



QIFVLS

Queensland Indigenous
Family Violence Legal Service

Submission to the National Aboriginal and Torres Strait
Islander Family Safety Plan

8 November 2024





The Queensland Indigenous Family Violence Legal Service (QIFVLS) submission to the National Aboriginal and Torres Strait Islander Family Safety Plan

Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the opportunity to provide a submission regarding the development of a National Aboriginal and Torres Strait Islander Family Safety Plan (the Plan).

Our submission is made from the standpoint of an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) and Family Violence Prevention Legal Service (FVPLS), dedicated to ensuring that families and households are safe from violence. As a Family Violence Prevention Legal Service, a member of the First Nations Advocates Against Family Violence Forum (FNAAFV Forum) and member of the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks), QIFVLS is dedicated to achieving the priority reforms and socio-economic targets outlined in the [National Agreement on Closing The Gap](#) (the National Agreement). We seek safer communities and households free of family violence in line with Target 13 (ensuring families and households are safe and that domestic and family violence against Aboriginal and Torres Strait Islander women and children is reduced by at least 50% by 2031 as we progress towards 0). QIFVLS is also dedicated to achieving the associated justice targets—

- Targets 10 and 11 (reducing the overrepresentation of Aboriginal and Torres Strait Islander adults and youth in the criminal justice system); and
- Target 12 (reducing the rate of overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent by 2031).

The overarching tenor of our submission is grounded in the reflection that an emphasis on early intervention and prevention within a culturally safe and holistic trauma-informed model of care is the optimal way through which we can begin to work in coordination with services to ensure families are safe. This must be done via a whole-of-community approach, including the embedding of early access to legal advice and supports prior to the escalation of matters into the formal court systems.

From this perspective, we strongly advocate for government and government agencies to lean into the priority reforms to the National Agreement and partner willingly with local communities, Aboriginal and Torres Strait Islander Community-Controlled Organisations, Elders and Aboriginal and Torres Strait Islander stakeholder groups.

In addition to the reports mentioned in the discussion paper, we believe the Plan should also be closely intertwined with:

- Final Report of the Senate Inquiry into Missing and Murdered First Nations Women and Children.¹
- Productivity Commission Review of the National Agreement on Closing the Gap.²
- Independent Review of the National Legal Assistance Partnership 2020-25.³

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https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/FirstNationswomen_children/Report

² Australian Productivity Commission (2024), *Review of the National Agreement on Closing the Gap*, <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>

³ <https://www.ag.gov.au/sites/default/files/2024-06/NLAP-review-report.PDF>



- Report of the Rapid Review of Prevention Approaches to End Gender-based violence.⁴

The above reports uniformly highlight the holistic and culturally safe wraparound support services delivered by the FVPLS sector in addressing the legal and non-legal needs of Aboriginal and Torres Strait Islander families affected by family and domestic violence. Through incorporating the findings of the above reports, we believe it is possible to institute a Family Safety Plan grounded in self-determination, partnership, shared decision-making and evidence-based initiatives.

Summary of QIFVLS submissions

QIFVLS provides the following feedback regarding the development of a Family Safety Plan:

- The Plan needs to prioritise and centre the primacy of safety and wellbeing of victim-survivors of family and domestic violence. These are predominantly women whose voices need to be heard above all others. This is paramount.
- We strongly advocate for an emphasis on early intervention and prevention through holistic and culturally safe wraparound services.
- We observe family violence as a key intersection point affecting our clients as they seek to address their legal and non-legal needs across a variety of sectors, including housing, health, education, child protection, youth justice, adult crime, family law and disability support services. This highlights the necessity of a whole-of-community approach.
- Our staff regularly observe the crossover between children in the child protection system and their introduction to the criminal justice system (referred to in the literature as the *cross over kids*). We recommend the Family Safety Plan consider the intersection between children under the care of the State who are also involved in the youth justice system.

About QIFVLS

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'). 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 one of sixteen (16) Family Violence Prevention Legal Services ('FVPLSs') across Australia and one of the fourteen (14) FVPLSs that are members of the First Nations Advocates Against Family Violence ('FNAAFV') Forum. We are one of two Aboriginal and Torres Strait Islander community-controlled family violence prevention legal service providers in Queensland.

