



QIFVLS

Queensland Indigenous
Family Violence Legal Service

Submission regarding the House of Representatives Standing
Committee on Social Policy and Legal Affairs *Inquiry into
family violence orders*

29 July 2024





The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into family violence orders

Executive Summary

Queensland Indigenous Family Violence Legal Service (QIFVLS) Aboriginal Corporation ('QIFVLS') welcomes the opportunity to provide a submission regarding the Inquiry into family violence orders.

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.

Our broad observations as an organisation are encapsulated in the 2020 Australian Human Rights Commission's (AHRC) report, *Wiyi Yani U Thangani (Women's Voices): Securing Our Rights, Securing Our Future Report*. Among other achievements, this report revealed that 3 in 5 First Nations women have experienced physical or sexual violence¹. This speaks to the crisis that QIFVLS witnesses as a family violence prevention legal service daily across our offices in Queensland. In that regard, we support reforms that empower victim-survivors to be supported in coming forward and telling their truths. This needs to happen within a trauma-informed system that prioritises a victim-survivor and their family's healing and cultural safety.

We believe in the significance of this inquiry in terms of harmonising the crossover between family law and family violence matters in the Commonwealth and state jurisdictions. The current apparatus is disproportionately affecting vulnerable and dispossessed victim-survivors of family violence matters. In this regard, we point to Recommendation 70 of the Queensland Women's Safety and Justice Taskforce's first report, *Hear Her – Report One – Addressing coercive control and domestic and family violence in Queensland*, which outlined the following²:

70 - The Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence advocate nationally through the Meeting of Attorneys-General, for national reform to the family law system including for:

- the Federal Circuit and Family Court of Australia to implement and embed an understanding and approach to domestic and family violence that recognises and responds to patterned behaviour over time in the context of the relationship as a whole.

¹ 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, page 44

² Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report One, Volume One*, https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0013/700600/volume-1-exectutive-summary-and-introduction.pdf



- the implementation of a risk assessment approach that includes the consideration of the risk of safety and harm for the victim and of a perpetrator continuing to use violence that is evidence-based and preferably aligned to those used by states and territories.
- the Federal Government to progress amendments to the Family Law Act 1975 (Cth) to make clear that the presumption of shared parental responsibility does not mean equal shared care of a child.
- the Federal Government progress amendments to the Family Law Act 1975 (Cth) to make clear that a victim of domestic and family violence acting to protect a child from exposure to domestic and family violence or other harm cannot be used as evidence that the victim is alienating the child from the other parent.

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.

Recommendations

In responding to the inquiry, QIFVLS makes the following recommendations:

1. Consideration is given to having a federal Domestic and Family Violence framework, utilised in Federal Courts. This may enable proceedings (for example parenting and domestic violence subject to sufficient nexus) to be heard and considered together, reducing the impact of continued proceedings on a victim-survivor. This framework would include civil mechanisms for enforcement or contempt proceedings, which may allow for parenting and domestic and family violence proceedings to be heard together (subject to nexus).
2. More resources, information and supports should be provided to self-represented litigants.
3. More education, information and resources provided to litigants and victim-survivors who reside in rural and remote communities. Generally, these communities go without necessary support services.
4. There should be an avenue for information sharing between the Family Law Courts and Domestic and Family Violence Courts (i.e. specifically the provision of existing Court Orders). This can assist in ensuring that the Court has all relevant information and Orders. Presently, it is the parties' obligation to provide the Court with this information and these documents.
5. Greater resources should be made available to victim-survivors during the pre-action procedure stage of parenting matters.
6. There should be specific funding for practitioners to provide victim-survivors with advice. These practitioners should be trained in the domestic violence industry, and should have relevant cultural awareness training, particularly for Aboriginal and Torres Strait Islander people.
7. Greater referral mechanisms be implemented, particularly for self-represented parties. These referrals should include FVPLS', CLCs, ATSILS and LACs, and should be made at a pre-action level and during/before proceedings.
8. Specific funding be provided to CLCs and Legal Aid, to assist self-represented parties with preliminary legal advice.
9. Specific funding for services to provide assistance to vulnerable persons.
10. Specific training for services who are assisting vulnerable persons.
11. Requirements for self-represented parties to obtain legal advice, prior to filing an Application for Consent Orders.



