



QUEENSLAND
INDIGENOUS FAMILY
VIOLENCE
LEGAL SERVICE

Submission to the Legal Affairs and Safety Committee
regarding the *Domestic and Family Violence
Protection (Combating Coercive Control) and Other
Legislation Amendment Bill 2022*

2 November 2022

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Contents

Executive Summary	1
About QIFVLS	2
Family violence as the cornerstone	4
Clause 62 – Expanding the definition of <i>help-seeking behaviour</i>	4
Clause 67 - Jury directions and further content regarding domestic violence as experienced by Aboriginal and Torres Strait Islander victim-survivors.....	5
Conclusion.....	5



Queensland
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The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the 57th Queensland Parliament Legal Affairs and Safety Committee regarding the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation 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 *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation 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](#). 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.

Accordingly, QIFVLS supports the amendments contained within the Bill, noting that they actively take steps to modernise the legislative framework by giving effect to recommendations 52 to 60 and 63-66 of the Women's Safety and Justice Taskforce (the Taskforce) in Chapter 3.8 of *Hear Her Voice: Report One – Addressing coercive control and domestic and family violence in Queensland* (Hear Her Voice: Report One). In that regard, we acknowledge the contribution of all Taskforce members, including QIFVLS Principal Legal Officer, Ms Thelma Schwartz.

As an Aboriginal and Torres Strait Islander Community-Controlled Organisation ('ACCO'), QIFVLS wholeheartedly welcomes legislative provisions which go towards addressing the entrenched institutional disadvantage faced by women and children, particularly from the perspective of Aboriginal and Torres Strait Islander women and children, who are victim-survivors of domestic violence.

As a footnote to supporting the provisions of the Bill, QIFVLS welcomes amendments providing courts in criminal proceedings with the ability to provide direction to juries around common misconceptions regarding domestic violence (**clause 67 of the Bill**). QIFVLS submits that consideration should also be given to including further provisions/content allowing for jury directions specifically addressing experiences of domestic violence from the perspective of Aboriginal and Torres Strait Islander victim-survivors of domestic violence.

QIFVLS also submits that the Committee investigate widening the definition of *help-seeking behaviour* under **clause 62 of the Bill** to include reports made to agency workers (either government or non-government) of domestic violence. We make this submission on the basis of our observations of historical fear and mistrust of police by Aboriginal and Torres Strait Islander women and children.

We appreciate the opportunity to provide submissions whilst acknowledging that the road to achieving Target 13 of the National Agreement on Closing The Gap will require dedicated whole-of-government

reform and partnership between governments, ACCOs, other non-profit service providers and the community.

About QIFVLS

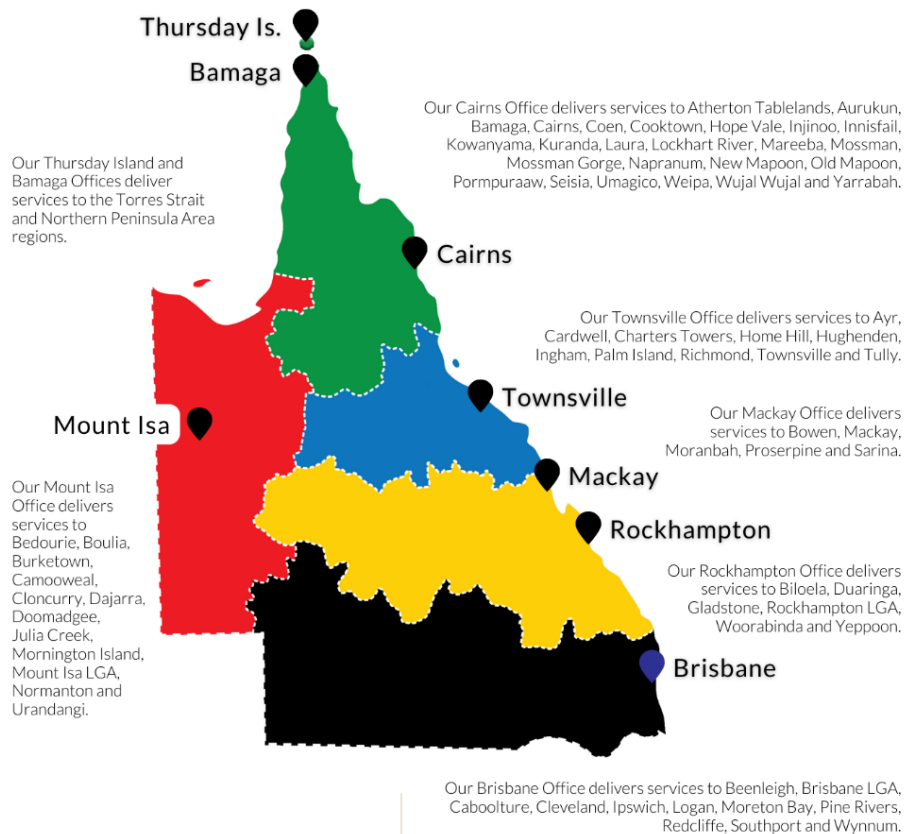
QIFVLS is a not-for-profit legal service formed under the Family Violence Prevention Legal Services Program ('FVPLSP') through the Department of Prime Minister and Cabinet's Indigenous Advancement Strategy ('IAS'). FVPLSP fills a recognised gap in access to culturally appropriate legal services for Aboriginal 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 80+ communities across Queensland including the Outer Islands of 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.