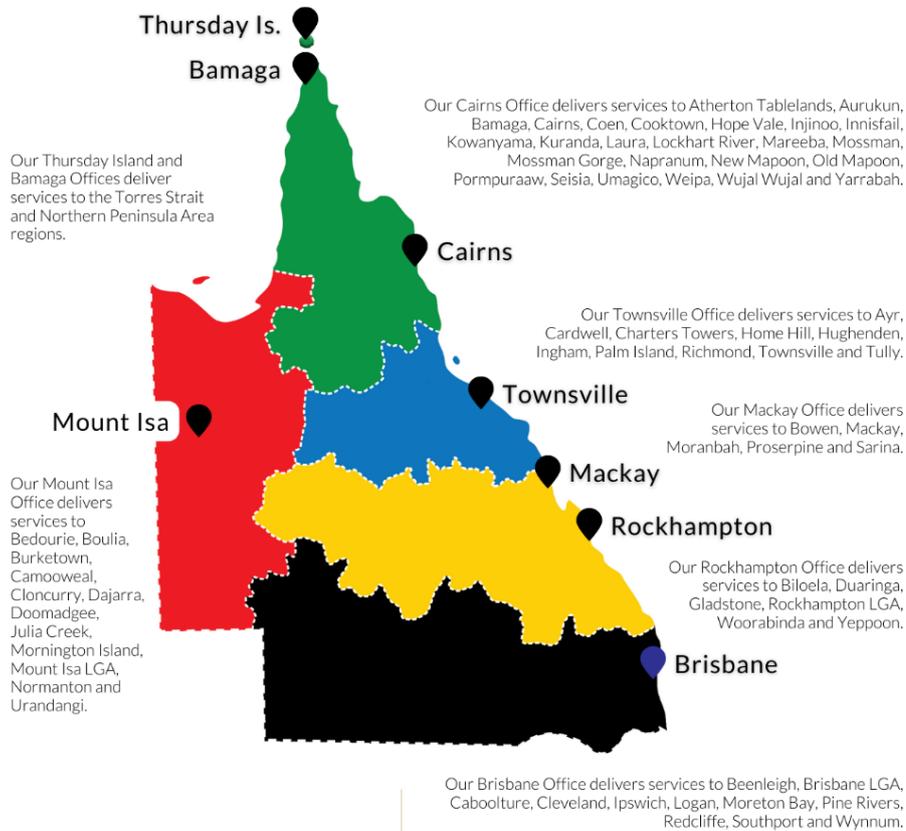
QIFVLS is exclusively dedicated to providing legal and non-legal support services to assist Aboriginal and Torres Strait Islander victims/survivors of family violence and sexual assault with a breadth and scope of services which stretch to the outer islands of the Torres Strait, neighbouring Papua New Guinea. Together with its legal services, QIFVLS can be distinguished from other legal assistance providers through its advantage in providing unique, specialised, culturally safe and holistic assistance from the front-end via a wrap-around model that embraces early intervention and prevention. We advocate this model in supporting access to justice and keeping victim-survivors of family violence safe.

QIFVLS services 90+ communities across Queensland including the Outer Islands of the Torres Strait, neighbouring Papua New Guinea and 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. In addition, QIFVLS responds and addresses our clients' non-legal needs through our integrated

⁴ <https://pmc.gov.au/resources/unlocking-the-prevention-potential>



non-therapeutic case management process, which is addressed through the identified role of the Case Management Officer. QIFVLS as a practice, provides a holistic service response to our clients' needs: addressing legal need and addressing non-legal needs, that have in most cases, brought our clients into contact with the justice system in the first place.



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 90+ Aboriginal and Torres Strait Islander communities throughout Queensland. Recognising 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 Texas⁵, QIFVLS has eight (8) offices in Queensland –

- (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 Mackay responsible for servicing Mackay and Sarina (and communities in between);
- (6) a service delivery office in Rockhampton responsible for servicing Rockhampton, Woorabinda, Mt Morgan, Biloela (and communities in between);

⁵ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>



- (7) 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);
- (8) a service delivery office in Brisbane responsible for servicing the Brisbane local government area.

Family violence as the cornerstone

It may be startling for some to learn that 3 in 5 First Nations women have experienced physical or sexual violence.⁶ This speaks to the crisis we witness as a family violence prevention legal service daily across our offices in Queensland.

