

## **Victims' Commissioner and Sexual Violence Review Board Bill 2024**

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## The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the 57<sup>th</sup> Queensland Parliament Community Safety and Legal Affairs Committee regarding the Victims' Commissioner and Sexual Violence Review Board Bill 2024 (the Bill)

### Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the opportunity to provide a submission regarding the Victims' Commissioner and Sexual Violence Review Board Bill 2024 (the Bill).

As a Family Violence Prevention Legal Service provider, a member of the National Family Violence Prevention Legal Service Forum and member of the Coalition of Peak 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). In this context, QIFVLS is particularly dedicated to achieving Target 13 (reducing family violence against women and children by at least 50%, towards zero by 2031), in conjunction with the remaining targets and priority reforms.

QIFVLS supports the establishment of a permanent Office the Victims' Commissioner and the Sexual Violence Case Review Board. The Australian Human Rights Commission's (AHRC) 2020 report, *Wiyi Yani U Thangani (Women's Voices): Securing Our Rights, Securing Our Future Report*, revealed that 3 in 5 First Nations women have experienced physical or sexual violence<sup>1</sup>. This speaks to the crisis that QIFVLS witnesses as a family violence prevention legal service daily across our offices in Queensland. In that regard, the experiences of Aboriginal and Torres Strait Islander victim-survivors of crime amplifies the necessity of a Victims' Commissioner and Sexual Violence Review Board that is resourced and equipped to work in partnership with government agencies and non-government agencies, particularly Aboriginal and Torres Strait Islander Community Controlled Organisations and communities to enable families and households, particularly women and children to live lives free from violence.

With roughly 85% of our clientele identifying as female, our submissions are shaped by our daily observations of our clients and the difficulties they face in navigating the abovementioned intersecting systems as victim-survivors, mothers, carers and concerned family members.

As an Aboriginal and Torres Strait Islander Community-Controlled Organisation ('ACCO'), QIFVLS is uniquely positioned to provide feedback from the standpoint of a family violence prevention legal service which provides a holistic model of attending to our communities' legal and non-legal needs. In this regard, QIFVLS wholeheartedly welcomes legislative provisions which go towards addressing the disadvantages experienced by victims of crime, especially from our perspective the entrenched institutional disadvantage faced by Aboriginal and Torres Strait Islander women and girls, who are victim-survivors of domestic and family violence and sexual violence.

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<sup>1</sup> Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report: (Women's Voices): Securing Our Rights, Securing Our Future*, [https://humanrights.gov.au/sites/default/files/document/publication/ahrc\\_wiyi\\_yani\\_u\\_thangani\\_report\\_2020.pdf](https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wiyi_yani_u_thangani_report_2020.pdf), page 44



## Recommendations

In supporting the passage of the Bill, QIFVLS makes the following recommendations:

1. Clause 47 of the Bill should allow for a complaint to the commissioner to be made orally, as well as in writing.
2. Consideration should be given to enhancing the Charter of victims' rights by inserting a requirement for prescribed persons to consider and be responsive to the needs of affected victims from a variety of backgrounds.

