Submissions to the Senate Inquiry into missing and murdered First Nations women and children

by

The North Queensland Women's Legal Service

We thank the Senate committee for the opportunity to share our feedback on issues relevant to the Senate Inquiry into missing and murdered First Nations women and children. Please note that some of the terms of reference for this inquiry correlate with issues probed by the recent Queensland government's Women's Safety and Justice Taskforce (the Taskforce) and we have largely adapted our submissions to that inquiry.

Who we are:

We are the North Queensland Women's Legal Service - a community legal centre with offices in both Cairns and Townsville. We assist women from Mackay to the Cape and out to the NT boarder, primarily in the areas of family law, child protection and domestic violence.

We provide in-person and telephone advice clinics and conduct duty lawyer services in the Domestic Violence Courts and Federal Circuit and Family Courts. Our in-person services outside of Cairns and Townsville are limited to outreach clinics in smaller regional areas within a few hours' drive, however we can provide telephone and Skype appointments in more remote areas.

In the 2020/21 year we assisted around 2500 women and girls with 14,907 services. One in five of our clients identify as being Aboriginal or Torres Strait Islander and almost all identify as experiencing or having experienced domestic and family violence. Whilst we do not practice in the criminal jurisdiction, we have significant experience in the civil domestic violence courts and have extensive contact with vulnerable First Nations women and girls.

In addition to frontline services, we deliver community education programs and engage in law reform work. We are a member of the Women Legal Services Australia and participate in federal law reform projects. Our service also provides individual submissions on relevant law reform issues within Queensland.

Our feedback:

Our submissions focus on the experiences of our clients, garnered largely through our assistance with their legal issues and from their stories and comments about their lived experiences of societal/community norms and pressures, family violence, sexual violence, how they perceive the justice system, why they do not wish to engage in the justice system and why they can be reluctant to engage with services/agencies/systems that can increase their safety.

The institutional legislation, policies and practices implemented in response to all forms of violence experienced by First Nations women and children.

Major legislation:

Major pieces of Queensland legislation that have been implemented in respond to violence against First Nations women and children are:

- *Domestic and Family Violence Prevention Act 2012* (DFVPA);
- *Criminal Code Act 1899* (Criminal Code);
- *Youth Justice Act 1992*;
- *Evidence Act 1977*;
- *Penalties and Sentences Act 1992*;
- *Child Protection Act 1999* (CPA);
- *Victim of Crime Assistance Act 2009*
- *Coroners Act 2003*

The Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 ('the Bill') is currently before the Legislative Assembly, which seeks to amend the DFVPA, the Criminal Code, the *Evidence Act 1977*, the *Penalties and Sentences Act 1992*, the *Youth Justice Act 1992*, *the Coroners Act 2003*, the *Oaths Act 1867*, the *Telecommunications Interception Act 2009*.

Policies & practices:

The Queensland Police Service's (QPS) Operational Procedures Manual (OPM) is the policy and procedures guide for the QPS, parts of which govern the QPS responses to various forms of violence experienced by all Queensland citizens, including First Nations women and children.

The Child Safety Practice Manual is a guide designed to support Child Safety workers with a set of 'principles, values, procedures, approaches and systems' with which to undertake their work. Domestic and family violence is a major contributing factor to involvement by Child Safety in First Nations families.

The Director's Guidelines are not directions. They are guides designed to assist staff at the Office of the Director of Public Prosecutions with 'the exercise of prosecutorial decisions to achieve consistency and efficiency, effectiveness and transparency in the administration of criminal justice.' Violence, especially domestic and family violence, accounts for a significant proportion of the prosecutorial workload in the ODPP.

DFVPA

We will mainly comment on the *Domestic and Family Violence Prevention Act 2012* (DFVPA) as we see and hear about the effects of this legislation on First Nations women and children daily in our role as duty lawyers at the domestic violence courts in Cairns and Townsville and in our other frontline services. In doing so, we will also touch on how we perceive the QPS uses the

procedures in the OPM and the DFVPA in their response to the various forms of violence experienced by First Nations women and children.

We believe the current version of the DFVPA is a dynamic piece of legislation that is capable of helping to increase the safety of First Nations women and children *after* violence has already occurred if the legislation if used effectively and interpreted broadly.