HEAD OFFICE	FAR NORTH QLD	NORTH QLD	CENTRAL QLD	BRISBANE	GULF & WEST QLD
PO Box 4628	PO Box 4643	PO Box 2005	PO Box 690	PO Box 126	PO Box 3073
Lvl 1, Ste 5, 101-111 Spence St	Lvl 2, 101-111 Spence St	Lvl 2, 61-73 Sturt St	Lvl 2A 130 Victoria Pde	201 Wickham Tce	19 Isa St
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



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 Texas¹, 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.

¹ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>

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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 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 relationship² (i.e., domestic violence support services and shelters; actual police presence within a community).

Clause 62 of the Bill– Expanding the definition of *help-seeking behaviour*

We have observed that clause 62 of the Bill provides updated definitions under section 103A of the *Evidence Act 1977*. Among these is a new definition of *help-seeking behaviour*:

help-seeking behaviour means action taken by a victim of domestic violence to address, or attempt to address, any aspect of the domestic violence, including, for example—

- (a) reporting the domestic violence to the police; or
- (b) obtaining a domestic violence order; or
- (c) separating from an intimate partner who is the perpetrator of the domestic violence; or
- (d) finding alternative accommodation, including accommodation in a refuge; or
- (e) seeking counselling or support.

We respectfully submit that paragraph (a) is too narrow in scope and does not go further enough in capturing the full practical extent of help-seeking behaviour. We suggest that this definition of *help-seeking behaviour* be widened to include reporting domestic violence to non-police agencies inclusive but not limited to counsellors, psychologists, health workers and domestic violence resource centre workers.

From the perspective of Aboriginal and Torres Strait Islander women and children, we have observed that relationships between Aboriginal and Torres Strait Islander women and children have been characterised as ones of mistrust and fear, especially in relation to their engagement with Police. In many situations, First Nations women and children do not consider the police to be a safe point of contact.³ 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 believe that an expanded section (a) this would be an appropriate course of action to address the current gap.

² 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.

³ Australian Human Rights Commission (2020) *Wiyi Yani U Thangani Report*, p189

Clause 67 - Jury directions and further content regarding domestic violence as experienced by Aboriginal and Torres Strait Islander victim-survivors

We support the inclusion of clause 67 of the Bill, providing the court with discretion to give jury directions regarding misconceptions and stereotypes about domestic violence. In so doing, we would like to submit that consideration is given to further enhancing subdivision 2 of the proposed new Part 6A, Division 3 of the *Evidence Act 1977* by including further content that would specifically address community misconceptions about domestic violence experienced by Aboriginal and Torres Strait Islander women and children. Such content could consist of background information regarding the misidentification of female victim-survivors as respondents/offenders and factors leading women to resort to self-defence/violent resistance.

We welcome the inclusion of the proposed new s103ZC within clause 67, which addresses factors that may influence how a person addresses, responds to or avoids domestic violence, namely ss103ZC(2)(b) & 103ZC(2)(c). Furthermore, we advocate for the inclusion of a further provision, whether in the Act or regulation or the Bench Book, that would address underlying social drivers that underpin an Aboriginal and Torres Strait Islander person's involvement with family violence as an intersecting web encompassing involvement with the child protection system, youth justice system, adult crime, family law system, housing affordability/availability and physical and mental health.

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.

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 benefit Aboriginal and Torres Strait Islander peoples, especially women and children.