Queensland Government data has revealed that up to 60% of all Aboriginal and Torres Strait Islander children in youth detention have experienced or been impacted by domestic and family violence.⁷ If we consider the issue of child wellbeing, it should be noted that family violence was identified by the Australian Institute of Health and Welfare (AIHW) as the primary driver of children being placed into the child protection system, with 88% of First Nations children in care having experienced family violence.⁸

This sadly informs QIFVLS' experience that family violence is the cornerstone or intersection, that links an Aboriginal and Torres Strait Islander person's connection to the youth justice system, the child protection system, the adult criminal justice system, housing and/or homelessness, health and the family law system.

We find that 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 relationship⁹ (i.e., domestic violence support services and shelters; actual police presence within a community).

In contrast to siloed government responses which have long been the standard practice, QIFVLS consistently advocates for uniform, holistic, culturally safe and consistent strategies that will improve responses in the family violence, policing and criminal justice, child protection system, housing and corrective services. This approach aligns with achieving reductions in the Justice targets (Targets 10, 11, 12 and 13) of the National Agreement on Closing the Gap as well as meeting the overarching objectives of the 4 priority reform areas.

Prioritising early intervention and prevention through a culturally safe and holistic wraparound support model

QIFVLS strongly supports a Family Safety Plan grounded in early intervention and prevention with service delivery through culturally safe wraparound supports. This strongly aligns with our trauma-informed model of care. For government agencies and non-Indigenous services, we advocate for specialised training in the delivery of culturally safe services. Such training should be provided by specialists. Furthermore, one-off training sessions have no impact. Rather, we believe there should be ongoing training with periodic refresher courses.

⁶ Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*, https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wiyi_yani_u_thangani_report_2020.pdf, page 44

⁷ <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/reform/youth-justice-report.pdf>

⁸ Australian Institute of Health and Welfare (2019), *Family, domestic and sexual violence in Australia: continuing the national story*, <https://www.aihw.gov.au/getmedia/b0037b2d-a651-4abf-9f7b-00a85e3de528/aihw-fdv3-FDSV-in-Australia-2019.pdf.aspx?inline=true>

⁹ Australian Institute of Health and Welfare (2016-17), *Alcohol and other drug use in regional; and remote Australia: consumption, harms, and access to treatment 2016-17*. Cat.no. HSE 212. Canberra.



QIFVLS Case Management Practice model

To address an area of unmet need, QIFVLS' within its current funding through the National Indigenous Australians Agency (NIAA), developed and implemented a Case Management Practice to complement and run alongside its 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.

Support for the FVPLS sector

The Independent Review of the National Legal Assistance Partnership highlighted the severe underfunding of the FVPLS sector in comparison to other legal assistance providers – legal aid commissions (LACs), Aboriginal and Torres Strait Islander legal services (ATSILS), community legal centres (CLCs) and women's legal services (WLSs). Most FVPLS members, including QIFVLS, have reported to FNAAAFV significant challenges with retention and recruitment of staff. This is especially the case with legal staff. Currently QIFVLS has 10 operational lawyers providing legal services to over 90 communities throughout Queensland. Coupled with QIFVLS' standing as primarily an outreach service, this places significant strain on staff.

On 20 February 2024, QIFVLS Principal Legal Officer, Thelma Schwartz and Senior Policy Officer, Kulumba Kiyingi appeared before the Australian Senate Legal and Constitutional Affairs Committee's Inquiry into Missing and Murdered First Nations Women and Children. At the conclusion of giving evidence, Senate Committee Chair, Senator Paul Scarr (QLD) stated the following,

*"Can I give our best wishes to your 11 lawyers and to the case managers they're working side by side with. Please convey to them how much we appreciate the work they do under very difficult circumstances."*¹⁰

The hard work and dedication of our staff is undertaken in the face of systemic under-resourcing of the FVPLS sector in comparison to the larger legal assistance providers. The NLAP Review notably pointed to the need for FVPLS members to receive additional funding to meet our existing service delivery needs and that there remains unmet need for our services in new locations. This is keenly felt in a widely dispersed state like Queensland. By way of example, in the 2021 census, almost 40% of Queensland's Aboriginal and Torres Strait