In order to make a protection order under the DFVPA, a domestic violence court must be satisfied of a relevant relationship; at least one act of domestic violence; and future risk of domestic violence. Either the QPS or a private party can apply for a protection order or to vary an existing order, with applications by the QPS accounting for 85% of all applications. Provisions within the DFVPA make contraventions of a protection order an offence. Crucially, the DFVPA also empowers the QPS to issue police protection notices (PPN) that provide immediate protection until an application can be heard and an order made by a court. Contravening a PPN is an offence under the DFVPA.

Like all legislation however, the DFVPA is only a tool and its implementation and effectiveness come down to individuals and the systems they operate in. For instance, QPS officers must be willing to issue PPNs and apply for protection orders, even at times without the cooperation of victims; and magistrates must interpret behaviour as domestic violence (not always straightforward especially when it comes to coercive control) and to identify future risk. In the event of conflicting stories or mutual violence, both the Court under the DFVPA, and the QPS under the OPM, have an obligation to identify the person most in need of protection. At present there is no restriction on the QPS seeking protection orders against both parties to a dispute (although only one PPN can issue) or the Court making protection orders against both parties. The new Bill seeks to address this by only allowing the Court to make one order to protect the person most in need of protection unless there are exceptional circumstances.

Enforcement is reliant not only on the QPS and the criminal courts, but (usually) the aggrieved party them self to inform the QPS of a contravention of an order. Unfortunately, we witness many First Nations women and girls, who are not willing to report violence/breaches of orders, leaving them vulnerable to ongoing violence, sometimes with fatal consequences. Our experience shows that this reluctance to report violence against partners is one of the major reasons that First Nations women and children remain at risk of serious violence.

Domestic and family violence is a complex issue in society, with myriad issues such as housing shortages, substance abuse, community attitudes and beliefs, financial insecurity and poor mental health affecting people's decisions to use violence. These same underlying issues affect decisions by those who choose to stay in violent relationships. First Nations communities have all these elements at play and often other issues, such as societal attitudes and expectations about gender norms and male entitlement and the normalisation of deviant behaviour. We will discuss these in more detail below. A lived experience of these issues means many First Nations women and girls do not cooperate with the QPS to seek protection orders or report contraventions. When protection orders are made to protect these women, they often use the DFVPA to add exceptions to restrictive conditions, to allow violent relationships to continue.

The QPS and domestic violence courts in North and Far North Queensland (and we can only comment on the situation in our service area) are reluctant to interfere with the agency of victims who wish to continue relationships that put them at risk of violence; it is the difficultly of balancing autonomy and protection. Usually both the police and Court will agree to exceptions on orders to allow a victim to provide written consent for contact by a perpetrator. Consent can be provided by a simple text message from the aggrieved to the respondent. Where a respondent is incarcerated, written consent in the form of a letter can be sent to a correctional facility to allow contact. Bail conditions prohibiting contact that may have applied had the perpetrator been granted bail are absent if they are remanded. Thus, with a relaxation of prohibitive conditions on a protection order, contact can continue whist a violent partner is incarcerated and relationships can be resumed when he is released.

Whilst this response allows aggrieved persons to exercise agency over the decisions in their lives, it places many First Nations women and their children at significant risk of serious injury or death. Of course, it must also be acknowledged that the agency of women in these situations may not be being exercised freely and may have been overborn by perpetrators, their families, or from other pressure within their communities.

The remedy to this problem is not as simple as the QPS and the Courts taking away the decision-making power from women in these high-risk categories. The overwhelming feedback we receive from clients is that many vulnerable women will cease reaching out for help from police and other agencies - even when they are experiencing serious violence - if this means they will be separated from violent partners or cause the perpetrator to be incarcerated. Obviously any action that discourages women and girls from seeking help would increase rather than ameliorate risk.

The issue of misidentification of the true perpetrator is another major issue that makes First Nations women reluctant to call the QPS for help. It is a contributing reason for First Nations woman entering the criminal justice system, and not receiving the protection they need. Misidentification often occurs in the face of long histories of police involvement where the other party has been the aggressor. It is a terribly unjust situation that after enduring years of abuse and violence when these women eventually react to the abuse or defend themselves, they are met with the full force of the justice system and named the perpetrator. Essentially, these women are criminalised for using techniques to survive violence being perpetrated against them.

