

Health justice partnership as early support for children and their families

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Health justice insights

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Foreword

The confronting new findings from the Australian Child Maltreatment Study (ACMS) showed that 62% of Australians have suffered child maltreatment, and that the majority have suffered multiple types of child maltreatment. This is more likely when there are drug or alcohol addictions, mental health disorders, separation or divorce, and financial stress in the family. And where support services are difficult to access.

Child maltreatment is a bigger problem than we thought. The ACMS and other recent research reinforces that where there is child maltreatment there will also be domestic and family violence, so the siloing of these problems separately in policy no longer makes sense.

Let's be clear. In a rich and developed country like Australia, problems like high rates of child maltreatment are a sign of failed public service systems: they're poorly designed, fragmented, and lacking co-ordination across health, mental health, education, and social services, including housing.

Currently these public services are often based on mid-last century models and have not kept up with increasingly complex needs. They're not fit-for-purpose for what people are saying they need in 2023. Some would argue we have underestimated what is actually an 'epidemic of unmet need'.

The failure of these upstream public service systems puts pressure on child protection and youth justice systems as our only response to children and families living with poverty, disadvantage and complex needs.

Children's policy lacks co-ordination and accountability, and lacks a sense of urgency for reform.

At great human and economic cost, we keep tinkering around the edges of the symptoms, without addressing the underlying causes that diminish the wellbeing of our children and increase their risks of harm.

Children and families have told me that they need help for different family members 'from the same place'. Health justice partnerships provide a proven model of systems integration designed with children and families at the centre.

Health justice partnerships are leading the way on improved co-ordination so that those who most need help are able to get it earlier. The application of this model to much-needed child protection and youth justice systems reform is clear.

Anne Hollonds
National Children's Commissioner
Australian Human Rights Commission

Preface

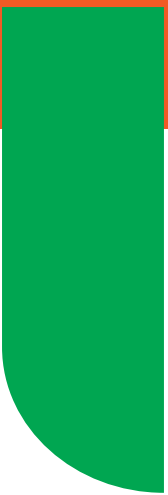
Many services respond to people's intersecting health, legal and other problems as though they are discrete or isolated. This can mean that the service systems designed to help people become a further problem to solve, as people struggle to get the right help at the right time in the places they know and trust. Health justice partnership provides a way for services to work together around intersecting need. It brings the otherwise-siloed services in health, legal help and other systems together, to collaborate in response to the multiple, intersecting health, legal and other problems that many people experience.

The experiences that bring families into contact with the child protection system demonstrate how health, legal and other problems intersect and hold or compound disadvantage in people's lives. Take a young, pregnant couple seeking help from an alcohol and other drugs team to manage their addictions, while simultaneously struggling to secure housing in a time of rental crisis. Or a sole parent whose inability to pay the fines she accumulated on her local toll roads risked having her license suspended, jeopardising her ability to bring her children to their health appointments. Drawn from evaluations of health justice partnership, these examples speak to the multiple, intersecting health, legal and other problems that are experienced simultaneously in people's lives. Left unresolved, everyday problems like these can put parents at risk of being the subject of a child protection notification. At its most serious end, such a notification can lead to the removal of a child from their family.

Yet removing a child from risk of harm does not necessarily address the underlying health justice issues that are creating risk in the first place. Removing a child does nothing to support a family into sustained housing. It does nothing to help a mum keep her license, and through it, her access to the healthcare and other services her family needs.

To improve the protection of children in Australia, we need to restore health, justice and wellbeing in the lives of at-risk children and their families. This work is well underway, led by the many practitioners, policy-makers, funders, advocates and most importantly the families working to improve the safety of children in this country. With this paper, we aim to contribute to that work by demonstrating the role that legal help can play in early support, strengthening its vital outcomes.

Health justice partnership demonstrates one way to address the underlying health, legal and other problems that drive interaction with the child protection system. In this paper, we show how and why legal help should be recognised and valued as part of the necessary early support to protect Australia's children. We share it with an invitation to the people,



organisations and systems that are also grappling with these issues: to work together towards improved health, justice and wellbeing of children and families and towards a greater impact of the service systems that exist to support them.

