

## INTRODUCTION

My name is Antoinette Braybrook. I am an Aboriginal woman. I was born and have lived on Wurundjeri country all of my life but my family line is Kuku Yalanji in FNQ.

I acknowledge I am speaking on Wurundjeri country and all other Aboriginal and Torres Strait Islander people present and online today.

I have been the CEO of Djirra since its inception 20 years ago. I am also a legal practitioner and hold a current practicing certificate, although my work is not client facing.

I held the role as Chair of the NFVPLS Forum for over ten years and am currently the Co-Chair of Change the Record, Australia's only national First Nations led justice coalition of legal, health and family violence prevention experts.

I would also like to introduce Anne Lenton who is here with me today. Anne is Djirra's Director of Legal Services and has been working with Djirra for 10 years. Anne Lenton is also a member of the VLA Child Protection Panel.

I want to take this opportunity to thank the Commission for allowing me to speak today on such critical issues impacting on the lives of our people - child protection and criminal justice.

The focus of the evidence I give today will be on the work Djirra does with Aboriginal women and their children.

## **ABOUT DJIRRA**

But before I do I would like to tell you a bit about Djirra.

Djirra is a specialist Aboriginal community-controlled organisation. We work with Aboriginal people who experience family violence or are at risk of family violence with the vast majority of people accessing our services for safety being Aboriginal women and their children – around 98%.

Djirra's approach is holistic. Our services include legal support and representation with personal support for individuals within the legal service as well as case management, counselling and we develop and deliver early intervention and prevention programs.

Djirra's services and programs aim to reach women in metropolitan Melbourne and regional locations as well as our women in prison. I say aim because our resources do not meet the demand.

Djirra's legal work is in four key areas of law – child protection, family law, family violence orders and victims of crime.

Djirra's signature early intervention programs – Sisters Day Out, Dilly Bag and Young Luv focus on bolstering women and young girls resilience in order to reduce vulnerability to male violence and system violence.

Djirra is a young organisation but in the 20 years of our existence we have been unwavering in our commitment to keep Aboriginal women and children safe to live a life free of violence and to thrive in their culture and identity.

To honour and celebrate being Aboriginal women.

Aboriginal women and their children deserve better than what we continue to endure not only because our lives are at risk of violence from men of many different cultures and backgrounds but also because the

system perpetuates this violence by silencing targeting and making us invisible.

Systemic racism and violence is very much present in our state today.

Today, like every other day, we hope that we can shine a light on the many issues impacting on our women and children with respect to child protection and criminal justice.

We hope this results in the necessary and urgent investment for real change.

The Andrews government has recently committed to a complete overhaul of the child protection system.

Djirra welcomes this and promises Aboriginal women that we will continue to hold this government to account.

## **SYSTEMIC OVERVIEW**

It is deeply concerning to see the rates of child removal and women's incarceration soaring not declining.

It is even more concerning that the investment into these racist and punitive systems, continues to far outweigh the investment into self-determined solutions and specialist organisations such as Djirra that keep women and their children safe and together.

We will demonstrate how the government consistently targets and fails, overlooks, Aboriginal women, families and our children by perpetuating the wrongs of the past.

By investing in systems built on white foundations of oppression and marginalisation of our people.

Child protection and the criminal justice may seem different but they are not. They are very much the same. This intersection is well documented and understood:

- i. Aboriginal children who are removed are likely to be caught up in the youth justice system and then likely to land in an adult prison.
- ii. The Sentencing Advisory Council found that 1 in 2 children who have involvement with youth justice have experienced 5 or more child protection placements.
- iii. In the recent Inquiry Our Youth Our Way it was found that Aboriginal girls and young people are disproportionately impacted by Child protection and remanded and sentenced to custodial orders at much higher rates than any others.
- iv. More than 80% of Aboriginal women in prison are mothers women are being removed from their children.
- v. Children whose mums spend time in prison are more likely to be removed have disrupted education, poor health and unstable housing, the cycle of trauma perpetuated.

Djirra works with Aboriginal women:

- vi. who are blamed and punished for the violence they experience.
- vii. who have their children taken rather than being supported to escape the violence with their children.
- viii. who are misidentified as perpetrators of violence.
- ix. who often fear the system more than their abuser.
- x. who are homeless and couch surfing or living on the streets.
- xi. who are living in poverty.
- xii. who are told by child protection workers not to involve lawyers because it will only complicate matters – and then their children are taken.

xiii. who are imprisoned for minor, poverty related matters, things they need, just to survive.

Today in Victoria Aboriginal children are being removed from their mum, families and communities at rates far greater than at any time since white settlement.

Our children are removed at 20 times the rate of other children.

Family violence is a key driver to the removal of Aboriginal children and their placement in out of home care too often with non-Aboriginal carers.

Despite the transferring of government responsibilities to Aboriginal community control we have seen little change- in fact things have got worse.

Djirra questions whether this is really self-determination.

