



QUEENSLAND INDIGENOUS FAMILY VIOLENCE LEGAL SERVICE

Submission to the Australian Senate Legal and
Constitutional Affairs Committee Inquiry into Missing
and Murdered First Nations Women and Children

12 December 2022

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The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the Australian Senate Legal and Constitutional Affairs Committee Inquiry into Missing and Murdered First Nations Women and Children

Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the call for submissions to the Australian Senate Legal and constitutional Affairs Committee Inquiry into Missing and Murdered First Nations Women and Children (Senate Inquiry).

QIFVLS is one of fourteen (14) Family Violence Prevention Legal Services ('FVPLSs') across Australia and one of the thirteen (13) FVPLSs that are part of the National Family Violence Prevention Legal Service ('NFVPLS') Forum. Accordingly, this submission will draw on the experience of QIFVLS as one of two Aboriginal and Torres Strait Islander community-controlled family violence prevention legal service providers in Queensland. We are exclusively dedicated to providing legal and non-legal support services to assist Aboriginal and Torres Strait Islander victim-survivors of family violence and sexual assault with a breadth and scope of services which stretch to the outer islands of the Torres Strait, neighbouring Papua New Guinea. Together with its legal services, QIFVLS can be distinguished from other legal assistance providers through its advantage in providing holistic assistance from the front-end via a wrap-around model that embraces early intervention and prevention.

Broad overview of the full cycle

We take great lengths to underscore that Australia cannot see the systemic causes of violence through a 'victim' lens. The system has let women and girls down when they also come in contact with the justice system as perpetrators. Presently, Indigenous women and girls account for 31.1% of sentenced women in Queensland (almost eight times their level of representation in the general Queensland population) and even more sobering is the fact that 74.6% of sentenced girls under 12 identify as Indigenous¹. This underscores QIFVLS' long held view that family violence is the cornerstone which leads to incarceration.

Perspective as a community-controlled organisation

As an Aboriginal and Torres Strait Islander Community-Controlled Organisation ('ACCO'), QIFVLS is uniquely positioned to comment on the matters to be addressed by the Senate Inquiry. When considering the stark figures available to us, it is not alarmist to highlight the crisis that has been unfolding before our eyes in the rates of missing and murdered First Nations women and children. With a murder rate up to 12 times the rate² compared with non-Indigenous women, the lack of action over the forgotten and invisible women and children in Australia is a national shame.

With the sobering knowledge that little if any literature has examined missing rates among Aboriginal and Torres Strait Islander peoples³, our submission aims to reflect our clients' experiences and the observations of our staff in matters in which they provide assistance, notably in the areas of family

¹ https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0008/735425/Sentencing-profile-on-womens-and-girls.pdf, page 1

² Senate Committee Hansard, 5 October 2022

³ AIC Report – p29

violence, child protection, family law and the youth justice and adult criminal justice system. We live in the communities and see and hear directly from our clients about the range of services they have received from a variety of government agencies.

We highlight the vast gulf in the level and availability of services between clients in urban, metropolitan and regional areas in contrast to on-the-ground services or lack of, in rural and remote areas.

In this regard, we note that our rural and remote clients especially, have been failed by the disparity in the level of services they receive. QIFVLS understands that as first responders, police work in challenging circumstances, often in under-resourced communities where other essential services are severely lacking. We understand that there are many police officers performing to their best and doing a good job in some cases. To this point, we are aware that some women have called for more police involvement and presence in communities⁴.

Regrettably though, we have found ourselves all too often in the position of intervening where the police response has consisted of:

- The victim-survivor of DFV being misidentified as the offender/main offender;
- Lacking urgency/inadequate investigation necessitating further investigation and follow-up by QIFVLS lawyers and case management officers; and
- Police disbelieving, minimising or disregarding issues reported.

Evidence of poor police responses to domestic and family violence in Queensland can be seen in the recently released report, *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022.

Police play a critical role as first responders to victim survivors of domestic and family violence such that: *“Police are the gatekeepers to the justice system, and their response can reduce or prevent future violence for victims-survivors and their children, hold perpetrators to account and, at times, save lives. If their response is performed poorly, it can embolden the perpetrator and drive the victim-survivor away from help.”*⁵

This is an example of how failure in service delivery can create a domino effect leading to the disappearance and murder of First Nations women and children. The recent ABC Four Corners story on missing and murdered First Nations women pinpointed that to our knowledge, 315 First Nations women and children had gone missing over the last 20 years. In order to ensure that government agencies, particularly police, and First Nations communities are working in partnership to close the gap, our submission highlights some of our clients’ experiences whilst simultaneously suggesting courses of action that we hope the Committee will consider and accept as a means to making the community safer for First Nations women and children.

Summary of QIFVLS’ recommendations

At the outset, QIFVLS submit that the following recommendations are considered:

Recommendation 1 – The institution of a Standing Taskforce / Standing Investigations Unit with the power to re-investigate cases of missing and murdered Indigenous women and children.

⁴ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*, p157

⁵ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022, p.20

Recommendation 2 – Greater investment in specialised and culturally safe police.

This could consist of increased cultural training for police via a framework of training that is delivered over several days. Regular cultural awareness training is vital to improve the cultural competency of police officers when dealing with members of the Aboriginal and Torres Strait Islander community. This would greatly assist in developing a greater level of cultural awareness and understanding of social and historical influences on Aboriginal and Torres Strait Islander disadvantage. It is critical that any cultural awareness training that is to be delivered to police should be co-designed with First Nations peoples and communities and be co-delivered by First Nations peoples and communities⁶.

Recommendation 3 – Community-specific induction for police officers when attached to a new community⁷

Police require an understanding of the specific community they are serving, including language, significant elders in the community, ceremonial law, ceremonial places and appropriate ways of interacting with community.⁸ This necessitates strengthening cultural awareness, forming partnerships with communities whilst also taking care not to adopt a one-size fits all attitude to First Nations communities. This is a critical consideration given the Queensland and findings that:

“For QPS members to work effectively with and in a community, they must have an understanding of the community’s culture, history, relationship with police and unique needs. This is true of all communities, but particularly essential for discrete First Nations communities or areas where there is a high First Nations population. Any cultural induction should be tailored and specific to that community and should be delivered by a person with cultural authority.”⁹

Recommendation 4 – As part of Priority Reform #3 of the [National Agreement on Closing The Gap](#), government agencies routinely (at least annually) review their current policies regarding cultural frameworks to ensure they are implemented, if not already, and effectively monitored.

Recommendation 5 – Resourcing and funding required to achieve these issues.

Under-resourcing of services and programs delivered to First Nations communities is part of the disadvantage experienced by First Nations communities. As noted in the Australian Human Rights Commission’s *Wiyi Yani U Thangani* report, it is vital that we provide resources and culturally appropriate training to police given that:

- they are so often first responders; and
- that women need to be confident in seeking protection from them.¹⁰

Recommendation 6 – Priority given to address the misidentification of female Aboriginal and Torres Strait Islander victim-survivors as perpetrators and ensure police have guidance with identifying domestic violence primary aggressors.

Recommendation 7 – Invest in communities and community-led solutions.

Increase funding and resourcing for culturally appropriate and community-controlled services. An example is the community policing model in Broome, WA where the Kullarri Patrol, run by local community women, is used as an alternative to police and intervenes, de-escalates and prevents family violence.¹¹ Government investment in communities and community-led solutions would provide a fine

⁶ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence Report November 2022, p.27 – Recommendation 41 for example.*

⁷ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*

⁸ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*, p170

⁹ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence Report November 2022, p.18*

¹⁰ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*, p158

¹¹ Change the Record (2021), *Pathways to Safety*, p7

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example of the government meeting Priority Reform #2 on the [National Agreement on Closing The Gap](#) together with making a step towards adhering to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) principles of self-determination.

Recommendation 8 – Adoption of a multi-agency co-responder model for police and other agencies in responding to DV incidents – especially when on country.

This ensures that a response to an incident is not purely a police response but includes an integrated response factoring in health and housing perspectives.

Recommendation 9 – Establishment of a Vulnerable Persons Unit (VPU) within police services

This would account for the fact that in some jurisdictions across Australia, responding to domestic and family violence can comprise between 40 – 60% of police callouts¹².

Recommendation 10 – Establishment of a nationwide independent law enforcement monitors with civilian oversight of police services.

The establishment of an independent police oversight body to monitor police responses and handle complaints would also help to ward off the public perception of police investigating police.

Recommendation 11 – police services to focus on internal policies and marketing initiatives to increase support, recruitment and retention of Aboriginal and Torres Strait Islander staff with a particular focus on frontline police officers together with expanding the powers of police liaison officers (PLO's).

Police should adopt education, training and recruitment practices that promote:

- Aboriginal and Torres Strait Islander, especially women, employment and participation; and
- More appropriate responses to Aboriginal and Torres Strait Islander women as victim-survivors and accused persons.¹³

Recommendation 12 – All state and territory police jurisdictions to consider establishing a Domestic Violence Centre of Learning with external academic governance to improve domestic violence education at all levels.

