

TASMANIAN ABORIGINAL LEGAL SERVICE (TALS)

Submission on the Family Violence (Miscellaneous Reforms) Bill 2025

INTRODUCTION

The Tasmanian Aboriginal Legal Service ('TALS') is an Aboriginal and Torres Strait Islander Legal Service (ATSILS) that operates as an Aboriginal Community Controlled Organisation, committed to advocating for the legal and justice rights of Aboriginal and Torres Strait Islander peoples across Tasmania. Our work spans legal representation, community engagement, wellbeing supports, justice programs, policy reform, and systemic advocacy, with a focus on eliminating the over-representation of Aboriginal people in the justice system.

TALS also operates SiS Tasmania, a Family Violence and Prevention Legal Service (FVPLS), that provides legal and wrap around supports for victim/survivors of family violence.

We welcome the opportunity to provide feedback on the *Family Violence (Miscellaneous Reforms) Bill 2025*. Our submission focuses on key proposals that have a significant impact on Aboriginal people and communities. This includes those who are criminalised, misidentified as perpetrators, or otherwise impacted by family violence interventions

Family violence in Aboriginal communities has been shaped by past policies and practices that have led to social, economic, emotional and psychological trauma.¹ The impact of these issues, exacerbated by alcohol and drug use, fuels increased incidents of family violence.² Family violence is identified as a significant, ongoing concern in Aboriginal communities, as determined by the *Closing the Gap – Target 13: Families and households are safe*.³ TALS are supportive of any initiatives that seek to address family violence with a culturally inclusive and safe strategy.

This submission highlights operational and systemic concerns, with particular attention to procedural fairness, cultural safety, judicial oversight, and accountability mechanisms that must underpin any reform.

OVERSIGHT OF POLICE DISCRETION IN ISSUING POLICE FAMILY VIOLENCE ORDERS (PFVOS)

A critical concern remains the lack of independent oversight and procedural transparency in issuing Police Family Violence Orders (PFVOs).⁴ Currently, there is no clear mechanism for how decisions are made, what criteria guide them, or how those subject to PFVOs can challenge or oppose them. Hidden and discretionary processes without clear disclosure are dangerous and risk embedding systemic bias under the guise of protection.

¹ Institute of Health and Welfare (AIHW) (2025), *Closing the Gap targets: key findings and implications*, <https://www.aihw.gov.au/reports/indigenous-australians/closing-the-gap-targets-key-findings-implications/contents/family-safety#findings>

² Ibid.

³ Closing the Gap (2025), *Closing the Gap Targets and Outcomes*, <https://www.closingthegap.gov.au/national-agreement/targets>

⁴ Institute of Health and Welfare (AIHW) (2024), *Family, domestic and sexual violence: Population groups*, AIHW, Canberra; Engender Equality 2023, *Misidentification of the Predominant Aggressor in Tasmania*, Engender Equality, Hobart; Women's Legal Service Tasmania, *Their Stories, Our Stories: Tasmanian Women's Experiences with Family Violence Orders* (June 2015) https://www.womenslegaltas.org.au/uploads/attachments/FINAL_Tasmanian_Womens_Experiences_with_Family_Violence_Orders_incl_Appendices.pdf.

Misidentification is one of the most harmful consequences of unchecked police discretion. Aboriginal women are disproportionately affected,⁵ too often wrongly identified as primary aggressors. This not only denies them justice but also increases their exposure to further violence, criminalisation, and state surveillance. The absence of procedural safeguards compounds this harm.⁶

TALS strongly recommends that reforms explicitly address these risks and embed clear, fair, and culturally safe processes. This includes:

- **Mandatory judicial confirmation** of all PFVOs to ensure procedural legitimacy and accountability;
- **Independent review mechanisms** that include access to legal representation and culturally competent advocacy;
- **Statutory requirements** that clearly outline the PFVO process: who makes decisions, what evidence is considered, and how individuals can seek review or contest orders;
- **Administrative review pathways** that integrate family violence specialist services and existing case management systems to provide timely, trauma-informed responses; and
- **Mandatory cultural competency and trauma-informed training** for Tasmania Police, tailored to the needs of Aboriginal communities and the Tasmanian context.

