have remain consistent is quite remarkable. We have also been able to provide professional development support to each of our partner services increasing their capacity to respond to women experiencing family violence."*

**Marika Manioudakis, Eastern  
Community Legal Centre**

These insights speak to the many ways that health justice partnership can support improved health and justice outcomes for people experiencing domestic and family violence, beyond the single vantage point or siloed approaches that services often follow when working on their own. This includes supporting health care staff to identify and respond quickly to the experience of domestic and family violence among their patients during COVID19. Providing the opportunity for models like health justice partnerships to provide flexible service response is crucial for the current and future crises. Moreover, it provides a pathway for systemic change in the responsiveness of services to the multiple and intersecting needs of the people they are here to help.

## **Health Justice Australia recommendations to inform the next National Plan to Reduce Violence against Women and their Children**

**Recommendation 1:** The principle of person-centred design should be at the heart of early intervention strategies, placing the needs – which are often multiple and intersecting - of people experiencing domestic and family violence at the centre of the policy settings, program design and funding to support them.

**Recommendation 2:** The expertise of Aboriginal and Torres Strait Islander women and men, communities and organisations should be valued and engaged to lead in the creation and implementation of community-led solutions; including evidence-based and tailored approaches that support community control over how Aboriginal and Torres Strait Islander people experiencing family violence can achieve good health and justice.

**Recommendation 3:** Health justice partnership should be expanded as part of the National Plan, building on the experience to date of how this approach enables existing services to meet the

needs of people with multiple and intersecting needs as a result of domestic and family violence.

**Recommendation 4:** Early intervention strategies for domestic and family violence must be understood within a framework of the social determinants of health and should be designed with the recognition that the social, cultural and environmental (including legal) problems in people's lives intersect with and compound each other.

**Recommendation 5:** Investment should be made in building the capability of practitioners in health and human (including legal) services to collaborate, informed by the lessons of health justice partnership in how services that otherwise work in isolation are able to work together to address the multiple, intersecting problems in the lives of people who are experiencing domestic and family violence.

**Recommendation 6:** Funding of services should move away from transactional models that reward the number of people (ie clients, patients or consumers) seen, towards flexible models that allow for collaborative responses across services to better tackle complex need.

**Recommendation 7:** Responses to crises like COVID19 should be informed by the disproportionate impact of these crises on people who experience unmet legal and social need and its impact on poor health outcomes. These responses should be guided by the following principles:

- Ensure access to health, legal and social assistance by those for whom COVID19 presents a barrier to getting the help they need, in particular people at risk of, or experiencing, domestic and family violence. This needs to recognise that Aboriginal and Torres Strait Islander people have been significantly impacted by the pandemic.
- Test and learn from what works, and for whom, in addressing need in times of crisis. Supporting innovation within health and human (including legal assistance) services and sectors and allowing these sectors to learn what works in responding to need borne of crisis could have a significant impact in improving the preparedness of these sectors to respond to crises in the future.
- Support innovation that includes trialling new approaches or taking existing approaches in new directions, for example secondary consultations within health justice partnerships.



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