Dr Tessa Boyd-Caine
CEO
Health Justice Australia

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Key points

Early support

Early support is the best way to protect children, by providing families with the assistance they need to address circumstances that put children at risk..

Investment

Governments across Australia have been investing in developing services to deliver early support for children and families at risk of interacting with the child protection system.

Opportunity

There is an opportunity to recognise, and expand upon, the role of health justice partnership as part of the landscape of early support for children and their families.

Evidence

This paper draws together the existing evidence on this opportunity to inform policy reform. We seek to influence policy-makers, funders, researchers, and health and legal services as they grapple with the ever-growing crisis in social and economic costs of the child protection system in Australia, including its spillover impacts into the youth and criminal justice systems.

Health justice partnership – the opportunity

Health justice partnership integrates legal help into services that support people's health and wellbeing. They assist people vulnerable to intersecting legal, health and other issues who are unlikely to turn to legal services for solutions. For example, through health justice partnership, people accessing a hospital or a child and family centre may be able to access legal help on-site, with a health practitioner or social worker referring clients immediately to legal help if child protection concerns are identified or if someone is already interacting with child protection authorities.

Health justice partnership:

- Can complement existing investments in early support for children and remedy some of the gaps in access, including in health and other settings that parents are already engaged with.
- Already works in contexts where child protection issues arise, such as ante-natal or family care settings, family and domestic violence, mental health and alcohol or other drug services.
- Already responds to child protection issues directly, with 31% of HJPs reporting that child protection issues are one of their most common legal issues.
- Can provide earlier legal advice and assistance, including before the involvement of child protection services. This is a key gap in the early support landscape, even though the process of child protection is by its nature a legal process.
- Can help address the complexity associated with the contexts in which child protection issues arise.
- Is designed to strengthen the capacity of clients as well as of services and systems.

Health justice partnership as early support

Health justice partnership offers a promising approach to incorporate legal assistance into early support for children and their families. This collaborative approach between health and legal assistance services is already working to provide children and their families with early support in the contexts where child protection concerns are likely to arise.

Health justice partnership is also designed to reach people who are otherwise unlikely to access legal help, and to help them address the complexity of multiple, intersecting health, legal and social problems in an integrated way. Importantly, these collaborations also strengthen the capacity and capability of people working in these systems.

What is health justice partnership?

Health justice partnership integrates legal help into services that support the health and wellbeing of people experiencing intersecting health, legal and social problems. To date, most health justice partnerships have been between legal services and health or other social services; child protection services are not usually partners, although services working in health justice partnership may engage with child protection support regularly.

There are 105 health justice partnerships across Australia, operating in diverse settings that are likely to encounter child protection issues (Health Justice Australia, 2022). For example, health justice partnerships that already engage in child protection work operate in hospitals, child and family centres, community health centres, drug and alcohol services, maternal and child health services, and Aboriginal community-controlled health organisations. Legal help is typically provided through a legal aid commission or community legal centre, sometimes on site and sometimes through remote or other arrangements.

These partnerships can target certain kinds of issues (for example, family and domestic violence) or clients (for example, people experiencing economic disadvantage), but commonly they all seek to identify and respond to legal needs that intersect with health and other needs. For example, if a woman is identified by a nurse as potentially in a situation of family violence, the nurse could bring in a lawyer to provide legal help on obtaining a family violence order.

Health justice partnership commonly involves activities such as building relationships between partners, multidisciplinary training, streamlined referral processes, secondary consultation and coordination between practitioners. These strategies aim to build trust between the partners, build the capability of health practitioners to identify legal needs and vice versa, and to provide legal help to those who might not otherwise have access to it in a timely way (Health Justice Australia, 2018).

Demonstrated impact

In our 2019 census, 31% of health justice partnerships identified the care and protection of children as one of their most common legal issues, with this being especially common for partnerships targeting family and domestic violence (Health Justice Australia, 2019, p. 23).

Our understanding of the nature and effectiveness of health justice partnership as early support for protecting children is drawn from evaluations of individual health justice partnerships and insights gathered in our interactions with health justice practitioners. A roundtable convened in 2021 is one example. A key limitation of this evidence base is that few evaluations refer specifically to child protection work, and some more recent health justice partnerships which are known to respond to child protection concerns have not yet had evaluations published. Therefore, this paper represents an initial survey. More research is needed to understand the scope and nature of the work across diverse contexts, and the outcomes for children and families.