Without these structural reforms, PFVOs risk becoming tools of injustice—replicating systemic harms they are meant to address. Ensuring transparency, reviewability, and cultural safety is essential to uphold the rights of victim-survivors and restore confidence in the system.

Given these risks, reforms must incorporate robust safeguards to recognise and address these inequities, ensuring that victim-survivors receive fair, just, and culturally safe treatment.⁷

One promising approach involves exploring administrative review processes that integrate specialist family violence services alongside existing case management systems.⁸ These enhancements could offer timely and transparent avenues for correcting errors, thereby reducing harm and restoring confidence in the system.

While the proposed reforms mark important steps toward enhancing accountability in the issuance of Police Family Violence Orders (PFVOs), the current proposal fails to specify critical details such as the criteria or process by which a commissioner would consider PFVO reviews, or how individuals, particularly victim-survivors, can request or oppose such reviews.

⁵ Institute of Health and Welfare (AIHW) (2024, *Family, domestic and sexual violence: Population groups*, AIHW, Canberra; Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence – Population Groups: Aboriginal and Torres Strait Islander People; Mothers and Their Children* (28 February 2025) <https://www.aihw.gov.au/reports/domestic-violence/population-groups>.

⁶ Hayley Gleeson, 'Police are still misjudging domestic violence and victims are suffering the consequences' (ABC News, 31 March 2022) <https://www.abc.net.au/news/2022-03-31/domestic-violence-victims-being-misidentified-as-aggressors/100948602>.

⁷ Commonwealth of Australia (Department of Social Services), *First Action Plan 2023–2027: National Plan to End Violence against Women and Children 2022–2032* (2023) <https://www.dss.gov.au/system/files/resources/d23-1020970-first-action-plan-accessible-word-doc.docx>.

⁸ See for example both Victoria and NSW models that have integrated services, Family Violence Reform Implementation Monitor, *Family Violence Case Management* (Department of Premier and Cabinet, 2022) <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-crisis-response-recovery-model-victim-survivors/family-violence-case-management> and NSW Department of Communities and Justice 2025, *Integrated Domestic and Family Violence Services Program*, NSW Government (viewed 28 May 2025). <https://www.dcj.nsw.gov.au/service-providers/supporting-domestic-family-and-sexual-violence-services/dfsv-programs-and-funding/integrated-domestic-and-family-violence-services-program.html>.

This absence of clear, transparent procedures risks embedding hidden decision-making practices that undermine procedural fairness, reduce trust, and may perpetuate systemic biases. To ensure genuine oversight and safeguard the rights of all parties involved, any reform must include publicly accessible, well-defined guidelines outlining these review mechanisms. Without such clarity, the potential for independent review to meaningfully address harms or correct errors remains limited, which compromises both the legitimacy of PFVOs and confidence in the justice system.

TALS calls for the establishment of independent review mechanisms to oversee the issuance of PFVOs. Moreover, mandatory judicial confirmation of all PFVOs must be implemented to ensure legitimacy, safeguard rights, and enhance accountability. In conjunction with these structural reforms, comprehensive cultural competency training, contextualised to Tasmania and trauma-informed training, are crucial to reduce harmful and discriminatory policing practices and to support fairer outcomes for Aboriginal victim-survivors.

The current proposal fails to specify the criteria or process by which a commissioner would consider PFVO reviews or how individuals can request or oppose such reviews. This lack of clarity risks creating hidden decision-making processes, which undermine procedural fairness and transparency.

EXTENSION OF THE LIMITATION PERIOD FOR BREACHES – FROM 6 TO 12 MONTHS

TALS supports the proposed extension of the limitation period for initiating prosecutions of breaches of Police Family Violence Orders (PFVOs), Family Violence Orders (FVOs), and Interim Family Violence Orders (IFVOs) from six to twelve months. This extension is both practical and necessary, as it better reflects the lived realities of victim-survivors who often delay disclosure and reporting due to trauma, shame, fear of reprisal, or distrust of systems.⁹

Such delays are especially pronounced among Aboriginal victim-survivors, who face additional systemic barriers and cultural factors that complicate timely reporting.¹⁰ Extending the limitation period to twelve months provides crucial flexibility to pursue prosecutions where reporting is delayed, or evidentiary challenges exist. This amendment recognises the realities faced by victim-survivors and improves access to justice, particularly for Aboriginal communities who continue to navigate violence within complex systems of fear, mistrust, and trauma.

