



# QIFVLS

Queensland Indigenous  
Family Violence Legal Service

Submission to the Australian Human Rights Commission  
regarding Youth Justice and Child Wellbeing Reform across  
Australia

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## The Queensland Indigenous Family Violence Legal Service (QIFVLS) Submission to the Australian Human Rights Commission regarding Youth Justice and Child Wellbeing Reform across Australia

### Executive Summary

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 safer communities and households free of family violence, 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 youth justice and child wellbeing is a core component affecting the services we provide.

As an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) and family violence prevention legal service (FVPLS) devoted to supporting Aboriginal and Torres Strait Islander victim-survivors of domestic, family and sexual violence, community safety is paramount for our organisation. This is consistent with section 26 of Queensland's *Human Rights Act 2019* (QLD)<sup>1</sup>. Like other ACCOs, Elders and stakeholder groups in Queensland, we want to work with government and the parliament to find solutions to youth justice issues and to ensure the wellbeing of our children. This is significant because our observations on the ground are that by the time many of our clients – mostly women and children - come to us for assistance and support, they will have already fallen through the cracks in the current system. Cracks which rapidly lead their children, victim-survivors of family violence, into out-of-home care and appearances before the courts as accused young persons, youth offenders and serial repeat youth offenders.

Thus, dealing with youth justice and child wellbeing is relevant to QIFVLS given our experiences of family violence as an intersection point revealing systemic failures in child protection and youth crime, alongside adult crime, health, housing/homelessness, education and family law. Heavy handed and knee-jerk responses from a criminal justice perspective will not adequately overcome the deep-seated systemic drivers and underlying factors that lead us to the situation we are facing. We do not need to highlight that the *tougher-on-crime* approach has been routinely proven not to reduce serious repeat youth offending.

The Productivity Commission's 2023 Report on Government Services highlighted that in the 2021-2022 period, Queensland had a daily average number of 267 children held in detention, amidst a total of 697 children and young people in custody nationwide<sup>2</sup>. As a percentage, that equates to Queensland holding 38% of Australia's children and young people in custody as a daily average number in 2021-2022. If the *tougher-on-crime* approach was working, it could be argued that Queensland should already be the safest jurisdiction in Australia.

The point of primacy in our submission is that harsher penalties leading to increased detention for youth offenders, predominantly Aboriginal and Torres Strait islander youth offenders, will not reduce youth crime unless serious coordinated whole-of-government and community efforts are made to reform and address the underlying factors and drivers leading to poverty, income inequality, low economic participation, health inequity, systemic racism and substance addiction.

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<sup>1</sup> *Human Rights Act 2019* (QLD), section 26

<sup>2</sup> Australian Productivity Commission (2023), Report on Government Services (Part F: Youth Justice services) <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice>



In the process of introducing the *Strengthening Community Safety Act 2023* (QLD) into parliament in February 2023, Queensland legislated to override the *Human Rights Act 2019* to remove the human rights of children in the process of making breach of bail for children a new criminal offence. At the time, we stated that this measure will not reduce the amount of serious repeat youth offenders. To the contrary, it will only serve to increase the numbers of children and young people being detained and ultimately feed the pipeline of children transferring from youth detention into the adult prison system. Sadly, this is being borne out by the latest figures in late May 2023. In that regard, we note recent reporting that in the three-month period from late March 2023 since Queensland introduced the *Strengthening Community Safety Act 2023* (QLD), 169 children had been charged with the new offence of breach of bail, including six children aged 11. Furthermore, of those 169 children, 112 identify as Aboriginal and/or Torres Strait Islander.<sup>3</sup>

At QIFVLS, we believe that highlighting efforts at the tertiary response level through police and the courts, while important, will not ultimately succeed unless there is sustained investment and commitment to programs at the front-end through a range of measures including early intervention and prevention. Similar sentiments were voiced by Mr Bob Atkinson, Former Commissioner of the Queensland Police Service, in his. Mr Atkinson noted that the wide range of issues associated with youth justice are such that it will require ongoing investment and monitoring with respect to both prevention and response<sup>4</sup>. Unless we learn the lessons of the past, we will see further unintended consequences leaving neither the community safe nor providing opportunities for our children and young people in the system to turn their lives around and contribute meaningfully to their communities.

## Summary of QIFVLS submissions

QIFVLS offers the following feedback:

- From our experiences, family violence is the cornerstone linking an Aboriginal and Torres Strait Islander person's connection with the youth justice system, child protection, adult crime, health, housing and adult crime. Reducing youth crime and ensuring child wellbeing requires a whole of government approach to tackling the underlying causes and drivers.
- We desire community solutions to ensuring reform across the youth justice and child protection systems.
- We urge all levels of government to engage in shared consultation and partnerships to comprehensively reforms the youth justice and child wellbeing sectors, including tackling the social causes and drivers with evidence-based solutions.