We know that women sometimes have no choice but to defend themselves - and can do so forcefully. Women's use of defensive violence is usually far less violent than violence perpetrated against them in the first instance. Without a dominant-aggressor framework being universally used by police and courts and extensive specialised training undertaken, erroneous conclusions based on the most recent incident alone will continue to be made. When an incident-based lens is used, there seems little or no consideration given to whether the woman is trying to coerce or control the other person, or whether she is responding to or defending herself from violence.

First Nations women in a heightened state can appear argumentative and disrespectful to police and this attitude, along with the use of defensive violence, can lead to them becoming

the subject of a PPN/ protection order application, a contravention charge, or other criminal charges. This occurs even when the woman (the true victim) has called the police for help. One First Nations client we helped had two young children and had been controlled and subjected to ongoing emotional, physical, and sexual abuse throughout her relationship with a much older non-Indigenous man. Their relationship had commenced when she was 15 years old. Despite our client being the one to call for help, her partner successfully convinced the police who attended an incident that she was the perpetrator and had her charged for assault. This is not an isolated incident and many clients have told us similar stories when they have reached out for help.

In summary, we believe the DFVPA is an effective tool to reduce violence against First Nations women and children if used properly and interpreted broadly. Effective outcomes require the willingness of those in the justice system and of those it is designed to protect to take action. It also requires an act of domestic violence to have already occurred before any protection can initially be afforded a victim.

Queensland is currently undergoing an independent review of the QPS responses to domestic and family violence. We acknowledge the very difficult job the QPS face every day responding to violence in our communities, especially domestic and family violence. We believe specialised domestic violence training of QPS officers is essential to improve their responses and ensure that they understand the dynamics of DFV, especially coercive control, and to identify those most in need of protection and understand women's use of violence as a survival technique.

Criminal Code Act 1899

We are not criminal law specialists and will not comment widely on the Criminal Code. Firstly, we wish to applaud the Queensland government for the amendments they are seeking in the Bill to modernise the sexual offence language and strengthen the offence of unlawful stalking. The government has also committed to criminalising coercive control by the end of 2023. We are not yet aware of any detail as to the elements of this new offence. We do have reservations about how it will relate to the experiences of First Nations people and whether it will have an impact on levels of violence toward First Nations women and children. Again, for various reasons First Nations women may be reluctant to report any coercive controlling behaviours to the QPS. At worst, it may be used against First Nations women and put them at risk of entering the justice system through misidentification and of not receiving the protection they need as victims.

Child Protection Act

The purpose of the child protection legislation is to protect children from significant harm or risk of significant harm and whose parents are unable and unwilling to protect them. It is uncontroversial that this system affects a disproportionate number of First Nations children. We recognise the need for the State to sometimes intervene to remove children from their families for unfortunately, North and Far North Queensland sees a significant number of First Nations children abused or unlawfully killed at the hands of their parents or close adults, however we also recognise that there needs to be more focus on front end prevention and

intervention rather than relying on removal. Removing First Nations children from their families continues the cycle of trauma and further erodes trust of agencies and systems for both the children and their parents, particular their mothers, thereby reducing the likelihood that they will reach out for help and/or report violence against them. We know most children are removed for exposure to domestic violence and neglect. First Nations women need to be supported as mothers and supported to stay together with their children through culturally appropriate and community based services to help address any parenting concerns. Males who are committing the violence need to be removed from the home and his use of violence addressed, again in a culturally safe manner. Addressing poverty, overcrowding and substance abuse through targeted community based culturally appropriate family intervention services must be a priority.

Concurrent proceedings

It is not uncommon for First Nations women to have multiple proceedings in different courts at the same time. There may be domestic violence proceedings, criminal proceedings, child protection proceedings, and/or family law proceedings running concurrently depending on the circumstances. When this occurs, women report confusion, inconsistencies of laws, patchy access to legal assistance, injustices, overwhelm and sometimes disengagement.