We note this is a key foundational reform of Victoria Police arising from the Victorian Royal Commission into Family Violence. In the Victorian Royal Commission, it was recommended that the Family Violence Centre of Learning can recruit new staff, conduct training and construct curriculum, establish academic governance group.

Recommendation 13 – That the Committee undertake an audit of recommendations of previous commissions of inquiry, including the Royal Commission into Aboriginal Deaths in Custody and identify which recommendations have been effectively implemented

Revisit and review these recommendations to ensure they are being applied in a way that was originally intended.

Recommendation 14 – Data Collection: That all governments and government agencies who collect data review their processes for collection of data and identify processes for sharing data:

- Amongst each other; and
- with Aboriginal and Torres Strait Islander community-controlled organisations

in line with Priority Reform #4 of the National Agreement on Closing The Gap (Data sharing).

¹² QPS submission to Women's Safety and Justice Taskforce

https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf, p162

¹³ Human Rights Law Centre & Change the Record (2017), p7

Recommendation 15 – Investment in the National Family Violence Prevention Legal Service Forum.

We call for an adequately funded and self-determined national body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence.

Recommendation 16 – Reviewing media coverage of missing and murdered First nations women and children.

Recommendation 17 – That a national Aboriginal and Torres Strait Islander child protection notification and referral system be established.

The system would provide a nationally consistent mandatory notification and referral system (akin to the Custody Notification System) to refer Aboriginal and Torres Strait Islander families in contact with the child protection system to culturally appropriate supports and services such as Family Violence Prevention Legal Services (FVPLS' such as QIFVLS), including independent legal advice, at the earliest possible opportunity.

About QIFVLS

QIFVLS was established in 2010 when four (4) legal services became one (1) - Cape York Family Violence Prevention Legal Service, Indigenous Family Violence Legal Outreach Unit, Indigenous Families Support Unit and Helem Yumba Family Violence Prevention Legal Service. This was followed in 2014 with additional service delivery to the Brisbane Local Government Area.

QIFVLS is a not-for-profit legal service formed under the Family Violence Prevention Legal Services Program ('FVPLSP') through the Department of Prime Minister and Cabinet's Indigenous Advancement Strategy ('IAS'). The FVPLSP fills a recognised gap in access to culturally appropriate legal services for Aboriginal and Torres Strait Islander victims of family and domestic violence and sexual assault.

QIFVLS is an Aboriginal and Torres Strait Islander Community Controlled Organised (ACCO), comprised of a 9-member board of directors – 7 identify as Aboriginal and or Torres Strait Islander and 2 specialist directors in the areas of Legal and Finance.

QIFVLS is a unique, specialised and culturally safe frontline legal service that supports access to justice and keeps victims of family violence safe. QIFVLS addresses the need to reduce violence and increase safety in Indigenous communities.

QIFVLS provides services in the areas of domestic and family violence; family law; child protection; sexual assault and Victims Assist Queensland ('VAQ') applications. QIFVLS supports its clients through all stages of the legal process: from legal advice to representation throughout court proceedings.

QIFVLS provides a culturally appropriate service response to meet and support our client needs through the legal processes as well as in relation to addressing and meeting non-legal needs. This is done through our case management practice model.

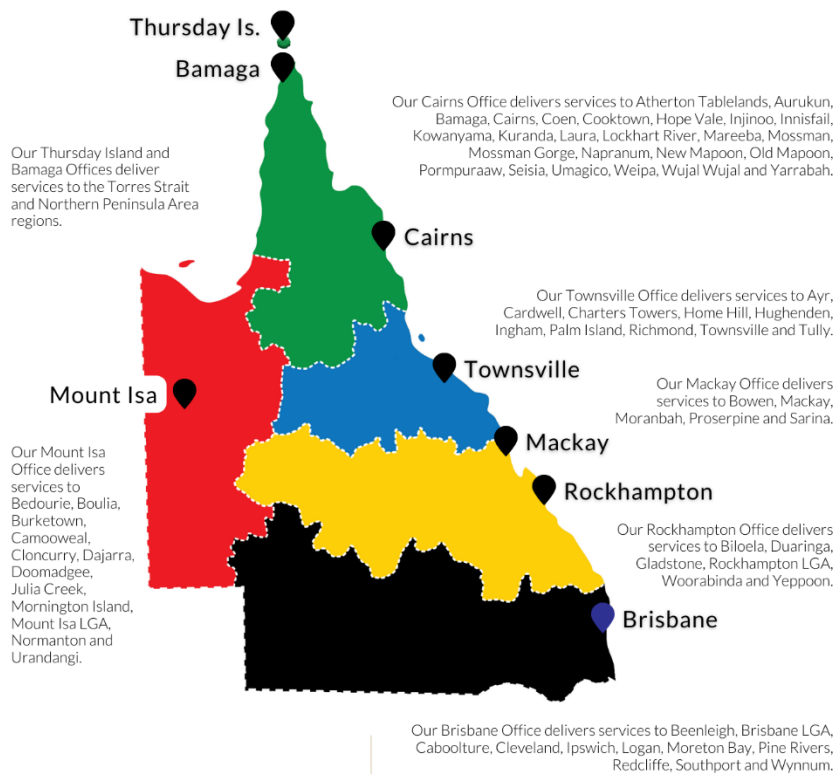
QIFVLS' Case Management Practice model

To address an area of unmet need, QIFVLS' within its current funding through the then Department of Prime Minister and Cabinet and now, through the National Indigenous Australians Agency (NIAA), developed and implemented a Case Management Practice to complement and run alongside the legal practice. The Case Management Practice was originally piloted in our Rockhampton office in 2016 and provided success in being able to holistically respond to both legal and non-legal needs of victim/survivors of family violence. The Case Management Model was then expanded for trial in our Mount Isa office in

2018 and proved successful there. As a result, QIFVLS has now integrated and embedded the Case Management Practice across all QIFVLS offices across the state of Queensland.

The Case Management Practice was developed as it was initially observed in Rockhampton and in Mount Isa that our clients were presenting to QIFVLS as a result of their unmet non-legal needs. The Case Management Practice is a non-therapeutic model based on the principles of the Case Management Standards of Australia but tailored to be delivered by an ACCO for and by Aboriginal and Torres Strait Islander peoples. Clients entering case management are assisted to address their non-legal needs whilst also responding and addressing their legal needs. This is a holistic, wrap-around service delivery model that utilises strong referral pathways with existing service providers in community, whilst allowing a client to set achievable goals at a pace determined by the client, thereby achieving self-efficacy and self-determination.

Another stand out feature of QIFVLS Case Management Practice is that our Case Management Officers as well as our Case Management Practice Manager, are all identified roles. The case management support that is provided to QIFVLS clients is delivered by duly qualified Aboriginal and Torres Strait Islander QIFVLS staff within a trauma informed and culturally safe manner.



As demonstrated by the above map, QIFVLS is mainly an outreach service where our teams go into rural and remote communities to meet with clients. QIFVLS services over 80+ Aboriginal and Torres Strait Islander communities throughout Queensland. It is recognised that Queensland is nearly five (5) times the size of Japan; seven (7) times the size of Great Britain and two and a half (2.5) times the size of Texas¹⁴. Bearing that in mind, QIFVLS has eight (8) offices across Queensland –

¹⁴ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>

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- (1) a service delivery office in addition to its Head Office located in Cairns, responsible for servicing Cape York communities, Cooktown; Atherton Tablelands, Innisfail and Yarrabah (and communities in between);
- (2) a service delivery office in Bamaga responsible for servicing Cape York communities as far north as Bamaga and Umagico;
- (3) a service delivery office on Thursday Island responsible for servicing communities stretching to the Outer Islands of the Torres Strait, neighbouring Papua New Guinea;
- (4) a service delivery office in Townsville responsible for servicing Townsville, Palm Island, Charters Towers, Richmond and Hughenden (and communities in between);
- (5) a service delivery office in Rockhampton responsible for servicing Rockhampton, Woorabinda, Mt Morgan, Biloela (and communities in between);
- (6) a service delivery office in Mount Isa responsible for servicing Mount Isa, the Gulf of Carpentaria communities, as far south as Bedourie and across to Julia Creek (and communities in between);
- (7) a service delivery office in Brisbane responsible for servicing the Brisbane local government area.

QAIHC Submissions

QIFVLS is a member of the Queensland Aboriginal and Torres Strait Islander Coalition of peak Aboriginal and Torres Strait Islander community controlled organisations. We work closely with our fellow coalition members to deliver services and move towards realising the National Agreement on Closing The Gap.

