



4 April 2018



Select Committee into Elder Abuse
Legislative Council Committee Office
18-32 Parliament Place
West Perth WA 2005

Dear Committee Members,

Inquiry into Elder Abuse

Thank you for the opportunity to provide evidence to the Inquiry into Elder Abuse on 19 March 2018 following our submission in relation to the same. There are no corrections to the transcript that we wish to make, and we are pleased to provide further information as requested.

Introduction and recap

As you are aware, the Women's Law Centre of WA (WLCWA) is a not-for-profit state-wide, community legal centre that provides services to women facing disadvantage, and prioritises victims of family and domestic violence (FDV). We provide free legal advice and casework in the areas of family law, family and domestic violence issues, care and protection proceedings and criminal injuries compensation for victims of family and domestic violence and/or sexual assault. We also provide community legal education and professional development training in our casework areas. Specific projects that we undertake in addition to our core work include:

- **Djinda Services (Djinda)** (also known as the Perth Aboriginal Family Violence Prevention Legal Service) commenced in 2013. Funded by the Department of the WA Attorney General, it is a partnership between Relationships Australia WA (RAWA) and the Women's Law Centre of WA. Djinda provides a holistic and specialised legal support service for Aboriginal and Torres Strait Islander women living in the Perth metropolitan area who have experienced or are at risk of experiencing family violence and/or sexual assault.
- **Safe as Houses Project** is a partnership between WLCWA, Tenancy WA and Street law WA. Funded by the Criminal Confiscations Fund and Lotterieswest, the program provides legal and

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other services to women who are homeless or at risk of homelessness from FDV. The program also incorporates a health-justice partnership with King Edward Memorial Hospital.¹

- **The Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Lands** project is an outreach service for Aboriginal and Torres Strait Islander women who reside in remote areas surrounding Warburton, WA. WLCWA works in conjunction with the NPY Women's Council in delivering services to women in pour core areas in person and by telephone.

Questions on notice from the hearing

- 1. If there were to be mandatory reporting of elder abuse, upon whom should reporting obligations lie, and to whom (transcript page 6).**

I refer to page 24 of our submission and also now note further proposals by the Law Council of Australia contained within the March 2017 "Australian Law Reform Commission Elder Abuse Discussion Paper"² in relation to abuse that occurs in institutions:

The Law Council supports ... the establishment of a reportable incidents scheme to increase accountability and transparency of approved providers in reporting, investigating and adequately responding to incidents.

Reporting would be to the Aged Care Complaints Commissioner by providers, and would include psychological and physical injuries, and sexual assault. The Law Council also supports the establishment of accountability principles, screening and an official visitor's scheme.

Whilst providing broad *support in principle* of the above, I am mindful that WLCWA does not operate in the area of institutional abuse, and is therefore not qualified to offer any of its own views as to how something similar might operate in WA. We suggest it bears further research by the WA government, noting also that the Law Council "strongly supports the ALRC's view that the proposed reportable incidents scheme would need to be significantly resourced to be effective."

In relation to elder abuse that is synonymous with family violence, we are supportive of any measures that will improve transparency and accountability of perpetrators, and increase support to victims. We suggest in looking at the applicability or otherwise of mandatory reporting schemes that the effectiveness of schemes introduced in other jurisdictions be evaluated. We understand that in some instances mandatory reporting can give rise to a reluctance to report matters for fear of the consequences, which increases the risk to victim safety.

¹ <http://www.tenancywa.org.au/safeashouses>

² https://www.alrc.gov.au/sites/default/files/subs/351_law_council_of_australia.pdf

2. Potential benefit from Misconduct Restraining Orders to address elder abuse (transcript page 7 and 8).

Misconduct Restraining orders (MRO's) can only be made in relation to people who are not in a 'family relationship'.³ The definition of this is very broad, and covers any relatives or former relatives as well as ex-spouses and partners. With a few exceptions, elder abuse occurs mainly within the context of family or an intimate relationship, making MRO's non applicable. This may be particularly so in relation to some cultures where there are large extended families and many persons fall within the definition of 'relations', such as Aboriginal groups.

Even if applied, MRO's can really only prevent a person from having contact with or being in proximity to another person. This would be of no assistance where an elder person wants to put a stop to certain conduct but does not necessarily want no contact. In circumstances where they did want no contact with a non-family person, practical enforcement would present many difficulties as it is unlikely that sufficient resources would allow adequate policing.