The systemic causes of all forms of violence, including sexual violence, against First Nations women and children, including underlying social, economic, cultural, institutional and historical causes contributing to the ongoing violence and particular vulnerabilities of First Nations women and children.

There are many cross-cutting factors that underpin First Nations women and girls being overrepresented as victims of violence, including sexual violence. The misuse of alcohol and other drugs, poor mental health, male entitlement and dominance, female subservience, jealousy issues, poverty, homelessness are some of these factors.

Attitudes/expectations

We must not lose sight of the fact that it is the decision to use harmful physical behaviours by men and boys against women and girls that is the ultimate *cause* of the problem. This is true for all perpetrators of violence against any victim. To achieve any sustainable change, we must address the attitudes that men and boys hold, and that broader communities hold supporting men and boys' beliefs that it is acceptable to treat women and girls in harmful ways.

Sexual violence, other physical violence, and non-physical violence are part of the dynamics of coercive control experienced by so many women and girls in our wider society and by alarmingly high rates of First Nation women and girls. The stories we hear from our First Nations clients speak overwhelmingly of male sexual entitlement and dominance that seems not only accepted but supported by broader familial and societal groups. We hear that in many First Nations communities, there is a tacit acceptance that women and girls are open to sexual exploitation and should be subservient to male control.

One of our clients endured twenty years of coercive controlling behaviour, including physical, emotional and sexual abuse. Over the years, she tried to leave the relationship and sought support from family members. The family members simply said she needed to stick it out and be a 'good mother/ wife.' The abuse became so unbearable that the woman chose to leave her two youngest children and move to another state to get away from her abuser. When speaking with her about this painful decision and the response of her family, the woman told us this was a common theme in the First Nation's community from which she came. She told us women ultimately put up with the abuse, keep it to themselves and it is expected of them to stay with the perpetrator. This woman eventually returned to the community and was 'blacklisted' by the perpetrator and family members. She had been completely denied access to her two young teenage children by the perpetrator since she left (years prior) and even her adult children had been turned against her for leaving the relationship (despite them witnessing high levels of violence against her). Our client had not sought legal advice for many years as she believed she had no rights and was a hopeless mother.

Another client had endured years of domestic abuse, including sexual violence, and had had four children placed into state care because of the physical violence she had suffered at the hands of their father. She came to us heavily pregnant with her fifth child to a different father. She revealed she was too frighted to catch the bus into town to engage with a DV counselling service (which was problematic as it formed part of her Child Protection safety plan.) This

young woman believed the perpetrator would track her down and kill her if he saw her pregnant to someone else, as he used to violently assault her when she was pregnant with his own children. She told us that the group of First Nations people that congregated at the bus stop would encourage this action by reporting her whereabouts, and her pregnancy, to the perpetrator.

Flowing from the attitudes of male entitlement and dominance is the prevalence of victim blaming. Victim-survivors are often desensitized, emotionally overborne, do not identify deviant behaviour toward them as unacceptable or harmful, or believe they are to blame for the offending. There is little open discussion about consent or healthy sexual activity in either the education system or the communities, allowing attitudes supporting male sexual entitlement and dominance to perpetuate.

One client told us there were no issues of domestic violence in her relationship. Further questioning in a trauma focused way, revealed that the woman had been tripped over deliberately by her partner, shoved, pushed, had things thrown at her, and had been held down and bitten until she agreed to sexual activity. The woman did not identify any of these actions as being acts of domestic/sexual violence. The woman said she thought this sort of behaviour was present in all relationships and that this activity was normal. The woman had twin daughters who had experienced and witnessed their father's violence against their mother and were already starting to have relationships with men displaying behaviours like their father.

The reluctance in First Nations communities to talk about sex comes from shame around this topic. Because it is considered shameful to have conversations about sex, sexual offending is kept quiet or portrayed as shameful to the victim, rather than the offender. We had an instance where a First Nations woman's much older ex-partner (also Indigenous) was a convicted child sex offender. Our client became aware of her partner's criminal history when Child Safety stepped in to protect the couple's infant daughter. Whilst the young woman acted protectively and ended the relationship, she was reluctant to involve her own family or develop a support network- a protective measure sought by Child Safety - as she wished to avoid shame. The offender's family also actively discouraged her from developing wider supports, themselves wishing to cover up the matter as much as possible and protect the dignity of the offender and his family.