Our fellow coalition member, the Queensland Aboriginal and Islander Health Council (QAIHC), is also lodging submissions to this Senate Inquiry. QAIHC's submissions will seek to turn the Committee's collective minds to the important aspects of a health approach. QIFVLS endorses the submissions made by QAIHC and supports the development of referral pathways between health and justice. In particular, we note that QAIHC's submissions will focus on cultural safety to accommodate access, as well as advocating an early intervention/prevention approach relating to domestic and family violence, specifically:

1. Investment into programs that promote healing to address intergenerational trauma
2. Commonwealth, State/ Territory agencies to progress Priority Reform #3 by identifying and eliminating institutional racism, specifically by:
 - a. Prioritising data development for priority reform three, as there is no current mechanism to hold government accountable to this priority reform, and
 - b. Implementing transformational elements in clause 59 of the National Agreement, as agreed by governments and Aboriginal and Torres Strait Islander peoples in 2020
3. Investment into Aboriginal and Torres Strait Islander Community Controlled Health Organisations (ATSICCHOs) to increase their capacity to deliver behavioural change programs,
4. Actions to increase safety for Aboriginal and Torres Strait Islander women and children should be determined, developed and owned by the local community.

We refer you to QAIHC's submissions for further detail.

Family violence as the cornerstone

QIFVLS' experience is that family violence is the corner stone or intersection, that links an Aboriginal and Torres Strait Islander person's connection to the child protection system, the youth justice system, the adult criminal justice system and the family law system. These 'connectors' are further compounded or exacerbated for those living in regional, rural and remote parts of Australia, where there are restrictions on the availability of actual on the ground services to assist a victim-survivor escaping a violent

relationship¹⁵ (i.e., domestic violence support services and shelters; actual police presence within a community).

Through QIFVLS' provision of legal advice, legal casework, and non-legal supports, QIFVLS has witnessed the multi-faceted impacts of family violence daily, including the intersection between family violence, family law, child protection, and the criminal justice system.

Our submission is underpinned by our belief that for there to be a reduction and elimination of violence against Aboriginal and Torres Strait Islander women and children, there must also be a genuine prioritisation of culturally safe and targeted approaches by government agencies which specifically address Aboriginal and Torres Strait Islander families' needs, perspectives and barriers to obtaining assistance. This requires a tailored response from the Government that includes long term investment in early intervention, prevention and community education approaches (developed in partnership with Aboriginal and Torres Strait Islander community organisations and led by ACCOs) in addition to specialised and culturally safe frontline legal services (such as those provided by the FVPLSs across Australia) for Aboriginal and Torres Strait Islander victims/survivors.

Moving away from siloed government responses, QIFVLS advocates for uniform and consistent strategies that improve responses in the policing and criminal justice system, the child protection system and corrective services. The sustainability of a holistic and targeted response (as opposed to a piecemeal approach highlighting a lack of co-ordination and a number of 'key pieces operating in complete silos to each other) will require investment by Government at the *front end* – that is investing in areas that have been clearly identified in the well-established literature as being core social drivers giving rise to the over representation of Aboriginal and Torres Strait Islander women, children and men being victims/survivors of family violence and sexual assault.

All QIFVLS clients across Queensland have been or are a victim of domestic and/or family violence. Additionally, with more than 85 percent of QIFVLS' clients being female, we would be confident in saying that upwards of 90 percent of our clients have children involved in their matters across the areas of Domestic Violence, Family Law, Child Protection and Victims Assistance applications. With all of our clients being exposed to domestic and family violence coupled with the majority of children being involved, and even considering the high numbers of female aggrieved in Queensland's Domestic Violence Courts, it is clear that the exposure of domestic and or family violence to children is high. In addition, it seems ominous that Queensland children are exposed to, not just domestic and or family Violence, but female targeted violence. This makes the probability of children replicating what is learnt or seen high.

When looking to tailor and implement immediate and long term measures to prevent violence against Aboriginal and Torres Strait Islander women and their children, it is important to recognise and accept that “[f]amily violence within Indigenous communities needs to be understood as both a cause and an effect of social disadvantage and intergenerational trauma.¹⁶” Social disadvantage and intergenerational trauma have their roots embedded within a history of destruction, disadvantage and dispossession from land, culture, family and community, stemming back to colonisation. Family violence is not part of Aboriginal or Torres Strait Islander culture nor is it limited to interactions only between Aboriginal and Torres Strait Islander peoples. Aboriginal and Torres Strait Islander women experience family violence from both non-Indigenous and Aboriginal and Torres Strait Islander peoples. This in turn leads to an Aboriginal and Torres Strait Islander woman having a disproportionate experience of ‘family violence’ –

¹⁵ Australian Institute of Health and Welfare (AIHW), Alcohol and other drug use in regional; and remote Australia: consumption, harms and access to treatment 2016-17. Cat.no. HSE 212. Canberra.

¹⁶ Australian Institute of Health and Welfare (AIHW), Family, domestic and sexual violence in Australia, 2018. Cat. No.FDV 2. Canberra

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which is more than simply gender inequality, but rather a wider context of marginalisation^{17 1}, described in the following manner by the NFVPLS:

“As both women and as Aboriginal people, Aboriginal women experience multiple forms of discrimination and marginalisation. In the algebra of power, intersectional discrimination is best understood as a process of multiplication rather than addition. Rather than experiencing sexism and racism as being distinct and separate from one another, the two are often combined to form new and ugly forms of discrimination directed specifically at Aboriginal women.”¹⁸

The net practical effect of the experience for an Aboriginal and Torres Strait Islander person in relation to family violence therefore, is that ‘...family violence is interwoven with all spheres of disadvantage and inequality...and remains one of the biggest challenges facing our children, families and communities.’¹⁹

QIFVLS experience is that family violence is the corner stone or intersection, that links an Aboriginal and Torres Strait Islander person’s connection to the child protection system; the youth justice system; the adult criminal justice system and the family law system. These ‘connectors’ are further compounded or exacerbated for those living in regional, rural and remote parts of Australia, where there are restrictions on the availability of actual *on the ground services* to assist a victim escaping a violent relationship²⁰ (ie domestic violence support services and shelters; actual police presence within a community).

For there to be success in implementing long term measures to prevent violence against women and their children, there must also be a corresponding genuine will and consensus to reducing and eliminating family violence and sexual violence within Aboriginal and Torres Strait Islander communities This will involve a genuine prioritisation of culturally safe and targeted approaches which specifically address Aboriginal and Torres Strait Islander women and children’s unique needs, perspectives and barriers to obtaining assistance. This requires a tailored response that includes long term investment in early intervention, prevention and community education approaches (developed in partnership with Aboriginal and Torres Strait Islander community organisations) as well as specialised and culturally safe frontline legal services (such as those provided by the FVPLS units across Australia) for Aboriginal and Torres Strait Islander victims/survivors.

QIFVLS approach to implementing long term measures to prevent violence against Aboriginal and Torres Strait Islander women and children has been in the creation and delivery of culturally appropriate community education (CE) and community legal education sessions (CLEs) in rural, regional and remote Queensland. Embedded within the core of the CEs and CLEs is education around healthy and unhealthy relationships, with an emphasis on empowering gender equality. Our stand alone CE on ‘Healthy and unhealthy relationships’ is geared towards school aged children (pre-teens and teenagers) and can be delivered within a school setting environment. QIFVLS has identified in the mapping of the effectiveness of its community education programs, that long term effective change is generational and must start with our young people. In that vein, QIFVLS has now developed an internal stream to allow its Case Management Officers to be trained as facilitators to deliver the *Love Bites Training*.

¹⁷ Strong Families, Safe Kids: Family violence response and prevention for Aboriginal and Torres Strait Islander children and families, Policy Paper, September 2017: a collaboration between SNAICC – National Voice for our Children; NFVPLS and National Aboriginal and Torres Strait Islander Legal Services (NATSILS).

¹⁸ National Family Violence Prevention Legal Service Forum (2014), *Submission to the Senate Finance and Public Administration References Committee Inquiry into Domestic Violence and Gender Inequality*, Melbourne.

¹⁹ Strong Families, Safe Kids: Family violence response and prevention for Aboriginal and Torres Strait Islander children and families, Policy Paper, September 2017: a collaboration between SNAICC – National Voice for our Children; NFVPLS and National Aboriginal and Torres Strait Islander Legal Services (NATSILS), p.6.

²⁰ Australian Institute of Health and Welfare (AIHW), Alcohol and other drug use in regional; and remote Australia: consumption, harms and access to treatment 2016-17. Cat.no. HSE 212. Canberra.

The QIFVLS service delivery model (spoken to in the ‘About QIFVLS’ section above) and includes our integrated case management practice model) is such that QIFVLS lawyers are supported to deliver purposeful legal services in a holistic, wrap around practice with the assistance of the identified roles of the Case Management Officers. QIFVLS integrated practice model ensures that tailored support is provided to a vulnerable Aboriginal and Torres Strait Islander client to meet her legal and non-legal needs.

In relation to QIFVLS’ Case Management Practice Model, at its centre is the embedded concept that by building the self-efficacy of the client, through case planning and the achievement of case goals (at a pace that the client can achieve), within a strong referral framework, a client will reach a point of self-determination, breaking out of the cycle of violence, thereby reducing and eliminating their contact with the child protection system and criminal justice system. By positively influencing the trajectory of the client, the flow on effect is the reduction and ultimate elimination of contact with the child protection system and criminal justice system. QIFVLS’ case management practice model at its heart, is focused on generational change, strongly driven by an Aboriginal and Torres Strait Islander Community Controlled Organisation, whilst supporting the self-efficacy and self-determination of Aboriginal and Torres Strait Islander people but especially Aboriginal and Torres Strait Islander women and their children.