¹⁰ The Australian Senate, Legal and Constitutional Affairs References Committee, 2024, Inquiry into Missing and Murdered First Nations Women and Children, 20 February, page 43, https://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/27540/toc_pdf/Legal%20and%20Constitutional%20Affairs%20References%20Committee%202024%2002%20Official.pdf;fileType=application%2Fpdf#search=%22missing%20and%20murdered%22



Islander population lived in outer regional to very remote areas. This is in contrast to 14.5% of non-Indigenous peoples in Queensland who lived in outer regional to very remote areas.¹¹

The NLAP Review made a number of recommendations directly affecting service delivery for the FVPLS sector. These included:

- A recommendation for the Commonwealth to work with FNAAFV, FNAAFV members and other ACCOs to complete national geographic coverage of FVPLS.
- Development of a national workforce strategy to attract and retain a skilled, well supported workforce.
- Establishing pay parity through increasing remuneration of both legal and non-legal staff in FVPLS, ATSILS and CLCs to the equivalent pay as that of the LAC in the respective jurisdictions.
- Establish a HECS-HELP Forgiveness Scheme for rural, regional and remote community sector lawyers after 5 years of continuous service.

We encourage the Family Safety Plan to strongly consider the recommendations made within the NLAP Review.

Links between youth justice and the child protection system

Child protection proceedings represent our largest component of legal assistance and representation file work. This is a sad reflection on the intersectional nature of family violence that our clients experience. Given our service's experience of assisting clients with complex and intersecting needs, the Committee would benefit from investigating the intersection between the youth justice system and the child protection system.

Our staff on the frontline observe an interconnected system whereby children are removed from their parents' (predominantly mothers) care due to concerns about family violence experienced by the parent. We see the next step being children placed in residential care. Shortly after being placed in residential care, we observe children with no criminal history or engagement with police finding themselves charged with criminal offences. Thus, we are witnessing a situation where the State is removing children from their parents/family/kinship structures and whilst subsequently in the State's care, the children are introduced to the criminal justice system.

To highlight our concerns, we are aware of a matter in Mount Isa, North West Queensland where a magistrate voiced concerns about placing children in watchhouses with adult detainees. That particular case related to a 15-year-old Aboriginal girl whose introduction to the criminal justice system only began after Queensland's child safety department placed her into a residential care home full of known juvenile property offenders.¹²

With successive legislative and policy changes that see growing numbers of children in youth detention, this is a glaring concern. We believe the interwoven aspect of the youth justice system and the child protection system require urgent attention in the Family Safety Plan.

The outcomes and impacts of youth incarceration in Queensland

In Queensland, both major parties have pursued a tough-on-crime approach without an evidence-base for success. As a service dedicated to victim-survivors, family safety and community safety is important to us, given that our clients form a significant cohort of victims of crime. Yet, the criminogenic approach and

¹¹ Australian Bureau of Statistics 2021, Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, ABS, viewed 15 February 2024, <<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/census-population-and-housing-counts-aboriginal-and-torres-strait-islander-australians/latest-release>>

¹² <https://www.glsproctor.com.au/2023/02/court-life-of-youth-crime-started-while-in-care/>