First Nations women and girls are often first victimized at young ages, sometimes by older and trusted males but often by young males who have disrespectful attitudes to females. The 2013 Preventing Youth Sexual Violence and Abuse in West Cairns and Aurukun Report (the 'Smallbone Report') sets out how prevalent and serious this issue was in these two areas at that time and what factors led to the men and boys' decisions to engage in this behaviour. The Smallbone Report depicts how sexual violence is underpinned by unhealthy attitudes held by men and boys toward women and girls and by a lack of recognition of, or consequences for, deviant behaviour. Little seems to have changed in the near decade since the report was finalized. First Nations women and girls are still victimized at significant rates and the stories our service overwhelmingly hears are consistent with the continued normalization of male entitlement and dominance in First Nations communities.

Opportunity for violence

The living conditions of many First Nations women and girls often leave them more vulnerable to being victims of violence, in that men and boys have easier opportunity to offend against them. For instance, we have women who come to us with stories of abuse that started when they were minors in state care, or as children in crowded living situations or other situations where there is little or no adult supervision. In one instance we were approached by the mother of a 12-year-old girl who had been sexually assaulted whilst placed in residential accommodation by Child Safety. The offender was also a minor who had just been released from a youth detention centre for sexual offences. For a reason that was never explained to the mother, this boy had been placed in the same accommodation as four girls.

Access to secure housing is a major problem, particularly in regional and remote areas. Housing insecurity leaves all women vulnerable to the risk of victimization, and this is especially so for First Nations women. Many of the women we see are homeless or would be homeless if they reported the domestic/sexual violence they are subjected to. These women are dependent on perpetrators, or the perpetrators' families, to have a roof over their and their children's heads. Recently, the Department of Housing advised that there are 5000 families on the waiting list for suitable housing in the Cairns region, with another 200 applications not yet processed. Men and boys have greater opportunity to use violence regularly against women and girls who reside under the same roof.

The situation is even more dire for homeless First Nations women living in public areas. Those who live on the street, in parks, or other exposed areas are particularly vulnerable. These communities experience high levels of alcohol misuse issues and at times abuse of other substances. Women and girls in these communities are prone to experiencing high levels of violence, especially sexual violence. Protection orders are sometimes sought by the QPS to protect members of these communities, however, rarely are orders sought that prohibit contact as it is simply not practical. We are unaware if orders are routinely enforced.

We assisted one homeless First Nations woman as duty lawyer, who was an aggrieved in a police application for a protection order against her partner. Our client told us that she was an alcoholic who lived on the streets and stole food from supermarkets to subsist. A former partner had been incarcerated for a violent assault on her, leaving her with visible injuries. Her current partner, the respondent to the application, also used extreme violence against her on a regular basis. Sadly, this woman lamented to us that she feared she would end up like her mother. Her mother also had been homeless and lived primarily on the streets. She had been murdered some years before and her body left on an inner-city street. Our client declined any attempts by our service to provide her assistance to change her situation. She seems resigned to this way of life and accepting of the violence being used against her. With no address or phone details for the client, we were unable to keep in contact with her and could only ask the police to do a welfare check as we feared reprisals by the agitated respondent after they left the court precinct.

Substance abuse

Whilst substance abuse is not the cause of violence against women, it must be acknowledged that the rampant misuse of alcohol and other drugs in First Nations communities is one of the major underlying issues impacting upon the high rates of violence against women and girls. A significant proportion of incidents of violence we hear about from clients involve one or both parties being intoxicated. We do wish to comment that this is not unique to First Nations communities as our experience shows substance abuse involved in violence is also reported in the stories of the majority of non-First nations clients.

Reluctance to report violence

As outlined previously there are many issues that lead to reluctance to report violence against First Nations women and girls, leaving them in high-risk situations. Many First Nations women have had previous negative interactions with the Police, which means that they don't see the Police as a protective force, but one that commits state sanctioned violence and oppression that further disempowers them, their families and community. Given the history of First nations interactions with the Police and other Government agencies, including the abhorrent racism, sexism and misogyny that has been uncovered in the recent government inquiry into the Qld Police Service, is it any wonder that they are reluctant to report any violence against them? The Police and other services need to be seen by First nations women and girls to be culturally safe so they feel confident that their concerns will be listened to and addressed, also in a culturally safe way. Many First nations women will stand with their partner, even if he is violent, than stand with the racist oppressive system.