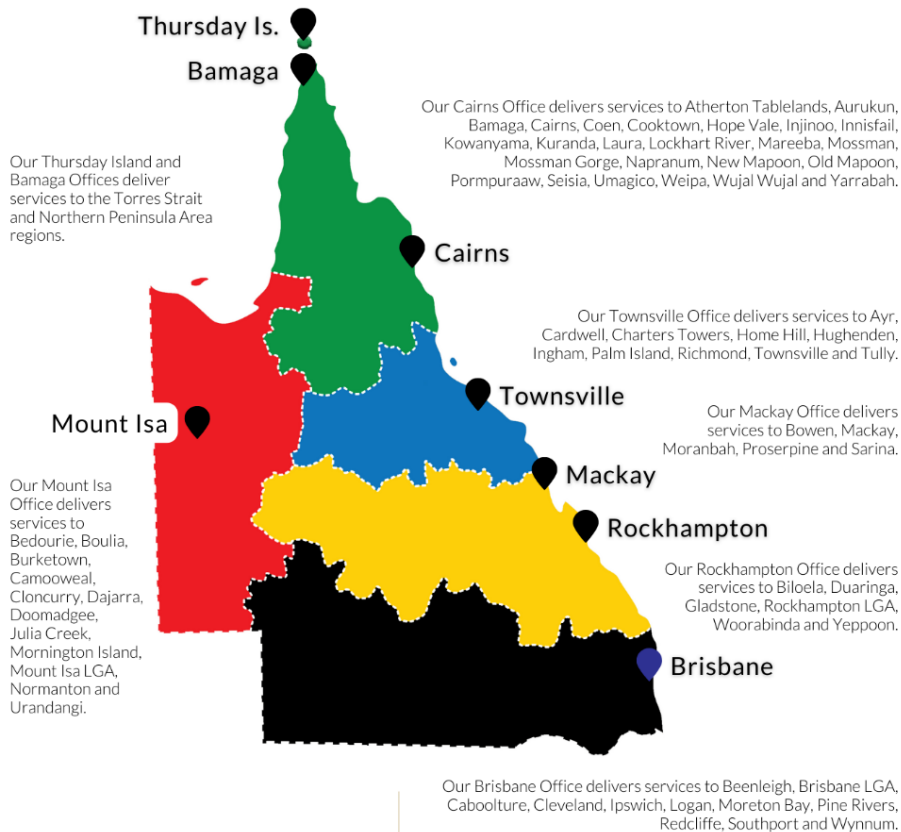
## About QIFVLS

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 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. 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 91 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 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 80+ 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 Texas<sup>2</sup>, 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);
- (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.

<sup>2</sup> <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>



## Family violence as the cornerstone

In supporting the proposed legislation, we believe that the Victims' Commissioner should coordinate with a range of diverse stakeholders, including Aboriginal and Torres Strait Islander local communities, Elders, Aboriginal and Torres Strait Islander Community Controlled Organisations (ACCOs) and other non-government organisations. In that regard, we note that the Office of the Interim Victims' Commissioner (OIVC) seeks to include a diverse membership of stakeholders representing a cross-section of the Queensland community.

The necessity of working collaboratively with diverse stakeholder groups reflects our observations that family violence is an intersecting point affecting an Aboriginal and Torres Strait Islander person's connection to the child protection system, the youth justice system, adult criminal justice system, housing and/or homelessness, health and the family law system.

Further to this point, the Australian Institute of Health and Welfare (AIHW) has identified that family violence was the primary driver of children being placed into the child protection system with 88% of First Nations children in care having experienced family violence<sup>3</sup>. The AIHW also found that First Nations women are 34 times more likely to be hospitalised due to family violence than non-Indigenous women and 11 times more likely to die due to assault<sup>4</sup>.

The scale of this problem, however, is far greater because it is known that First Nations women are less likely than other women to report family violence or seek support because of a range of factors including judgment, discrimination, shame or fear.

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 relationship<sup>5</sup> (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 advocates for uniform, holistic and consistent strategies that will improve responses in the family violence, housing, policing and criminal justice, corrective services and child protection system. 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.

## Considering oral complaints to the commissioner

Clause 47(1) of the Bill provides that a complaint made or referred to the commissioner must be in writing. Clause 47(2) also provides that reasonable help must be given to a complainant to put a complaint in writing where the commissioner is satisfied the complainant needs help.