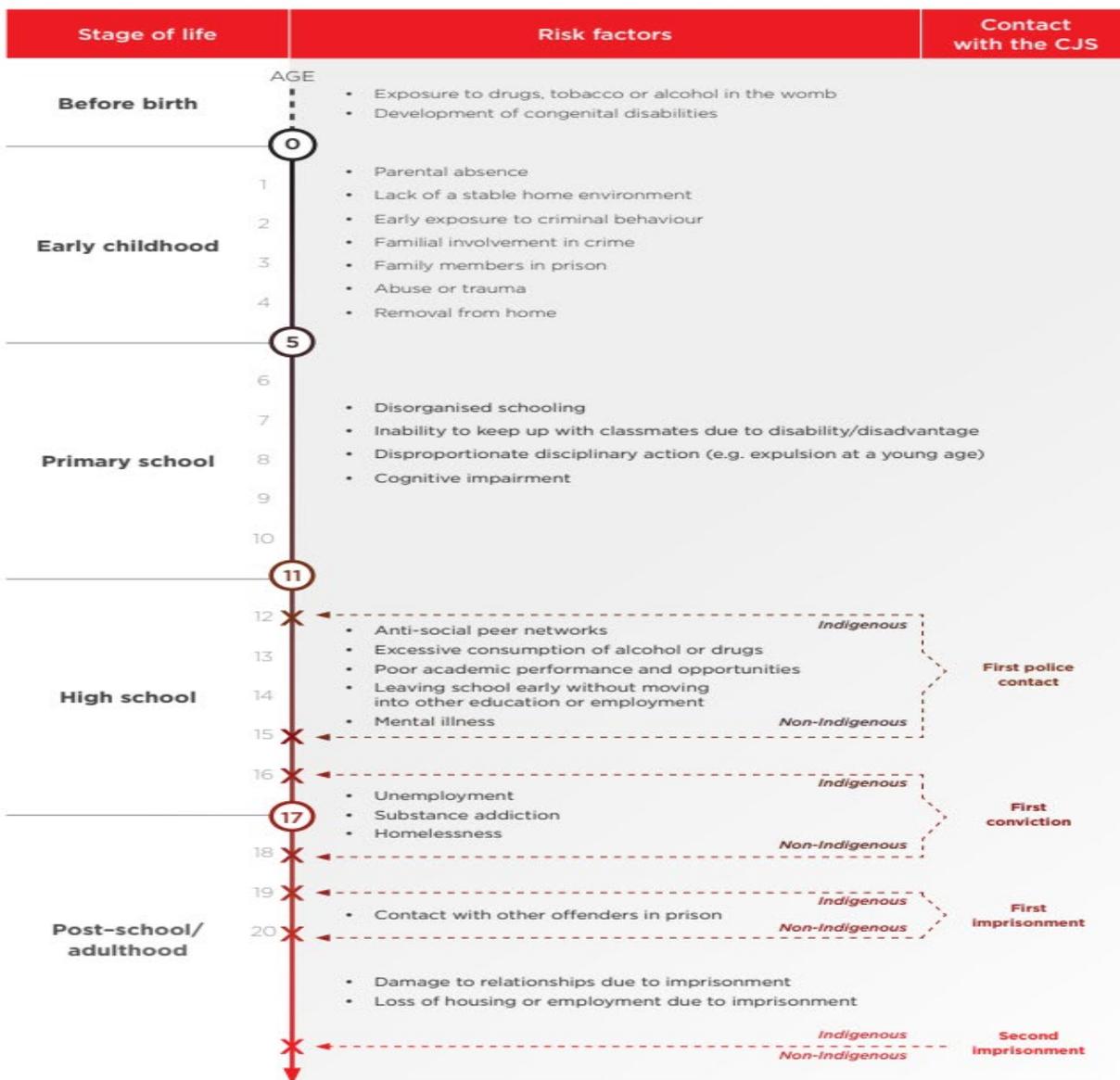


government’s policy and legislative changes do not align with our calls for a strong focus on early intervention and preventative measures.

Queensland Productivity Commission’s timeline

In their 2019 report on *Imprisonment and Recidivism*, the then Queensland Productivity Commission (QPC) helpfully created a visual timeline 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 person:

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



Source: QPC analysis.

We believe this is a further example of the intersecting factors affecting our clients, their families and communities.



Enabling families to have early access to legal representation – Child Protection Notification and Referral Scheme

QIFVLS, as a member of the First Nations Advocates Against Family Violence (FNAAFV) Forum repeats and adopts the submissions first made by our sister FVPLS, Djirra (Victoria), in relation to the creation of a child protection notification and referral scheme.¹³, 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 Child Protection Notification and Referral Scheme (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.

We call for the establishment and implementation in Queensland of an Aboriginal and Torres Strait Islander child protection notification and referral system. We believe this scheme would harmonize with the recent announcement of the Commonwealth's commitment to establishing a National Aboriginal and Torres Strait Islander Commissioner.¹⁴

¹³ Djirra's Submission to the Parliamentary Inquiry into Family, Domestic and Sexual Violence, July 2020, p.15

¹⁴ <https://humanrights.gov.au/about/news/media-releases/ahrc-welcomes-announcement-national-aboriginal-and-torres-strait-islander>



Conclusion

We take this opportunity to thank SNAICC for considering our feedback. True reform will take place when we can all work in partnership together. Thus, we look forward to being kept informed regarding the progress and development of the National Family Safety Plan. We trust that our viewpoint and body of work as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and Family Violence Prevention Legal Service will be of assistance.