QIFVLS advocates that any investment or resourcing must be done so on the basis of effecting generational change. This in turn will require commitments to long term funding measures and a focus on achieving ‘outcomes’ as opposed to being output orientated. Evaluation frameworks will also need to be established to monitor and track the achieved outcomes.

Additionally, the focus on ‘preventative measures’ must shift away from a tertiary response – that is the more punitive criminal justice type response as well as the child protection response – to a focus on bolstering at the *front end* in relation to early intervention and prevention. This focus on a shift away from tertiary responses to front end early intervention and prevention has been highlighted in the 2019 Queensland Productivity Commission Report on *Imprisonment and Recidivism*²¹ with the following key findings made by the Queensland Productivity Commission (QPC)²²:

- social and economic disadvantage is strongly associated with imprisonment, around 50% of prisoners had a prior hospitalisation for mental health issue and/or were subject to a child protection. However, for female indigenous prisoners, this figure rose to 75%;
- In Queensland, the rate of imprisonment has increased by more than 160% since 1992. The costs of imprisonment is likely to outweigh the benefits, with increasing imprisonment working to reduce community safety over time given that it costs approximately \$111,000 per year to house a prisoner; prisons are not effective at rehabilitation, and can increase the likelihood of reoffending;
- High indigenous incarceration rates undermine efforts to solve disadvantage – currently an Indigenous male in Queensland has almost a 30% chance of being imprisoned by the age of 25. Long term structural and economic reforms that devolve responsibility and accountability to Indigenous communities are required. Independent oversight of reforms is essential.
- The reforms suggested by the QPC, required as an essential first step, the overhaul of the decision-making architecture of the criminal justice system, including the establishment of an independent Justice Reform Office to provide a greater focus on longer term outcomes and evidence based policy making.

²¹ Queensland Productivity Commission, August 2019, Summary Report – Imprisonment and Recidivism, p.11

²² Queensland Productivity Commission, August 2019, Summary Report – Imprisonment and Recidivism, p. 2.

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Cairns QLD 4870	Cairns QLD 4870	Townsville QLD 4810	Rockhampton QLD 4700	Spring Hill QLD 4004	Mt Isa QLD 4825
P: 07 4045 7500	P: 07 4030 0400	P: 07 4721 0600	P: 07 4927 6453	P: 07 3839 6857	P: 07 4749 5944
F: 07 4027 1728	F: 07 4027 9430	F: 07 4764 5171	F: 07 4807 6162	F: 07 3319 6250	F: 07 4749 5955

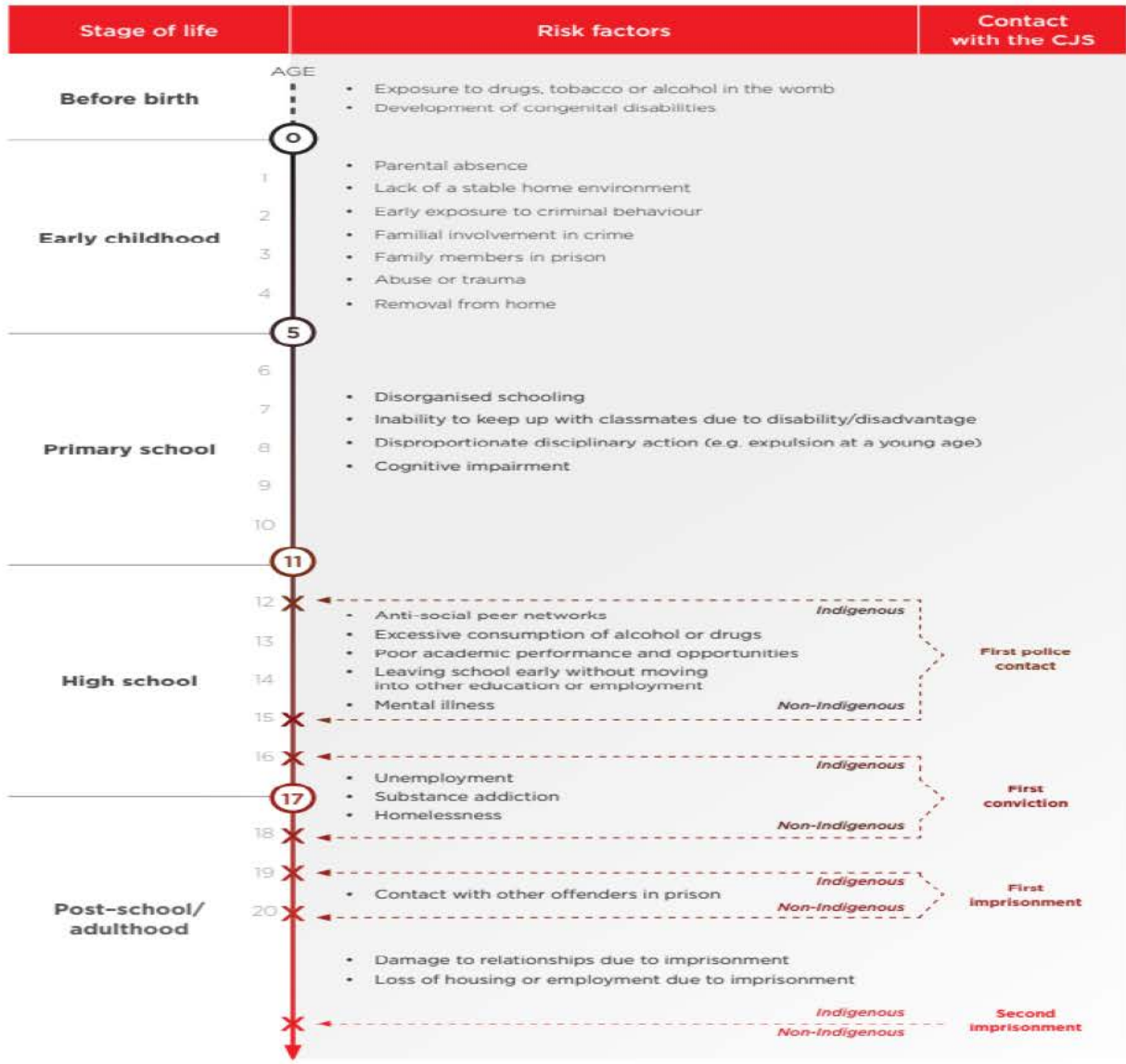
- The rate of Indigenous imprisonment is continuing to grow – increasing by 45% between 2008 and 2018. This rate of growth was 50% faster than for non-Indigenous people. Additionally, whilst women in Queensland were imprisoned at much lower rates than men, it was found that female imprisonment rates in Queensland had increased by more than 60% over the last decade. This finding by the QPC correlates to the findings made in the May 2017 Report, *Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment*, which relevantly found that nationally “Aboriginal and Torres Strait Islander women make up 34 percent of the adult female prison population but only 2 per cent of the adult female Australian population...The imprisonment rate of Aboriginal and Torres Strait Islander women has increased 248% since 1991 and Aboriginal and Torres Strait Islander women are currently imprisoned at the 21 times the rate of non-Indigenous women. From 2000 to 2016, their imprisonment rate increased at over double the rate of Aboriginal and Torres Strait Islander men. Aboriginal and Torres Strait Islander women enter the justice system at an earlier age and are almost twice as likely to return to prison after release compared to non-Indigenous women.”²³

The QPC went further in their report, creating a visual time-line highlighting the stark reality of successive government policy that has focused on tertiary responses and the risk factors that gave rise to a person’s contact with the criminal justice system in Queensland, especially if that person was an Aboriginal and or Torres Strait Islander:

²³ May 2017 Report, *Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment*, The Human Rights Law Centre and Change the Record: p.10-11.

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Figure 12 Risk factors and contact with the criminal justice system, Queensland



Source: QPC analysis.

Early intervention and prevention strategies and programs, based on the trajectory by the QPC, must be targeted, before birth. This focus aligns with QFVLS' long-term strategy of early intervention and prevention.

Recommendation 5 – Resourcing and funding required to achieve these issues.

Together with culturally appropriate resourcing, consider increasing investment in support services including Family Violence Prevention Legal Services to match demand and geographical spread. The usual response of putting more police into communities is not the only solution given communities' long-held fear and mistrust. What is also needed are expanded pathways for supporting communities driven by communities.

