

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

**Submission No:** 214  
**Submitted by:** Queensland Indigenous Family Violence Legal Service  
**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**



7 March 2024

Committee Secretary  
Youth Justice Reform Select Committee  
Parliament House  
George Street  
BRISBANE QLD 4000  
By Email: [youth@parliament.qld.gov.au](mailto:youth@parliament.qld.gov.au)

## **QIFVLS Submission – Priority areas for Phase 2 of the Inquiry into Youth Justice Reform in Queensland**

Dear Committee Secretary,

The Queensland Indigenous Family Violence Legal Service (QIFVLS) welcomes the opportunity to write in relation to the priority areas for Phase 2 of the Inquiry into Youth Justice Reform in Queensland.

Our submission is made from the standpoint of an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) and Family Violence Prevention Legal Service, dedicated to ensuring that families and households are safe from violence. In that regard, as a proud member of the national Coalition of Peak Aboriginal and Torres Strait Islander peak organisations (Coalition of Peaks) and the Queensland Aboriginal and Torres Strait Islander Coalition of community-controlled organisations (QATSIC), we are dedicated to achieving the priority reforms and socio-economic targets outlined in the [National Agreement on Closing The Gap](#) (the National Agreement), particularly 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) among the other inter-related targets, particularly Target 11 (By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people in detention by 30 percent).

We note the Committee seeks feedback on the following –

- **A 10-year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice service continuum.**
- **How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services.**
- **Reimagining youth justice infrastructure, including best practice standard accommodation for children and young people who are detained, held on remand or transitioning from detention to the community.**
- **How to improve:**
  - o **a. children and young people’s engagement with positive programs, particularly for those held on remand or released on bail where engagement may be lower compared to those in detention.**



- **b. children and young people’s transition back into the community, including consideration of supported accommodation models.**
  - **How to strengthen public confidence in the youth justice system**
  - **How to improve youth justice system responses to victims and ensure they are able to access support services across the state.**

The overarching theme of our submission is that in the shadow of the Productivity Commission’s recently released *Review of the National Agreement on Closing the Gap* (the National Agreement), the Youth Justice Reform Select Committee has an opportunity to chart a path forward by which government agencies and the community can work together to address youth offending – both its underlying causes and its regrettable impacts.

Recent Qld government data revealed that 20% of children are responsible for 54.5% of all child charges before the Courts. Sadly, this represents an increase from the previous year’s figure when 17% of children were responsible for 48% of charges.<sup>1</sup> This also regrettably reminds us of our submission to the Economics and Governance Committee’s Review of the *Strengthening Community Safety Bill 2023* in February 2023, where we cautioned the following:

*“Without a prioritised focus on countering underlying systemic drivers of youth crime, Queensland’s average daily youth detention population will increase. The Explanatory Notes to this Bill referenced a figure of 17% as the number of serious repeat offenders. This figure will also increase without addressing the underlying causes of youth crime.”*

We reiterate that without a focus on countering the underlying systemic drivers of youth crime, the percentage of serious repeat offenders will increase from 20% to an even higher percentage.