Drawing on this evidence, however, we can see that health justice partnerships respond to complex, intersecting issues for families by:

- Providing information and advice about child protection processes and the rights of clients
- Supporting families to access relevant services such as safe housing and drug and alcohol treatment
- Supporting and advocating for their clients in their interactions with the child protection system and other legal processes
- Reconnecting people into health services and settings, especially where previous interactions may have fractured trust or confidence in those services, including under mandatory reporting requirements.

Another example of the ways a health justice partnership can work is illustrated by the case study of Calvary Public Hospital Bruce (ACT) and Women's Legal Centre (see page 12).



The need for early support for children and families

Why reform of child protection systems is needed

Child protection systems aim to protect children who are at risk of abuse or neglect, or whose families cannot provide care and protection. Yet, these systems are not 'effective in improving life chances for vulnerable children and families' (Tune, 2015, p. 6).

Further, they are unsustainable and disproportionately impact children and families already experiencing vulnerability, such as Aboriginal and Torres Strait Islander people and people with disability.

Child protection systems are not working

- The number of children in out-of-home care has increased by 7.3% in the past five years (Australian Institute of Health and Welfare, 2022)¹. This growth shows that we are not providing enough support to prevent children being removed from their families.
- The costs of child protection services have nearly doubled from \$3.7 billion in 2012–13 to \$6.9 billion in 2021–2022 (Productivity Commission, 2023, Table 16A.8)².
- Aboriginal and Torres Strait Islander children are 10 times more likely than non-Indigenous children to be in out-of-home care (SNAICC – National Voice for our Children, 2022, p. 5) and 30% of children in out-of-home care are reported as having disability (Australian Institute of Health and Welfare, 2022).
- Children aged 6–14 years in NSW who had contact with protection services in early childhood were more than twice as likely to be diagnosed with a mental illness compared to those that had not. If they were placed in out-of-home-care, that diagnosis was more than five times as likely. (Green et al., 2019; National Mental Health Commission, 2021, p. 18).
- 65% of children receiving care and protection services are repeat clients (Australian Institute of Health and Welfare, 2022). This is a clear indicator that the care and protection issues have not been resolved.
- Involvement with the child protection system can continue across generations: the parents of almost a third of children and young people involved with the child protection system in NSW were themselves involved as a child with the child protection system (NSW Department of Family and Community Services (FACS), 2017, p. 1).
- Children known to child protection are over-represented in the youth justice system, making up 38% of children sentenced or diverted in the Victorian Children's Court (Sentencing Council of Victoria, 2019, p. xx).

¹ The figures are from 30 June 2017 to 30 June 2021.

² This figure is for the cost of protective intervention services and care services, and excludes family support services.

Early support as a key direction of reform

Our health, education and social service systems are fragmented and not fit for purpose for children and their families living with poverty and disadvantage. Many of these families have told me directly about their frustrations at being unable to access support for their basic needs. A country that values children would be trying hard to address child poverty, and shift investment upstream and earlier, to redesign the basic systems of support so that kids don't fall in the gaps (Children's Commissioner Hollonds, 2022).

Australian governments agree on the need and directions for reform. This policy consensus is reflected in *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031* (Australian Government, 2021).

The first focus area in this framework is a national approach to 'early intervention and targeted support', also known as 'early support' (Australian Government, 2021, p. 26). This focus recognises that 'the best way to protect children is to prevent child abuse and neglect from happening in the first place' by providing 'families with the assistance they need before they come into contact with the statutory child protection system' (The Allen Consulting Group, 2008, p. vi).

What is 'early support'?

'Early intervention' or 'early support' is often defined in relation to the timing of the statutory child protection process. However, as noted of early intervention in legal assistance more broadly (Forell, 2015), 'early' in a statutory child protection process may, for the family, be 'late' in the progress of the underlying issues. Recognising the complexity of issues involved, families may also be involved in other legal processes before or at the same time as child protection processes (such as family law, family violence). Rather than focusing on 'early support' solely in relation to the timing of the statutory child protection process, this paper uses 'early support' in a broader sense of responding to the early signs of problems or challenges and intervening before issues compound or get worse.

