

Victim experience of court processes - Other Resources

- > **Diagram: [Judicial responses that empower battered women.](#)**
- > **Diagram: [Judicial responses that reinforce woman's entrapment.](#)**

Department of Prime Minister and Cabinet, *[Communicating with Aboriginal and Torres Strait Islander Audiences \(2016\).](#)*

Extract from Introduction to Australian Government guidelines:

Aboriginal and Torres Strait Islander audiences comprise a wide range of people with different communication needs, information preferences, and expectations of government. These different needs are influenced by factors including location, levels of literacy, age, cultural considerations, and access to technologies.

When communicating with Aboriginal and Torres Strait Islander peoples it is particularly important to consider their locality and whether they are accessing Government services and information from an urban, regional or remote setting.

Aboriginal and Torres Strait Islander peoples living in urban centres have access to mainstream services and information, whereas those living in regional or remote locations may have targeted services, programmes and dedicated government staff to deliver information to the community. Those living in remote communities may also have lower English proficiency with English being the second, third or fourth language spoken within the community.

When considering communication with regional and remote communities it is important to remember that every community has their own local protocols and this should dictate the communications approach you take.

Family Court of Australia and Federal Circuit Court of Australia, *[Multicultural Plan 2013-15.](#)*

In addition to the minimum obligations set out in the *Multicultural Access and Equity Policy*, the courts have developed actions in response to the recommendations made by the Family Law Council in their 2012 report, *Improving The Family Law System for Clients from Culturally And Linguistically Diverse Backgrounds* in focus areas including:

- > *Community education/ legal literacy* —recognises need for information about the law to be

disseminated to culturally and linguistically diverse communities.

- > *Building cultural competence* —includes capacity-building strategies within the service system, including cultural competency
- > *Enhancing service integration* —includes maintaining and building collaboration within and between agencies to identify and address issues relating to cultural diversity, through publicising good practice, sharing information, coordinating programs and collaborating on projects
- > *Enhancing the use of interpreters* —strategies to ensure the use adequate and competent interpreting services

Family Court of Australia, *Indigenous Action Plan 2014-16*.

This Indigenous Action Plan 2014–2016 aims to address the following identified barriers that exist for Aboriginal and Torres Strait Islanders when accessing the Family Court of Australia:

- > a lack of understanding about the family law system among Aboriginal and Torres Strait Islander clients
- > resistance to engagement with, and even fear of, family law system services
- > literacy and language barriers
- > a need for indigenous specific and culturally competent mainstream services
- > the challenges arising from lengthy and multi-step Court processes for Aboriginal and Torres Strait Islander clients
- > the setting being based on Western notions of child-rearing, kinship and family, and concerns as to whether they operated in a culturally safe way; and
- > lack of access to services for communities in regional and remote areas.

Judicial College of Victoria (2021) *Note 11: Victims of family violence; Victims of crime in the courtroom: a guide for judicial officers (eManual)*.

This note explains:

- > What is family violence;
- > Why victims stay or return to abusive relationships; and
- > Key points to consider

An understanding of the dynamics of family violence can help judicial officers avoid unintentionally affirming the perpetrator's narrative in the courtroom or in sentencing reasons.

Judicial Council on Cultural Diversity, *The Path to Justice: Aboriginal and Torres Strait Islander Women's Experience of the Courts* (2016).

See p6: 'this report is a summary of consultations undertaken by the Judicial Council on Cultural Diversity. As such, the views expressed in the document are those of stakeholders who work with Aboriginal and Torres Strait women. The purpose of the document is to inform the thinking of the Judicial Council on Cultural Diversity in its deliberations on matters relating to access to justice for Aboriginal and Torres Strait Islander women.

At p. 7: The key pre-court issues consistently raised were:

- > Fear that reporting violence will mean that authorities will remove children;
- > Geographical barriers;
- > The impact of poor police responses;
- > Family and community pressure on women seeking to protect themselves and their children;
- > The complexity of legal problems experienced by Aboriginal and Torres Strait Islander women;
- > Lack of access to legal assistance and advice; and
- > Lack of legal knowledge and understanding of their rights under the law.

At p7: 'Many Aboriginal and Torres Strait Islander women had trouble communicating in the language of the justice system, adversely impacting on their ability to deal with police, engage with support services including legal representatives, and communicate with court staff and judicial officers.'

Judicial Council on Cultural Diversity, *The Path to Justice: Migrant and Refugee Women's Experience of the Courts (A report for the Judicial Council on Cultural Diversity)*, (2016).

See the Executive Summary (p6-9) which makes a number of recommendations. It also identifies and discusses key pre-court barriers:

- > Lack of knowledge of legal rights;
- > Lack of financial independence;
- > The importance of integrated support services;
- > Poor police responses;
- > The impact of pre-arrival experiences and traumatic backgrounds;
- > Community pressure on women seeking to protect themselves and their children;
- > Uncertainty about immigration status and fear of deportation; and
- > The cost of engagement with the legal system.

Identifies communication barriers: Working with interpreters:

- > Lack of clarity about who is responsible for engaging an interpreter;
- > Failure to assess the need for an interpreter, or incorrectly assessing need;
- > The skill of interpreters being engaged;
- > Lack of awareness amongst judicial officers and lawyers about how to work with interpreters;
- > Engaging interpreters who are inappropriate in the circumstances; and
- > Unethical and poor professional conduct by interpreters.

Identifies barriers to full participation in attending court:

- > The intimidating process of arriving at court;
- > Safety while waiting at court;
- > Lack of understanding of court processes;
- > Difficulty understanding forms, charges, orders or judgments;
- > Courtroom dynamics;
- > The impact of attitudes and actions of judicial officers;
- > The need for judicial officers to receive cultural competency training;
- > Lack of availability of men's behaviour change programs; and
- > Abuse of court processes by perpetrators.

Judicial Council on Cultural Diversity [Website](#).

The Judicial Council on Cultural Diversity is an advisory body formed to assist Australian courts, judicial officers and administrators to positively respond to the diverse needs of the judiciary, including the particular issues that arise in Aboriginal and Torres Strait Islander communities. This website includes a number of useful resources and links.

Vulnerable witness provisions, Australia.

The approach to the protection of adult victims of domestic and family violence and sexual assault complainants / witnesses (sometimes called vulnerable or special witnesses) in domestic violence protection order matters and criminal cases varies throughout Australia. Protections may include closed courtrooms, using closed circuit television rather than being in court, using a screen in court, having evidence recorded so the person is only cross-examined once, allowing the presence of a support person and disallowing direct cross-examination of one party by another in certain proceedings. See [9.2.3 Vulnerable or Special Witnesses](#) for a table outlining jurisdictional approaches.

Note that detailed information about children giving evidence in criminal proceedings can be found here: [Bench Book For Children Giving Evidence In Australian Courts](#)

International

The Inns of Court College of Advocacy (ICCA), [The Advocate's Gateway](#).

The Advocate's Gateway (TAG) provides free access to practical, evidence-based guidance on vulnerable witnesses and defendants. TAG is hosted by the The Inns of Court College of Advocacy, ICCA, London. ICCA's main functions are to provide leadership, guidance and coordination in relation to the pursuit of excellence in advocacy.

This online resource includes downloadable toolkits dealing with common problems encountered when examining vulnerable witnesses and defendants, and suggested solutions.