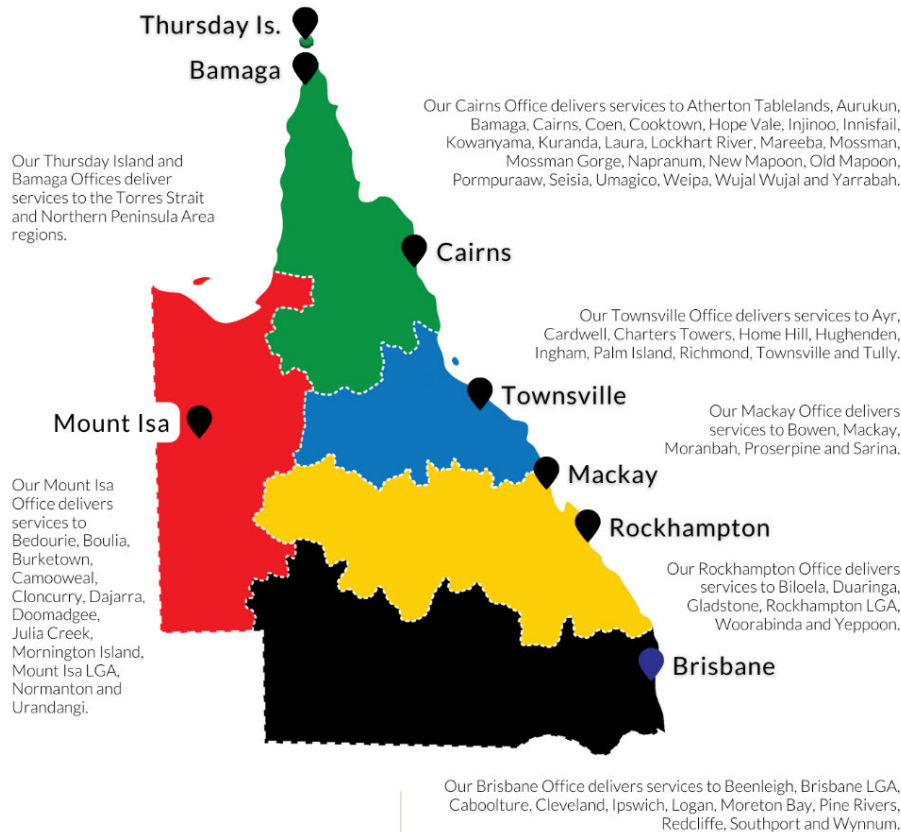
## **About QIFVLS**

The Queensland Indigenous Family Violence Legal Services Aboriginal Corporation (QIFVLS) is a Family Violence Prevention Legal Service (FVPLS) and an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) that fills a recognised gap in access to culturally appropriate legal and wraparound support services for Aboriginal and Torres Strait Islander victim-survivors of family and domestic violence and sexual assault.

QIFVLS is primarily an outreach service. As can be seen from the map below, we operate out of eight offices across Queensland, delivering services to over 90 communities, from the urban south-eastern corner of the state, out west to communities surrounding Mount Isa, reaching the Northern Territory border, and north to the outer islands of the Torres Strait, neighbouring Papua New Guinea. Our services extend from domestic and family violence to family law; child protection; sexual assault and Victims Assist Queensland (VAQ) applications.

---

<sup>1</sup> [https://documents.parliament.qld.gov.au/tp/2023/5723T2106\\_255C.pdf](https://documents.parliament.qld.gov.au/tp/2023/5723T2106_255C.pdf)



## Family violence as a cornerstone

The issue of youth justice reform is not an isolated matter for QIFVLS. We see it as inextricably linked from our observations of our clients – victim-survivors of domestic and family violence. Therefore, tailoring a response to the youth justice system must be multi-faceted (and not siloed) – impacting across domestic and family violence, justice and policing and the child protection system.

It may be startling for some to learn that 3 in 5 First Nations women have experienced physical or sexual violence<sup>2</sup>. This speaks to the crisis we witness as a family violence prevention legal service daily across our offices in Queensland.

Queensland Government data reveals that at least 60% of all Aboriginal and Torres Strait Islander children in youth detention have experienced or been impacted by domestic and family violence<sup>3</sup>. 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

<sup>2</sup> 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](https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wiyi_yani_u_thangani_report_2020.pdf), page 44

<sup>3</sup> <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/reform/youth-justice-report.pdf>



children being placed into the child protection system with 88% of First Nations children in care having experienced family violence<sup>4</sup>.

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 child protection system, the youth justice system, 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 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, 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.

## **2024 Productivity Commission's Review of the National Agreement on Closing the Gap**

The Productivity Commission highlighted that there has been a wide gap between collective governments' rhetoric and their actions. This in large part stems from a failure by governments to fully grasp the nature and scale of the changes required to fulfil the obligations contained within the National Agreement.<sup>6</sup>

The Productivity Commission singled out Queensland, particularly noting that,

*"It remains too easy to find examples of governments making decisions that contradict their commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination. Among other examples described in chapter 7: the Queensland Government made changes to bail laws that will mean more Aboriginal and Torres Strait Islander young people are incarcerated for longer periods of time. This is in the context of Queensland having one of the highest rates of Aboriginal and Torres Strait Islander young people in detention."*

---

<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>

<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.