With the expanded definitions in the *Restraining Orders Act 1997 (WA)*,⁴ we suggest that many forms of elder abuse can be brought under that part of the legislation that enables a Family Violence Restraining Order (FVRO) to be obtained. 'Denying financial autonomy'⁵ could also arguably include abusing a Power of Attorney (POA), manipulating changes to a will or forcing an elder person into guarantor status using their house as security (all recognised forms of elder abuse). A wider range of remedies through FVRO's include not only restraints on contact but maintenance of contact with conditions 'tailored' to suit the situation. This can include stopping the respondent behaving in ways that are abusive, threatening or distressing, declaring certain behaviours to be unlawful and the imposition of Behaviour Management Orders.

It can be fairly said that the law, generally, is in process of development regarding the prevalence of economic abuse as a form of FDV, and finding effective solutions. The application of FVRO's to situations of economic abuse is also unfolding. The potential is considerable, however. We make the point again that early identification of the abuse of elders and the provision of skilled advice can empower an elder person to take the necessary steps for assistance and prevent harm in the long term. 'Tinkering around the edges' by suggesting greater use of devices such as MRO's is, respectfully, not the answer.

Finally, we could envisage that there may be some scope for application for MRO's in relation to online and in person 'scammers' who target elder persons, but seeing as how WLCWA does not generally address those kinds of matters, we believe further research would be required to offer a conclusive view with regard to this form of elder abuse.

3. Provision of reports to Commonwealth funding body to the Committee (transcript page 8)

As previously indicated, WLCWA provides bi-annual reports to our funders in relation to a range of matters. These reports are confidential between ourselves and the Legal Aid Commission of

³<https://www.legalaid.wa.gov.au/InformationAboutTheLaw/DomesticandOtherViolence/MisconductRestrainingOrders/Pages/MisconductRestrainingOrders.aspx>

⁴ See page 5 of our submission.

⁵ *Violence Restraining Orders Act 1997(WA)* s.5A(2)(g)

Western Australia (LAWA). For this reason and because the reports contain information that relates to the operation of WLCWA and partner stakeholders, we are unable to supply a copy of any reports; however, we understand that LAWA sometimes provides specific information to Government upon request through reference to the reports.

We suggest that LAWA be contacted in relation to any information that may be deemed useful to the Committee, or the provision of reports in general.

4. "Tertiary response" to elder abuse (as per page 24 of our submission)

The author of our submission has clarified that this refers to responded by authorities such as police to instances elder abuse as opposed to early intervention and preventative measures.

Additional information requested by the Committee

I refer to your correspondence dated 21 March 2018, and also to our submission to the Inquiry dated 2 November 2017, and provide the following responses to your questions:

1. Please explain the gendered nature of elder abuse and the overlap with family violence, as referred to on page 4 of your submission.

The term "Elder Abuse" covers a multitude of unacceptable behaviours in a range of situations and by various types of perpetrators. The actions may result in physical, sexual, emotional or psychological, financial or social abuse or neglect. The spectrum includes persons of any age or background and ranges from situations where the perpetrator is unknown to the victim to where they are an intimate family member. In all instances, however, women are more likely than men to be victims, and this provides the first rationale for a gender based approach.⁶

According to Discussion Paper 83: Elder Abuse (2016), a submission made by the Women's Legal Services Australia to the Australian Law Reform Commission "the causes underpinning this gendered nature of elder abuse are uncertain, but possible explanations include:

- (a) elder abuse of women may be a continuation of lifelong patterns of family violence and spousal abuse;⁷
- (b) the greater lifespan of women may play a role in higher incidences of abuse against women. As women tend to outlive men, widowed women may be living alone, which has been noted as a key risk factor for elder abuse;⁸

⁶ Seniors Rights Victoria, *Profile of elder abuse in Victoria: Analysis of data about people seeking help from Seniors Rights Victoria* (Jun 2015) [https://seniorsrights.org.au/wp-content/uploads/2014/03/Summary-Report_Profile-of-Elder-Abuse-in-Victoria_Final.pdf]

⁷ E Cramer & S. Brady, "Competing values in serving older and vulnerable adults: Adult protective services, mandated reporting and domestic violence programs" (2013) *Journal of Elder Abuse and Neglect*, 25(5), 453-468.

⁸ Rae Kaspiew, Rachel Carson and Helen Rhoades, Australian Institute of Family Studies, *Elder Abuse: Understanding issues, frameworks and responses*, Research Report No. 35 (2016), 47, available at <https://www.af.gov.au/RightsAndProtections/HumanRights/Documents/Elder-abuse-understanding-issues-frameworks-and-responses.pdf>.