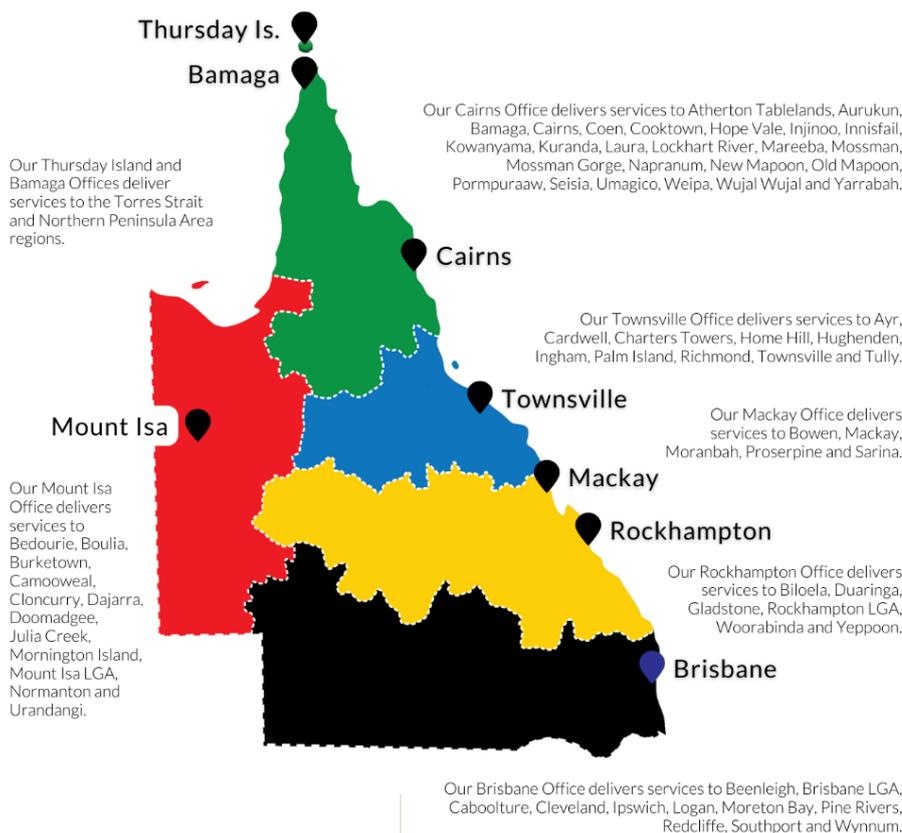
About QIFVLS

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 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 Texas³, 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.

Family violence as the cornerstone

As a Family Violence Prevention Legal Service whose footprint extends to over 90 communities throughout Queensland, our frontline staff’s observations are 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) 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 violence⁴. 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 assault⁵.

The scale of this problem, however, is far greater because it is known that Aboriginal and Torres Strait Islander 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

³ <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>

⁴ 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>

⁵ 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



assist a victim-survivor escaping a violent relationship⁶ (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.

The risk of an escalation in the aggressive and violent behaviour of the perpetrator and heightened risk to the partner and children during family court proceedings

We have observed that proceedings (whether this be domestic and family violence or family law) can be used by perpetrators as an extension of committing further acts of domestic and family violence. In some instances, proceedings can be used as a weapon to harm a victim-survivor. This was referred to in the Queensland's Women's Safety and Justice Taskforce's *Hear Her Voice – Report One*, noting that DVO cross-applications can be used by perpetrators as a form of systems abuse.

Perpetrators of domestic and family violence use cross-applications to diminish the protection given to a victim under an order and undermine the credibility of the victim. This has serious consequences for the victim. It can intimidate her into withdrawing her own application and undermine her future credibility, especially when she needs support and help to prevent the continuing violence against her. It means that the person most in need of protection in a relationship is unlikely to seek help again and, if she does, it reduces the likelihood of it being adequately provided. It can also have significant impacts on children's safety in later family law proceedings.⁷

Thus, there is a genuine fear for victim-survivors, in that they may be conflicted in considering whether to disclose violence and risk to the Family Law Courts as per their disclosure duties, whilst risking retaliation or repercussion by the perpetrator (particularly if their concerns have not been reported or substantiated).

The *Hear Her Voice – Report One* addressed this point:

Although it is beyond the legislative power of the Queensland Government to change the legislation of the Commonwealth Government, the Taskforce has heard repeatedly from victims that perpetrators of coercive control use Commonwealth family law proceedings and outcomes as a mechanism to continue their violence and to exert power and control over their victims. This undermines efforts by states and territories to improve responses to domestic and family violence.⁸

In addition to this fear, victim-survivors are often accused of making up allegations to “get ahead” in family law proceedings and face additional scrutiny by having to provide evidence through both the DV courts and FCFCOA. Additionally, as a result of disclosing relevant concerns in Family Law proceedings, a party (or victim) may unintentionally open the floodgates to further acts of violence by the perpetrator (or other party).