<sup>6</sup> Australian Productivity Commission (2024), *Review of the National Agreement on Closing the Gap*, page 79



## **A 10-year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice service continuum.**

In their 2019 report on *Imprisonment and Recidivism*, the then Queensland Productivity Commission (QPC) identified that “*the evidence about what works in service delivery in remote Indigenous settings in Australia is scant. However, the evidence that is available suggests that the active involvement of Indigenous residents is a crucial condition for success, particularly for those services attempting to address the underlying causes of dysfunction in communities*” (quoting Hunt 2016).<sup>7</sup> The report went on to refer to evidence from research into First Nations reservations in Canada and the United States. A summary of this evidence emphasised:

- Community control of primary healthcare being associated with improved health outcomes.
- External controls imposed on communities stunt long-run income growth.
- Self-determination and strong governance structures are linked to better outcomes in Indigenous communities.

The QPC noted that the key factor was to reduce Aboriginal and Torres Strait Islander communities’ dependence on centrally managed service delivery and to enable Aboriginal and Torres Strait Islander people to take increasing responsibility for outcomes in their communities.<sup>8</sup>

### Queensland Government partnering with local communities and community-controlled organisations

With current figures revealing that two-thirds of children in detention identify as Aboriginal and/or Torres Strait Islander children, a 10-year youth justice strategy needs the indelible influence of Aboriginal and Torres Strait Islander local communities, Elders, and Aboriginal and Torres Strait Islander Community-Controlled Organisations, such as QIFVLS. While the Productivity Commission’s aforementioned Review firmly marks collective governments’ lack of urgent action, we believe it is not too late to refocus on the priority reforms to the National Agreement, collectively banding together in partnership to *close the gap*.

In Queensland, QIFVLS is working in partnership with the First Nations Justice Office (FNJO), alongside other community-controlled organisations and government agencies as part of the Justice Policy Partnership (JPP) Executive Governance Group and Cross-Agency Working Group, with clear goals to collectively reduce Targets 10 and 11 of the National Agreement. Whilst in the process of drafting the Draft Justice Strategy (Recommendation 1 of the *Hear Her Voice Report – Report 1*), we believe it is vital that the FNJO and members of the Justice Policy Partnership be involved in the development of a 10-year youth justice strategy, given the obvious overlap with the objectives of the JPP.

---

<sup>7</sup> Queensland Productivity Commission (2019), *Inquiry into Imprisonment and Recidivism*, <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-1-final-report.pdf>, page 417

<sup>8</sup> Queensland Productivity Commission (2019), *Inquiry into Imprisonment and Recidivism*, page 418



## **How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services.**

The starting point must be that governments have to be prepared to accept that they do not have all the answers when it comes to social policy and in this regard, youth justice policy which involve a cross-section of issues leading to disadvantage.

Our focus is on our clients and their families – victim-survivors of family violence and sexual assault, including in circumstances where the perpetrators are young people using violence. Concurrently, we frequently see that the same victim-survivors have also been enmeshed within the criminal justice system as accused persons and offenders, as identified in *Hear Her Voice – Report Two*.<sup>9</sup>

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 relation to partnering<sup>7</sup>, this means equal shared decision-making and a true power balance.

There are opportunities to demonstrate sound economic practice by embracing Justice Reinvestment through a preparedness to fund justice reinvestment initiatives at the same level that money is spent on tertiary responses. We believe this will provide a window into the government's priorities.

By now it is no surprise that a variety of reports highlight the benefits from empowering local communities to provide services at a local level. Peak bodies within the Queensland Aboriginal and Torres Strait Islander Coalition (Aboriginal and Torres Strait Islander Legal Service, Queensland Aboriginal and Islander Health Council, Queensland Aboriginal and Torres Strait Islander Child Protection Peak and Queensland Indigenous Family Violence Legal Service) alongside Queensland First Children and Families Board and the Queensland Family and Child Commission are dedicated and invested in building towards a brighter future for our families.

## **Reimagining youth justice infrastructure, including best practice standard accommodation for children and young people who are detained, held on remand or transitioning from detention to the community.**

The task of reimagining youth justice infrastructure begins partly with reimagining a shift in our policy intent. A multi-pronged strategy should adopt a victim-focused approach while concurrently taking steps to create safe, harmonious and prosperous communities where children are protected within a whole-of-community approach that aims to disrupt the causes of youth offending. This is no small task, but it begins with looking beyond the tried and tested detention model as the sole deterrent to offending behaviours, and exploring community-led responses that emphasise rehabilitation, healing and reintegration into community from a culturally safe standpoint.