Recommendation 7 – Invest in communities and community-led solutions

Family Violence and Child removal:

There is a clear nexus between the rates of family violence experienced by Aboriginal and Torres Strait Islander peoples and the rate of child removal. The key findings to be reiterated here are:

- Family violence is the primary driver for the removal of Aboriginal and Torres Strait Islander children into out of home care²⁴;
- Aboriginal and Torres Strait Islander children represent 37.3% of the total of all children in out of home care despite comprising only 5.5% of the total population of children in Australia²⁵;
- In 2018, Aboriginal and Torres Strait Islander children were 7 times more likely to be on a permanent care order until aged 18 years and at risk of permanent separation from their families, cultures and communities. Additionally, data projection suggested that in the absence of a corrective change in trajectory, the number of Aboriginal and Torres Strait Islander children in care will more than double in the next ten (10) years²⁶.
- In 2022, Aboriginal and Torres Strait Islander children were 10 times more likely to be living in out of home care than non-Indigenous children and were less likely to be reunified with birth parents than non-Indigenous children with 79% in long term permanent care²⁷.

In order to see a reduction in the disproportionate and escalating rates of child removal driven by family violence, there must be a greater focus on front end support for Aboriginal and Torres Strait Islander people especially mothers. This is clearly highlighted in the timeline created by the QPC (*referred above*). The earlier that an Aboriginal and Torres Strait Islander woman is linked in with a specialist Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, the better the outcomes are for her and her children. Early referral to specialist, culturally safe and preventative legal and non-legal support from an Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, such as QIFVLS, is an essential step to support Aboriginal and Torres Strait Islander mothers to take proactive action and engage early with culturally safe and specialist supports to address interrelated mental health, family violence and child protection concerns.

QIFVLS frontline experience indicates that many Aboriginal and Torres Strait Islander families, particularly mothers experiencing or at risk of family violence, do not recognise child protection intervention as a legal issue until it is ‘too late’. This is despite the fact in Queensland that there has

²⁴ Commissioner for Aboriginal Children and Young People, Open Letter in response to 2015 *Report on Government Services*, 3 February 2015.

²⁵ The Family Matters Report (2019), Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia – 2019 Snapshot Data.

²⁶ The Family Matters Report (2019), Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia

²⁷ The Family Matters Report 2022, SNAICC, Data Snapshot.

been major legislative and policy reform in relation to Aboriginal and Torres Strait Islander peoples' interaction with the child protection system²⁸ aimed at:

- Embedding Case planning to include permanency goals including transitioning to adulthood
- Embedding principles that recognise the right to self-determination of Aboriginal and Torres Strait Islander peoples and a requirement to consider long term effects of a decision on identity and connection to culture for an Aboriginal and Torres Strait Islander child;
- Incorporating the 5 elements of the Child Placement Principle in the administration of the Queensland *Child Protection Act* (1999);
- Removes recognised entities and introduces the Independent Entity to support child/ family decision making. This role is particularly important in the family participation program and family led decision making. The family participation program provides for an independent Aboriginal and Torres Strait Islander facilitator to support a family in family led decision making;
- Family led decision making, allowing parties to have a say in the case plan/ family plan; strategies to keep children connected to culture and country or plans to return children to parents or other family members.

In relation to Aboriginal and Torres Strait Islander family led decision making, this was first trialled in Queensland in 2016-2017, with the Queensland Government, as part of its child protection reform agenda, rolling out the Family Participation Program (FPP) across Queensland, commencing in 2018. Additionally, the Queensland Government also provided funding to 15 Aboriginal and Torres Strait Islander Community Controlled Organisations to support family led decision making. The legislative reform agenda also provided, similarly to Victoria, for the statutory basis for the delegation of statutory powers to Aboriginal and Torres Strait Islander community controlled organisations for Aboriginal and Torres Strait Islander children.

According to the Queensland *Report of Government Services* covering the period 2018-2019, the rates of Aboriginal and Torres Strait Islander children in out of home care was below the national average of 54.2 per 1000 children, equating to 37 per 1000 children.

Despite the above, it is still early in relation to tracking the overall effectiveness of the child protection reforms in Queensland. QIFVLS' initial experience has been that although the policy reform and legislative reform embedding the Child Placement Principle and encouraging family led decision making and the use of the independent entity are welcome steps within the legislative and policy frameworks, we are not seeing this translate on the ground with uniform application by staff of the Department of Child Safety. QIFVLS experience has been that we are advised by our clients, usually at the latter stage of a notification and intervention by the Court, that the client was either discouraged from or never advised by child safety workers that they should seek independent legal advice in the first place.

A Child Protection Notification and Referral Scheme

QIFVLS, as a member of the NFVPLS Forum repeats and adopts the submissions first made by our sister FVPLS, Djirra, in relation to the creation of a child protection notification and referral scheme²⁹, namely:

- To avoid or minimise the escalation of child protection matters and keep Aboriginal and Torres Strait Islander children in Queensland safe and strong in their families, communities and culture, an Aboriginal and Torres Strait Islander and Child Protection Notification and Referral Scheme

²⁸ Through the enactment of the *Child Protection Reform Amendment Act 2017 (Qld)*, which commenced in October 2018.

²⁹ Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence, July 2020, p.15

(similar to the existing Custody Notification Service) should be established. This would require child protection workers to provide warm referrals to QIFVLS or another Aboriginal and Torres Strait Islander community controlled organisation with relevant expertise for all Aboriginal and Torres Strait Islander parents and carers in contact with the child protection system to independent, culturally safe, specialist and preventative legal advice and ongoing culturally safe wraparound support at the earliest possible opportunity, especially where family violence is a factor in potential child removal. The referrals should be made at the earliest possible stage, as soon as the family comes to the attention of the child protection system.

- Many Aboriginal and Torres Strait Islander mothers have a realistic fear that disclosing and seeking help for family violence will lead to their children being forcibly taken from their care. This is a common thread, not only with QIFVLS clients, but also with the communities that QIFVLS provides services to in rural and remote Queensland. This fear is quite real when one examines the findings of the Australian Institute of Health and Welfare, Child Protection in Australia, 2017-18 Report which found that:
 - Indigenous children were 8 times more likely as non-indigenous children to have received child protection services;
 - Children from very remote areas were 4 times more likely as those from Major cities to be the subject of a child protection substantiation.

The system would provide a nationally consistent mandatory notification and referral system (akin to the Custody Notification System) to refer Aboriginal and Torres Strait Islander families in contact with the child protection system to culturally appropriate supports and services, including independent legal advice, at the earliest possible opportunity. Note: An effective referral system relies on the availability of resourced, quality and culturally appropriate services to refer families to, and cannot be successful independent of other recommendations, particularly our recommendations.

Recommendation 17 – That a national Aboriginal and Torres Strait Islander child protection notification and referral system be established.

Standing Taskforce to reinvestigate unresolved missing and murdered cases

QIFVLS calls for the establishment of a Standing Taskforce / Standing Investigations Unit with the power to re-investigate cases of missing and murdered Indigenous women and children. This Standing Taskforce will have powers to recommend prosecutions to the relevant state DPP or recommend coronial inquests. QIFVLS calls for the establishment of an independent Standing Taskforce / Standing Investigations Unit for the purpose of:

- Re-investigating cases of missing and murdered Indigenous women and children.
- Investigation of incidents of failures to investigate cases, police misconduct and all forms of discriminatory practices.

The Taskforce should be comprised of an independent, highly qualified and specialised team of investigators to review and if required, to reinvestigate each case of all unresolved files of missing and murdered Indigenous women and children. Like the Call for Justice arising out of Canada’s National Inquiry (the Canadian Inquiry), the Taskforce must disclose to families and survivors all non-privileged information and findings³⁰.

Recommendation 1 – The institution of a Standing Taskforce / Standing Investigations Unit with the power to re-investigate cases of missing and murdered Indigenous women and children.

Historical and entrenched culture within police services

Queensland’s history is marked by among other things, the state’s historical use of the police as an agent of colonisation. Accordingly, we believe that the path to acknowledging our clients’ experiences begins with addressing historical and entrenched cultures of systemic racism, lack of cultural awareness, sexism and under-resourcing of services and programs delivered to Aboriginal and Torres Strait Islander communities.³¹ Entrenched cultures within the QPS have historically, and to the present day, shaped the way some police officers respond to acts of violence, particularly family violence and sexual violence, in indigenous communities. QIFVLS routinely receives reports from women that even when they have found the courage to report abuse, it has been overlooked or not taken seriously.³²

It is critical to note at this juncture that the *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022 found clear evidence of an entrenched culture within the Queensland police of misogyny, sexism and racism, finding significantly that “...racism is a significant problem within the QPS. It manifests in unfair and discriminatory behaviours directed towards First Nations QPS members, Police Liaison Officers, officers from other cultural backgrounds and members of the community.”³³

Barriers affecting relationships with police

QIFVLS have observed a few barriers faced by our clients, notably women, reporting incidents of family and sexual violence. Sadly, these are largely couched in fear and include:

- Fear of reporting to police due to a history of not being believed.
- Fear that reporting may lead to the removal of children/the breakup of the family unit.
- Fear of negative repercussions, especially in small remote communities.
 - including fear of payback by the offender’s family, stigmatisation or ostracization from the community.