USE OF DEIDENTIFIED DATA AND PUBLICATION RESTRICTIONS

TALS supports the appropriate use of de-identified data for reporting and research.¹¹ However, even “deidentified” information can risk re-identification in small or kinship-based Aboriginal communities.¹² Patterns

⁹ Ibid (n 4); Institute of Health and Welfare (AIHW) 2024, *Family, domestic and sexual violence: Population groups*, AIHW, Canberra.

¹⁰ Institute of Health and Welfare (AIHW) (2025), *Family, domestic and sexual violence: Aboriginal and Torres Strait Islander people*, Canberra; Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence – Population Groups: Aboriginal and Torres Strait Islander People; Mothers and Their Children* (28 February 2025) <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people>

¹¹ Australian Government (2024), *Framework for Governance of Indigenous Data*, <https://www.niaa.gov.au/sites/default/files/documents/2024-05/framework-governance-indigenous-data.pdf>

¹² Fitzpatrick, C. (2023) ‘For domestic violence victim-survivors, a data or privacy breach can be extraordinarily dangerous’, *The Conversation*, 5 December. Available at: <https://privacy.org.au/2023/12/05/for-domestic-violence-victim-survivors-a-data-or-privacy-breach-can-be-extraordinarily-dangerous/>; House of Representatives Standing Committee on Health, Aged Care and Sport 2018, *Inquiry into the Aged Care Amendment (Staffing Ratio Disclosure) Bill 2018: Advisory Report*, Parliament of Australia, Canberra, viewed at

of experience, local context, or cultural obligations to share information can render even anonymised accounts identifiable.

The Bill currently lacks a clear statutory authority to oversee publication permissions. In contrast, Victoria's VOCAT model provides an appropriate benchmark.¹³ Without such oversight and penalties for breaches, the risk to victim-survivors' privacy is unacceptable.

TALS recommends:

- Establishing a statutory authority (e.g. Commissioner or Tribunal) to oversee publication approvals;
- Introducing meaningful penalties for unauthorised disclosure, aligned with Victoria's framework;
- Defining "deidentified" in a culturally safe way, including safeguards for small population contexts;
- Embedding cultural consultation into all data sharing and publication decisions.

RISKS TO CULTURAL SAFETY IN SMALL COMMUNITIES

TALS urges greater caution around the publication of victim-survivors information in Aboriginal contexts. Even de-identified data can inadvertently compromise cultural safety and community trust when patterns of experience remain identifiable within small or close-knit communities.¹⁴ Therefore, strict limitations on publication and robust community consultation prior to any release of information involving Aboriginal victims or communities must be implemented.

TALS fully supports the right of Aboriginal victim-survivors to speak publicly about their experiences, provided that such disclosure is safe, voluntary, and culturally appropriate. This autonomy is vital to healing and truth-telling.¹⁵

LACK OF STATUTORY AUTHORITY AND SAFEGUARDS

In addition to these privacy safeguards, TALS stresses the urgent need for broader systemic reforms that ensure the accurate identification of victim-survivors and the funded delivery of trauma-informed, culturally safe services and legal processes such as Family Violence and Prevention Legal Services. Without these reforms, Aboriginal victim-survivors will continue to face significant barriers to justice and support. Particularly concerning is the intersection of police discretion and systemic discrimination in the context of PFVOs, where insufficient oversight risks further disadvantaging misidentified victim-survivors or minimising their experiences.¹⁶

https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=healthagedcare/agedcareamen staffing/index.htm.