Safety concerns if they do make complaints and apprehension or incomprehension of the court processes are other reasons we regularly hear discourage women from reporting violence. Many times we have heard from First Nations women who wish to give evidence in criminal matters being intimidated, harassed and/or threatened by the other party's family members outside of court and when arriving at court. Bail conditions may prohibit the perpetrator from contact with the victim, but do not preclude the perpetrator's family and supporters from victim blaming and shaming, blaming the victim for the involvement of the police and courts, and intimidating the victim and attempting to pressure them to withdrawing complaints.

Communication issues

Our clients tell of us problems arising from basic communication issues when First Nations women and girls with complex issues have interactions with the QPS, and during court processes. Time and time again we hear about poor outcomes when police attend domestic disturbances where victims speak limited or no English and/or are suffering trauma. There is no doubt these women and girls find it difficult to give coherent statements, or to understand complex court processes. Indigenous language interpreters are not readily offered or in fact available, especially in regional or remote areas.

The policies, practices and support services that have been effective in reducing violence and increasing safety of First Nations women and children, including self-determined strategies and initiatives.

Integrated responses

The High-Risk Teams (HRT) that operate in Cairns and Townsville are effective initiatives designed to manage those women most at risk in the community and who have come to the attention of police or support services. Key agencies such as the QPS, specialist domestic violence agencies, Child Safety, and the Department of Housing constitute the HRT and representatives meet regularly (usually weekly) to share information and manage high risk matters. The strategies implemented by the HRT work well for women who accept assistance and wish to leave or manage high risk situations. There are limitations however, on the help that can be provided to women who do not wish to cooperate with agencies and who wish to stay or return to violent relationships and not accept assistance from the services available. Often with First Nations women, this is due to distrust of the agencies and systems. As discussed previously they view the State and its agencies as perpetrators of abuse. HRTs must be culturally safe and it should be ensured that there are First Nations representatives sitting on the Teams to provide such safety and support for First Nations victims. Another limitation is that even if services can be wrapped around vulnerable women and children, little can be done to manage the behaviour of perpetrators who will not engage with services that could help him effect change and lower risk. In our view, the introduction/expansion of integrated response teams nationally is something that should be considered as an effective strategy to increase safety of vulnerable women and children. The difficulties of rolling out such responses in remote First nations communities is appreciated, however just because it is hard does not mean that we should not try. Whatever the response in remote communities is it must be driven by the community and not by mainstream services that fly in and fly out as we know this does not work.

Specialist social workers and/or First Nations support workers who are First Nations women, could also be trialed to attend domestic violence callouts with police to help recognize and respond appropriately to what has occurred. This would reduce the likelihood of women being misidentified as perpetrators and would improve the ability of the victim to report what has happened. Many First Nations women are reluctant to open up to police as they do not trust them or are afraid of them, often due to previous encounters where the police have not responded protectively or appropriately. First Nations women will also not discuss sexual violence with a male due to cultural norms. Having a social worker and a First Nations woman available to tell their story to may break down some of the barriers faced by First Nations women and girls in reporting violence, including sexual violence.

Access to legal advice/support services

We know access to good quality legal advice, support and services is critical in assisting First Nations women and their children to leave abusive relationships, or to support those who stay.

The community legal and non-legal sectors work holistically to support the complex needs of these women. What we hear is that women and girls living in rural, regional and remote locations do not have ready access to these services and stay longer in abusive relationships or return to them because of their feelings of overwhelm. Conflict of interest and services not being adequately funded to meet the demand appear to be the main drivers of this issue. Sometimes there is no appropriate service at all to assist with a woman's specific issues, or there are only one or two services, and they could be at capacity or assisting the other party. For example, the Cairns region has only one preferred service provider for child protection matters.