## 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.

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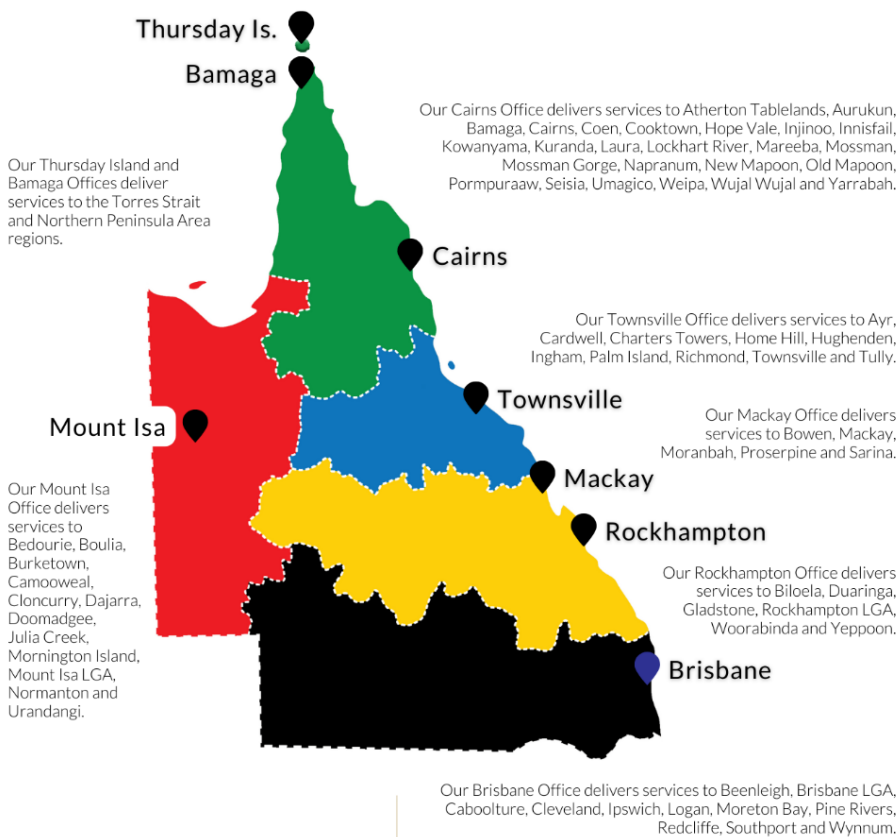
<sup>3</sup> The Guardian, 31 May 2023, *Two-thirds of children charged with Queensland's new breach of bail offences are Indigenous*, <https://www.theguardian.com/australia-news/2023/may/31/two-thirds-of-children-charged-with-queenslands-new-breach-of-bail-offences-are-indigenous>

<sup>4</sup> Department of Children, Youth Justice and Multicultural Affairs (QLD), *Youth Justice Reforms Review* (2022), <https://www.cyjma.qld.gov.au/about-us/reviews-inquiries/youth-justice-reforms-review> page 14



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 size of Japan; seven (7) times the size of Great Britain and two and a half (2.5) times the size of Texas<sup>5</sup>, QIFVLS has eight (8) offices in Queensland –

- (1) a service delivery office in addition to its Head Office located in Cairns, responsible for servicing Cape York communities, Cooktown; Atherton Tablelands, Innisfail, and Yarrabah (and communities in between);
- (2) a service delivery office in Bamaga responsible for servicing Cape York communities as far north as Bamaga and Umagico;

<sup>5</sup> <https://www.qld.gov.au/about/about-queensland/statistics-facts/facts>



- (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

When considering the issue of youth justice and child wellbeing, these are not viewed in isolation or in siloes by QIFVLS. We also see youth justice and child wellbeing as inextricably linked with our observations of our clients – victim-survivors of domestic and family violence. It may be startling for some to learn that 3 in 5 First Nations women have experienced physical or sexual violence<sup>6</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>7</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 children being placed into the child protection system with 88% of First Nations children in care having experienced family violence<sup>8</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>9</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.

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<sup>6</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>7</sup> <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/reform/youth-justice-report.pdf>

<sup>8</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>9</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.