³⁰ Canada’s National Inquiry into Missing and Murdered Indigenous Women and Girls, Calls for Justice - https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf

³¹ <https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268>

³² <https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268>

³³ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022, p.18.

Relationships with police

We have observed that relationships between our clients, particularly women and girls, on the one hand and police are characterised as ones of mistrust and fear. Regrettably, we report that in many situations, First Nations women and children do not consider the police to be a safe point of contact.

When our clients have reported to police, they have at times been met with an aggressive and heavy-handed response or alternatively, police inaction, disregard, disbelief and a lack of care.

We note that chronic under-policing and poor response times, particularly in remote communities, have formulated the experience and viewpoint that the police do not consider the protection and safety of Aboriginal and Torres Strait islander women and girls to be as worthy as other Australians. The Australian Human Rights Commission noted that poor police response times in communities can cause issues leading to some women taking matters into their own hands in the form of violent resistance and consequently becoming respondents to protection orders.³⁴

Other factors behind a fear of reporting include previous negative experiences when reporting family violence or assaults to the police and concerns that either the person reporting and/or the offender, often a family member, may become a death in custody.

Indeed, *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022 also found that:

“The intergenerational distrust and fear of police that is experienced by First Nations peoples and communities is compounded by their contemporary experiences of negative interactions with police. Inherent distrust and fear of police means that First Nations peoples face additional barriers to reporting domestic and family violence to the QPS. This results in interactions between police and First Nations peoples often taking place at crisis point. First Nations victims-survivors may also be more likely to sue resistive violence to protect themselves when they do not feel it is culturally safe to make a report to police. Beyond this initial crisis point, there are limited alternate options available to make a report outside of a police station. For First Nations victims-survivors a police station is not a culturally safe place for them to seek assistance or safety.”³⁵

These fears are not misplaced and they exist for good reason. Research noted in the Human Rights Law Centre and Change the Record’s 2017 report, *Over-represented & Overlooked*, together with our observations demonstrate that the exponential growth in the proportion of First Nations women and girls in prison is due to over-policing, racial profiling and targeting in First Nations communities. We have witnessed First Nations women and girls being detained and imprisoned for low level offences³⁶, the types of which do not receive the same targeting and detection in non-indigenous communities.³⁷ The Queensland Sentencing Advisory Council’s 2022 report, *Engendering Justice*, highlighted that 31.1% of sentenced women and girls are Indigenous – almost eight times their level of representation in the general Queensland population³⁸.

³⁴ Australian Human Rights Commission (2020), p221

³⁵ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022 – p.18

³⁶ https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0008/735425/Sentencing-profile-on-womens-and-girls.pdf, page

³⁷ Human Rights Law Centre & Change the Record, (2017)

³⁸ https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0008/735425/Sentencing-profile-on-womens-and-girls.pdf

It was critically observed in the *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022 that First Nations peoples are “...both over-policed and under-policed. This practice, combined with an increased focus on policing domestic and family violence and other cultural issues within the QPS [in Queensland], has contributed to the overrepresentation of First Nations peoples in the criminal justice system.³⁹”

QIFVLS Case Study - ‘Mary’ and ‘Jane’

- QIFVLS solicitor and case management officer assisted a mother, ‘Mary’ (not her real name) from a remote community. Mary had filed an application for a domestic violence protection order on behalf of her 12-year daughter, ‘Jane’ (not her real name).
- Jane had been in a relationship for over one year with a man who was 19 years old. Jane had made disclosures to Mary about the violence she had been subjected to at the hands of her partner, including physical, sexual, verbal and emotional abuse.
- Attempts by Mary to engage and utilise service providers such as the Police and Child Safety were unsuccessful and Jane continued to suffer and sustain violence from her partner, even after the end of the relationship.
- In July 2020, Mary engaged with QIFVLS and an application for a domestic violence protection order was filed on Jane’s behalf by Mary. Given the nature of the allegations contained in the application, the matter was heard on an urgent basis and a temporary protection order (TPO) was made. The TPO contained the mandatory terms and conditions but also additional conditions prohibiting the ex-partner from entering or attempting to enter a number of premises where Jane was, including her school; prohibiting him from locating or contacting or attempting to locate or contact Jane; prohibiting him from following or approaching Jane as well as prohibiting him from using social media and the internet to communicate with Jane and the named persons in the TPO.
- The matter was then listed for a mention in September 2020 to allow service on the ex-partner. Prior to the mention date and following service on the ex-partner, he continued to breach the TPO against Jane. A breach was reported to police two days before the matter was mentioned in the September mention date.
- When the matter finally returned to court in September, the ex-partner failed to appear at Court. QIFVLS Solicitor and Case Management Officer, appeared for Mary and Jane. Submissions were made that all requirements for the making of a final protection order had been satisfied, including that Mary, as the mother of Jane, could make the application for a protection order on Jane’s behalf, in the absence of the ex-partner.
- The Magistrates Court, in considering the severity of the allegations made by a 12-year-old Jane, the continued breaches of the TPO and the submissions made, made a final protection order for a period of 5 years, on the same terms and conditions as the TPO.
- We also provided support and further referrals to Mary and Jane to the appropriate services and stakeholders to seek on going counselling and guidance within the community.

The case study of Mary and Jane is an indicator of what we experience quite regularly in our practice. One of the most concerning elements in this case study, has been the lack of action taken by Police or Child Safety when complaints of sexual violence are made.

The case study of Mary and Jane was also presented into evidence before the Commission of Inquiry in its public hearings as part of the *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report’ November 2022.

³⁹ *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022 Page 18.

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Recommendation 2 – Greater investment in specialised and culturally safe police
Recommendation 3 – Community-specific induction for police officers when attached to a new community⁴⁰
Recommendation 11 – police services to focus on internal policies and marketing initiatives to increase support, recruitment and retention of Aboriginal and Torres Strait Islander staff with a particular focus on frontline police officers together with expanding the powers of PLO’s. QPS to report back on efforts they are making to increase the support, recruitment and retention of Aboriginal and Torres Strait Islander staff – with particular promotion of women

Misidentification of offenders

The misidentification of offenders occurs for a variety of reasons including lack of cultural awareness, lack of training and either negative stereotypes and/or negative views of the victim-survivor. At QIFVLS, we witness on a weekly basis situations where police have misidentified an offender through a failure to adequately investigate a report of violence, be it sexual or family violence matter that does not have a sexual component. On several occasions, it has been left to QIFVLS lawyers to undertake the investigative work and raise the clients’ circumstances in the Magistrates Court thus forcing a reconsideration of the client’s circumstances.

QIFVLS Case study – Anne’s story

- Anne (not her real name) was in a long-term relationship with Bill (not his real name) but had been the victim of domestic violence during this relationship, including physical violence towards herself by Bill. As a result, Bill had a domestic violence order (DVO) against him to protect Anne, as taken out by police and in place for some time.
- One weekend Bill was due to go away for a trip, but due to the COVID lockdown in Cairns it was cancelled. Anne was looking forward to a break from Bill and became frustrated having him around. A verbal argument broke out one night, and police were called. Because Anne threw a saltshaker in frustration at the ground (not at Bill or hitting Bill) the police took out a DVO against her naming Bill as the victim and Anne as the perpetrator.
- Anne works in community and a DVO may impact her blue card which would impact her work. It also caused a lot of shame for her as well.
- We identified that Anne was the greater victim and her actions were out of frustration. We referred Anne to the DV counsellor to assist in identifying triggers and domestic violence in her relationship to help prevent herself getting into that situation in future.
- At the Magistrates Court, we appeared for Anne and we adjourned the court matter for Anne to engage in domestic violence counselling. We opened a file for Anne to remove the need for the client to come back to court as we could appear on her behalf which she was grateful for due to her work commitments.
- At the next court event, we again appeared for Anne and we were able to provide a letter of support from the DV counsellor and made submissions as to why the order was not necessary or desirable. The Magistrate agreed with us and dismissed the application.
- This was a great outcome for Anne. Anne was very happy and relieved with the result and continues to have counselling with the DV worker as she found great benefit in it.
- Without QIFVLS assistance and representation, an order would have been made against Anne even though Anne is the greater victim in need of protection.

⁴⁰ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*

The case study of Anne’s story was also presented into evidence before the Commission of Inquiry in its public hearings as part of the *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence Report*’ November 2022.

In their 2021 report, *Pathways to Safety*, Change the Record highlighted a 2017 review of domestic and family violence related deaths in Queensland which found that almost half of the women killed subject to the review had been identified as a respondent to a DV protection order on at least one occasion. In the case of Aboriginal and Torres Strait Islander women, that number rose to almost 100% of deceased women recorded as “both respondent and aggrieved prior to their death. The statistics point to a system which responds to Aboriginal and Torres Strait Islander women by criminalising them when they seek safety and failing to protect them when they are at risk of harm.”⁴¹

The failure by police to properly investigate and the subsequent misidentification have far reaching consequences, perpetuating cycles of incarceration, child removal, mental illness, homelessness and substance abuse. The solution lies in a cultural overhaul of policing strategies including training that embeds cultural competency and reviews investigative strategies. In that regard, we note that Queensland has recently undergone a Commission of Inquiry into the Queensland Police Service’s responses to incidents of domestic and family violence. A significant part of the Inquiry’s focus was on the misidentification of offenders and the historic and current treatment and attitudes towards Aboriginal and Torres Strait Islander peoples in Queensland.