This submission is consistent in advocating for community-led initiatives supported by government in harmony with the priority reforms in the National Agreement. We commend to

---

<sup>9</sup> Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report Two*



the Committee the earlier submission of the Justice Reform Initiative, which listed a raft of First Nations-led community-based programs encompassing bail accommodation and support for children and young people on remand.<sup>10</sup>

In terms of relatively recent figures, the Queensland Children's Court Annual Report in 2021-2022 noted that in Queensland, 86% of children in detention were being held on remand. Thus, the urgency of not only investing in community-led programs but in capacity-building of the organisations providing these programs speaks directly to Priority Reform 2 of the National Agreement.

We note above the views of the then Queensland Productivity Commission in their 2019 report into *Imprisonment and Recidivism* that there is available evidence to be found in programs operating in First Nations communities in Canada and the United States. Moreover, the Justice Reform Initiative's submission highlighted the operation of Indigenous Healing Lodges in Canada. We believe this is an example of utilising an alternative approach that is grounded in culture and led by Aboriginal and Torres Strait Islander communities.

We understand that there are 10 Indigenous Healing Centres, all modelled on Indigenous values, traditions and beliefs and provide culturally responsive services and programs to address the drivers of incarceration. The goal is to prepare a person for reintegration into the community. The Justice Reform Initiative have identified that Elders and Aboriginal and Torres Strait Islander communities in Queensland have called for funding to establish similar healing centres for both children and adults. We would support their call for funding.

#### **How to improve:**

- a. children and young people's engagement with positive programs, particularly for those held on remand or released on bail where engagement may be lower compared to those in detention.**
- b. children and young people's transition back into the community, including consideration of supported accommodation models.**

We recommend absorbing advice from the Queensland Family and Child Commission (QFCC) on the steps we can take to improve children and young people's engagement with positive programs. It starts with taking a child rights approach. What the QFCC means by this is that the system is likely to be more effective if children and young people at risk of entering the youth justice system are viewed through a rights and wellbeing lens, rather than a criminal or welfare lens. Our simplest suggestion is to speak directly to children and obtain their input about what they believe would work best for their engagement with positive programs. Article 12 of the *United Nations Convention on the Rights of the Child* reminds us that children and young people have the right to be actively involved and influence decision-making on issues that affect their lives.

Taking a child rights approach is consistent with Queensland's *Human Rights Act* and overarching human rights values and framework.

---

<sup>10</sup> Justice Reform Initiative (2024) Submission to the Youth Justice Reform Select Committee into youth justice form in Queensland, [https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1707172438/Youth\\_Justice\\_Reform\\_Select\\_Committee\\_inquiry\\_into\\_youth\\_justice\\_reform\\_in\\_QLD.pdf?1707172438](https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1707172438/Youth_Justice_Reform_Select_Committee_inquiry_into_youth_justice_reform_in_QLD.pdf?1707172438)





## **How to strengthen public confidence in the youth justice system**

We believe the manner and impact of news coverage greatly affects the public's confidence in institutions. Community members have legitimate concerns about crime and safety. It is also the case that sensationalist reporting can stigmatise a community. Although the actual figures may not be known by the wider Queensland community, there is an acknowledgment that the majority of children in the youth justice system identify as Aboriginal and/or Torres Strait Islander children and young people. We have noticed negative sentiment towards Aboriginal and Torres Strait Islander children in general on social media and in the community. This has extended to innocent, law abiding children being targeted or profiled by vigilantes simply based on their appearance.

News reporting by social media is lacking in highlighting the underlying social causes and the lack of protective risk factors leading to youth offending. Thus, we observe a cycle where reporting leads to outrage which leads politicians to adopt tough-on-crime responses, despite available evidence demonstrating that tougher and more punitive approaches do not lead to reductions in youth offending.