## Additional factors contribute to children’s and young people’s involvement in youth justice systems?

In our observations of family violence as an intersecting point, we touched on factors contributing to children and young people’s involvement in youth justice systems. Additionally, we note that the following are all factors contributing to the involvement of Aboriginal and Torres Strait Islander children in youth justice and child protection systems:

- entrenched social and economic disadvantage.
- high rates of unemployment.
- exposure to substance addiction.
- intergenerational trauma and systemic racism.
- low participation in the education system, including expulsions.
- Foetal Alcohol Spectrum Disorder (FASD) and other neurological impairments.
- behavioural and mental health conditions.

## What needs to be changed so that youth justice and related systems protect the rights and wellbeing of children and young people?

We strongly believe in a combined and coordinated focus on early intervention and prevention, addressing underlying factors to do with housing, health, disability support, education and low economic participation.

The focus on a shift away from tertiary responses to front-end early intervention and prevention was highlighted in the 2019 Queensland Productivity Commission Report on Imprisonment and Recidivism<sup>10</sup> with the following key findings made by the Queensland Productivity Commission (QPC)<sup>11</sup>:

- social and economic disadvantage is strongly associated with imprisonment, around 50% of prisoners had a prior hospitalisation for mental health issue and/or were subject to a child protection. However, for female indigenous prisoners, this figure rose to 75%.
- Among the reforms suggested by the QPC, the establishment of an independent Justice Reform Office in Queensland would provide a greater focus on longer term outcomes and evidence-based policy making.
- In Queensland, the rate of imprisonment has increased by more than 160% since 1992.
  - We note that the cost of incarcerating one child in custody for one day in Queensland is \$1,879.80.<sup>12</sup> The cost of incarcerating one child in custody for one year in Queensland is \$686,127.
- High Indigenous incarceration rates undermine efforts to solve disadvantage.
- The rate of Indigenous imprisonment is continuing to grow – increasing by 45% between 2008 and 2018. This rate of growth was 50% faster than for non-Indigenous people. Additionally, whilst women in Queensland were imprisoned at much lower rates than men, it was found that female imprisonment rates in Queensland had increased by more than 60% over the last decade.
- With an overall decrease in the trend of offending in the last 10 years, other factors such as legislative and policy changes are driving the increase in imprisonment.

The QPC helpfully created a visual timeline highlighting the stark reality of successive government policy that has focused on tertiary responses and the risk factors that gave rise to a person’s contact with the criminal justice system in Queensland, especially if that person was an Aboriginal and or Torres Strait Islander person:

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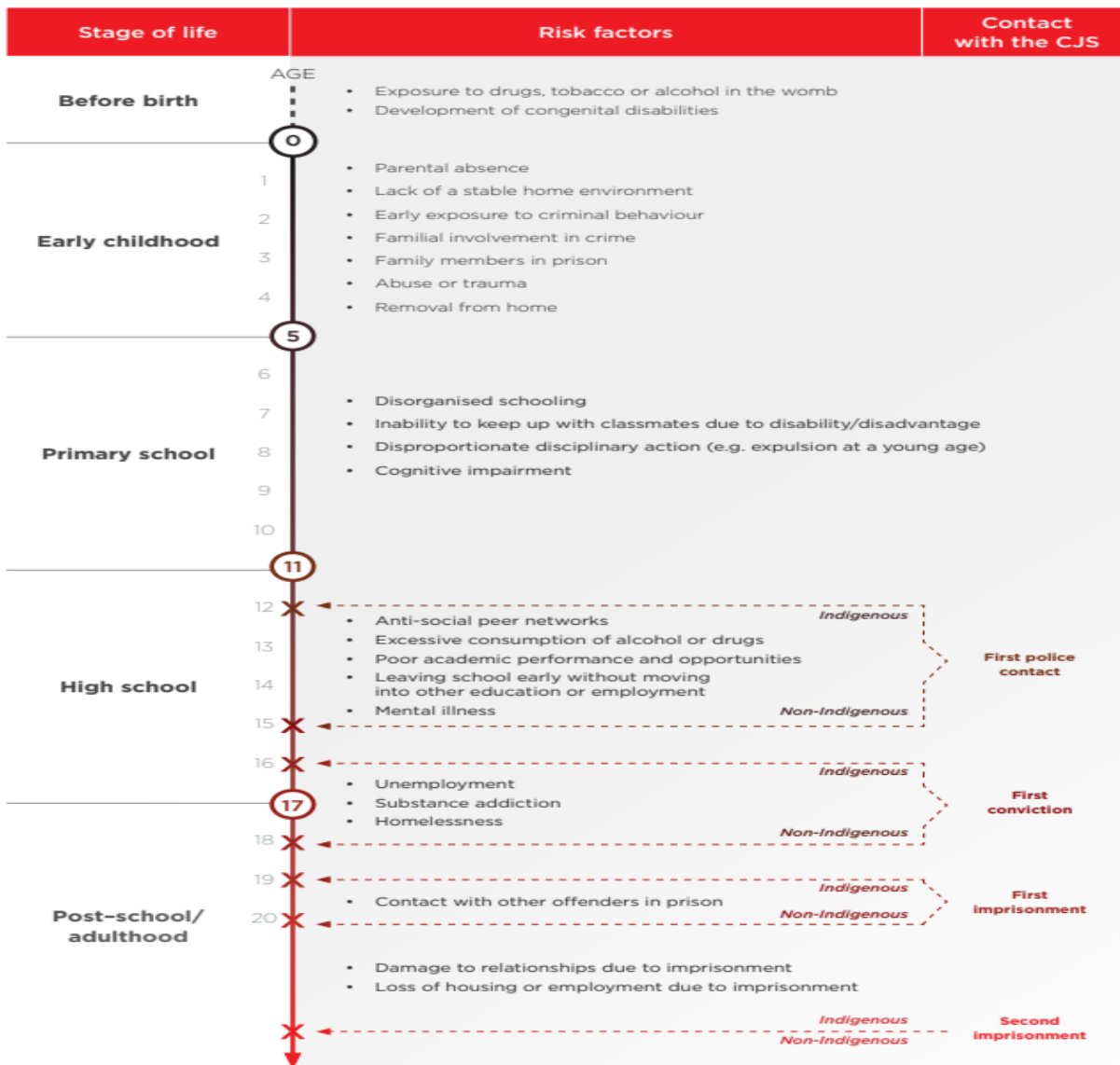
<sup>10</sup> Queensland Productivity Commission, August 2019, Summary Report – Imprisonment and Recidivism, p.11