- (c) traditional perceptions of gender roles may also be a contributing factor, particularly in the area of financial abuse where women may not take responsibility for their financial matters; and
- (d) previous patterns of women leaving control of their financial matters to others in the area of sexual abuse, older women are vulnerable to sexual assaults by intimate partners, family members as well as health care and general care service providers.”⁹

Secondly, the overwhelming majority of acts of family and domestic violence and sexual assault are perpetrated by men against women, and this violence is likely to have more severe impacts on female than male victims,¹⁰ with women many times more likely to be victims than men.¹¹ According to the Australian medical Association: “it is overwhelmingly older women who experience violence and abuse, at a rate two and a half times higher than older males. Somewhere between one-fifth and one-quarter of reported incidents of elderly abuse are committed by the victim’s spouse or partner.”¹²

In our observations, a not insignificant proportion of women who present as victims of family and domestic violence (FDV) are indeed ‘elder’, and no less subject to betrayals of persons in relationships of care, dependency and trust with the perpetrator than younger victims. When the full spectrum of elder abuse is looked at, including those forms that might not at first considered to be FDV (such as coercion over wills, POA abuse etc) it is still the case that in the majority of incidents the perpetrator is a close member of the victim’s family – and that this is still a form of FDV. Employing such broadened concepts widens even further the overlap between elder abuse and FDV, and the need for gender based responses utilised with respect to FDV.

There is a significantly higher level of discrepancy of experience between genders when it comes to sexual violence.¹³ We again refer the Committee to research being carried out by the Australian Research Centre in Sex, Health and Society and ‘Norma’s Project: A research study into the sexual assault of older women in Australia’, which contains numerous accounts about the sexual abuse of older women in Australia and reveals the prevalence and also problematic nature of prosecuting and convicting perpetrators of sexual assault against older women.¹⁴

Because of the intense sensitivities associated with the abuse of women who are elders, WLCWA advocates strongly for specialist services provided in a place of safety and dignity for such women, as we strive to provide in our current services to all women in WA. The gender based approaches developed in relation to FDV should apply also to elder abuse in this manner.

⁹ Rae Kaspiew, Rachel Carson and Helen Rhoades, Australian Institute of Family Studies, *Elder Abuse: Understanding issues, frameworks and responses*, Research Report No. 35 (2016), 11.

¹⁰ See Our Watch report at: <https://www.ourwatch.org.au/understanding-violence/facts-and-figures>

¹¹ See 2016 report by the Australian Medical Association <https://ama.com.au/position-statement/family-and-domestic-violence-2016> “...the evidence that women comprise the vast majority of victims of family violence is overwhelming.”

¹² *Supra*

¹³ See Anglicare Community Perceptions Report 2014: Family and Domestic Violence

https://www.anglicarewa.org.au/docs/default-source/who-we-are/community-perceptions-report-2015/awa800---fdv-report-v7-spread.pdf?sfvrsn=e3b208a5_4 at page 23:

“One in five women had been sexually assaulted compared to one in twenty men.”

¹⁴ http://elder-mediation.com.au/resources/Sexual_Assault_Older_Women_Australia.pdf

2. Please explain how the definition of elder abuse as being dependent on vulnerability rather than physical age relates to your client base, specifically Aboriginal older women.

'Elderly' is a culturally relative concept, based within our own cultural paradigm on life expectancy (now around 84.8 years in Australia).¹⁵ It seems also to be associated with 'becoming grandparents.' In mainstream Australian culture a person qualifies as 'elderly' around aged 60 and above, with allowances and pensions built around this concept. It has also become the 'norm' in our culture for women to marry into a nuclear family and have only two or three children, often waiting until they are in their thirties in order to establish a career as well.

This is not so in many cultures, where life expectancy is lower and 'elder' status comes about at a younger age. Women have children younger, and may follow cultural norms whereby they don't restrict numbers in the same way that mainstream women may do. It follows that grandmothers and great-grandmothers are also often much younger. This includes Aboriginal cultures where - as indicated in our submission - many Aboriginal women can be grandmothers by the time they are aged 35-45, and great grandmothers when they are aged 50-60. They are by this time considered 'elders.'

Aboriginal elders are often expected to look after a large number of younger family members. There are differing concepts of 'parent.' The term 'mother' is often used towards a woman by her sister's children as well as their biological mother, with all those nieces and nephews referring to each other as brothers and sisters rather than cousins. One person can end up with a great many younger relations looking to them as their 'parent' and responsible for support and sustenance. This is particularly so when siblings pass away. With the higher mortality rate for Aboriginal people, (especially in remote communities), this is all too often the case.

This situation brings with it great potential for exploitation. The more responsibility there is, the greater the vulnerability. Such responsibility takes a heavy burden on physical and psychological health. An Aboriginal woman in her fifties may have numerous family responsibilities that are required to be carried out amid poor health and medical needs. It is not difficult to see how exploitation of an 'elder' may be considerably less related to age than in mainstream Australian culture.

