

Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022

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QUEENSLAND INDIGENOUS FAMILY VIOLENCE LEGAL SERVICE

Submission to the Community Support and Services
Committee regarding the *Police Powers and
Responsibilities (Jack's Law) Amendment Bill 2022*

20 January 2023

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The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the 57th Queensland Parliament Community Support and Services Committee regarding the Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022

Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the opportunity to provide submissions on the recently tabled *Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022 (the Bill)*.

As a 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](#). Together with seeking a safe community for all, QIFVLS is also dedicated to achieving Targets 10 and 11 (reducing the overrepresentation of Aboriginal and Torres Strait Islander adults and youth in the criminal justice system) in conjunction with the remaining targets and priority reforms, most notably, 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). In that regard we support any measures which will achieve the safety of the community and families, particularly children.

We understand that the objective of the Bill is to extend and expand the trial of hand held scanner provisions to detect unlawfully possessed knives ('wandering') beyond safe night precincts (SNPs) in Surfers Paradise and Broadbeach. While on the one hand we support measures that would reduce the use of knives and other bladed weapons amongst young people, we have some concerns about how use of the hand held scanners would affect Aboriginal and Torres Strait Islander children and young people in SNPs, public transport stations and public transport vehicles. This is relevant for QIFVLS given our experience is of an interlinked web with family violence as an intersection point linking an Aboriginal and Torres Strait Islander person's connection to the youth justice system, child protection system, adult criminal justice system and the family law system.

Our concerns are best encapsulated in the comments made by Queensland Human Rights Commissioner, Scott McDougall who was quoted as stating:

*"Improving community safety is an important priority for both government and the community, but it can and should be done in a way that is least restrictive of human rights and that relies on evidence-based guidelines instead of the unconscious bias of individual officers"*¹

¹ <https://www.brisbanetimes.com.au/politics/queensland/human-rights-boss-questions-expansion-of-police-search-powers-20221110-p5bx48.html>

We are mindful of the key findings and suggestions made in the Griffith Criminology Institute's Review of the Queensland Police Service Wandering Trial (Griffith Review) released in August 2022² and we echo the concerns raised in the Griffith Review. We are wary of the current climate of mistrust and fear among First Nations communities and police and have reservations about interactions between police and Aboriginal and Torres Strait Islander youth, particularly warrantless searches where a young person may be introduced into the criminal justice system despite no knives or bladed weapons being detected on them. Should the Bill pass, we would advocate and support appropriate resourcing and funding for a multi-agency co-responder model ensuring a police presence is supported by a non-law enforcement First Nations response. This takes into account situations where police may encounter rough sleeping adults and young people who may be armed, not to cause violence but rather as a safety measure or for food preparation or other legitimate reasons.

Her Honour Judge Richards DCJ's findings resulting from the 2022 Commission of Inquiry into Queensland Police Service (QPS) responses to incidences of domestic and family violence highlighted the significant work required by the Queensland Police Service to rebuild fractured relationships with the Aboriginal and Torres Strait Islander community³. Accordingly, while not a direct provision in the Bill, we submit that a professional service provided by the police, with community safety paramount, will need to be allied with culturally appropriate services when dealing with Aboriginal and Torres Strait Islander young people in the relevant places designated in the Bill, noting that many of the young people in these designated relevant places will be either primary or secondary victim-survivors of family and sexual violence.

Summary of QIFVLS submissions

QIFVLS offers the following feedback:

- We echo our support for the findings and suggestions in the Griffith Review. Although the Bill would extend the scanning provisions to 30 April 2025, we believe the community would benefit from a subsequent evaluation of the expanded trial.
- We support restricting the extension of the trial to SNPs, public transport stations and public transport vehicles, noting that the wider definition of a *public transport vehicle* captures the preponderance of buses as a mode of public transport in areas outside South-East Queensland.
- We are concerned about interactions between Aboriginal and Torres Strait Islander young people and Queensland Police which may lead to first contact with the criminal justice system in situations where wandering does not detect a knife or bladed weapon on the young person.
- We advocate for a multi-agency co-responder model allowing the police presence to be partnered with an Aboriginal and Torres Strait Islander responder with a health or social based background.