<sup>11</sup> Queensland Productivity Commission, August 2019, Summary Report – Imprisonment and Recidivism, p. 2.

<sup>12</sup> Australian Productivity Commission (2023), Report on Government Services (Part F: Youth Justice services) <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice>



Figure 12 Risk factors and contact with the criminal justice system, Queensland



### Monitoring of over-representation in the child protection system

Greater focus needs to be placed on the over-representation of Aboriginal and Torres Strait Islander children in the child protection system and the nexus with the youth justice system. The Queensland Family and Child Commission (QFCC) have identified high numbers of unsubstantiated notifications regarding Aboriginal and Torres Strait Islander children in the child protection system.

In their statewide over-representation snapshot for 2021-2022, the QFCC noted that out of 8,745 investigations finalised by 30 June 2022, 5,436 had been unsubstantiated. This contrasted with 1,584 substantiated notifications.<sup>13</sup> The QFCC also seeks further investigations regarding 519 children in the child protection system who exited care

<sup>13</sup> Queensland Family and Child Commission, *Statewide Over-representation 2021-2022 snapshots of Aboriginal and Torres Strait Islander children and young people in the Queensland statutory child protection system*, [https://www.qfcc.qld.gov.au/sites/default/files/2023-01/2021-2022%20Statewide%20snapshot\\_0.pdf](https://www.qfcc.qld.gov.au/sites/default/files/2023-01/2021-2022%20Statewide%20snapshot_0.pdf)



but did not attain adulthood nor were they reunited with their family.<sup>14</sup> This is an alarming figure of children unaccounted for and are not visible and requires urgent priority.

## Barriers to change

From our observation, significant barriers to change include:

- The short-term political cycle.
  - This sees successive governments prioritise a populist response that contradicts the evidence that tougher crime responses and penalties ultimately lead to further crime. We do not know how this can realistically be overcome.
- The slow process of transforming the culture of mainstream government agencies and organisations to an environment prioritising shared decision-making and partnerships and a devolution of power to Aboriginal and Torres Strait Islander community-controlled organisations.
  - It is our desire that all levels of government can fully and genuinely commit to the priority reforms and socio-economic targets they signed in the National Agreement on Closing the Gap.

## Can you identify reforms that show evidence of positive outcomes?

The Justice Reform Initiative (JRI) identified several reforms with promising outcomes in their submission to the Queensland Parliament's Economics and Governance Committee during the inquiry into the *Strengthening Community Safety Bill 2023*<sup>15</sup>. We refer the Commission to the JRI's submissions accordingly, noting they include the following, among others:

- *Fast Track* (United States of America)
  - An evidence-based early intervention program in the United States focusing on disrupting the school to prison pipeline – its 10-year investment cost for one child was found to be more cost-effective than incarcerating a child for one year.
- *Focussed Deterrence* (United Kingdom)
  - This strategy works through gaining an understanding of the drivers behind offending. Intervention includes law enforcement, community mobilisation and social service responses.
- Justice Reinvestment - *Maranguka Evaluation* (New South Wales)
  - KPMG report into the Maranguka Project at Bourke in 2016/17 found reductions in domestic violence offending and justice system involvement, alongside increased rates of school retention with estimated savings of \$3.1 million over the course of a year.