Case study: "Alice"

Alice is a grandmother with a heart condition who requires a nursing service but has the care of her granddaughter (aged 2), her mother (Alice's daughter) having been recently stabbed. Alice also has 2 sons who having been released from jail, 'partied' at her property. They caused damage to the property and physical harm to Alice. The Housing Authority sought an eviction order, and an assisting agency found they were only able to negotiate a home transfer if client obtained a VRO. This obviously added considerable stress to Alice's already highly stressful situation.

¹⁵ <https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/life-expectancy>

We would point out that similar situations can occur in other cultures and that it is not uncommon in impoverished sectors of the mainstream Australian community for more similar situations to arise. In our observation, however, they are many times more likely to arise in Aboriginal groups and, especially, it is crucial to recognise *that because so many Aboriginal cultures are matriarchal, it is nearly always women who shoulder the burden*. This may be more or less extreme in other cultures.

We concur with the observations of Rae Kaspiew, Rachel Carson and Helen Rhoades in 2015¹⁶ that “in relation to elder abuse in Aboriginal communities, a 2005 report by the Office of the Public Advocate in Western Australia established that in the Aboriginal context, even at the level of terminology, the conceptualisation of the mainstream concept of elder abuse requires reconsideration. Both the terms ‘elder’ and ‘abuse’ were considered problematic, as ‘elder’ has a specific meaning.”

3. How do your older female clients from different communities experience elder abuse differently?

Australian law makes certain behaviour and practices lawful or unlawful, with various consequences attaching to the latter. These laws are made by those in mainstream culture. Their application must always be understood against a cultural backdrop. They may be harder to observe by some as going against cultural norms - even where women recognise the value of protective Australian laws.

Difference in perception: Some general observations

In relation to that type of abuse constituted by long term FDV, there are differing views in different sectors of the ageing community as to what constitutes ‘abuse.’ A husband being the sole income earner, controlling the finances for all of a woman’s life, using money for his own interests and leaving just enough money for her and the children is still regarded by women born in previous decades as a husband’s ‘right’ - part of what constitutes a woman’s ‘place’ in a ‘good’ marriage.

The extent to which this holds is very much dependent on the community of origin, and becomes further exaggerated in cultures where subordination of women is a cultural norm that may include very long term physical, emotional as well as economic abuse:

Case study – “D”

The parties lived in a Middle Eastern country for some 15 years. D was the primary carer, and her partner worked for the Iranian government. D’s partner (G) controlled all finances – all property was registered in his sole name. D had to plead with G for money to buy everyday items such as groceries. G would denigrate D – call her worthless; put her down and belittle her.

For a four year period the parties relocated to Malaysia, where D was left alone with the children for months at a time, with D left to solely defend for herself financially. When the parties later relocated to Perth, D was initially required to provide her own accommodation (for herself and children) as G was still in their country of origin.

¹⁶ Australian Institute of Family Studies: Elder abuse in Australia- Family Matters 98 (2016).

When G started a company, D was required to be registered as secretary, but G continued to control the finances and any property purchased registered in his sole name.

When the parties purchased a kebab business, D was treated “like a slave” and required to run the business and work every day. She as by that time in her mid-fifties, the children having grown up. She did not earn an income but was required to pay expenses. G would tell D that it is “none of her business” to know about his financial position and resources.

Eventually, D fled the marriage. She had very limited income and no financial resources available to her as everything was registered in G’s name.

If abusive behaviour has continued in the form of abuse by children – especially male children – whose role model in life has been an abusive father, then this too is more likely to be accepted as a ‘norm.’ Whilst this more often includes abuse suffered by a woman who is of the same culture as the abusive perpetrator, it is a trend among women from other cultures whose partners are Australian, and who may have harboured - in addition to long term belief of the superiority of the husband - that if they hadn’t gone along with it the would have been ostracised, isolated and even deported from Australia.

Whilst we believe that the economic detriment has been brought to greater awareness in recent times by the crisis in lack of income now faced by many elder women,¹⁷ it is still our belief that many elder women need convincing that they have actually been ‘abused’, and also that any enhanced community conversation does not make their situation any less problematic.

Difference in situation and practice

We have already made reference of the different experience that Aboriginal women have in relation to family obligations and living conditions. In practical terms, some of the instances we have observed are:

- a) Many family members living under the roof of the elder grandmother or great grandmother, meaning that her entire income is expended on other people, possessions are taken and used by other people and food may be consumed.
- b) Threats and physical violence if this does not occur, or refusal to access medical treatment.
- c) Threats and physical violence in any event, especially where younger family members have issues with drug and alcohol addition, or mental health problems.
- d) Regular conflict, resulting in police presence and questioning of the older person.
- e) Damage to property, resulting in eviction and homelessness.
- f) Frequent presence in court by the elder person, in relation to children, and onerous curfew or bail responsibilities.
- g) Removal of children by the WA Department of Communities (DCP).