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.

²Griffith University, Griffith Criminology Institute (2022), *Review of the Queensland Police Service Wandering Trial*, <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>

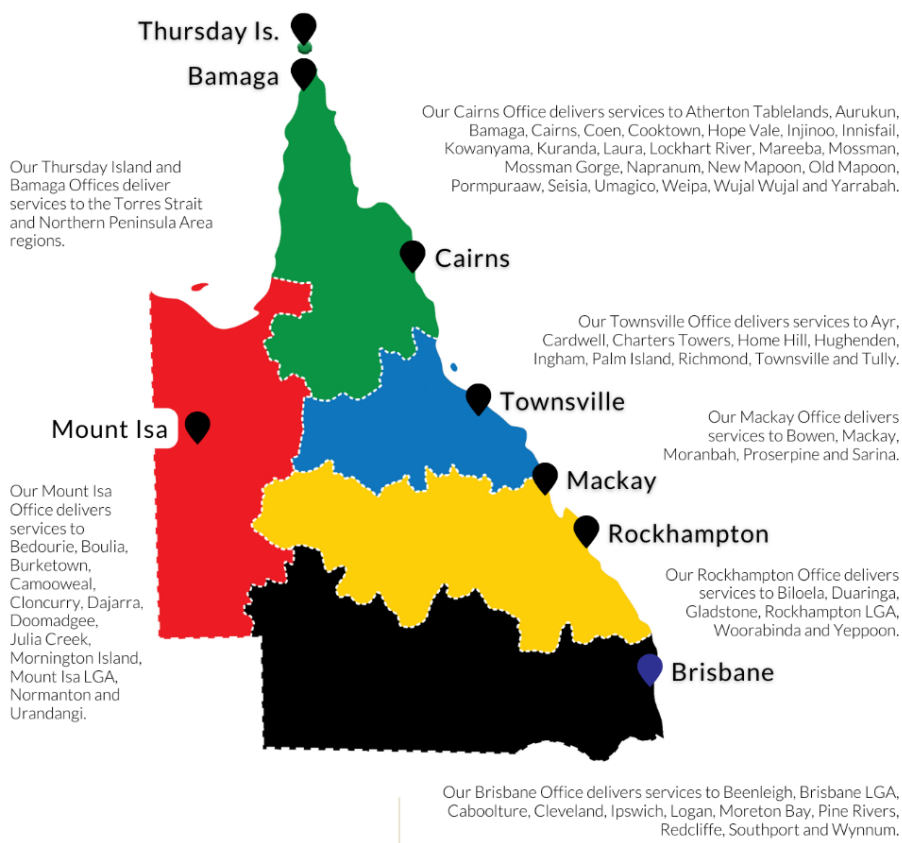
³ 'A Call for Change', Final Report, Commission of Inquiry into Queensland Police Service responses to domestic and family violence, <https://www.qpsdfvinquiry.qld.gov.au/about/assets/commission-of-inquiry-dpsdfv-report.pdf>

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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 80+ 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

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size of Japan; seven (7) times the size of Great Britain and two and a half (2.5) times the size of Texas⁴, 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 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.

Family violence as the cornerstone

QIFVLS' experience is that family violence is the cornerstone or intersection, that links an Aboriginal and Torres Strait Islander person's connection to the adult criminal justice system, the youth justice system, child protection system, housing and/or homelessness 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 relationship⁵ (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.

In contrast to siloed government responses, QIFVLS advocates for uniform and consistent strategies that improve responses in the policing and criminal justice system, corrective services and the child protection system. Our submission advocates for a co-responder model particularly where there is the prospect of frequent contact between police and Aboriginal and Torres Strait Islander young people. While the trial has operated in Surfers Paradise and Broadbeach SNPs, we are interested to see how it will operate once expanded into regional areas.

The Griffith Review

The Griffith Review provided a detailed analysis of the Wandering Trial, using a mixed method approach with interviews and focus group research with a range of stakeholders including police and community members. We note that the Review made nine (9) key findings and eight (8) suggestions for how to progress with the trial. We have observed the Review's finding that knife detections increased in Surfers

⁴ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>

⁵ 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.