Processing times for Legal Aid applications can mean those women who need urgent assistance must rely on over-stretched community legal services or ad hoc help by duty lawyers under the Family Advocacy and Support Service in the family law courts. Waiting four to six weeks for an answer on whether they will be approved for aid, does not assist in urgent matters where a child is taken and is at risk. We have assisted many First Nations women to file urgent applications where there are allegations of significant domestic and family violence, only to hear that funding has been granted weeks later for assistance with mediation, but no assistance for the listed court event.

Access to Legal Aid is also difficult to obtain for assistance in domestic violence matters. Female aggrieveds and respondents are likely to be denied assistance and many are proceeding as self-represented parties to hearing on private applications, or in response to applications in which misidentification has occurred. This situation results in many private applications being withdrawn and First Nations women consenting to unnecessary protection orders that can be used against them.

We note the value of specialist cultural services set up to assist First Nations people. Agencies such as the Aboriginal and Torres Strait Islander Legal Service (ATSILS) can sometimes provide assistance to First Nations women in areas of domestic violence and family law, however more often than not they have represented, or are assisting the perpetrator in concurrent criminal matters giving rise to a conflict of interest. The issue of misidentification as a perpetrator of violence often precludes women from seeking help at other specialist services, for example the Queensland Indigenous Family Violence Legal Service (QIFVLS).

First Nations responders

We have received feedback that employing First Nations people in local agencies or as officers or liaison officers does assist in breaking down barriers First Nations women and girls may otherwise have when reaching out for help or reporting violence. People who understand the community and are known by the community help First Nations women and girls feel safe to make complaints or discuss issues.

The identification of concrete and effective actions that can be taken to remove systemic causes of violence and to increase the safety of First Nations women and children.

Changes to attitudes/expectations

In short to increase the safety of First Nations women and girls, disrespectful attitudes held by men and boys toward women and girls need to dramatically improve. Community attitudes and support of toxic male entitlement and female subservience needs to change. Communities must encourage and empower First Nations women and girls to expect respectful relationships and to expect to live free of domestic/sexual violence. Community leaders, bystanders, families and individuals need to recognize and call out deviant behaviour as harmful and abnormal behaviour and there must be consequences for such behaviour.

We urge the Senate Inquiry to consider the prevention matrices in the Smallbone Report. We believe these measures propose sensible targeted strategies that seek lasting generational change by addressing attitudinal change in young offenders/potential offenders, young victims/potential victims and at the broader community level. It is appropriate that First Nations organizations and community groups step up and spearhead any efforts to implement the measures and address these pervasive, harmful attitudes toward First Nations women and girls.

Holding perpetrators accountable

We support holding perpetrators accountable for their choices to use domestic violence against First Nations women and girls. The QPS and other executive agencies including Child Safety, need to ensure there are consequences when violence is reported, even if the offending does not result in criminal charges. One specific consequence is the QPS (or Child Safety if child protection proceedings are underway) seeking a protection order to protect women and children from further violence. First Nations women and girls need to be believed and supported on the occasions they do speak up about their experiences and have a reasonable expectation that something will happen to protect them and hold perpetrators accountable. There needs to be an increase in culturally appropriate and effective perpetrator behaviour change programs available to address an prevent violence against women and children.

Community supports

Community supports, such as safe housing and access to legal services, also need to be strengthened. Again - there are 5,000 families waiting for suitable housing with 200 more to be added to the list. First Nations women and girls need easier access to legal and support services as too often specialist First Nations agencies, for various reasons, do not assist women who urgently need help to escape domestic/sexual violence, particularly when children are being held over by perpetrators or his family.

Culturally appropriate victim support services must be more widely available with an emphasis on encouraging First Nations women and girls to recognize harmful and disrespectful behaviours, to expect to live free of violence and to expect to have respectful relationships.

Perpetrator programs

Culturally appropriate and effective men's behaviour change programs must be far more widely available to First Nations men that wish to change, with the emphasis on recognizing harmful and disrespectful attitudes and behaviours and how it affects partners, children, families and communities. There are simply not enough of these services readily available to men. We also understand that there are limits on behaviour change programs available to men in correctional centres. Eligibility is determined by length of the sentence and men incarcerated for shorter periods do not gain access to these programs. This is a missed opportunity as incarceration provides a unique occasion where services can be wrapped around perpetrators to elicit insight into offending and facilitate a change of attitudes/behaviour. When perpetrators are released into the community there is little opportunity to ensure engagement in programs, leaving no accountability for their actions. We believe that intensive specialist programs should be mandatory for those sentenced for a period of six months or longer and shorter programs available for those with shorter sentences or on remand.