Aboriginal women in our country today are the fastest growing prison population. The number of Aboriginal women incarcerated in Victoria is unacceptable and must stop— *our women are about 16 times more likely to be imprisoned than other women.*

The vast majority of Aboriginal women in prison sit on remand and may not receive a custodial sentence. If they do, often the custodial sentence is less than their time served on remand. This is deeply concerning.

One day in prison will destroy a woman's life. She is likely to lose her children, her home, her employment.

These are the tangible losses - but who sees the emotional loss and attempted destruction of a mother's spirit and her cultural connection to her children.

Right now in Victoria there are about 47 Aboriginal women in prison – of which around 15 are sentenced and 32 unsentenced.

About 90% of our women in prison have experienced family violence and sexual violence and more than 80% are mums.

Of the women Djirra works with in our prison support program, 90% are mums with their kids being caught up in the child protection system.

Prisons perpetuate the cycle of disadvantage. Prisons are violent harmful and are inherently unsafe for Aboriginal women. Our women cannot heal in prison.

New prisons are being built and existing prisons expanded to be used as detox and mental health facilities and to address housing shortages and dare I say it to hide the so-called Aboriginal problem!

## **WHAT MUST CHANGE**

There must be an investment into Aboriginal women's individual and collective self determination.

Aboriginal women must have access to culturally safe legal representation and be made aware that child protection is a legal issue.

The Always Was, Always Will Be report highlighted that if Aboriginal mums have access to legal representation then child removal is likely to be prevented.

There must be investment into specialist organisations like Djirra. Into holistic approaches that include – frontline and early intervention prevention, policy and data sovereignty.

Year after year Djirra has unsuccessfully requested membership of the DFFH Children's forum –Djirra's participation would only strengthen the work of the forum not diminish it.

Specialist organisations must be at the table - not excluded - all voices included.

The Victorian government must stop creating punitive and racist laws and abolish the existing laws that ultimately target our people including:

- xiv. The reverse onus provisions in the *Bail Act 1977*
- xv. Imposing unrealistic time limits - Up to 2 years on family reunification orders introduced by the *Children, Youth & Families (Permanent Care & Others Matters) Amendment Act 2014*
- xvi. The proposed amendments under the *Children, Youth and Families Amendment (Child Protection) Bill 2021*

The number of our women in custody or on remand has increased since the bail reforms came into force in 2018. There must be the presumption in favour of bail.

Aboriginal women with children should NOT be locked up full stop.

When permanency was first brought into legislation in 2014 it came with the promise of more services for women to access but we have not ever seen this.

Instead we see:

- xvii. women not being able to access critical services such as detox and counselling because of long waiting lists
- xviii. Still housing shortages – *The Department refused to write a letter of support for a woman we work with whose child is on a reunification plan with housing as a condition*

If the Victorian Government is serious about a complete overhaul it must also urgently raise the age of criminal responsibility.

Victorian government must end Aboriginal deaths in custody and appoint an Aboriginal Justice Commissioner.

The Victorian Government must establish and fund a mandatory child protection notification referral system whereby Aboriginal women our mums are referred to Djirra for legal advice and representation – *because early access to legal representation will prevent child removal.*

*Women must have an advocate and must be supported to escape the violence with their children, not punished.*

## **FINAL REMARKS**

All of what I have raised in this opening statement is not new.

In fact, Djirra has been advocating for much of this for many years and there has been little to no change. You just have to look at:

- xix. Our 2009 policy papers which outline the systemic injustices inflicted on our women 13 years ago.
- xx. Other Djirra submissions including our 2015 submission to the inquiry into the Children, Youth and Families Amendment Bill 7 years ago.

Individuals and organisations have provided expert advice, shared lived experience - despite not being resourced - but we all continue to spend our evenings and weekends preparing submissions and witness statements to give evidence at inquiries such as this, because we want change.

This work for all of us is deeply personal.

It is essential that the recommendations that come out of this inquiry are fully implemented and invested in.

They cannot become another dust collector on the bookshelf for the bureaucrats to re shuffle every now and again.

## **CLOSING**

Finally, I want to leave you with the devastating reality of what our women experience every day of their lives.

The women who put their belief in us, who just want you to believe their story, their experience and invest in their safety and self determination.

I will call her Sally - a child protection worker destroyed her soul, her spirit, and every hope she had of getting her kids back – and even though she was making great progress on abstaining from marijuana use and was relocating constantly to stay away from the violent ex-partner – the worker told her *“you are not fit to be a mum, you will never have your kids back”*

Another client I will call Mary, questioned the child protection worker, as to why she had not been invited to any care team meetings regarding her child. The worker said *‘I didn’t think you would want to come’*.

There are no happy endings here for Aboriginal women and their children when it comes to child protection and criminal justice. The odds are stacked up against us.

We have hope that Yoorrook will make the necessary recommendations for real change so that Aboriginal women and their children feel safe, valued, heard, believed and invested in.

Thank you again for giving Djirra the opportunity to make this opening statement and give evidence today.