



**SUBMISSION: A THERAPEUTIC APPROACH (PILOT COURT) FOR PROTECTION AND CARE  
IN THE CHILDREN'S COURT OF WA - DISCUSSION PAPER**

Based at the Telethon Kids Institute, the *Ngulluk Koolunga Ngulluk Koort* (Our Children Our Heart) research project is working with the (largely) Noongar Aboriginal community of urban Perth. One of the objectives of the project is to translate the research findings regarding Aboriginal child rearing practices and early childhood development into changes to policy and practice. Three priority areas have been identified through a range of consultations with members of the Aboriginal community(s) across Perth. These priority areas are:

- The impact of child removal
- The importance of education across the early years (early childhood education and care and early schooling); and
- The lack of housing security for many Aboriginal families.

The project is working closely with stakeholders including service providers, to translate the project's research findings into culturally safe policies, practices and services. One of the unique aspects of the project is the incorporation of an Aboriginal worldview and knowledge framework that is achieved through the role of eight Aboriginal Elder/Co-researchers, with three Elders forming a subgroup focused on child protection concerns.

The following submission represents the views of this subgroup of Elders regarding this therapeutic pilot court initiative. The submission presents a position statement with regard to Section 6.2:

**Q 3.** Given the strong family structures within Aboriginal communities, and the dynamic nature of sometimes diverse and blended Aboriginal families, what might be some of the cultural sensitivities that we need to consider, when dealing with Aboriginal children?

**Q 4.** How can the existing court environment be changed to make it more culturally appropriate to Aboriginal children and families, where parents/parties feel empowered to speak in protection and care proceedings?

**Q 5.** What are some of the physical barriers existing in the court that can be altered to make a therapeutic court more culturally safe for Aboriginal children and their families?

**Q 6.** If we were looking to make the therapeutic court more culturally safe, are there any suggestions on who else could be part of the court?

**Q 7.** What community support services or programs would you consider needs to be made available to the therapeutic court to give Aboriginal families the best chance of successful reunification?





### NGULLUK KOOLUNGA NGULLUK KOORT ELDER CO-RESEARCHERS' POSITION STATEMENT

The *Ngulluk Koolunga Ngulluk Koort* Elder/Co-researchers acknowledge there are times when children need to be removed from their families and placed in care due to a risk to their safety. This should occur in consultation with families and communities, and all placements of Aboriginal children should occur with the Aboriginal Child Placement Principle central to decision making. We are aware that our children are placed with non-Aboriginal families due to not being able to source a ‘Responsible Adult’ in the Aboriginal community. We contend that there is always a Responsible Adult willing to care for a child and that better mechanisms for seeking and supporting kinship carers are required. One way to ensure that this process is optimal is through sound governance and decision making mechanisms which are inclusive of Elders and senior Aboriginal people.

#### 1. Cultural Sensitivities

The historical impact of the Stolen Generations policies has led to a deep trauma which has resulted in intergenerational disadvantage, high levels of drug and alcohol misuse, family and community violence and contributed significantly to the perceived ‘emotional abuse and neglect’ of children. We say perceived because there are vast differences in cultural understandings of parenting between Aboriginal and non-Aboriginal peoples. These cultural understandings and ways for child rearing for Aboriginal families have been severely disrupted by these historical policies, resulting in, as succinctly put by one Elder/Co-Researcher, “*behaviours, attitudes and shame walking to the door*”. This harm must be acknowledged, taken responsibility for, and repaired for effective change to occur. Mechanisms to restore identity and place in Aboriginal society for children must be sought. This will require a concerted effort by child protection workers to find on-country placements with Aboriginal carers.

#### 2. Voice:

The *Ngulluk Koolunga Ngulluk Koort* Elder/Co-researchers are concerned that the voices of Aboriginal people: Elders, senior Aboriginal people, advocates and support workers in the community, parents and family members and most importantly, children’s voices are often not sought or heard in the child protection process. These voices are particularly important in the court. Mechanisms which enable children to be interviewed, provided with counselling through art therapy sessions where they can express their wishes and tell their stories are imperative. This can enable a safe place for storytelling, where the story and the child’s wishes can then be considered when making decisions about their futures. Similarly, the voices of parents and extended families must be given priority through counselling, advocates and peer support.

#### 3. Governance and decision making

The *Ngulluk Koolunga Ngulluk Koort* project is led by the Aboriginal community of Perth through eight Elder/Co-researchers, and by a large group of over 100 local Elders we report to on an annual basis. Through this co-designed, collaborative consultation process we have been fortunate enough to hear the voices of many members of the Perth Aboriginal community. A consistent message we have received is the need to engage Elders at all levels of decision-making regarding Aboriginal families. Aboriginal and Western worldviews differ starkly on the origins of authority. While authority in Western systems is given through roles and bureaucracy, authority in Aboriginal communities is based on age, cultural knowledge and relationships. In Noongar culture Elders are the Birdiyas (Bosses). The role and status of Elders needs to be recognised in plans for the therapeutic pilot court initiative by placing Elders at the centre of the process. The *Ngulluk Koolunga Ngulluk Koort* Elder/Co-researchers suggest conceptualising the role



Elders play in the therapeutic pilot court initiative. Considering how Elders can be integrated into all levels, but particularly at the governance level is critical. We advocate for moving towards a model of equal power that grants Elders decision-making capacity throughout all stages of the therapeutic pilot court initiative.

Past child protection policies have caused much community harm and there is a deep distrust of child protection services which has negative impacts for engagement and positive outcomes. The *Ngulluk Koolunga Ngulluk Koort* Elder/Co-researchers suggest that forums which embrace restorative practices through Elder facilitated Family Group Conferencing provide an opportunity to restore cultural knowledge, safety and identity to Aboriginal children. By harnessing resources from a vast social network, restorative approaches can restore confidence to parents and families, heal damaged relationships and nourish hope for families, and assist the child protection agency to make culturally-informed decisions.

For cultural safety the Ngulluk Koolunga Ngulluk Koort Elder/Co-researchers recommend a focus on the employment of Aboriginal court staff with an emphasis on increasing the visibility of Aboriginal people in senior decision making roles.

In summary we provide the following recommendations when considering a therapeutic pilot court initiative:

Recommendation 1: Harm which has been incurred through historic child removal policies must be acknowledged and mechanisms to restore identity and place in Aboriginal society for children must be sought.

Recommendation 2: Establish Elder-led processes in the governance structure of the therapeutic pilot court initiative for child protection matters.

Recommendation 3: Establish Elder-facilitated Family Group Conferencing to be used as a decision-making forum for the therapeutic pilot court initiative for child protection matters.

Recommendation 4: Commitment to the employment of Aboriginal staff and senior decision makers.