The need to focus on early support reflects the fact that the 'drivers of demand [for out-of-home care] are deeply entrenched in a family and occur in combination' (Tune, 2015, p. 6). There is strong evidence that child protection involvement co-occurs with domestic and family violence, alcohol and other drug issues, and mental health issues (see below) (Australian Institute of Family Studies, 2017; Isobe et al., 2020).

This evidence reinforces the need to shift to a public health model that 'offers an opportunity to intervene early and comprehensively' (Wright et al., 2021, p. 5), as these are factors that child protection agencies are not well designed to address with their focus on assessing risks to the safety and wellbeing of children (Higgins et al., 2021, pp. 16–17; Tune, 2015, p. 6).

There are families with multiple and complex needs

A Queensland study found that five risk factors could be identified in 71% of households where child safety concerns had been substantiated:

- **Current or previous drug or alcohol problems (47%)**
- **Two or more incidents of domestic violence in the past year (35%)**
- **Current or previously diagnosed mental illness (19%)**
- **Previous abuse or neglect as a child (25%)**
- **Criminal history (21%).**

Nearly half (44%) of these households had more than one of the five risk factors, and these households were more than twice as likely to progress to ongoing intervention compared with households with one or no risk factors (59% compared with 25%) (Carmody, 2013, p. 47).

It is essential to keep in mind that ‘[r]isk factors are not causes of child abuse or neglect, and the presence of one or more risk factors will not necessarily result in child abuse and neglect, just as the presence of protective factors does not guarantee that children will be kept safe’ (Australian Institute of Family Studies, 2017).

This evidence strongly suggests there is significant value in governments investing in support for families with the most complex needs, which is reinforced by the evidence that a significant proportion of lifetime costs to governments are driven by a small number of vulnerable families (NSW Government, 2019). This investment could have profound effects on the lives of those supported. Given the high costs involved in

the child protection system, early support for these complex needs is also likely to be financially sensible. For example, the direct savings in diverting a single family from the court system in Victoria has been estimated on average to be \$21,935 (based on the costs per case), with another \$76,509 saved if the child was diverted from out-of-home care, per child per year (Maylea et al., 2021, p. 51).

Family support services as a pathway to support

The main investments in early support by states and territories have been through programs or services designed to build the capacity of parents and families, known as ‘family support services’. These services vary in models, target groups and intensity, as well as the types of providers. For example, NSW funds diverse models from community activities; playgroups and mentoring; Aboriginal Child and Family Centres that deliver culturally safe services and support; family conferencing programs for expectant parents; through to intensive casework programs for those at risk of entering the out-of-home care system (Davis, 2019, p. 223).

The Queensland Government has established community-based Family and Child Connect services, Intensive Family Support Services and Aboriginal and Torres Strait Family Wellbeing Services (Queensland Audit Office, 2020, pp. 14–15).

However, there are multiple ‘pathways to support’ for children and families. One pathway to support is through partnering with universal services and communities, such as health and education, to identify and respond early when children and families show early signs of need and vulnerability (Department of Families, Fairness and Housing (Vic), 2021).

There is untapped potential to provide support through these collaborative pathways.

Nationally, there is a need for a renewed focus on ‘building the capacity and capability of both the universal [such as health services] and targeted services sector to change trajectories’ so they can operate collectively as a ‘prevention and early support system’ (Families Australia, 2020, pp. 16–17).

While the Safe and Supported framework calls for strengthening the interface between children and family services, this might not be sufficient for those with more complex needs, particularly if they are not already accessing those services (Australian Government, 2021, p. 27).

The value of early legal help

A gap in most family support services, and in the policy directions on early support, is the role of legal help as a form of early support. This could be for general issues such as housing, money issues or family violence. Other examples of early legal help include helping families understand:

- Child protection process, including the processes for identifying and assessing risk, and the powers, obligations and functions of child protection authorities
- Child safety concerns raised, and what needs to be done to address these concerns
- The importance of taking action, positive engagement with child protection authorities and other services, and the consequences of not addressing concerns that have been raised
- Their options under family law and alternative dispute resolution options
- The legal process at a Children’s Court (Community Legal Centres NSW, 2019b).