¹³ *Victims of Crime Assistance Act 1996*. Victims of Crime Assistance Tribunal (VOCAT) (2025), *Transition to the new Financial Assistance Scheme* (viewed 28 May 2025) <https://www.vocat.vic.gov.au/>. See also, Family Law Council (2025), *Protecting victims of family violence, including children, in the family law system: Disincentives to disclosing family violence and child abuse, and responding to systems abuse – Terms 1a and 1b, 2024*, Attorney-General's Department, Canberra (viewed 28 May 2025), <https://www.ag.gov.au/families-and-marriage/publications/protecting-victims-family-violence-including-children-family-law-system>.

¹⁴ *Ibid* (n 8).

¹⁵ Australian Human Rights Commission (2023), *Yoorrook Justice Commission Report*, AHRC, Canberra.

¹⁶ Reeves, E. (2022). The potential introduction of police-issued family violence intervention orders in Victoria, Australia: Considering the unintended consequences. *Current Issues in Criminal Justice*, 34(2), 207–218. <https://doi.org/10.1080/10345329.2021.2021721>.

Embedding strong safeguards to ensure fair treatment and culturally safe procedures for Aboriginal clients is therefore essential.

TALS supports the overarching goal of safeguarding the identity and privacy of victim-survivors, especially Aboriginal children and families.

However, the proposed amendments to section 8 of the *Victims of Crime Assistance Act 1976* give rise to several concerns.

RECOMMENDATIONS

Firstly, the Bill lacks a dedicated statutory authority to manage and oversee decisions related to the publication of victim-related material. In contrast, Victoria's *Victims of Crime Assistance Tribunal* (VOCAT), under section 43 of the *Victims of Crime Assistance Act 1996* (Vic), provides a clear and effective regulatory framework for this sensitive area. VOCAT is empowered to:

- Determine permissions for publication based on considerations of public interest and safety;
- Apply and enforce publication restrictions with meaningful penalties for breaches;
- Ensure alignment of decisions with family violence and child protection information-sharing laws.¹⁷

Secondly, the Tasmanian reforms do not specify penalties or safeguards concerning unauthorised disclosures, including those which may result in the re-identification of Aboriginal victims or communities. This presents a significant risk in small or kinship-based populations.¹⁸

Aboriginal clients often reside within tight-knit communities where names, case details, or even deidentified descriptions can inadvertently lead to identification.¹⁹ Moreover, cultural obligations to share information within kinship systems may conflict with Eurocentric legal notions of privacy and confidentiality.

In light of these issues, TALS recommends the following measures:

- The establishment of a dedicated statutory authority, such as a Commissioner or Tribunal, responsible for overseeing and approving publication and restriction decisions;
- The introduction of clear and enforceable penalties for unauthorised or culturally inappropriate disclosures, reflecting penalties comparable to those under Victoria's section 43 (i.e., 500 penalty units or two years' imprisonment);²⁰

¹⁷ See for example, *Victims of Crime Assistance Act 1996* (Vic).

¹⁸ Douglas, H. (2019), *Policing domestic and family violence: From victim-blaming to effective intervention*, Palgrave Macmillan, London.

¹⁹ Blagg, H., Williams, E., Cummings, E., Hovane, V., Torres, M., & Woodley, K. N. (2018). Innovative models in addressing violence against Indigenous women: Final report (ANROWS Horizons, 01/2018). Sydney: ANROWS; Ibid (n 4).

²⁰ Parliament of Victoria, Legislative Council Legal and Social Issues Committee (2022), *Inquiry into Victoria's criminal justice system*, Victorian Government Printer, Melbourne

- A culturally safe and rigorous definition of “deidentified,” including the development of protocols to prevent inadvertent re-identification within small communities;
- The cross-referencing of relevant child wellbeing and family violence information-sharing legislation, such as the *Children, Young Persons and Their Families Act 1997* (Tas) and associated family violence risk assessment frameworks;
- The development of clear, culturally appropriate materials to explain these provisions to Aboriginal clients and their communities;
- The formal recognition and protection of community legal workers and support officers particularly in ATSILS and FVPLS under publicity restrictions;
- The implementation of a twelve-month review process, conducted in consultation with Aboriginal organisations, to monitor unintended consequences and improve accessibility and effectiveness.

Additional Observations and Recommendations

TALS wishes to raise several further issues vital to enhancing the efficacy and fairness of family violence reforms, especially for Aboriginal communities.