Exacerbating further the above are cultural norms whereby wealth and possessions are shared among family members. In the experience of the author, some Aboriginal groups do not have

¹⁷ <http://www.abc.net.au/news/2018-03-29/superannuation-women-are-having-nightmares-about-retirement/9600952>

possessive pronouns such as 'mine' or 'theirs' as part of their vocabulary because in traditional practices such terms were simply irrelevant. They are, of course, extremely relevant to living in mainstream Australian culture! In some instances there is a genuine failure to grasp the concepts of ownership brought by colonisation. 'Traditional reciprocity' is, however, sometimes conveniently cited as the rationale for pressures being brought to bear by family – or even by people with dubious family connections - who see a source of income.

The reciprocity issue becomes particularly acute when the elder person receives any form of substantial monetary payment, such as compensation for an injury or entitlement through a native title settlement. It is not uncommon for an elder person to be hounded into giving up their entitlements, or to finish up with none of the money that is rightfully theirs. This can also occur in relation to Centrelink entitlements or other government benefits.

'Humbugging'¹⁸ in remote communities has been recognised as a problem for a long time. Our understanding is that it remains a source of grief for many elders in many parts of Australia. Further research and evaluation by appropriate agencies is probably required as to its current prevalence and effects. The problem may well have been exacerbated by the recent 'ice' epidemic in rural and remote Australia.

In summary, we agree with Kaspiew, Carson and Rhoades: *"...from a cultural perspective, Aboriginal norms in relation to reciprocity, the expectation that resources will be shared, and kinship (where a wide variety of relationships are involved in familial and community networks), are dimensions that complicate understandings of whether and how elder abuse is occurring. The extent to which calls on grandparent resources to care for grandchildren are culturally reasonable or unreasonable was also highlighted... Substantially more work is required to understand and conceptualise elder abuse in the Aboriginal context, especially among different groups in different circumstances, given the diversity among Aboriginal and Torres Strait Islander communities."*¹⁹

Care of children

An alarming number of grandparents seem to be 'stepping up' as carers, because their children are unable to care for the grandchildren for various reasons that include alcohol and drug abuse, mental health issues or a lack of interest. The resulting 'taking advantage' that ensues seems to have become a new form of elder abuse in its own right. Sometimes the responsibility-assuming grandparent is abused by the children from who grandchildren have been removed. In other instances the grandchildren are abusive towards the grandparent – who is in the vast majority of cases a grandmother.

This is experienced very acutely in Aboriginal cultures, particularly given that such a large overrepresentation of Aboriginal children are taken into care²⁰. It is not part of Aboriginal culture for children to be removed into foster care and brought up by strangers, so grandmothers increasingly are carers. Whilst we do not wish to be seen as discouraging this

¹⁸ [https://en.wikipedia.org/wiki/Humbug_\(Aboriginal\)](https://en.wikipedia.org/wiki/Humbug_(Aboriginal))

¹⁹ *Supra*, 11

²⁰ See <https://thewest.com.au/news/indigenous-australians/the-shocking-truth-about-the-number-of-aboriginal-children-in-state-care-ng-b88633848z>

practice in any manner (and indeed, WLCWA advocates strongly for the adoption of practices that keep families together), we do wish to highlight the lack of support often for grandmothers who bear the burden and the consequences.

All of the factors addressed in (a) to (e) above may accompany the situation, with adverse consequences also described on page 16 of our submission. In addition these women may be bullied by the parents of the children and coerced into giving up foster payments. In the view of WLCWA, this falls within the most serious categories of elder abuse experienced by Aboriginal women.

Finally, denial of access to children and grandchildren is a form of elder abuse that is perhaps under recognised at present, and may be experienced more acutely in some cultures. My own attention was drawn recently, for instance, to a situation where an Australian man had married a considerably younger woman from an Asian country. The wife was being denied access to her parents and the Asian grandparents were being systematically denied access to their grandchildren. Language barriers and cultural isolation were a barrier to resolution for both the younger and elder victims.

Police involvement

Elder Aboriginal people are often less inclined to call the police than persons from mainstream culture may be. There is often a deep mistrust of the police and authorities for reasons that relate back to colonialism, police brutality, "the Welfare" and practises of removing children under the White Australia and assimilation policies. This is not helped when on attendance family members are taken into custody or the subsequent appearance of DCP results in the removal of children. We have also known of other instances where the reporting victim ends up getting charged.