We would like to see the drafting of clause 47 amended to insert a provision that a complaint may be taken orally or in writing. QIFVLS is unique in assisting community members from over 90 communities ranging from the urban areas of South-East Queensland to the outer islands of the Torres Strait, bordering Papua New Guinea. In that regard, we assist and regularly see community members who may not have the ready

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<sup>3</sup> 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>

<sup>4</sup> 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>, page 113

<sup>5</sup> 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.



capacity or ability to make a written complaint to the commissioner. This could be for a variety of reasons leading to literacy, lack of technology, cultural reasons or lack of ability to obtain assistance to make a complaint. For the disadvantaged in our community, the first step in making a complaint may be the hardest step. Thus, we support steps to facilitate the underprivileged victim-survivors to assert their rights and make a complaint to the commissioner orally or in writing.

Where a prospective complainant is unable to gain the immediate assistance of a support person/ service provider, consideration should be given to allowing a complaint to the commissioner to be received orally. This could take the form of the complaint being taken orally and lodged on the complainant's behalf with a subsequent signed authority by the complainant being deemed sufficient.

Where the complainant has contacted the commissioner directly, the relevant person/commissioner employee/complaints officer who takes the complaint should prepare a written summary of their conversation with the complainant, including the complaint which would need to be confirmed by the complainant.

The Explanatory Notes to the Bill highlight that the Bill is modelled on the Victorian *Victims of Crime Commissioner Act 2015*. Accordingly, section 25B of the Victorian Act allows a complaint to the commissioner to be made orally:

## **25B How to make a complaint**

- (1) Subject to subsection (2), a complaint may be made either orally or in writing.

### **Note**

A complaint may be made by an electronic communication within the meaning of section 3(1) of the **Electronic Transactions (Victoria) Act 2000**.

- (2) A person who makes an oral complaint must confirm the complaint in writing as soon as practicable.
- (3) The Commissioner must take all reasonable steps to assist a person who has made an oral complaint to confirm that complaint in writing.<sup>6</sup>

Accordingly, we advocate for the provisions in s25B(1) and s25B(2) to be similarly replicated in clause 47 of the Bill.

## **Responsiveness to cultural needs in the Charter**

We understand that the Charter of victims' rights will be transposed into Schedule 1 of the Bill. Furthermore, we note that section 1 of the Charter is worded similarly to the Victorian Charter Principles regarding the treatment of persons adversely affected by crime.<sup>7</sup>

In the spirit of the Victorian Charter Principle regarding the treatment of persons adversely affected by crime, we suggest that section 6(2) of the Victorian Charter is also included in Schedule 1, section 1 of the Bill. This would ensure that there is a requirement within the Charter for prescribed persons to take into account and be responsive to the particular needs of affected victims. This has particular resonance for our clientele. Section 6 of the Victorian Charter Act is worded below in its entirety:

## **6 Treatment of persons adversely affected by crime**

- (1) All persons adversely affected by crime are to be treated with courtesy, respect and dignity by investigatory agencies, prosecuting agencies and victims' services agencies.

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<sup>6</sup> Section 25B, *Victims of Crime Commissioner Act 2015 (VIC)*

<sup>7</sup> Section 6(1), *Victims' Charter Act 2006 (VIC)*



- (2) Investigatory agencies, prosecuting agencies and victims' services agencies are to take into account, and be responsive to, the particular needs of persons adversely affected by crime, particularly needs relating to differences such as—
- (a) race or indigenous background;
  - (b) sex or gender identity;
  - (c) cultural or linguistic diversity;
  - (d) sexual orientation;
  - (e) disability;
  - (f) religion;
  - (g) age.

## Sexual Violence Review Board

We note that the provisions in the consultation draft regarding the Sexual Violence Review Board relate to recommendation 46 of *Hear Her Voice – Report Two*.

We welcome the provision in clause 69(1) of the Bill requiring the Minister to ensure that at least one member of the Board is a person who is an Aboriginal person or Torres Strait Islander person, although given the available data regarding Aboriginal and Torres Strait Islander victims of crime, we would hope the Board is not limited to the mandated one identified member.

## Conclusion

We take this opportunity to thank the Committee for considering our feedback. We trust that the Committee appreciates our viewpoint as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and Family Violence Prevention Legal Service.