Empowerment and Community-Led Responses

The principle of community responsibility underpinning the current *Family Violence Act 2004* should be revisited to ensure it does not inadvertently limit the agency of victim-survivors. Empowering survivors, particularly Aboriginal women, to have greater control and involvement in managing family violence responses is crucial. Reforms must promote empowerment, choice, and culturally safe practices that reflect the needs and realities of affected communities.²¹

Combatting Misidentification and Bias

The risk that victim-survivors, especially from marginalised groups, may be misidentified as perpetrators remains a serious concern. The Bill’s reforms should include explicit safeguards to reduce this risk and promote equitable treatment within the justice system. These include mandatory cultural competency training contextualised for this state, for police and frontline workers, clear criteria for identifying the predominant aggressor, and independent review mechanisms for contested decisions.²²

Safe and Stable Housing Access

A critical gap in Tasmania’s response to family violence is the chronic shortage of crisis accommodation and longer-term stable housing, particularly for Aboriginal women and families escaping violence. This shortage undermines the effectiveness of legal protections, places families at risk of homelessness, and increases their

²¹ Sentencing Advisory Council (2015), *Sentencing of Adult Family Violence Offenders*, Victorian Government, Melbourne; Victorian Aboriginal Legal Service (VALS) (2022), *Addressing Coercive Control Without Criminalisation: An Aboriginal perspective*, VALS, Melbourne.

²² Australian Government (2018), *Improving police culture*, Australian Law Reform Commission, <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/14-police-accountability/improving-police-culture/>

vulnerability to continued harm. In fact, the biggest cause of homelessness in Australia is family violence, where people fleeing violent situations lack alternative accommodation and are forced into unstable arrangements.²³ This can result in some choosing to stay in unsafe domestic situations, simply to maintain housing stability for their children and themselves.²⁴ The lack of culturally safe housing options across the state, particularly in rural and remote communities, exacerbates the risk to Aboriginal peoples and creates barriers to safety and recovery.²⁵

Just as urgent is the need for housing solutions for perpetrators who are removed from the family home. Without access to safe alternative accommodation, the likelihood of breaches, ongoing intimidation, or contact with victim-survivors escalates. This creates a revolving door within the justice system and entrenches patterns of violence. The Bill must explicitly provide for dedicated investment in a spectrum of culturally appropriate, trauma-informed housing options for both victim-survivors and perpetrators. This includes crisis, transitional, and long-term housing, and must prioritise Aboriginal-led solutions across all regions of Tasmania.

The gaps in housing are particularly pronounced in rural and remote areas of Tasmania, where services are often limited, under-resourced, or non-existent. In these communities, the availability of safe and culturally responsive accommodation is essential for interrupting cycles of violence and supporting recovery.

Culturally Safe Programs and Wraparound Services²⁶

Effective implementation of family violence reforms in Tasmania relies heavily on proper investment in culturally safe services and holistic, place-based responses. Aboriginal Community-Controlled Organisations (ACCOs), ATSILS and FVPLS, and frontline support workers, particularly in rural and regional areas, require urgent and sustained resourcing. Aboriginal-specific family violence services remain underfunded and overburdened, with limited capacity to respond to complex needs in a timely and culturally safe manner.²⁷

TALS strongly advocates for embedding wraparound supports as a core component of the family violence response. These must include criminogenic interventions such as culturally responsive behaviour change programs, substance use treatment, and anger management, alongside non-criminogenic supports that promote stability, resilience, and healing. This includes access to culturally safe mental health care, housing and financial counselling, education and employment pathways, parenting support, and cultural reconnection programs.²⁸

For Aboriginal families, healing from family violence cannot be separated from cultural identity, connection to Country, and community control. Wraparound support must be led by Aboriginal organisations and informed by trauma-aware, culturally grounded frameworks. Without this, the promise of reform will remain unfulfilled. Even

²³ Australian Human Rights Commission (2025), *Homelessness*, <https://humanrights.gov.au/our-work/education/homelessness#:~:text=Homelessness%20can%20be%20caused%20by,cause%20of%20homelessness%20in%20Australia>.