This kind of legal help may be given before any child protection process has begun. However, the greatest value of legal help lies not in its timing in relation to a statutory process, but in accessing it when it can prevent a problem growing worse or becoming a crisis. Such legal help may begin, or continue, during formal child protection processes.

Legal help can, like most early support programs, be a form of support that helps ‘parents to address risk factors such as domestic and family violence, alcohol

and other drug use, mental health or homelessness’ (Australian Government, 2021).

Legal help can provide support to parents by helping redress the imbalances of power within the statutory child protection process. As the Queensland Commission of Inquiry into child protection recognised, statutory child protection processes are legal processes that are characterised by a dramatic power imbalance between the state and people who already face significant barriers to justice, a process that lacks adequate safeguards to protect the rights of children and families (Carmody, 2013, p. 455).

The impacts of this have been detailed in a Queensland study that identified the many ways parents, who were often unable to advocate effectively for themselves, could undermine their own interests, such as by making admissions, allowing departmental officials to collect evidence, and by signing consent orders without informed consent or legal advice (Walsh & Douglas, 2011, pp. 8–9). This was powerfully illustrated by a client of a health justice partnership in a Victorian evaluation:

DHHS told me to sign and agree with what the form said and they told me if I did not sign, the matter would go to court. I did not want that so I signed and I did not know what it meant and it made me look slack ... as I had signed they just went ahead and got the orders (Curran, 2016, p. 108).

The Queensland Commission of Inquiry highlighted that ‘although the Commonwealth’s priorities for family matters include state matters where a child’s health or safety is at risk’, the majority of Commonwealth funding was used for family law matters (where there is ‘no, or lower level of risk to a child’), rather than this funding being prioritised for child protection issues. Consequently, most parents and other parties are unrepresented in child protection proceedings.

Another key factor is that, in at least some states and territories, most legal aid funding for child protection matters is used to provide representation once a matter is already at court, typically after a child has been removed from home, amounting to a ‘crisis response’ (Victoria Legal Aid, 2017). This makes it challenging for legal support to work in partnership with other services to address the concerns of child protection agencies in a timely way, before a notification has been issued or a child removed.

There are some programs that recognise the value of providing legal advice at an early stage. Legal Aid NSW has a Family Law Early Intervention Unit which provides outreach family law advice services, including on care and protection matters, at Family Court registries and locations including Family Relationship Centres (Forell & Cain, 2012); and funded community legal centres to provide early legal advice on care and protection matters until 2019 (see below).

Legal Aid Queensland also has a small Early Legal Service that partners with several social service providers in southeast Queensland.

Victoria Legal Aid piloted an Independent Family Advocacy Service in 2018. In contrast to the other models which can provide legal help before a child protection notification, this provides non-legal advocacy and support once a child protection case has been investigated and substantiated, but before the matter reaches the Children’s Court. There are referral pathways to Victoria Legal Aid once a matter reaches court.

A recent evaluation estimated this program diverted 20% of the clients it referred from court and recommended that this be rolled out across Australia (Maylea et al., 2021, p. 2). A NSW review also recommended establishing a network of specialist child protection advocates along similar lines, although this recommendation has not been adopted (Davis, 2019, Recommendation 27).

By connecting with providers and families at an earlier stage, these programs can provide legal help to parents or caregivers before a child protection process has commenced. For example, legal advice can be given on steps that can be taken to address potential child safety concerns, such as continuing drug and alcohol treatment. This could limit the need for child protection involvement.

The Community Legal Centre Care Partners program

This program provided funding of \$846,000 to 12 community legal centres to provide early legal assistance on care and protection matters, including working within hospital and healthcare settings and co-located with social service providers. These centres included legal centres in regional areas such as the Northern Rivers and Western NSW, as well as Women’s Legal Service NSW, Wirringa Baiya Aboriginal Women’s Legal Service and Intellectual Disability Rights Service. In 2016, funding was cut by 50% and the rest of the funding expired in September 2019 (Community Legal Centres NSW, n.d., 2019a).

Calvary Public Hospital Bruce (ACT)/ Women's Legal Centre

Monique was referred to the health justice partnership (HJP) lawyer by the antenatal team when they identified she was at significant risk of domestic violence and was having difficulty managing her mental health. During her first pregnancy, Monique had contact with Child and Youth Protection Services. She also had previous negative experiences with the justice system.

