

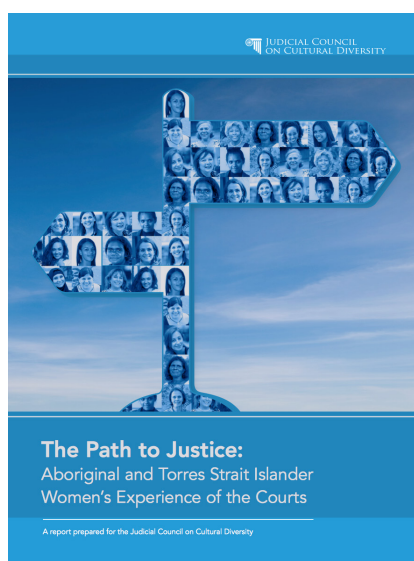
Barriers to Access to Justice for Aboriginal and Torres Strait Islander Women



As First Nation Peoples, Aboriginal and Torres Strait Islanders have a singular place in Australia. However, a history of violence, dispossession and social exclusion experienced by Aboriginal and Torres Strait Islander people has contributed to their over-representation in the criminal justice system and almost every other measure of social and economic disadvantage.

In 2015, the Judicial Council on Cultural Diversity (JCCD) held consultations with a wide range of Aboriginal and Torres Strait Islander community-controlled services and other groups who worked with Aboriginal and Torres Strait Islander women, with the aim of providing a basis of evidence and knowledge to the JCCD that it could use to inform the development of a framework to improve access to justice, including for Aboriginal and Torres Strait Islander women.

*The Path to Justice: Aboriginal and Torres Strait Islander Women's experience of the Courts*¹ is the report on these consultations.



BARRIERS TO ACCESS TO JUSTICE

Some of the barriers identified affect Aboriginal and Torres Strait Islander women exclusively; others are issues that affect many women experiencing family violence. However, Aboriginal and Torres Strait Islander women may experience them more acutely because of trauma, racism, adversity and disadvantage, language barriers, cultural differences and social exclusion.

Barriers to reporting family violence

Factors such as intergenerational trauma and experiences of discrimination, racism and poverty all form a key part of Aboriginal and Torres Strait Islander women's experiences.

In addition, Aboriginal and Torres Strait Islander women's perspectives of the justice system are shaped by dealings with the justice system overall—police, child protection, registry staff, corrections authorities, lawyers and judicial officers.

The key pre-court issues consistently raised by Aboriginal and Torres Strait Islander women during the consultations were:

- ✓ fear that reporting violence will mean that authorities will remove children;
- ✓ geographical barriers, such as distance to travel to court and lack of transport;
- ✓ 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 Indigenous women;
- ✓ lack of access to legal assistance and advice, especially in regional and remote areas; and
- ✓ lack of legal knowledge and understanding of their rights under the law.

¹ http://jccd.org.au/wp-content/uploads/2016/04/JCCD_Consultation_Report_-_Aboriginal_and_Torres_Strait_Islander_Women.pdf

Communication barriers

Many Aboriginal and Torres Strait Islander women have 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.

Barriers to full participation at court

A clear finding from the consultations was that court was often seen by Aboriginal and Torres Strait Islander women as potentially unsafe and not as a place to seek resolution for problems.

The consultations recorded a range of factors about the court experience that posed barriers for Aboriginal and Torres Strait Islander women, including:

- ✓ the intimidating process of arriving at court and safety while waiting at court;
- ✓ unpredictable waiting times;
- ✓ difficulty understanding forms, charges, orders or judgments; and
- ✓ courtroom dynamics.

Difficulty understanding court processes, including communication difficulties, was triggered and amplified by some women's existing fear and distrust of the court.

STRATEGIES TO RESPOND TO BARRIERS

It is clear that, while courts have begun the process of building relationships of trust and confidence with Aboriginal and Torres Strait Islander people, more needs to be done to ensure that women feel confident seeking the assistance of the court system.

While some of the recommended actions are specifically directed at Aboriginal and Torres Strait Islander women, others may be targeted more broadly and benefit all women.

Courts have a role to play in rectifying some of these barriers and require an understanding of all barriers so that they may respond appropriately to the needs of Aboriginal and Torres Strait Islander women.

² http://jccd.org.au/wp-content/uploads/2017/09/JCCD_National_Framework.pdf

Strategies judicial officers can employ to sensitively respond to barriers faced by Aboriginal and Torres Strait Islander women include:

- ✓ working with Indigenous Community Justice Groups;
- ✓ working with local communities to strengthen relationships and understanding of court processes;
- ✓ working with the Indigenous Court Liaison Officer (if the court has one);
- ✓ undertaking cultural competence training;
- ✓ undertaking family violence training and training on trauma-informed practice (where relevant);
- ✓ taking measures to help women feel safe in the court environment and when giving evidence;
- ✓ allowing participation via video-link where available;
- ✓ being aware of when an interpreter may be needed and how to request one; and
- ✓ undertaking training on working with interpreters.

IMPROVING ACCESS TO JUSTICE

The JCCD drew on the recommendations and findings of the 2015 consultations with Aboriginal and Torres Strait Islander women, and similar consultations with migrant and refugee women, to develop the *National Framework for Improving Accessibility to Australian Courts for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women*². An overview of the framework is at [Factsheet: Overview of the National Framework to Improve Accessibility to Australian Courts for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women](#).

Contact

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