The JRI's submissions noted there was clear evidence that bail support programs reduce reoffending and increase compliance with bail conditions.<sup>16</sup>

Elsewhere, the Youth Justice Reforms Review prepared by Former QPS Commissioner, Mr Atkinson identified that coordinated multi-agency approaches are essential to reduce crime and reoffending.<sup>17</sup> To that end, the Review

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<sup>14</sup> Queensland Family and Child Commission, *Statewide Over-representation 2021-2022 snapshots of Aboriginal and Torres Strait Islander children and young people in the Queensland statutory child protection system*, [https://www.qfcc.qld.gov.au/sites/default/files/2023-01/2021-2022%20Statewide%20snapshot\\_0.pdf](https://www.qfcc.qld.gov.au/sites/default/files/2023-01/2021-2022%20Statewide%20snapshot_0.pdf)

<sup>15</sup> Justice Reform Initiative (2022), Submission to the QLD Government Strengthening Community safety Bill 2023, [https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1681695781/3\\_JRI\\_Strengthening\\_Community\\_Safety\\_SUBMISSION\\_FEB\\_2023\\_QLD.pdf?1681695781](https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1681695781/3_JRI_Strengthening_Community_Safety_SUBMISSION_FEB_2023_QLD.pdf?1681695781). Pages 17-24

<sup>16</sup> [https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1681695781/3\\_JRI\\_Strengthening\\_Community\\_Safety\\_SUBMISSION\\_FEB\\_2023\\_QLD.pdf?1681695781](https://assets.nationbuilder.com/justicereforminitiative/pages/335/attachments/original/1681695781/3_JRI_Strengthening_Community_Safety_SUBMISSION_FEB_2023_QLD.pdf?1681695781), page 10

<sup>17</sup> <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>, page 25





highlighted some promise with Youth Co-Responder Teams but highlighted measures for improvement such as resourcing, clarity and improving identified staff positions.<sup>18</sup>

### **Justice Reinvestment – Licensing Muster (NPA)**

In their 2018 report, *Pathways to Justice*, the Australian Law Reform Commission recommended all governments should provide support for the establishment of an independent justice reinvestment body to promote the reinvestment of resources from the criminal justice system to community-led, place-based initiatives that address the drivers of crime and incarceration.

One example of Justice Reinvestment already happening in Queensland is the Northern Peninsula Area (NPA) Licence Muster – a cross-agency, holistic, evidence-based and proactive service provided by QIFVLS, the QPS, NPA Community Justice Group and DTMR Indigenous Driver Licensing Unit ('Licensing Mob') which supports the five NPA communities (Bamaga, Injinoo, New Mapoon, Seisia and Umagico) in relation to licensing, vehicle registration and identity documents. This strategy considers the established links between lack of mobility and crime in rural and remote areas and the consequential driver-related offending, which is a significant factor contributing to the overrepresentation of Aboriginal and Torres Strait Islander people in the prison system.

## **From your perspective, are there benefits in taking a national approach to youth justice and child protection wellbeing reform in Australia?**

We see great benefits in adopting a nationally joined-up approach to youth justice and child protection wellbeing reform in Australia. This approach would require genuine partnership across all levels of government and with Aboriginal and Torres Strait Islander Community Controlled Organisations, Elders and other Stakeholder Groups. There may be opportunities to align the approach with the work being undertaken by the Commonwealth Justice Policy Partnership to embed the priority reforms in the National Agreement on Closing the Gap across youth justice and child protection.

QIFVLS is currently involved in a long-term collaboration with all levels of government, Aboriginal and Torres Strait Islander representatives, Elders and other non-government organisations in working to end all forms of violence and abuse towards Aboriginal and Torres Strait Islander women and children through commitments in the *National Plan to End Violence against Women and Children 2022-2032*. There is no reason why a similar national collaboration cannot be instituted with respect to youth justice and child wellbeing.

## **Conclusion**

We take this opportunity to thank the Commission for considering our submissions. We trust that the Commission 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 youth justice and child wellbeing across Australia.

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<sup>18</sup> <https://www.cyjma.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>, page 149