Engaging the perpetrator, whether voluntarily or involuntarily, is central to decreasing domestic violence and increasing women's safety. Options such as behaviour change programs being mandated rather than voluntary at the point of making a domestic violence order could also be a strategy worthy of consideration.

Serial DFV offender register

The Taskforce has also made a recommendation about the introduction of a serial domestic and family violence offender register being implemented, initially at state level with the view to a national register. We support this concept, along with a mechanism for the monitoring of serial offenders once a sentence is completed. Currently, serial offenders re-enter the community to continue committing serious violence against the same or new victims.

Specialist DFV training

We are hopeful that the use of the dominant-aggressor model, specialised training (especially in coercive control and perpetrator image management) and access to more information including a serious and high-risk domestic and family violence offender register (and ultimately a national register), will significantly increase the safety of First Nations women and girls.

Additionally, to enhance the experiences for First Nations women and girls in the criminal justice system, there needs to be continued, culturally appropriate training of judicial officers, registry staff, legal representatives, and organisations and service providers to ensure they are equipped to deal with First Nations women and girls in respectful and understanding ways. This training should include an understanding of complex trauma and the coping mechanisms that many of these women may use and how this is portrayed in their actions and demeanour.

Childhood trauma, intergenerational trauma, trauma from domestic/sexual violence and other forms of trauma can often manifest itself in behaviour incorrectly identified as hysterical,

violent, or untruthful by police and others in the justice system. This can lead to First Nations women erroneously being identified as perpetrators and offenders, or as unreliable witnesses.

The need for First Nations victims to continue to recount their stories can be triggering and retraumatising. We hear how uncomfortable some First Nations women and girls find telling their stories to male police officers and/or other men in the criminal justice system. We hear those women and girls' trauma is ignored, misunderstood and unrecognised throughout the criminal justice processes. The current approach can lead to First Nations women and girls withdrawing statements or police deciding not to prosecute an offender due to lack of cooperation from the victim, or the perceived unreliability of the victim's evidence. Unfortunately, this can also lead to women and girls no longer reporting incidences of domestic and family violence or sexual assault to police and/or support agencies.

Access to interpreters

Access to indigenous language interpreters needs to be improved, especially in regional and remote Queensland. Interpreters need to be readily available when QPS attend at incidents (or shortly thereafter) and during court processes. The QPS should amend their processes to ensure that First Nations women and girls with communication barriers have the opportunity to tell their version of events in a safe way. Women and girls who require these services need to be informed of their availability.

Court processes/training

Upgrades to court infrastructure, enhanced security at court and changes to overall court processes would help First Nations women feel safer during their journey through the criminal justice system. Access to free, confidential, culturally appropriate, trauma-informed and competent legal advice should also be improved. Domestic and family violence and vulnerable persons units and duty lawyer services need to be adequately funded to allow services at all regional and remote courts.

Trauma and the impacts of trauma are not understood at all well within the justice system and this can result in poor experiences for First Nations women and girls engaged in court processes and the criminal justice system overall. A lot can be done to improve the interactions that traumatised women and girls experience at all levels of the justice system. The starting position is to ensure that police, legal representatives, court staff and judicial officers are educated in and employ trauma-informed approaches at each level of interaction.

Faster targeted access to recovery expenses

We wish to comment on the long delays women and girls face in waiting for an application to be assessed and approved under the Victim's Assist Queensland scheme - currently up to 18 months. A proposal worth considering to facilitate faster and more targeted access to recovery expenses is providing judicial officers with statutory powers to distribute emergency financial relief under the Victims Assist Queensland program. These powers could be enlivened when sentencing perpetrators of domestic/sexual violence if a judicial officer determines that victims-survivors need additional support. For instance, judicial officers could direct that a cash

sum be distributed to assist a victim-survivor find alternative accommodation for her and her children. We understand that that a similar system has operated in Victoria.