Additionally there can be threats and psychological abuse by Aboriginal family members if it is suggested the police might be called in relation to 'family' situations where there is FDV. This may be exacerbated by a poor police presence, especially in remote areas and by officers not trained to understand the issues. Police will sometimes not attend incidents because it's 'family business,' and 'the way they do things.' This in itself constitutes a 'different' experience and often is instrumental in poor outcomes. That major changes are required in relation to police training and practice as regards FDV and elder abuse is well documented in our submission on pages 19-22.

Responses, generally

Responses need to accommodate different cultural realities. Whilst never straightforward, it might be comparatively less complex to advise a woman to vacate her premises, go to a refuge and take out a restraining order in some instances whereas to do so for others may involve cultural violations and taboos, shunning by family members and social isolation. Whilst there are many and varied situations, the important factor is that culturally aware and secure services are in place. Established research as well as our own observations at WLCWA have taught us that women are more likely to access services where cultural variations are understood, empathetically acknowledged and taken into account, and we know this is particularly so in relation to Aboriginal people. Recognition and understanding of cultural

diversity, expectations and paradigms is essential to the adoption of approaches that can achieve maximum effectiveness in individual circumstances. This is even more so with elders where there may be long standing and deeply entrenched perspectives.

4. Are there any other forms of elder abuse that disproportionately affect your female clients (including Aboriginal women and CaLD women)?

WLCWA and Djinda Services provide legal services in areas largely related to FDV – although we do also assist many CALD women with complex divorce issues where there is not necessarily (although very often) FDV. Although we do not directly provide services to clients in other areas of law or to men, we cannot make direct comparisons within our own service. We do, however, provide referrals to other services and are also made aware of issues that lead to referral to other services, such as:

- a) suspected abuse by carers;
- b) situations where a Power of Attorney has been taken advantage of;
- c) coercion into signing of documents;
- d) concerns about wills and estates;
- e) victims of internet (and other) scams, including ‘dating scams’ where large amounts of money are sought in return for romantic reward (even marriage);
- f) practises that relate to retirement villages, and particularly to the levying of unreasonable charges in relation to leaving a retirement village and relocating in permanent care.

A number of other forms of abuse that we know to exist are described on page 14 of our submission. I have already described how some of these ‘other than FDV’ elder abuse instances could, in fact, be classified as FDV if broader concepts of economic abuse are adopted in line with definitions in the *Violence Restraining Orders Act 1997 (WA)*. The fact that this effectively means our service, for instance, only provides advice and assistance with regards to some types of elder abuse/FDV when the latter term includes so many behaviours highlights the need for the ‘de-siloing’ of funding and for more comprehensive and all-inclusive services to be provided.

With regard to those other areas of abuse that may be perpetuated by non-family or even complete strangers (scamming, internet fraud, institutional abuse), we believe women continue to be particularly vulnerable, especially women who have been bereaved, or have had little say in (and therefore little understanding of) financial affairs during their married years.

Poor education, language skills and computer literacy all exacerbate this vulnerability. In trying to assert rights in relation to – say – leaving a retirement village, women are often dealing with others who seem to have little understanding of their sensitivities and needs.

We draw attention to the high proportion of women located in remote communities, where isolation provides a ready medium for scamming and other unscrupulous practices. There was one remote community, for instance, where the author learned that ‘loan sharks’ (from out of the community) were providing money for gambling activities with ‘secured loans’ consisting of all the person’s property and ‘unsecured loans’ of around 200% repayments! Many who have worked on remote communities recount similar scenarios, where those with many family

responsibilities are, of course, worst hit by this behaviour. It appeared that police and authorities were often unable to combat these practices, if they became aware of them at all.

During the course of giving evidence, I was asked a question with regard to existing programs on remote communities and whether these might address some issues. With no current knowledge from the vantage point of WLCWA, I made reference to the WA Regional Services Reform Unit.²¹ In May 2015 The Government of Western Australia announced regional services reform that aimed to improve the lives of Aboriginal people in regional and remote Western Australia, and bring about long-term, systemic change. In July 2017 the Reform Unit became part of the new Department of Communities. The extent to which such issues as gambling (and humbugging) on remote communities was addressed is not known, but a follow up by the Committee as to the Unit's work may be useful in terms of gathering further information about elder abuse in remote Aboriginal communities.

5. Please explain the specific risks that Aboriginal older women face and what are the challenges in responding to their needs as clients?

We have already outlined the situations that in our experience Aboriginal women risk face in FDV situations terms of:

- Expectation and bearing the burden of family responsibilities;
- Resulting family exploitation;
- Cultural expectations such as the distribution of wealth;
- Location, especially in remote areas;
- Inadequate services; and
- Poor policing practices and a result of a lack of education and awareness.

We believe also that Aboriginal women are at greater risk of non-family related elder abuse, given a frequent lack of education and lesser grasp of English in the older generations, poor computer literacy and longstanding effects from colonisation and post colonisation practices.