When the HJP lawyer met Monique, they talked through the likelihood of a child protection notification for her unborn child, how the process worked and what supports were available. The lawyer worked with her to identify what concerns Child and Youth Protection Services would have and advised on how she could address them.

After Monique gave birth, Child and Youth Protection Services began an assessment.

The advice Monique had received meant she understood the process and had started addressing the concerns. The partnership lawyer provided Monique with advice and advocacy. This included liaising with police and the courts about criminal charges, advice on Family Violence Orders, and referrals to victims of crime support. Monique also needed help with a safety plan, particularly so she had safe accommodation once her ex-partner was released from custody.

The lawyer represented Monique's needs to ACT Housing and was able to secure housing for her. A Women's Legal Centre social worker arranged support for her when she moved. Monique addressed the child protection concerns with help from the HJP lawyer. She now has safe housing, ongoing mental health support and is enjoying parenthood (ACT Government, 2022, p. 3).

By giving early legal advice and assistance, lawyers can help families understand child protection processes, the powers, rights and obligations of child protection agencies, how to address concerns and the consequences of not addressing concerns, their legal options such as family group conferencing, and the legal processes at court (Buckton & Ness, n.d.).

By working together, health and legal services can help address the underlying concerns of child protection authorities and help clients navigate across complex service systems to address the breadth of their needs. For example, in one case study from Mildura, a lawyer connected a client who had recently migrated to Australia and was experiencing family violence and post-natal depression to a psychologist and an organisation to help with her parenting. The lawyer also helped her obtain social security benefits and to apply for funding so she could learn English and how to drive (Siegmann, 2019, p. 23).

Client stories also show how the support of health justice partnerships has changed child protection outcomes. Examples include:

- A parent obtaining a supervision order for her children after receiving timely drug treatment and employment training (Curran, 2016, p. 116)
- A client from Afghanistan who was able to reunite with her husband's family after he engaged with a trauma-specific counselling service and she obtained a family violence intervention order prohibiting family violence, but allowing him to remain in the home (Kalapac, 2016, p. 17)
- A mother who had her visitation rights resumed after five or six years of having no contact (Day & Moensted, 2019, p. 29).

Addressing barriers to accessing support

Health justice partnership is designed to reduce barriers to access for those who are disproportionately burdened with legal need but less likely to seek help directly from lawyers at all or in a timely way. These are common characteristics for families at risk of contact with the child protection system.

Expanding health justice partnership, therefore, could address key barriers to accessing early support that limit the reach of family support services, especially in regional, rural and remote areas. For example, reviews of family support services have found that:

- Piloted support services in NSW had reached a maximum of around 16% of the target population (New South Wales Auditor-General's Report, 2020, p. 25),³ with barriers including shame on the part of parents, the attitudes of caseworkers, and the fear that such plans would result in the removal of children (Davis, 2019, p. 216)
- More than half (54.5%) the families in Queensland referred to family support services either refused support, dropped out of contact, or could not be located (Queensland Audit Office, 2020, p. 15).

Health justice partnerships can provide a safe, trusted source of advice and support as they are independent of the child protection system, so are less likely to be seen as a punitive response (Higgins et al., 2021, p. 18). Further, health justice partnership can help clients even if they do not engage with a lawyer, through secondary consultations and by building the capability of health practitioners to support their clients (Curran, 2016, p. 98).

For some groups, such as Aboriginal and Torres Strait Islander people or people with disability, mainstream health services may not be places of trust. It is well-documented that Aboriginal women hesitate to seek help for family violence or for health conditions for fear that their children will be removed (Davis, 2019, p. 186; Morgan et al., 2022, p. 17). Evaluations suggest that locating partnerships within Aboriginal community-controlled health settings can provide an option that meets the particular needs of these communities (Allison, 2019, p. 8). As guided by Aboriginal communities and organisations, there may be potential to build upon this model, with 14 health justice services in Australia already involving Aboriginal community controlled health organisations (Health Justice Australia, 2022).

³The report found pilot programs had supported 6,621 out of over 40,000 children and families in the target populations by March 2020, although this was likely to be an overestimate because the data could not identify overlapping clients.