Lack of knowledge

⁶ 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.

⁷ Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report One, Volume One*, https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0013/700600/volume-1-executive-summary-and-introduction.pdf page 53

⁸ Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report One, Volume One*, page xxv



We have found that there is a general lack of knowledge and education for victim-survivors surrounding risk, and domestic and family violence, which can ultimately lead to them making uninformed decisions, or reaching an agreement that places a child at risk of harm. In these cases, a victim-survivor may not be of the understanding, that the arrangements are not in the children's best interest, due to a history of violence and control. This has been a regular observation in practice when working with victim-survivors who have informal arrangements already in place or in the process of finalising. When making parenting agreements, the victim-survivor is in a position where they are more likely to compromise than the perpetrator, leading to inappropriate parenting arrangements which may increase risk of harm or control from the perpetrator over the victim-survivor.

Recommendation

Greater resources should be available for victim-survivors during the pre-action procedure stage of parenting matters. For example, adopting a legally assisted mediation framework in community dispute resolution services such as Uniting Care and Relationships Australia.

We would further support, through the National Partnership Agreement on Closing the Gap (Priority Reform 2), coupled with the Mundy Review of the NLAP, that the capacity and capability of FVPLS', as specialist service providers be built, to be able to provide culturally appropriate legally assisted mediations.

The model referred to in the above recommendation could be similar to the Legally Assisted and Culturally Appropriate (LACA) Dispute Resolution model adopted by the Relationships Australia Queensland's Upper Mount Gravatt office. This model provided free legal advice and assistance to those utilising mediation services before, during and after mediation. Legal Practitioners would be approved as providers to this service and receive referrals following the intake of clients accessing services relating to parenting, including counselling services. This provides an opportunity to have an early legal advice session covering relevant considerations when making parenting arrangements.

If the clients are linked into the dispute resolution service branch, they would receive an early legal advice session to prepare them for the upcoming mediation and have them focus on narrowing issues in dispute. The solicitor would then be available to assist and advise during the mediation to ensure there is no duress or inappropriate agreements reached, and that safety can be appropriately maintained. The client would then also have access to an additional appointment following the mediation to either formalise any agreements reached or receive advice on the next steps. This framework has been used on a smaller scale in a pilot program and was found to be very successful and useful for clients. The benefits would include:

- Ensures all parties receive legal advice at an early stage to set realistic expectations and assist in setting up appropriate parenting plans.
- If appropriate, the solicitors could assist in formalising plans in the way of consent orders.
- Additional referral pathways may be identified during appointments to ensure victims or perpetrators are provided an option to access appropriate resources.
- Providing an avenue for victim-survivors to resolve parenting matters without further court proceedings. The majority of matters involving DFV will be automatically issued a 60I certificate determining mediation is not appropriate due to the DFV. By having a legally assisted model, safety measures can be explored, and risk of duress is reduced.



The current barriers for litigants in the family law system to obtain and enforce FVOs, including but not limited to:

a. The additional difficulty for victims of violence in the family law system to attend multiple courts for their family law order proceedings and an FVO

Victim-survivors of domestic and family violence, may be required to participate in the following proceedings as a result of a relationship breakdown:

- Domestic Violence proceedings (Civil Application)
- Parenting proceedings
- Property/financial proceedings
- Subject to breaches and charges, criminal proceedings if required to give evidence.

This may result in a victim having to recount their story multiple times, being cross-examined or required to provide similar evidence on multiple occasions and can result in the victim-survivor being retraumatised.

In some instances, victim-survivors may decide to reach an agreement (that otherwise may not be in their or the child's best interests), or may refuse to participate in proceedings, in an effort to reduce exposure to ongoing trauma by continued proceedings. Failure to participate may result in court orders that are not in the victim's interest. Victims may often feel overwhelmed, as a result of multiple proceedings.

This has been directly observed in practice where the perpetrator has weaponised using multiple proceedings against the victim.