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Paradise while there was no change in Broadbeach⁶. Accordingly, we support the Review's suggestion that the trial be limited to areas where data shows a higher number of knife offences over a sustained period. We support the measure in the Bill reflecting the Review's suggestion that wandering should only be used in places where the evidence suggests weapons are more likely to be carried⁷.

Among the findings and suggestions, we are also aware that:

- the effects of COVID-19 meant there was limited time to consider long-term outcomes;
- there is broad community support for the trial;
- police did not reliably record the ethnicity of those stopped, particularly First Nations status;
- evidence of inappropriate use of stereotypes and cultural assumptions by some officers;
- the potential for inappropriate use of wandering to target Aboriginal and Torres Strait Islander and other vulnerable young people;
- the need for stronger safeguards around the granting authority to wand.

Concerns with interactions between police and Aboriginal and Torres Strait Islander young people

QIFVLS is particularly concerned about interactions between police and Aboriginal and Torres Strait Islander young people. We note that the Bill provides for wandering to occur without the need for a warrant. Key finding 7 of the Griffith Review noted how wandering has been used inconsistently across different groups during the trial, including some evidence of inappropriate use of stereotypes and cultural assumptions by a small number of officers when detecting who to select for wandering⁸. We are also concerned about whet the Review's warning to ensure wandering does not lead to a by-passing of *reasonable suspicion* safeguards⁹.

Target 11 of the National Agreement on Closing The Gap is geared towards developing solutions in which to avoid large numbers of Aboriginal and Torres Strait Islander children and young people entering the criminal justice system and the deleterious flow-on effects this has for not only their future but for the lives and wellbeing of their families and the wider community. Training for police officers needs to place a premium on cultural competency and the possible effects wandering can have for children entering the criminal justice system. Together with training, we have also advocated for the use of a co-responder model as another potential safeguard when there is contact between police officers and Aboriginal and Torres Strait Islander young people.

⁶ Griffith University, Griffith Criminology Institute (2022) <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>, page iii

⁷ Griffith University Criminology Institute (2022) <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>, page v

⁸ Griffith University, Griffith Criminology Institute (2022) <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>, page iv

⁹ Griffith University, Griffith Criminology Institute (2022) <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>, page v

Multi-agency co-responder model

Queensland's Women's Safety and Justice Taskforce (the Taskforce) examined the concept of multi-agency responses in the context of domestic and family violence¹⁰. The Taskforce heard 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 accountable¹¹.

In this context, we recommend that the government consider complementing the police response with the addition of a non-law enforcement responder who identifies as an Aboriginal and/or Torres Strait Islander person. We believe this model could be adopted especially in areas where there will be frequent contact between police and Aboriginal and Torres Strait Islander young people. As we have noted above, it will be paramount that responders undertake training in order to be culturally competent as well as being able to identify and eliminate a practice of unconscious bias in policing responses.

Capturing First Nations status / Clause 5 – Annual report under the new section 808C

We note that the proposed new section 808C will provide that the Commissioner must ensure that the police service's annual report include information about:

- the number of hand held scanner authorities issued during the financial year;
- the names of the SNPs and public transport stations;
- the number of people scanned;
- the number of knives or weapons detected;
- the number and types of charges made against people as a result of scanning.

We would also like to see the annual report under the proposed new section 808C include information about the ethnicity or cultural background of the people who were scanned. Priority Reform 4 of the National Agreement on Closing The Gap relates to ensuring that Aboriginal and Torres Strait Islander people have access to and the capability to use locally relevant data in efforts to close the gap. In that regard, the Griffith Review pointed to the lack of reliability in QPS data used to capture and store a person's First Nations status¹². We would like to see this reflected in the Annual Report, which we submit, would meet the objective underpinning Priority Reform 4.

Conclusion

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

¹⁰ Women's Safety and Justice Taskforce (2022),

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

¹¹ 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

¹² Griffith University Criminology Institute (2022) <https://blogs.griffith.edu.au/gci-insights/2022/11/14/review-of-the-queensland-police-service-wandering-trial/>, page 84

We look forward to being involved in future consultations that will contribute to informing the Bill as it progresses through Parliament, in a way that will contribute to ensuring community safety.

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