Working in places that reach children and families

The design of health justice partnership is well placed to address the complexity experienced by families at risk of interacting with child protection systems. Child protection concerns often co-occur with domestic and family violence, alcohol and other drug issues, and/or mental health issues – contexts in which health justice partnerships already operate. In 2021 we found that 48% of health justice services targeted those experiencing domestic and family violence, and 26% targeted those experiencing mental ill-health or addiction (Health Justice Australia, 2021a).

Health settings themselves have enormous potential for high-impact interventions that create or expand pathways to access support before a notification is made. Health services are the third-largest source of notifications to child protection nationally (12.1%) (Australian Institute of Health and Welfare, 2022, Table S3.2). Maternal and child health settings are also obvious sites for intervention, with 13% of notifications nationally for children under the age of 1 or unborn children (Australian Institute of Health and Welfare, 2022, Table S3.6).⁴

Addressing legal need in a timelier way

Health justice partnership can provide holistic support in a timelier way, where legal help is otherwise not typically provided by family support services. For example a health practitioner can identify the risk of child protection intervention during a pregnancy and can work with legal assistance to engage clients in addressing those risks before child protection services become involved.

One practitioner reflected:

Legal aid gets them often in a crisis. The [health justice partnership]’s more able to get them when it’s earlier or when they might be motivated. If a lawyer can have a quick chat to the worker or the client, then because of the immediacy and relevance it can make a difference early on (Curran, 2016, p. 107).

Further, child protection issues will be only one part of a cluster of legal needs that these clients are vulnerable to. Child protection usually also involves family law and family violence matters, but evaluations of existing health justice partnerships indicate the breadth of other legal needs that clients may have. For example, assistance with victim compensation claims, help accessing public housing, help consolidating fines, and consumer legal issues can also have flow-on effects on the capacity of parents to support their children (Curran, 2016, p. 115; Day & Moensted, 2019, p. 34).

Health justice partnership also has the potential to address the imbalance of power that characterises the child protection system. As one client of a health justice partnership put it:

DHHS has so many witnesses and resources so it’s great to have a lawyer that makes them accountable ... now I have a lawyer I know my rights and I feel knowledge gives me power and they have backed off (Curran, 2016, p. 108).

⁴All jurisdictions other than South Australia and the Northern Territory provide for prenatal reporting, but in Victoria these are not recorded as child protection notifications and in the ACT investigations cannot begin before birth (Australian Institute of Health and Welfare, 2022, p. Appendices A-C, 9-10).

Strengthening the capacity of clients, practitioners and systems

Why am I less stressed? Well, with the lawyer, I know my options. I never knew I could fight and be heard. I didn't know my options after reunification and I never knew I could get half so far. Now I feel I have my life back. I am on the way to a certificate and feel like jumping in the air like the Toyota ad (Curran, 2016, p. 112).

Health justice partnership is intended to strengthen the capacity of clients, practitioners and systems, as demonstrated by an evaluation of one partnership with a significant number of child protection matters.

- Clients found it 'invaluable' and empowering to understand that they had options and, importantly, rights. This meant they could better plan and organise their affairs, no longer felt so powerless, and changed their perspectives on their own parenting capacity (Curran, 2016, pp. 88, 100, 107, 114).
- Health practitioners understood their own and their clients' rights better, enabling them to advocate more effectively. One manager explained how this is empowering for staff:

Staff feel supported having a lawyer on-site. They have told me of numbers of cases where the advice has been pivotal in clients not regressing. They know their clients are deeply affected by the legal system and it impacts on their health. Knowledge of the law and opportunities and entitlements is incredibly empowering for my staff. It's meant better pathways, issue identification, timeliness and changed behaviours, all for better outcomes for our clients (Curran, 2016, p. 123).

- Both health and legal practitioners also reported that their own capacity and capability was strengthened, through a mix of training, informal interaction and secondary consultation, and experience. One practitioner explained the value of the model for strengthening capability:

The foundation for a professional relationship is confidence and personal knowledge of the casework; referrals need to come but they don't if you don't trust. ... you also need to help us revisit knowledge, as once-off training does not all get retained – that's why it all works in together. Secondary consultations can reinforce training. If we have secondary consultations, we will want to do the training, but if it's not done in a way that respects us and what we have to do and heavy caseloads and in a sensible way, then we will just see it's a waste of time and that will then impact on your engagement proxy too (Curran, 2016, p. 148).