QIFVLS Case Study

In one case QIFVLS was assisting a lady who was caring for her [REDACTED] in hospital. [REDACTED]

The father was not allowed at the hospital due to his behaviour and had a DVO against him protecting the mother, as made by police. The father then initiated proceedings in the FCFCOA seeking sole care of the [REDACTED] child, whilst also filing a DV cross-application in the Magistrates Court. The mother was referred to our service for assistance and advised us that she didn't intend to go to either court date because she was too overwhelmed and needed to care for her child. We stepped in and were able to assist on both matters which may have otherwise resulted in default judgements against the mother.

b. The intersection between FVOs and parenting orders, including that a family court parenting order may override an FVO

From our observation, the intersection between FVOs and parenting orders, is not clear, particularly for self-represented and vulnerable litigants. More knowledge and education should be provided to self-represented parties, both in Domestic Violence and Family Law proceedings. Further education should also be provided to Police, who are required to enforce the FVOs. This will enable them to have an adequate understanding in assessing when a Family Law Order may override a FVO (s 68p and 68q).

We also observe that the Family Law Courts do not follow the DV legislative pathway followed by Domestic Violence Courts in Queensland. Thus, we believe that consideration should be given to instituting a federal Domestic Violence framework.

There also needs to be uniformity or cohesion between the various risks screening matrixes used at the State and Commonwealth level.



Recommendation

Consideration be given as to having a federal Domestic and Family Violence framework, dealt with in Federal Courts. This may enable proceedings (for example parenting and domestic and family violence subject to sufficient nexus) to be heard and considered together, reducing the impact of continued proceedings on a victim.

Although the Family Law Courts have the power to grant injunctions to protect the welfare of a child (s 68B of the FLA) or in specific circumstances, in financial matters (s 114 of the FLA), injunctions in the Family Law Courts are made in more limited circumstances. Further, if the relevant injunctions are inconsistent with the State FVO, this may create issues, particularly for self-represented litigants. It is also important to note that the framework for an injunction (under the FLA) is different to the domestic violence legislative framework.

Accordingly, on this issue we make further recommendations:

- More resources and information provided to self-represented litigants.
- More education, information and resources provided to litigants and victim-survivors who reside in rural and remote communities. Generally, these communities go without necessary support services.
- In the meantime, there should be an avenue for information sharing between the Family Law Courts and Domestic Violence Courts (i.e. specifically the provision of existing Court Orders). This can assist in ensuring that the Court has all relevant information and Orders. Presently, it is the parties' obligation to provide the Court with this information and these documents.

c. The availability of wrap-around support services and security for victims of violence

The Family Law Courts have implemented a 'Lighthouse' safety screening for parties. Nevertheless, it is recommended that this screening tool (or a similar one) could be utilised to refer self-represented litigants, particularly those who are vulnerable and have experienced domestic and family violence, to Community Legal Centres, including the FVPLS (provided that they meet the FVPLS funding criteria) or other appropriate services, to obtain advice at first instance. It is recommended that appropriate information sharing mechanisms be included, to prevent victim-survivors from having to re-tell their story.

Victim-survivors who reside in regional or rural communities, are faced with added hurdles of having limited to no support services. If there are support services available, the victim may be conflicted out, due to the perpetrator accessing the services. This predicament is keenly felt by our clientele. There needs to be greater investment in support and wrap-around services for victim-survivors, particularly culturally safe support for those who are vulnerable (such as Aboriginal and Torres Strait Islander people) and those who have difficulties accessing justice.

How FVOs could be more accessible for victims of violence going through the family law system, including but not limited to:

a. Making it easier to apply for and enforce an FVO

Current avenues to enforce FVOs are limited to reporting the incident to police and waiting for police to investigate and consider charging the respondent / perpetrator with an offence. The enforcement is limited to criminal prosecution.

If police are not satisfied that there is sufficient evidence to issue charges, there may be limited avenues for the victim to seek enforcement.



We are aware of an instance in the past where a victim privately brought criminal law breach of a domestic violence order proceedings (Queensland) through the instruction of a barrister after the Queensland Police Service’s Prosecution Corps opted not to prosecute the matter (The Jacqui Barker case - <https://9now.nine.com.au/60-minutes/brave-woman-pursues-private-criminal-trial-of-expartner-for-threatening-violence-after-queensland-police-refuse-to-prosecute/17f90368-acfc-4994-b6fc-a3a3e92220a7>). Notwithstanding, the reality of a victim being able to afford or understand their ability to pursue such avenues is extremely limited.

A victim-survivor who has an FVO may be reluctant to report the offence, particularly if there is limited evidence, out of fear of retaliation by the perpetrator. This fear of retaliation may increase if the victim-survivor has concerns that the incident may not be investigated, and charges may not be issued. Although it is recommended that victim-survivors report any potential breaches of FVOs, they are often faced with the difficult task of assessing whether the disclosure is worth the potential blowout from the perpetrator.