The circumstances surrounding elder abuse among Aboriginal women are, therefore, obviously most complicated. The greatest challenges are in:

- Uncovering the abuse in the first place. Aboriginal women have in common with all abused women that they often will not seek help because they do not believe that anyone will even understand, let alone be able to do something about it. This is even more so for Aboriginal women once the age factor and limited number of services for Aboriginal people are taken into consideration. In particular, we are not aware of any specific legal services for elder Aboriginal women in Western Australia.
- Cultural barriers further restrict the inclination to seek help. Many mainstream service providers simply do not understand factors such as family structure, kinship obligations, obliged reciprocity or the shame associated with going to the police. Aboriginal culture is very opposite to mainstream western culture in many respects, and issues raised in this correspondence do not even begin to address a raft of other barriers that may be

²¹ <https://regionalservicesreform.wa.gov.au/>

understood only by Aboriginal people. Language barriers make this more difficult in some remote locations.

- Finding the best response: responses at this stage tend to be 'silo'd' A woman may require medical treatment, counselling, legal assistance, mediation, property or tenancy advice, financial advice and practical help with matters such as transport and child care – she may need to go to half a dozen different locations to access all of these and in remote areas, they may not even exist.
- Follow up: often services are equipped to provide for immediate need, but not for prevention of recurrence of the situation or needs further down the track. An example of this is on remote communities where women return to the same house or maybe a house very closely located to the perpetrators who caused the abuse in the first place. Failure to provide ongoing services related to children in care and the resulting destructive separation of families has already been made reference to.
- Police responses, which have already been described as sometimes ill-informed actions by untrained or inexperienced officers.

We believe that the Victorian Government's 'Elder abuse prevention and response guidelines for action 2012-14' provide a good framework for combating elder abuse through four areas of focus:

- Professional education;
- Community education;
- Provision of legal, referral and advocacy services;
- Coordination of service responses.

In reference to this and to our submission, we suggest that Aboriginal women who are elders would be best assisted by combined, multi-disciplinary services including health justice partnerships, well-coordinated and delivered by organisations with the necessary specialist expertise in cultural security and in addressing the particular issues faced by Aboriginal women.

In response to question six we outline some of the work WLCWA would like to do as part of a specific program to address elder abuse, including a holistic service delivery model. We have found Djinda services to present a good foundation model in this respect for addressing issues of FDV. A woman who presents with abuse can access legal services from WLCWA, and counselling/support services from RAWA. A number of RAWA and WLCWA staff are Aboriginal, and all staff are required to demonstrate a high level of cultural security awareness and be experienced in the issues specific to Aboriginal women prior to employment with the service.

A similar model exists in the regions where Aboriginal Family Law Services (AFLS) delivers legal and support services to Aboriginal victims of family violence in a number of regions. Neither Djinda nor AFLS have an "elder specific" arm of service. Djinda could, in our respectful view, benefit from a service that deals particularly with elders, and the same can probably be said for AFLS. Separate funding for this purpose could enable a range of abuses broader than FDV to be properly addressed.

In illustrating the successful delivery of holistic services, we draw similar attention to:

- our NPY program where a WLCWA lawyer works in close conjunction with the NPY women's council; and
- our Safe as Houses program where lawyers from three specialist CLC's together with a social worker and professionals from KEMH are able to successfully address the various complex aspects surrounding FDV/homelessness in a coordinated and cost effective manner.

6. Is the Women's Law Centre of WA undertaking any programs or projects to educate your clients about elder abuse and the additional risks that they face as older women?

We are not currently funded to provide assistance in relation to elder abuse specifically, but we do assist those victims of FDV who are 'elders' or 'elderly' through all of our respective programs. This includes CLE in relation to family and domestic violence.

Many elder abuse victims present with other problems besides family law ones. They may also need assistance with POA, property, carers rights, mental health law issues, tenancy, superannuation and financial advice, none of which WLCWA is funded to provide. WLCWA is investigating partnerships with other organisations to provide a more holistic service. There is a need for a 'one stop shop' for abuse victims.

Our submission encouraged the Committee to read Senior Right's Victoria [submission](#)²² to the Royal Commission into Family Violence. The submission serves as a useful guide to what could be adopted in WA, and is also guiding us in the formulation of the range of activities we would aim to undertake in partnership if we should achieve funding in the future. This would include:

- Delivery of General Community education that:
 - Is based on an anti-ageist approach, where younger members of the community are encouraged to dignify old age and treat older persons with respect.
 - Is cognitive of all types of elder abuse, but puts specific focus on elder abuse that is family violence and on the overrepresentation of women as victims.
 - Supports the view "that people need to improve their understanding of elder abuse as a family violence issue so that the suffering of victims becomes visible and we, as a society, are enabled to step in and help."
- Delivery of education to older women about their rights, with a focus on:
 - FDV, including all forms of financial abuse;
 - proactive financial and lifestyle planning; and
 - internet abuse and scamming.
- Development of education for lawyers.
- Helping to develop a WA general awareness campaign about the abuse of elder women.
- Participating in evidence gathering around the prevalence of elder abuse in women in WA, and the development response based programs that operate on a continual improvement basis.
- Development of holistic legal advice programs that include:

²² Available to view at <http://www.rcfv.com.au/getattachment/932E26C4-5B30-4D2D-8F4C-26529FAFADEE/Seniors-Rights-Victoria>

- areas of law that address elder abuse which WLCWA may not currently deliver;
 - provision of services by other providers such as health services, social work, counselling, alcohol and drug co-dependency, financial advice and tenancy;
 - responses that may be developed in relation to the ALRC Enquiry into Elder Abuse and WA responses that will complement Commonwealth responses; and
- Capacity to participate in law reform activities, and development of legislation to greater assist elder Australians.

Because of the overrepresentation of women in elder abuse, WLCWA believes that there should be a specific women's service. We have found in all of our work at WLCWA that women respond to a safe space where women's issues can be recognised, treated sympathetically and specifically addressed in terms of their needs and we have no reason to believe that this would not equally apply to issues of elder abuse.

7. Can you please explain in more detail the work of Djinda Services and any involvement in dealing with elder abuse?

Within the Djinda partnership, WLCWA provides legal advice and representation in family law children's issues, children's care and protection matters, violence restraining orders and criminal injuries compensation where this relates to family violence or sexual assault. RAWA provides non legal support and counselling services through Aboriginal caseworkers. Both organisations provide community legal education in identifying and responding to family violence.

The main work of Djinda that concerns elder is in child protection/family law and claims for Criminal Injuries Compensation (CIC).

Child Protection

Djinda Services is one of the few legal services in the Perth metropolitan area assisting Aboriginal and Torres Strait Island women in the care and protection jurisdiction in the Children Court of WA, and these matters account for approximately 60 per cent (%) of Djinda's casework. A significant proportion of Djinda clients are grandmothers seeking advice in relation to assuming the care of grandchildren. Other elder clients are seeking access to grandchildren in the Family Court of WA. Many are experiencing the circumstances described in responses to other questions in this correspondence (see particularly question 3).

CIC claims

Djinda also assists a substantial number of elder women who are victims of serious assaults and sexual abuse in making claims for CIC. The offending behaviour that is the subject of the claim may have persisted for many years, may involve different perpetrators or multiple offending and have resulted in horrific physical and psychological injuries.

CIC claims are a specialist area of legal service delivery where lawyers are required to ascertain facts, obtain medical, police and psychological reports, assist clients to complete an application and in some circumstances provide submissions. A number of claims tend to be out of time because Aboriginal women are not aware of the existence of the scheme or have been afraid to report their injuries – thus submissions as to why claims are out of time are frequently

required. Djinda has worked closely with the Assessor for Criminal Injuries, and we have found such claims to be generally handled with respect and empathy.

Liaison with a number of services may be required, including medical, police and counsellors, and follow up is also an important aspect, in relation to both ongoing wellbeing and correct handling of resulting payouts. Referrals to skilled financial counsellors are important in this respect. CIC claims provide a very good example of the benefits of a 'wrap around' service and sound working relationships.

Case study: "Linda"

"Linda" originally came to Djinda Services for assistance with a Criminal Injuries Compensation application following multiple assaults committed by her husband. Linda was in her 50's and this was her second marriage.

Linda was extremely traumatised from the assaults and it took us a significant length of time to work with Linda to build her trust and put the details of what happened together piece by piece.

Djinda also worked with Women's Health and Family Services (Northbridge) during the process to assist Linda with counselling and to obtain a comprehensive psychological report in support of Linda's application.

A strong, well-rounded application eventually resulted in a fair and reasonable award of compensation for Linda.

After receiving her award, Linda was then able to afford to apply for divorce from her abusive ex-husband. Djinda assisted Linda to make her application and with representation at court, and Linda's divorce was granted.

CIC claims also form part of the general work of WLCWA, and through the NPY program, a number of elder women from the remote NPY communities have been assisted over the years with claims. I would be happy to provide further details of these if this would be of assistance to the Committee.

On behalf of WLCWA and Djinda Services, I thank the Committee for the opportunity to provide further information. Please do not hesitate to contact the writer if there are any queries or if anything within this correspondence would benefit from further clarification.

Yours sincerely,



Carrie Hannington
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