²⁴ Homelessness Australia (2024), *Homelessness and family and domestic violence: State of response report 2024*, <https://homelessnessaustralia.org.au/wp-content/uploads/2024/03/IWD-2024-3.pdf>

²⁵ Impact Economics and Policy (2023), *Somewhere to go: Meeting the housing needs of women and children in Tasmania*, Impact Economics and Policy, Hobart.

²⁶ Ibid (n 15).

²⁷ Ibid (n 15).

²⁸ Healing Foundation (2017), *Aboriginal and Torres Strait Islander Healing Programs: A Literacy Review*, <https://healingfoundation.org.au/app/uploads/2017/02/Aboriginal-and-Torres-Strait-Islander-Healing-Programs-A-Literature-Review.pdf>

the most progressive legislative changes will be ineffective without corresponding investment in the local services and supports that enable families to recover, rebuild, and thrive.²⁹

Comprehensive Legislative Review

Given that the *Family Violence Act* has been in place for over two decades, a comprehensive, community-informed review is urgently needed. This review should evaluate the Act's effectiveness, particularly for Aboriginal and Torres Strait Islander peoples, and incorporate contemporary understandings of family violence, evolving legal standards, and community perspectives. Embedding Aboriginal voices, lived experience, and trauma-informed practice throughout this process is essential to ensuring a just, culturally safe, and effective system.³⁰

Ongoing Aboriginal Consultation and Oversight

TALS strongly recommends establishing formal, ongoing consultation mechanisms with Aboriginal stakeholders, including ACCOs and Aboriginal-led legal services, to guide implementation, monitor outcomes, and review unintended consequences of reforms. Genuine community input must be continuous and embedded across design, delivery, and evaluation stages, rather than tokenistic or one-off.

SUMMARY OF RECOMMENDATIONS

Police and Court Oversight

- Enable police to vary or revoke PFVOs in urgent or straightforward cases without requiring court involvement, to improve accessibility and timeliness for Aboriginal families.
- Develop a transparent, culturally safe, and clearly defined alternative process (e.g., through an independent commissioner or oversight body) for PFVO reviews, avoiding unnecessary court delays while ensuring procedural fairness.
- Establish independent oversight mechanisms to monitor police-issued PFVOs and safeguard against misuse.

Housing and Support Services

- Expand crisis accommodation with dedicated Aboriginal-led housing services.
- Increase investment in culturally safe perpetrator rehabilitation programs.

Legislative Reform

- Undertake a comprehensive review of the *Family Violence Act*, including reconsideration of the community responsibility model.

²⁹ Australian Institute of Health and Welfare (2013), *Engaging with Indigenous Australia – exploring conditions for effective relationships with Aboriginal and Torres Strait Islander communities*, Australian Government.

³⁰ Blagg, H., et al. (2018), *Innovative models in addressing violence against Indigenous women*, Research report, University of Western Australia, Perth; Ibid (n 15).

Data, Privacy, and Publication Safeguards

- Create a statutory oversight body.
- Introduce enforceable penalties for unauthorised disclosures.
- Define deidentification using culturally safe protocols.

CONCLUSION

TALS remains steadfastly committed to ensuring that justice responses to family violence are culturally safe, procedurally fair, and truly responsive to the lived experiences of Aboriginal people. We recognise the complexity of these issues and the urgent need for systemic reforms that extend beyond legalistic fixes to address the underlying structural and social determinants of family violence. These reforms are essential to advancing *Closing the Gap – Target 13*, which aims to create safe families and households.

We welcome the opportunity to provide feedback on the *Family Violence (Miscellaneous Reforms) Bill 2025* and look forward to continued collaboration with the Tasmanian Government and other stakeholders. Together, we can ensure that these reforms deliver lasting safety, justice, and empowerment.

Aboriginal women, families, and communities have too often been let down by systems not designed with them in mind. Through meaningful, culturally informed reform, we can build genuine pathways to healing, safety, and self-determination, creating a future where all Aboriginal peoples are protected, respected, and supported.

If you have any questions regarding the contents of this document, please reach out to me directly.

Warmest regards,

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