We recommend that further training be provided to police staff surrounding domestic and family violence, including risk screenings and appropriate referrals being made. On this point, we note that Her Honour Judge Richards DCJ in her final report to Queensland’s Commission of Inquiry into Queensland Police Service responses to incidents of domestic and family violence made a raft of recommendations, emphasising the necessity of training for police staff.⁹

In this regard, we also highlight that an outcome of the Commission of Inquiry is that QIFVLS now provides cultural capability training to the specialist officers in the Queensland Police Service’s Vulnerable Persons Unit (VPU) in their 5 day course. However, Her Honour Judge Richards DCJ further recommended in Recommendation 41 that within 12 months (of the recommendation being accepted) the Qld Police Service strengthen its cultural training by introducing Academy and ongoing training which is co-designed in consultation with First Nations peoples and communities and is co-delivered by First Nations peoples and communities. As at the date of writing this submission, this recommendation has not been actioned.

Recommendation

Consideration be given to a uniform Federal Domestic and Family Violence framework, including civil mechanisms for enforcement of contempt proceedings, which may allow for parenting and domestic and family violence proceedings to be heard together (subject to nexus).

b. Co-location arrangements that would allow an application or enforcement of an FVO to be heard in the same physical location as the Federal Circuit and Family Court of Australia

As noted above, consideration should be given to a uniform Federal Domestic and Family Violence framework, enabling the Family Law Courts to consider and determine domestic violence matters, as part of parenting proceedings (ensuring that there is sufficient nexus between the two proceedings).

Although hearing an application or enforcement of a FVO in the same location as the Family Law Courts may be convenient, this does not ensure or safeguard victim-survivors from re-telling their stories and entering into multiple sets of litigation.

⁹ ‘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>



c. the legal and non-legal support services required to promote early identification of and response to family violence.

Referrals should be made to legal support services (such as Legal Aid, Women's Legal Services of Community Legal Centres and culturally safe holistic FVPLSs like QIFVLS) and non-legal support services (such as counselling, housing, DV support etc) at first instance. These referrals should be made at the pre-action stages (including Mediations) and at the stage of commencing Court proceedings.

It is recommended that further support services be in place, particularly for vulnerable victim-survivors and persons who reside in rural or remote areas.

Early support, advice and assistance, can assist victims and matters progressing to finalisation, resulting in arrangements which are in the best interests of the child and victim.

We advocate for specific funding for legal practitioners to provide victim-survivors with legal advice and support. These practitioners should be trained in the domestic and family violence jurisdiction, and should have relevant cultural awareness training, particularly for working with Aboriginal and Torres Strait Islander people. The requirement for DFV-specific training for legal practitioners accords with Recommendations 42 and 43 of *Hear Her Voice – Report One*¹⁰:

42 - The Queensland Law Society ensure that the specialist accreditation schemes for criminal law and family law include a requirement for lawyers to have specialist understanding of the nature and impact of domestic and family violence, the relevant law, the local support services available for both victims and perpetrators, and how to refer clients to services and supports.

43 – Legal Aid Queensland require that lawyers on its preferred supplier lists for criminal, family law and civil law participate in regular training on the nature and impact of domestic and family violence, as well as the substantive and procedural law. Training should include an understanding of the local support services and how to refer to them. Participation in training should be recorded and reported in its annual report.

Any other reform that would make it safer and fairer for victims of violence in the family law system who need the protection of FVOs.

Overall, we call for:

- a. Greater referral mechanisms be included, particularly for those who are self-acting. These referrals should include CLCs, LACs and FVPLSs, and should be made at a pre-action level and during/before proceedings.
- b. Specific funding be provided to CLCs and Legal Aid, to assist self-represented parties with preliminary legal advice.
- c. Specific funding for services to provide assistance to vulnerable persons.
- d. Specific training for services who are assisting vulnerable persons; and

¹⁰ Women's Safety and Justice Taskforce (2022), *Hear Her Voice Report One, Volume One*, https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0013/700600/volume-1-exectutive-summary-and-introduction.pdf



- e. Requirements for self-acting parties to obtain advice, prior to filing an Application for Consent Orders.

We further observe a current gap in the recognition and protection of children in the state-based domestic and family violence system. Currently in Queensland, a child who experiences violence or witnesses it, will become a *named person* on the order of the *primary victim*. There is no recognition of the considerations of the *best interests of the child* (with a deeply embedded jurisprudence known to the Commonwealth FCFCOA), which is at the heart of parenting matters and their manner of determination in the Commonwealth jurisdiction.

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.