It is critical to note that the Commission of Inquiry in its Report - *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence Report* November 2022’ made a number of recommendations aimed at improving training provided to police officers, including that any cultural awareness training that is to be delivered to police should be co-designed with First Nations peoples and communities and be co-delivered by First Nations peoples and communities⁴². The Government in response to the 78 recommendations, announced a \$100m reform package to implement the reforms, including the investing in cultural capability training⁴³.

Recommendation 6 – Priority given to address the misidentification of Aboriginal and Torres Strait Islander women who are victims of domestic violence as perpetrators and ensure police have guidance with identifying domestic violence primary aggressors

Multi-agency responses

The Queensland’s Women’s Safety and Justice Taskforce (the Queensland Taskforce) examined the concept of multi-agency responses to incidents of domestic and family violence⁴⁴. The Taskforce heard

⁴¹ Change the Record (2021), *Pathways to Safety*, p11

⁴² *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence Report* November 2022, p.27 – Recommendation 41 for example.

⁴³ Joint Media Statement, Premier and Minister for the Olympics, Qld and the Minister for Police and Corrective Services and Minister for Fire and emergency Services Qld, 21 November 2022.

⁴⁴ Women’s Safety and Justice Taskforce (2022)

positive responses and reflections regarding the use of integrated responses and High Risk Teams as mechanisms to coordinate efforts to keep victim-survivors safe and hold perpetrators accountable⁴⁵.

These High Risk Teams are comprised of staff from the Queensland Police Service, Child Safety, Queensland Health, Queensland Courts, Queensland Corrective Services and the Department of Housing and Public Works. Non-government members may include specialist domestic and family violence services, local support services and culturally specific services.

QIFVLS recommend that a multi-agency co-responder model of a similar nature is considered in the context of responses to incidents of domestic and family violence.

While the Queensland Taskforce heard that for the most part, High Risk Teams successfully provided a joined up response to high-risk cases, it was also noted that there was limited cultural capability in the current approach to integrated responses. This would emphasise the need for cultural competence together with the dedication of government agencies to transforming their institutions in accordance with Priority Reform #3 of the National Agreement on Closing The Gap.

Recommendation 8 – Adoption of a multi-agency co-responder model for police and other agencies in responding to DV incidents – especially when on country. This ensures that a response to an incident is not purely a police response but includes a social and health response that complements the police.

Recommendation 9 – Establishment of a Vulnerable Persons Unit (VPU) within police services

Police independent oversight body

QIFVLS advocates for nationwide independent civilian police oversight bodies. We note that the Queensland Taskforce’s first report, *Hear Her Voice: Report One*, called for a Commission of Inquiry into the Queensland Police Service to consider whether an independent law enforcement conduct commission was required(242) – 85)⁴⁶. The Queensland Government accepted this recommendation. And a model is currently being reviewed.

An example would be the current model in NSW where the Law Enforcement Conduct Commission (LECC) is responsible for maintaining oversight of both the NSW Police Force and the NSW Crime Commission. The main focus of the LECC is more serious cases of misconduct and maladministration⁴⁷.

A law enforcement oversight body would have the power to observe and oversee investigations in relation to police negligence or misconduct, including but not limited to rape and other sexual offences.

⁴⁵ Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report One, Volume Two*

https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf, p115

⁴⁶ Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report One*, – addressing coercive control and domestic and family violence in Queensland (2022), Recommendation 2, p384

⁴⁷ Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report Two*

https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf -p242

Additionally, the oversight body could be tasked with observing and overseeing investigations of cases involving First Nations peoples.

We note the Queensland Commission of Inquiry in its Report - *Á Call for Change. Commission of Inquiry into Queensland Police Service responses to domestic and family violence* Report November 2022' in recommendation 68, called for the establishment of a Police Integrity Unit as an independent and separate unit of the Queensland Crime and Misconduct Commission to deal with all complaints in relation to police. This ensured a move away from the practice of police investigating police ensuring integrity of the complaint process.

Recommendation 10 – nationwide establishment of independent law enforcement conduct commissions to prevent the public’s perception of police investigating police.

Data collection – the most urgent reform

QIFVLS recommends that all governments and government agencies who collect data should review their processes for collection of data and identify processes for sharing data between each other as well as sharing data with Aboriginal and Torres Strait Islander community controlled organisations, communities and individuals where appropriate to do so.

To a large degree, the failure to capture data is the regrettable black hole through which we have been unable to adequately make sense of the numbers of missing and murdered First Nations women and children. The National Agreement on Closing The Gap includes increased data sharing as a key priority reform due to the significance that accurate collection of data can have in addressing unmet needs and informing the policy-making process. This inquiry has revealed that data collection or the lack there of, is a whole of government issue requiring fundamental reform.

We support the calls for urgent fundamental reform in this area as a matter of priority.

Recommendation 14 – Data Collection. That all governments and government agencies who collect data review their processes for collection of data and identify processes for sharing data between each other and also with Aboriginal and Torres Strait Islander community-controlled organisations in line with Priority Reform #4 of the National Agreement on Closing The Gap (Data sharing).

Government inaction

While the Senate Inquiry scrutinises responses of police to cases of missing and murdered women and children, on a broader scale, we believe that the actions taken by police jurisdictions and other government agencies need to be placed in context with a history of government inaction or inertia.

There has been a repeated failure of successive governments to effectively and adequately respond to recommendations of inquiries and reports on the conditions experienced by Aboriginal and Torres Strait Islander peoples. We do not wish to sound like a broken record but the factors contributing to systemic

disadvantage, high rates of family violence and the over-representation of Aboriginal and Torres Strait Islander peoples among statistics for domestic violence, incarceration and child removal, have been known and voiced to governments of all persuasions. The inertia has triggered ongoing trauma and harm to Aboriginal and Torres Strait Islander communities in circumstances which have been largely preventable.

QIFVLS calls for governments and government agencies to urgently review their current policies regarding cultural frameworks to ensure they are implemented and effectively monitored.

Additionally, QIFVLS is calling for a full-scale audit of the recommendations of previous commissions of inquiry, including the Royal Commission into Aboriginal Deaths in Custody with a view to identifying which recommendations have been effectively implemented and those that have not. Key to this will be settling on an agreed definition of what it means for a recommendation to have been *implemented*. Furthermore, the rich cultural diversity and uniqueness of Aboriginal and Torres Strait Islander peoples throughout Australia necessitates that such reviews must consist of talking face-to-face with those who have been directly impacted by government policies and the failure to implement any report recommendations. Communities will not accept 'desktop reviews' and tokenistic gestures.

Recommendation 4 – As part of Priority Reform #3 of the National Agreement on Closing The Gap, government agencies routinely (at least annually) review their current policies regarding cultural frameworks to ensure they are implemented, if not already, and effectively monitored.

Recommendation 13 – That the Committee undertake an audit of recommendations of previous commissions of inquiry, including Royal Commission into Aboriginal Deaths in Custody and identify which recommendations have been effectively implemented

Mandatory referral scheme to an FVPLS

QIFVLS as a member of the NFVPLS Forum echoes the Forum's recommendations that there be mandatory notifications to an FVPLS as soon as a woman is attended to by police and associated services.

In QIFVLS' experience, one of the key barriers facing Aboriginal and Torres Strait Islander people in regional, rural and remote Queensland, especially, women and children is access to on-the-ground, specialist, culturally appropriate and safe services. In this regard, we agree and mirror the statements previously made by our sister FVPLS unit, Djirra, that 'access to specialist, culturally safe legal services like QIFVLS, is critical to ensuring accessibility of the legal system for Aboriginal and Torres Strait Islander women seeking supports in the areas of family violence protection orders, child protection, family law and victims of crime assistance Queensland (VAQ).

QIFVLS, like Djirra, has seen some positive investment in culturally appropriate legal services, however funding gaps also remain in some rural and regional areas of Queensland, which are generally viewed as the responsibility of the Federal Government. QIFVLS, like Djirra has not received a real increase in in base level federal funding in the past 6 years to properly meet increased costs of vital frontline services for in many rural and remote areas in Queensland. These increased costs have, in 2022, also been impacted by the high rate of inflation coupled with the cost of fuel. The cost of fuel is an important

consideration given that as a remote and rural service provider, QIFVLS travels to communities, providing as the preferred model for service, face to face services in over 80+ First Nations communities. Most times we will be the most regular and relied upon service provider coming into community whether that is by driving, through plane charter hire or the use of ferry and helicopters (in instances where there is no plan landing strips).