- The trust between service providers can also help build trust for the client in knowing people are working together (2016, pp. 97–109).

- Legal help can also encourage clients to engage more productively with child protection services. For example, a practitioner reflected on an incident where they supported a client through a meeting where child protection authorities had brought two security guards. The practitioner commented, ‘without all guns blazing we could have and did relax her’. Legal help can also help reduce fears of the legal process, which helps parents engage earlier with it (Curran, 2016, pp. 113, 121; Day & Moensted, 2019, p. 38).

Health justice partnership can facilitate services working together to centre a client’s experience. In one case study, a meeting organised by a health justice partnership opened up communication between the authorised department, the police, the husband’s case manager and lawyer that ‘marked a turning point for the client where her voice was listened to by [the department], the police, and in turn, the magistrate’ (Kalapac, 2016, p. 57).

Another example is the involvement of Redfern Legal Centre with the Pregnancy Family Conference, a confidential forum that facilitates meetings between families, healthcare professionals, child protection workers and service providers, overseen by an independent facilitator. Redfern Legal Centre’s representation of expectant mothers at this conference offers them ‘an opportunity to find her voice with a lawyer sitting by her side’, as well as facilitating transparency and accountability, and helping to identify pathways and options for the expectant mother (Redfern Legal Centre, 2022., p. 23). Health justice partnership can also provide an opportunity to consider multiple pathways and perspectives, including specialised child focussed support, that can help bring the best interests of the child into focus. One practitioner talked about how their partnership approach enables the rights of the child to be at the centre of the help they provide families.

It really lends itself to a genuine partnership around the rights of the child, rather than in competition with the client. That’s what I’m interested in, how do we all come to the table with our own point of view, as professionals and form a genuine partnership about the rights of the child and how that child is being represented (Health Justice Australia, 2021b).

Health justice partnership can also improve systemic processes. For example, one health justice partnership adopted a process of alerting the legal clinic when child protection services contacted the health service for medical records. This enabled the clinic to support the families to understand their rights and the concept of consent, and challenge inappropriate requests. Another service assessed children for potential conditions or disabilities so they could access any supports they were entitled to at the earliest point of intervention, with the aim of preventing them from becoming caught up in the child protection or criminal justice systems (Health Justice Australia, 2020, p.3).



Where to from here?

An agenda for reform

There is an opportunity to recognise, and expand upon, the role of health justice partnership as part of the landscape of early support for children and families interacting with child care and protection. Health justice partnership has the potential to support existing investments in early support for children. It can also help remedy some of the gaps in access, including by making greater use of pathways through health and other services where parents are likely already engaged.

The broad scope of how health justice partnership works can help address the added complexity that tends to emerge when multiple services are responding to the issues driving child protection concerns. Moreover, the approach is designed to strengthen the capacity not only of clients, but of practitioners in services and the system overall.

To date, health justice partnership has not been recognised as part of the landscape of early support. With its renewed focus on strengthening the interface between child and family services and universal and targeted services, the implementation of Safe and Supported provides an ideal opportunity to begin realising this potential.

This potential also aligns well with the direction of other recent reforms, such as the introduction of a law requiring the NSW Government to take 'active steps' to reduce the need for Aboriginal and Torres Strait Islander children and young people to be removed from their families, including but not limited to family support services (Children and Young Persons (Care and Protection) Amendment (Family Is Culture) Act (NSW) 2022, s 13A).

This paper is designed to spark a broader and deeper conversation about the potential of health justice partnership as a form of early support. This paper draws on the work of many leaders in the field of child wellbeing who are vital voices in that conversation, such as SNAICC – National Voice for our Children, ARACY and the over 200 organisations and researchers committed to advancing the national campaign on child safety and wellbeing in Australia that form the National Coalition on Child Safety and Wellbeing (see, e.g., Families Australia, 2020; SNAICC-National Voice for our Children, 2022; The Allen Consulting Group, 2008).

We invite policy-makers, funders, researchers, and health and legal services to work with us to explore the potential of health justice partnership as a form of early support for children and families at risk of interacting with child protection systems and as a mechanism to restore health, justice and wellbeing to their lives.



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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.



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