In his 2022 Youth Justice Reform Review, former QPS Commissioner Bob Atkinson recommended engaging with the Queensland community to build balanced public awareness of the drivers behind youth offending and evidence-based prevention and response actions.<sup>11</sup>

We are mindful that there are professionals with expertise in communications but nevertheless, we suggest emphasis can be placed on the ways in which evidence-based alternative approaches will be more effective than punitive tough-on-crime approaches.

Balanced reporting and awareness also facilitates mature discussion about the exorbitant costs associated with detaining children and young people in comparison to advocating for increased funding for investment into early intervention and prevention.

## **How to improve youth justice system responses to victims and ensure they are able to access support services across the state**

We suggest referring to the findings of the- Legal Affairs and Safety Committee's report arising from their *Inquiry into Support for Victims of Crime*. We note the current work underway which has seen the establishment of the Office of Interim Victims' Commissioner, with a view to establishing a permanent Victims' Commissioner who will advocate on behalf of victims of crime. In that regard, we note that QIFVLS is currently a stakeholder involved in the Office of Interim Victims' Commissioner Stakeholder Reference Group.

### Prioritising a victim-focused system of justice

The Queensland Productivity Commission's (QPC) ground-breaking report on *Imprisonment and Recidivism* identified that victims remain peripheral to the criminal justice and sentencing system. The report noted that reduced incentives to report crime led to inefficient sentencing<sup>12</sup>.

---

<sup>11</sup> <https://www.dcssds.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

<sup>12</sup> Queensland Productivity Commission (2019), *Inquiry into Imprisonment and Recidivism*, <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-2-final-report.pdf>, Page 250



Thus, QPC's report sought to illuminate a proposal which would prioritise the victim's claim, including the right to seek restoration prior to sentencing by a court.

The Committee should consider Recommendation 8 of the Queensland Productivity Commission's 2019 report into Imprisonment and Recidivism<sup>13</sup>. Recommendation 8 provides that:

### **Recommendation 8**

**The Queensland Government should introduce victim-focused restitution and restoration into the sentencing process. This system should:**

- **give victims the option of engaging in a process of restitution and restoration with the offender prior to sentencing.**
- **provide victims and offenders with sufficient options for achieving restoration for harms inflicted, including financial and non-financial compensation.**
- **take into account, through charging and/or the sentencing process, agreements that are reached between the victim and offender.**
- **provide mechanisms to ensure that courts consider any residual public interest in final sentencing.**
- **allow normal court processes to proceed where victims choose not to pursue restitution or restoration, or where victims and offenders cannot reach agreement.**
- **include appropriate protections for victims and offenders.**
- **be supported by inclusion of restorative justice principles into the *Penalties and Sentences Act 1992*. Victim-focused restitution and restoration should be made available for any offence where a victim is identifiable.**

A key feature of this recommendation is that prior to a case being brought before court, the victim-survivor is given an opportunity to choose between whether sentencing should proceed under a mediated restitution and restoration process, or under the normal court process. The QPC found that the proposal for a more victim-focused system should apply for all types of offending involving harm to an identifiable victim. Under reasonable assumptions, the QPC found that the proposal may reduce average imprisonment levels by 453 persons by 2030-31, thereby reducing government expenditures by upwards of \$40 million.

The QPC's report was notable in the manner in which it combined economic analysis of social policy. Encouraging a victim-focused sentencing process is an approach that would empower the victim-survivor/complainant and prioritise their claim.

---

<sup>13</sup> Queensland Productivity Commission (2019), *Inquiry into Imprisonment and Recidivism*, <https://s3.treasury.qld.gov.au/files/Imprisonment-Volume-2-final-report.pdf>



## Conclusion

There is no silver bullet to reforming youth justice, youth offending, community safety and children being incarcerated at record levels in Queensland. This will take vision, time and genuine partnership and commitment to turn the tide, particularly in relation to investing in holistic early intervention and prevention measures.

We note that there are a multitude of organisations and groups with ideas and programs, aimed at intervening and assisting children and young people at the local level. We believe that the many community-led services, particularly First Nations-led services, programs and responses must be commensurately funded by the Government to an extent signalling the Government's intent to prioritise early intervention and prevention.

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

If you would like to discuss our response further, please don't hesitate to contact me at

[REDACTED]

Yours faithfully

**Queensland Indigenous Family Violence Legal Service**

[REDACTED]

Principal Legal Officer