The QIFVLS service delivery model (spoken to in the 'About QIFVLS' section above) and includes our integrated case management practice model) is a holistic, intensive client service delivery model with QIFVLS lawyers being supported to deliver purposeful legal services in a holistic, wrap around practice with the assistance of the identified roles of the Case Management Officers. QIFVLS integrated practice model ensures that tailored support is provided to a vulnerable Aboriginal and Torres Strait Islander client to meet their legal and pressing non-legal needs. As at 30 June 2022, QIFVLS had provided:

- 546 new legal cases (in addition to 630 legal case work files opened in the 2021 year);
- Had engaged 410 new clients from 566 new referrals;
- Had provided 1,019 legal advices;
- Had provided 414 non legal supports;
- Had provided 67 community education sessions;
- Had provided 46 community legal education sessions;
- Had attended 519 stakeholder engagements and community events.

Whilst QIFVLS clients face the natural barriers imposed by the fact that they are located in regional, remote and rural areas of Queensland, another limitation is the lack of adequate and long term funding from both the Commonwealth and the State. This in turn limits QIFVLS' ability to assist those most vulnerable and in need, through its holistic and specialist service. In some rural and remote communities in Queensland, QIFVLS is the only victim-specific Aboriginal and Torres Strait Islander family violence legal service provider that regularly physically engages with community providing face to face legal and non-legal supports and early intervention programs. Like Djirra, it is QIFVLS' experience that if Aboriginal and Torres Strait Islander people, especially women are not able to access mainstream services, or are not comfortable to do so, they are effectively denied access to justice. This in turn compounds the current alarming rates of overrepresentation across the legal system in both criminal law and child protection.

Further, QIFVLS' experience consistently across Queensland is that more often than not our client – normally a woman with children – will flee a violent relationship with nothing more than the clothes on her back and the children in tow. She will not have an independent economic means nor will she have identified independent housing means. She will be shunned by extended family and parts of the community. She will have nowhere and no one to turn to. There will be issues of alcohol and/or drug misuse. In addition to her pressing non-legal issues, she will be faced with the intervention by the Department of Child Safety to remove her children from her care on the basis that she has failed to protect them from harm by exposing them to domestic violence and cannot offer her children a safe home environment. In some instances as noted above in these submissions, she will be named as the Respondent in an application for a domestic violence protection order by Police. The type of services that QIFVLS provide this type of client is invaluable as it holistically responds to the clients need in a culturally safe manner focusing on the social determinants (family violence/alcohol/drug misuse/homelessness/poverty), whilst providing a tailored legal response.

Recommendation – That FVPLS providers such as QIFVLS gain access to longer term increased, sustainable funding from both state and federal governments.

Investing in the National FVPLS Forum

As detailed above, QIFVLS is a member of the National FVPLS Forum (the Forum). Accessibility and policy reform involving Aboriginal and Torres Strait Islander voices requires a national voice for Aboriginal and Torres Strait Islander people experiencing family violence.

The National FVPLS Forum is the national Peak body representing Family Violence Prevention Legal Services (FVPLS) members operating in every State and Territory in Australia that provide specialist legal and non-legal services to First Nations people affected by family violence. The Forum was established in 2012 to advocate for First Nations people affected by family violence and represent FVPLS members.

The Forum is a foundational member of the Coalition of Peaks and is the only national Peak body that represents member organisations that deliver specialised, holistic, family violence legal and non-legal services to First Nations people.

The operations of the Forum as a national Peak body were substantially disrupted in 2019 by the decision of the former Government to de-fund the organisation, at the recommendation of the then newly established National Indigenous Australians Agency (NIAA). After significant protest, the Forum's funding was divided equally between FVPLS agencies, which then contributed these funds back to the Forum as membership fees on an annual basis. This allowed the Forum to continue but at a severely limited capacity, without funding or staff security. This has created a significant gap in the past 3 years in national advocacy and policy development to assist First Nations people affected by family violence, and particularly women, children and Elders.

In May 2022, the Labor Party made a pre-election commitment to reverse this decision by providing direct funding to the Forum of \$1 million per annum over 3 years from FY2023 to FY2025, to support the Forum's role in *"ensuring that the voices of First Nations women and children are heard."*

This funding commitment was affirmed in the Government's budget in October 2022. However, at the date of writing, NIAA has not yet provided this funding to the Forum. As a consequence, the ability of the Forum to undertake the significant workload required for the organisation in national advocacy and policy development (including this submission) continues to be impeded by a lack of secure resources.

The continuity of the National FVPLS Forum is vital to eradicating our country's shameful rates of family violence against Aboriginal and Torres Strait Islander women. As the only national peak body for Aboriginal and Torres Strait Islander victim/survivors of family violence and sexual assault it is a crucial organisation, giving services which provide vital support to women all over the country and providing a voice in critical national conversations around family violence.

We call for an adequately funded and self-determined national body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence. Sustained and long-term funding will enable the Forum to continue capacity building and giving voice to Aboriginal and Torres Strait Islander victims and survivors on a national platform.⁴⁸

⁴⁸ Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence, July 2020, p.26.

Queensland Taskforce findings regarding an integrated peak organisation

From a Queensland perspective, the Queensland Taskforce in its First report found that an absence of a funded integrated peak organisation for domestic and family violence services across Queensland limits the potential for improving the consistency, capacity capability building, and innovation across the industry⁴⁹.

When viewing domestic and family violence from the lens of Aboriginal and Torres Strait Islander victim-survivors, QIFVLS strongly advocates for long term investment and resourcing of the National Family Violence Prevention Legal Service Forum.

Recommendation 15 – Investment in the National Family Violence Prevention Legal Service Forum. We call for an adequately funded and self-determined National body for Aboriginal and Torres Strait Islander people at risk or experiencing family violence.

Media coverage

In their First report, the Queensland Taskforce found that the media is uniquely positioned to educate and shape community understanding of domestic and family violence. *“It can be part of the solution to violence against women and children⁵⁰.”* The Taskforce referred to research by ANROWS that found a clear link between media reporting and attitudes and beliefs about violence against women⁵¹. The Queensland Taskforce also found that problematic media reporting of domestic and family violence is continuing and that media stakeholders have a responsibility to minimise the potential harm to future victims while remaining independent and robust in their public interest reporting and raising community awareness about domestic and family violence⁵².

QIFVLS calls on the media to ensure that there is authentic and appropriate representation of First Nations women and children. Despite recent cases, traditionally the media coverage in Australia has been characterised as non-existent or muted at best. This has created the impression that the lives of First Nations women and children do not hold the same priority or importance to the mainstream media. In our view this highlights the importance of First Nations media who can tell our stories as well as the need for media diversity.

QIFVLS calls for the support of First Nations peoples sharing stories from our perspectives, free of bias, discrimination and false assumptions, and in a trauma-informed and culturally sensitive way.

QIFVLS would like to see an increase the number of First Nations people in broadcasting, television and radio and in journalist, reporter, producer and executive positions in the entertainment industry.

Echoing the call for justice in the Canadian Inquiry, QIFVLS challenges Australia’s media to take proactive steps to break down the stereotypes that hypersexualise and demean First Nations women and girls and

⁴⁹ Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report One, Volume Two*
https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf, p123

⁵⁰ Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report One, Volume Two*
https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf p91

⁵¹ ANROWS, Media representations of violence against women and their children: Final report, June 2016, ANROWS

⁵² Women’s Safety and Justice Taskforce (2022) *Hear Her Voice Report One, Volume Two*
https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf, p98

to end practices that perpetuate myths that First Nations women are more sexually available and 'less worthy' than non-Indigenous women because of their race and background.⁵³

Media diversity

QIFVLS notes that the Commonwealth House of Representatives' Member for Goldstein, Ms Zoe Daniel MP, called for a judicial inquiry into media diversity with significant powers to investigate the concentration of media ownership in Australia.

"Australia has one of the most concentrated media environments in the world, which gives rise to an unhealthy monoculture, especially in regional and suburban areas,..."

"As I have said, any inquiry should include all major media organisations and examine the level of oversight of media behaviour and reporting."⁵⁴

QIFVLS advocates support for an inquiry of this nature to make recommendations in support of broadening media diversity, particularly in rural, remote and regional areas.

Recommendation 16 – Reviewing media coverage. That parliamentary committee on media diversity review the coverage given to missing and murdered first nations women and children.

Conclusion

We take this opportunity to thank the Committee for considering our submission together with recommendations for addressing the systemic disadvantages faced by First Nations women and children, particularly the forgotten and invisible women and children who are either missing or murdered. We trust that the Committee appreciates our viewpoint as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and as a Family Violence Prevention Legal Service.

We look forward to being involved in future consultations that will contribute to enhancing the way government agencies, ACCOs and the wider community responds to further incidents of missing and murdered First Nations women and children while also resolving the underlying drivers that have led these women and children to be the forgotten women and children. At our core, we owe it to those who have had their lives taken to be their voice and ensure that they are eventually heard and seen and receive justice.

⁵³ Canada's National Inquiry into Missing and Murdered Indigenous Women and Girls, Calls for Justice - https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf MMIW – Call for Justice, p187

⁵⁴ [Media diversity inquiry gains traction \(msn.com\)](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf)