



**Expert report commissioned by the
Independent Commission of Inquiry into
Queensland Police Service responses to
family and domestic violence**

Prepared by the Institute for Collaborative Race Research

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About ICRR

The Institute for Collaborative Race Research is led by scholars with extensive expertise in the structural and political dynamics that can impact judicial and other forms of official decision making. We research how race, racism, colonialism and Aboriginal sovereignty intersect in the areas of justice, health, social policy and media. ICRR expert researchers are:

- Professor Chelsea Watego (Munanjahli and South Sea Islander and a leading researcher in race, racism and Indigenous health humanities)
- Dr David Singh (expert in the sociology of race with experience working in government policy and scrutinising policing in the UK)
- Kevin Yow Yeh (Wakka Wakka and South Sea Islander man who has experience in the operation of racism in the social work system and is researching ways to best support First Nations peoples seeking justice and compensation from racial discrimination)
- Dr Elizabeth Strakosch (with expertise in the operation of the Australian public policy system and its links to colonial dynamics and Aboriginal sovereignty)
- Dr Alissa Macoun (with expertise in the public discourses which shape policy and official decision making in the area of Aboriginal affairs).
- Anna Cerreto (ICRR Research and Communications Manager, with experience advocating for systemic legal reform)

ICRR makes extensive contributions to public inquiries, coronial inquests and strategy development processes. Our submissions to this Inquiry and the QLD Women's Safety and Justice Taskforce¹ are particularly relevant to the Commission, as they concern the criminalisation of coercive control and QPS conduct toward Aboriginal women.² ICRR has also contributed to the development of the Australian Human Rights Commission's National Anti-Racism Strategy which concerned police and state violence.³ We have previously prepared reports for the Queensland Sentencing Advisory Council which examined the nature of the relationship between the Queensland Police Service and Aboriginal and Torres Strait Islander peoples.⁴ Our Directors have also been commissioned by The Lowitja Institute (Australia's national institute for Aboriginal and Torres Strait Islander Health Research) to provide a scoping paper that explains how race and racism operate within the Australian Health system. Directors Watego and Singh were also commissioned by the NSW Coroner's office to provide an expert report into the health needs of Aboriginal peoples in custody. We have attached a list of relevant publications and reports which demonstrate the research team's expertise at Appendix A.

Introduction

The Commission of Inquiry into Queensland Police Service (QPS) responses to domestic and family violence asked the Institute for Collaborative Race Research to provide a specialist report addressing the following questions:

1. What are the continuing effects of colonisation on First Nations people, including over representation in the justice system?
2. How do the effects of colonisation impact on the experiences of domestic and family violence (DFV) for First Nations people, and the ways in which First Nations people are policed regarding domestic and family violence?
3. What are the broad concerns/ issues with the current police response to domestic and family violence involving First Nations people?
4. What are the impacts of police responses on First Nations people?
5. What would a culturally appropriate/safe/respectful/intelligent police response to domestic and family violence look like?

¹ Written collaboratively with Sisters Inside

² Sisters Inside and ICRR (2022) '[Let's Stop It At the Start' Defunding QPS as violent perpetrators, submission to the Commission of Inquiry into QPS Responses to Family and Domestic Violence](#) (PDF online); Sisters Inside and the Institute for Collaborative Race Research (2021) 'State as Abuser: Coercive Control in the Colony. Joint submission from Sisters Inside and the Institute for Collaborative Race Research on Discussion Paper 1 of the Women's Safety and Justice Taskforce', Women's Safety and Justice Taskforce, (PDF online); Sisters Inside and the Institute for Collaborative Race Research (2021) 'It's time to talk about race, colonialism...and abolition. Joint Submission from Sisters Inside and the Institute for Collaborative Race Research on Discussion Paper 2 of the Women's Safety and Justice Taskforce: Women and girls' experience of the criminal justice system – Proposed focus areas.' Women's Safety and Justice Taskforce, (PDF online) https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0005/692663/wsjt-submission-dp2-sisters-inside-and-institute-for-collaborative-race-research.pdf; Chelsea Watego, Alissa Macoun, David Singh and Elizabeth Strakosch, 'Carceral feminism and coercive control, when Indigenous women are not seen as ideal victims, witnesses or women', The Conversation, (online, 25 May, 2021) <https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>

³ ICRR and Sisters Inside (2022) '[We Demand A Ceasefire: Responding to Australia's Anti-Racism Framework](#)' (PDF online)

⁴ ICRR (2020) '[Not a One-Way Street: Understanding the Overrepresentation of Aboriginal and Torres Strait Islander People on Charges of Assaults Against Public Officers](#)'; report prepared for the Queensland Sentencing Advisory Council.

6. Can addressing/ focusing on police responses without addressing other continuing effects of colonisation on First Nations people adequately address domestic and family violence for First Nations people?
7. What is required to adequately and holistically address continuing effects of colonisation, including whether a community led justice reinvestment type model could work?

This report outlines our responses to all seven questions.

Our Approach

ICRR is a group of expert scholars who, individually and in collaboration, undertake research relating to race, racial violence, colonisation, Indigenous sovereignty and state approaches to Indigenous issues (health, legal and policy responses). In our joint work, we use a collaborative methodology in which all directors contribute their expertise via intensive discussions, collectively reviewing existing research and joint drafting of reports. This report therefore represents the joint opinion of all listed authors. ICRR also distils our expertise into publicly accessible statements, including submissions and advocacy. However, this report is based on our research work and therefore constitutes our considered expert responses to the questions posed by the Commission.

ICRR's methodology explores if and how intersecting racial and gender stereotypes, and long-standing colonial and racialised political relationships, operate to feed assumptions and shape systems at a deep level. We explore the ways this affects institutional cultures, policing behaviours, investigative models, approaches to treatment of individuals and the production of racial and gendered violence.

This means that our answers to the Commission's questions often go beyond the specific contemporary issue of QPS responses to DFV to consider the violent colonial history of policing in Queensland. This history directly shapes our present and assists in understanding the hostile relationship between First Nations communities and the QPS and other state agencies. The Commission itself, as concerned as it is with DFV, is not divorced from this violent history, from which it derives its current mandate. To counter the weight of history we centre the experiences and sovereignty of First Nations communities. From their perspectives, the state and the QPS look quite different from the ways they are understood in mainstream discussion and by those who are part of these institutions. ICRR therefore brings our expertise to bear to shift the existing terms of reference in relation to DFV and First Nations communities – moving away from the standard focus on Indigenous disadvantage/dysfunction to make visible the structurally violent and deeply racialised relationship between Indigenous people and state agencies in this place.

In order to identify some of the deeper structural issues shaping police actions in relation to domestic and family violence and First Nations communities, we have grouped the questions into three sections. In most sections we answer the questions together rather than individually. These sections are as follows:

- Section 1- Issues Relating to Colonisation and the Criminal Legal System (questions 1 and 2)
- Section 2- Issues Relating to Policing and First Nations Peoples (questions 3 and 4)
- Section 3- Pathways Beyond Justice Reinvestment (questions 5, 6 and 7).

Findings

We make the following overall finding:

In relation to Aboriginal and Torres Strait Islander women, girls and gender diverse people, the QPS are perpetrators rather than protectors. QPS directly and indirectly enact racial and gendered violence and are therefore not a potential solution to the current domestic and family violence (DFV) crisis. By overpolicing Indigenous women as perpetrators, and underpolicing them as victims, the QPS is directly responsible for creating the culture of impunity which produces the unacceptably high levels of DFV towards Indigenous women. The QPS must be defunded and deauthorised in relation to this issue.

This reality is the product of the structural relationship between police and First Nations people in Queensland, in which police have been key agents of colonisation and enforcers of racial order. They continue to be complicit in the particularly violent experiences of Aboriginal and Torres Strait Islander women, including in the long history of settler sexual violence and predation. In Queensland, the QPS does not police Indigenous and racialised communities through consent but through control. Their relationship with Aboriginal and Torres Strait Islander women, girls and gender diverse people is particularly coercive, hierarchical and racially violent.

Without fundamentally confronting this violent relationship, and returning authority and resources to Indigenous community control, attempts to retrain, diversify, culture-shift or ‘feminise’ policing will only legitimise and therefore intensify police violence.

We know that Aboriginal and Torres Strait Islander women, girls and gender diverse people face higher levels of domestic and family violence, and higher levels of violence overall. Nationally, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised due to family violence than non-First Nations women, 10 times more likely to die due to assault, and 45 times more likely to experience any type of violence.⁵ Indigenous females are five times more likely to be victims of homicide than non-Indigenous females, and are more likely to be killed by strangers.⁶ Additionally, “[t]here is substantial evidence to date showing that Aboriginal women also suffer from levels of sexual violence many times higher than in the wider population.”⁷

This statistical story can reproduce racialised imaginings of Indigenous people's communities and cultures as inherently violent. People know these statistics; governments and media recite them. There is an implicit assumption that these experiences of violence are, in one way or another, the result of Indigenous people's behaviour. This behaviour might be understood as the result of a violent/savage culture, or community dysfunction due to substance abuse and disadvantage, or even (in the most progressive formulation) as the ‘reverberating intergenerational effects’ of colonialism creating social trauma. However, these explanations all locate the violence, and the behaviour that leads to that violence, within Indigenous communities.

This is an unacceptable and racist explanation for these rates of violence. As the Canadian Interim Report from National Inquiry into Missing and Murdered Aboriginal Women, Girls and 2SLGBTQIA+ people, ‘Our Women and Girls Are Sacred’ found:

“Even when faced with the depth and breadth of this violence, many people still believe that Indigenous Peoples are to blame, due to their so-called “high-risk” lifestyles. However, Statistics

⁵ Ibid, p3.

⁶ Change the Record, ‘Pathways to Safety Report’, [Pathways to Safety - Report](#) (2021), p3.; statistics on stranger violence are not adequately collected in Australia, but in the comparable jurisdiction of Canada rates are many times higher.

⁷ Marcia Langton, ‘Two Victims, No Justice’. *The Monthly* (July 2016).

Canada has found that even when all other differentiating factors are accounted for, Indigenous women are still at a significantly higher risk of violence than non-Indigenous women. This validates what many Indigenous women and girls already know: just being Indigenous and female makes you a target” (2017), p.56.)

The only way we can understand Indigenous rates of victimisation is by examining the structure of violence created by colonisation. Colonisation continues to be an extremely violent experience for Indigenous peoples, and police are on the frontline of that violence. As the Canadian Inquiry found, Indigenous women experience higher rates of violence as a direct result of the culture of impunity created by police and state actions. Violence against Aboriginal and Torres Strait Islander women in Australia, and Indigenous women in Canada, is not seen as sufficiently problematic to warrant proper investigation by the police. The Canadian Inquiry found that this creates a culture within which people can perpetrate violence, including domestic and family violence, against Indigenous women and know that they are safe from consequences. This the fundamental reason that Indigenous people experience domestic and family violence in the way that they do.

Therefore, in order to address the crisis of domestic and family violence we need to shift the focus from monitoring and changing Indigenous behaviour, to monitoring and changing state behaviour. In particular, the Commission must acknowledge and interrogate the structurally violent relationship between the QPS and Indigenous communities.

We make the following two overall recommendations (see full discussion in final section):

- 1. Defund and deauthorise the QPS in relation to DFV**
 - a. Assess all potential solutions against the criteria of whether they increase or decrease police and state powers.
 - b. Urgently reform legislation and judicial practices that leads to the unacceptable rates of incarceration of Indigenous women, girls and gender diverse people who experience violence, especially public nuisance, contravening police order and bail violation custodial sentencing practices.
 - c. Confront and acknowledge the extent of historical and contemporary violence in Queensland policing of First Nations communities.
- 2. Fully fund and recognise the authority of the Aboriginal and Torres Strait Islander Community Controlled Sector (ACCS) in relation to DFV**
 - a. Audit current state funding to ACCOs from all government departments.
 - b. Systematically and securely fund all ACCOs offering DFV support, as well as those offering broader social programs such as housing, family and disability support.
 - c. Break links between QPS DFV responses and child removals.

Section 1: Issues Relating to Colonisation and the Criminal Legal System

- 1. What are the continuing effects of colonisation on First Nations people, including over representation in the justice system?*

We begin by outlining contemporary Australian colonialism and its connection to racism, which informs our position regarding the violent relationship between the QPS and First Nations peoples. Australia is a settler colony (one of the four English speaking settler colonies of Australia, New Zealand,

Canada and the US), which is a particular type of colonial environment.⁸ A distinction is often made between settler colonies and extractive colonies. Extractive colonies such as those in India and Africa involve a minority of colonisers from Europe occupying a territory to exploit the resources and the labour of Indigenous people and their land, and most of these extractive colonies structurally decolonised after the Second World War. In settler colonisation, a majority of colonisers come to stay in a place, to replace Indigenous people on their land and to establish a new political society on that land.

Most settler colonies have not decolonised, and there has not been a moment of institutional break or reformation. Therefore, we can meaningfully say that settler colonialism is an ongoing relationship, where questions of jurisdiction, land ownership and resource control are very much live and unresolved.⁹ This is the case in all the four English speaking settler colonies. However, Australia has a unique history which gives it a particular racial dynamic.

In the other settler colonies, colonists recognised the political sovereignty and/or landownership of Indigenous people. They continued to colonise, but used treaties, purchase and conquest to legitimise their political control given the presence of pre-existing nations. In Australia, based on a racial assessment of Indigenous people as so inferior that they did not possess either landownership or political sovereignty, Australia was colonised on the basis of settlement; that is, wholesale and immediate occupation given the alleged absence of political life here.¹⁰ This remains the legal justification for the Australian State today. Even though landownership has been contested by the High Court and some changes have been made, the High Court has been very clear that it is not able to make decisions on the question of Indigenous sovereignty because that would potentially fracture the legal skeleton of the Australian State and would call into question its own authority.¹¹

Therefore, colonialism and racism in Australia are ongoing and interconnected. As Professor Watego expressed, Aboriginal and Torres Strait Islander peoples in Australia are “both First Nations and first raced.”¹² The Australian State itself still rests on a legal justification that is based on an assessment of the inferiority of Indigenous people as so savage that they do not have political institutions, and this is one of the reasons that it is difficult to talk about race in Australia.¹³ This is the context within which we identify the Queensland Police Service as having a specific, violent relationship with Indigenous people.

⁸ Patrick Wolfe, *Traces of History: Elementary Structures of Race*, Verso 2016

⁹ I Watson (2015). *Aboriginal peoples, colonialism and international law : raw law*. Routledge.; I Watson (2009).

¹⁰ Aileen Moreton-Robinson (2015). *The White Possessive: Property, Power and Indigenous Sovereignty*. Minneapolis: University of Minnesota Press; I Watson (2015). *Aboriginal peoples, colonialism and international law : raw law*. Routledge.; I Watson (2009). “In the Northern Territory Intervention, What is Saved or Rescued and at What Cost?”. *Cultural Studies Review* 15(2).

¹¹ As directly expressed by Justice Brennan in the *Mabo v State of Queensland [No 2]* (1992) 175 CLR 1, “Recognition by our common law of the rights and interests in land of the indigenous inhabitants of a settled colony would be precluded if the recognition were to fracture a skeletal principle of our legal system” – the principle of British sovereignty acquired through settlement rather than cessation or conquest of existing Indigenous sovereignty.

¹² Luke Pearson and Nat Cromb, ‘Dr Chelsea Bond delivers a masterclass in Indigenous Excellence.’ *Indigenous*, (online, 15 April 2019) [Dr Chelsea Bond delivers a masterclass in Indigenous Excellence - Luke Pearson - IndigenousX](#)

¹³ Luke Pearson and Nat Cromb, ‘Dr Chelsea Bond delivers a masterclass in Indigenous Excellence.’ *Indigenous*, (online, 15 April 2019) [Dr Chelsea Bond delivers a masterclass in Indigenous Excellence - Luke Pearson - IndigenousX](#)

2. *How do the effects of colonisation impact on the experiences of domestic and family violence for First Nations people, and the ways in which First Nations people are policed regarding domestic and family violence?*

The violent structure of colonialism shapes contemporary interactions between police and First Nations community all over Australia. However, Queensland police have a specific, violent history which determines relations here. We briefly outline this history under the headings: Queensland Native Mounted Police, Police in the Protection Era, and Police and Sexual Violence Towards Aboriginal and Torres Strait Islander Women.

Queensland Native Mounted Police

The earliest police in Queensland were the Queensland Native Mounted Police, who began operating within the area of Queensland in 1848. [Historian Henry Reynolds](#) has called them the most violent organisation in Australian history. Their specific task was to 'disperse' Indigenous camps, and they were directly involved in mass murder, dispossession and securing land for occupation by white settlement. "Archival and historical records show that the reputation of the force as the single greatest killer of Aboriginal people in colonial Queensland is completely justified".¹⁴ 'Dispersals' were widely acknowledged by colonial society at the time, as seen in the image from the *Picturesque Atlas of Australasia 1886* at Figure 1 below. The trooper in this image is wearing a uniform consistent with that of the Native Mounted Police in Queensland.



12. Native troopers dispersing an Aboriginal camp. From Andrew Garran, ed., *Picturesque Atlas of Australasia*, vol. 2 (Picturesque Atlas Publishing Co., Sydney, 1886).

This history has not been fully acknowledged or disavowed by the contemporary Queensland Police Service. In 1964 at the centenary of the establishment of the QPS a senior police officer said, "Walker [who was the original lieutenant of the Mounted Police] and his Force soon established themselves. He tamed the natives, saved the whites, and made the country comparatively safe... The Native Mounted Police had certain privileges. Its officers could, and frequently did, transfer to the [main] Queensland Police Force without loss of rank. Its officers were chosen from men whose qualifications were supposed to be education, breeding, knowledge of drill and firearms, and ability to handle natives."¹⁵

¹⁴ Jonathon Richards, *The Secret War* p51

¹⁵ Sergeant A Whittington (1965). *The Queensland native mounted police. Journal of the Royal Historical Society of Queensland* 7 (3) 508-520

At the 150th Anniversary of the establishment of the QPS in 2014, the QPS museum established a historical website and display of the history of the force.¹⁶ This does not explicitly acknowledge the existence of the Queensland Native Mounted Police. However, the first two documents showcased are the first Report of the Police Commissioner in 1863 and the first Queensland Police Gazette in 1864. They reveal the enmeshment of the QPS and the Native Police.¹⁷

In the first report of the first Police Commissioner, he stated:

With regard to the Native Police, the constantly increasing occupation of hitherto waste country renders it necessary that this force should be considerably augmented. As far back as the year 1857, a select committee of the Legislative Assembly of New South Wales recommended as "absolutely necessary" that in the Northern Districts it should consist of not less than one hundred and ten troopers; and I am constantly in receipt of applications for native police protection from districts that... were then unknown... Desertion from this force might be much lessened if some fine could be imposed upon persons harboring deserters or inducing troopers to desert.

The first Queensland Police Gazette, which lists all non-Indigenous police officers, shows that at the time of the establishment of the QPS, there were as many Native Mounted Police officers as regular officers. When Indigenous troopers (who are not listed) are taken into account, the size of the Native Mounted Police was much larger than the regular police force, and it remained so for some time. We note that the fourth Police Commissioner Frederic C Urquhart was recruited as a Native Police Officer and rose through the ranks to become Commissioner. He was involved in many infamous incidents ("in charge of detachment at Cloncurry (Kalkadoon) killings at 1883, at Mistake Creek killings 1884, at Mein killings 1889 and others; transferred to Queensland police 1889"¹⁸), however the QPS does not mention his Native Mounted Police background (see Figure 2 below, from the [QPS Museum list of Police Commissioners 1864-2019](#)).

Queensland Police Commissioners - 2

Frederic C. Urquhart

4th Police Commissioner

1 January 1917 – 16 January 1921

Frederic Urquhart was the first sworn police officer to rise the rank of Commissioner. His tenure was punctuated by the flow-on effects of the First World War and subsequent industrial unrest. He pushed the Government for a closer approximation between police pay and the rates of industrial wages to slow the loss of men to other occupations. He oversaw the establishment of the Border Patrol during the 1919 Influenza Epidemic and was injured during police action against the 'Red Flag' rioters in Brisbane in the same year.



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¹⁶ Queensland Police Service, *Fascinating Historical Stories*, 2022

<<https://www.police.qld.gov.au/museum/fascinating-historical-stories>>

¹⁷ Queensland Police Service, *Report of the Commissioner of Police* (1865)

<<https://www.police.qld.gov.au/sites/default/files/2018-07/ReportoftheCommissionerofPolicefor1863-1864.pdf>>; Queensland Police Service (1864) *Queensland Police Gazette*

<<https://www.police.qld.gov.au/sites/default/files/2018-07/QueenslandPoliceGazette1864.pdf>>

¹⁸ Richards, *The Secret War* p256

This period of frontier violence was ending by the turn of the century, and the last Native Mounted Police camps operating in Queensland were closed in about 1915. They continued to operate in the Northern Territory Gulf Country under various names well into the twentieth century¹⁹.

Police in the Protection Era (1897-1980s)

After the frontier violence period, Queensland pioneered another regime of racial control that was then modelled by other Australian colonies (there is also [strong anecdotal evidence](#) that it was used as a source of inspiration for South African apartheid legislation). *The Aboriginal Protection and Sale of Opium Act 1897* was an extremely draconian set of rules that governed every aspect of Indigenous people's lives. This included where they must live, if they could marry, if they could keep their children (all Aboriginal children were legally made wards of the state, meaning they could be removed from their families without justification), and where they must work (including children being sent to compulsory labour as station hands and domestics). The money from their work was taken by the government, with small amounts sometimes dispersed at Protector's discretion, and the majority of wages kept by the state. This money was used to fund mainstream infrastructure and still has not been returned (this is the subject of ongoing Stolen Wages legal action).

"When the *Aboriginals Protection Act* became law in December 1897, the leading police officer in each district was delegated as the local "protector of Aboriginals", most of whom now became wards of the state".²⁰ They were overseen by a government Chief Protector based in Brisbane. It is important to note that these were regular QPS officers, not Native Mounted Police officers. They were directly involved in catching escapees from missions, sending resistant Indigenous people to punishment camps such as Palm Island, removing children from their families, and policing forced labour in physically and sexually violent situations. Academic Rosalind Kidd has carefully documented the starvation conditions, exploitation, violence and systematic underfunding of the Protection Regime.²¹ Police were widely involved in corruption, including individually stealing wages, protecting station owners who violated Indigenous work condition provisions, and directly threatening Indigenous workers to maintain productivity.²² In the 1960s, a regular corp of Indigenous police 'trackers' were illegally "retained as menial workers for rural officers at less than half the basic wage". In 1972 the QPS agreed to pay these employees \$22 per week (at the time minimum wage was \$51.20).²³

The Protection regime was not fully dismantled in Queensland until 1988, with Premier Joh Bjelke-Petersen reluctant to abolish it fully. As Australian anthropologist Charles Rowley observed at the time, in the 1970s it was 'still true that in Queensland one can be incarcerated either for crime or for being Aboriginal'.²⁴ We note the recent nature of this controlling 'protection' relationship between First Nations people and QPS; it is well within living memory and many Indigenous people living today were not citizens and were subject to 'the Act' when they were born.

Police and Sexual Violence Towards Aboriginal and Torres Strait Islander Women

Finally, we draw the Commission's attention to a specific aspect of the violent policing relationship that is particularly relevant to the subject of this inquiry. This is the distressing history of white mass sexual violence and predation in relation to Indigenous women all over Australia. It is particularly

¹⁹ See for example Tony Roberts, *Frontier Justice*, UQP 2005.

²⁰ Rosalind Kidd, *The Way We Civilise*, 2005 p48.

²¹ Kidd, *The Way We Civilise* 2005.

²² See examples from the 1920s and 1930s in Kidd p131-133.

²³ *Ibid*, p307.

²⁴ Rowley *The Destruction of Aboriginal Society* 1972:123.

intense and well documented in Queensland.²⁵ Aboriginal and Torres Strait Islander women are regularly seen by mainstream society as victimised by Aboriginal men, but in fact historical research show that mass sexual violence by white men towards Aboriginal and Torres Strait Islander women has been a core part of colonisation, especially on frontiers and in remote regions.²⁶

Sexual violence against Aboriginal women was brutal, widespread and often fatal, and a key driver of frontier conflict. In the 1883 diary of settler woman Emily Creaghe, she writes:

“20 February—... The usual method here of bringing in a new wild gin is to put a rope around her neck and drag her along from horseback, the gin on foot. 21 February—The new gin whom they call Bella is chained up to a tree a few yards from the house, and is not to be loosed until she is tamed.”²⁷

“When Aboriginal women met untimely and violent deaths, their lost lives incited little more than a judicial shrug” as police did not act.²⁸ Often, police were directly involved. Historian Liz Conor gives details of several Queensland cases which were reported in newspapers at the time, where white men who directly shot Aboriginal women were not charged or acquitted as these were viewed as unfortunate accidents based on ‘teasing’ or ‘firing in jest’. In other cases, men, including police officers, were acquitted after Aboriginal women died after being chained for days.²⁹ As the *Brisbane Courier* stated in relation to a particularly violent and public murder of an Aboriginal woman in central Queensland in 1875, “You will not get a jury, at least in Maryborough, to bring in a verdict of murder for the killing of a black”.³⁰

Conor carefully documents how white male sexual violence against Aboriginal women, and judicial indifference to or participation in this violence, was enabled by the dehumanisation of these women as ‘gins’ and ‘lubras’. From first invasion, First Nations women were stereotyped as: automatically consenting to sexual contact, sexually voracious, in need of ‘rescue’ by white men, less desirable but more easily exploitable than white women, drunk or addicted, automatically involved in sexual trading for food, gifts and money, likely to disappear/‘walk off into the bush’, and objects to be owned by colonists.³¹ As noted by the Canadian Inquiry into Missing and Murdered Indigenous Women, Girls and 2SLGBTQQIA+ people, these same stereotypes operate intensely today, and are directly responsible for police failure to investigate violence towards or disappearance of Indigenous women.³²

²⁵ We note the importance of the work of Indigenous female scholars in carefully and ethically documenting this history, especially that of Professor Jackie Huggins, Dr Fiona Foley and Professor Judy Atkinson. See for example Fiona Foley, *Biting the Clouds: A Badtjala perspective on the Aboriginals Protection and Restriction of the Sale of Opium Act, 1987*. (UQP, 2020).

²⁶ Libby Connors, ‘Uncovering the shameful: sexual violence on an Australian colonial frontier’ In Robert Manson (eds): *Legacies of violence: rendering the unspeakable past in modern Australia* (Berghahn Books 2017) pp. 33-52; Nicholas Clements, *The Black War: Fear, Sex and Resistance in Tasmania*, University of Queensland Press, 2014; Raymond Evans, Rod Fisher, Libby Connors, John Mackenzie-Smith and Dennis Cryle, *Brisbane: the Aboriginal Presence 1824-1860*. Brisbane History Group Papers (2020).

²⁷ Liz Conor, *Skin Deep* (University of Western Australia Press, 2016); p147.

²⁸ Liz Conor, *Skin Deep* (University of Western Australia Press, 2016); p147

²⁹ Ibid, pp145-151.

³⁰ Ibid, p149.

³¹ See for example Larissa Behrendt, ‘Consent in a (neo)colonial society: Aboriginal woman as sexual and legal ‘other’’. *Australian Feminist Studies* 15:33 (2010); Andrea Smith and Luana Ross. “Introduction: Native Women and State Violence.” *Social Justice*, vol. 31, no. 4 (98), Social Justice/Global Options.

³² Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Volume 1a (2019).

The current conflictual relationship between the QPS and Indigenous peoples is the direct result of this ongoing history. In Queensland, police have been on the frontline of colonisation and racism is foundational to their mandate. The way that the Queensland Police Service polices settlers is by consent, but the way it has policed Indigenous people has always been through control for political purposes. This different relationship between police and settlers is demonstrated, for example, by the fact that the original Native Mounted Police was funded by collections raised by white settlers without government authority (although government then assumed control of the force), and that white residents were always demanding more police presence, as demonstrated in the First Queensland Police Commissioner's Report quoted above. This ongoing cooperative relationship is reflected in current demands from white communities for more police powers and resources, in order to provide 'protection' from perceived Indigenous threats such as 'youth crime'³³. It is also reflected in many non-Indigenous feminists calls for greater police powers relating to DFV, in ways that ignore the violence of these powers for Aboriginal and Torres Strait Islander women.³⁴

Section 2: Issues Relating to Policing and First Nations Peoples

3. *What are the broad concerns/issues with the current police response to domestic and family violence involving First Nations people?*
4. *What are the impacts of police responses on First Nations people?*

QPS and broader state responses to DFV in Indigenous communities reproduce racialised assumptions about Indigenous dysfunction and criminality. DFV is primarily understood as a problem *within* Indigenous communities, even if it is seen as shaped by a broader experience of 'disadvantage' produced by colonisation. This framing of Indigenous people as responsible for their own suffering, and as more likely to engage in violent and criminal behaviour, is an unbroken, intensive form of racialised stereotyping that has been consistent since first occupation. It has always and continues to justify colonisation, the racialised production of harm and dispossession in this place. Most significantly, it serves to erase the settler perpetrators of this harm and leads to a refusal to accord Indigenous women the status of a legitimate victim. Instead, they are routinely ignored or mischaracterised as perpetrators. This leads to them being entrapped in a net of criminalisation which leads directly to incarceration, child removals and further DFV and state-based violence.

This is demonstrated with brutal clarity by the recent Queensland Sentencing Advisory Committee Report 'Engendering Justice', released during this Inquiry.³⁵ It found that the number of incarcerated women in Queensland increased by **339 percent** over the past 14 years. Of those, "Aboriginal and Torres Strait Islander women and girls were 7.7 times over-represented. Nearly half of all sentenced

³³ Marina Trajkovich, *New taskforce to tackle youth crime in southeast Queensland*, 24 February 2022

<<https://www.9news.com.au/national/new-task-force-to-tackle-youth-crime-in-southeast-queensland/3f513105-2328-40dd-a1f6-4f2c68a449e5>> ; Stuart Layt, *LNP launches petition for youth bail laws to tackle north QLD crime*, May 31, 2021 <<https://www.brisbanetimes.com.au/national/queensland/lnp-launches-petition-for-youth-bail-laws-to-tackle-north-qld-crime-20210530-p57wg6.html>>

³⁴ Chelsea Watego, Alissa Macoun, David Singh and Elizabeth Strakosch 'Carceral feminism and coercive control: When Indigenous women aren't seen as ideal victims, witnesses or women' *The Conversation* (online, 25 May 2021) <<https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>>

³⁵ Queensland Sentencing Advisory Council, *Engendering justice: The sentencing of women and girls in Queensland*, August 2022, <https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0008/735425/Sentencing-profile-on-womens-and-girls.pdf>

girls identified as Aboriginal and Torres Strait Islander (46.9%), compared to 29.9 per cent of sentenced women”.

This carceral trend is intensifying as Queensland significantly maintains and expands its investment in police power and its pattern of low-level custodial sentencing. Key examples include:

- The introduction of the public nuisance charge in Queensland in 2004. Within a year of its introduction an Aboriginal man held on the charge died violently in custody.³⁶ Public order policing (which the CMC calls “policing ‘the small stuff’”) gives police and courts a significant degree of discretion; “it is police who make a judgment call about when to act and when not to act on the basis of the legislation [and] the courts to consider circumstances and apply the community standards of the day when determining whether particular behaviour constitutes an offence.”³⁷
 - Studies show that the proportion of Indigenous people charged in Queensland is between 25 and 30% of the total number of charges. The CMC found Indigenous people were 12.6 times more likely than non-Indigenous people to be charged with public nuisance³⁸
 - Public nuisance sentencing was the leading cause of incarceration for Indigenous women in Queensland, with 23.4% of the total charges. In fact, public nuisance and ‘justice and government’ offenses such as contravening the directions of police officer account for **60.5 percent** of the huge number of incarcerated Indigenous women.

Table 6: Top 5 offences sentenced by age and Aboriginal and Torres Strait Islander status

Aboriginal and Torres Strait Islander women			Non-Indigenous women		
1	 Public nuisance <small>Public order</small>	23.4%	19.2%	Possessing dangerous drugs <small>Drugs</small>	1
2	 Contravene direction of police officer <small>Justice and government</small>	11.0%	17.3%	Possession of drug utensils <small>Drugs</small>	2
3	 Breach of bail - failure to appear <small>Justice and government</small>	9.6%	12.5%	Shoplifting <small>Shoplifting</small>	3
4	 Possession of liquor in restricted area <small>Public order</small>	8.5%	12.3%	Contravene direction of police officer <small>Justice and government</small>	4
5	 Assault or obstruct police officer <small>Justice and government</small>	8.0%	10.3%	Stealing <small>Theft</small>	5

³⁶ Morreau, Paula --- "Policing Public Nuisance: The Legacy of Recent Events on Palm Island" [2007] IndigLawB 34; (2007) 6(28) Indigenous Law Bulletin 9

<http://www5.austlii.edu.au/au/journals/IndigLawB/2007/34.html>

³⁷ Crime and Misconduct Commission, *Policing Public Order*, 2008, <<https://cabinet.qld.gov.au/documents/2008/jul/cmc%20review%20of%20public%20nuisance%20offence/attachments/36703001211161906459.pdf>

³⁸Ibid, p 38. See also: Walsh Submission to the Australian Law Reform Commission, “Aboriginal people are up to 12 times more likely to be charged with, or receive infringement notices for, public nuisance in Queensland. Often, these charges are based on allegations that the person said something that offended or insulted a police officer. In Queensland in 2014 alone, over 2000 infringement notices were issued for ‘language offences directed at police officers’. Indeed, in the first ten years of the operation of the public nuisance offence in Queensland, approximately one quarter of all adults charged with public nuisance were Indigenous, and 40% of all children and young people charged with public nuisance were Indigenous. Therefore, young Indigenous people are up to 13 times more likely than their non-Indigenous counterparts to be charged with public nuisance in Queensland.”

<https://www.alrc.gov.au/wpcontent/uploads/2019/08/51._assoc_prof_t_walsh.pdf>

- Almost 31-years after the Royal Commission into Aboriginal Deaths in Custody's (RCIADIC) final report, Queensland remains the only state or territory not to have adopted the report's recommendation to abolish public intoxication as a criminal offence.³⁹ It is the fourth most common reason that Aboriginal and Torres Strait Islander women are incarcerated, but does not make the top five reasons for non-Indigenous women.
- The Corrective Services Act 2006 (Qld) abolished a number of best-practice sentencing options which provided alternatives to full-time incarceration, including periodic detention, home detention, and gradual release.⁴⁰
- In 2021 the Palaszczuk Labor government introduced 'tough new' Youth Justice reforms, which 'crack down on juvenile crime'. The Queensland Police Union was upfront that these reforms would specifically target Aboriginal and Torres Strait Islander children.⁴¹
 - "Queensland Police Assistant Commissioner Cheryl Scanlon said 738 children had been arrested, held in custody and brought before the court since April. "The legislation is taking effect the way we intended," Ms Scanlon told ABC Radio Brisbane"⁴²
- Recently the state government, through the Women's Safety and Justice Taskforce, committed to criminalising coercive control despite the strong input from Indigenous women that this would disproportionately and negatively affect Indigenous women.⁴³ A DFV law which extends discretionary power to police to identify who is perpetrating DFV will lead to further criminalisation of Indigenous women, girls and gender diverse people. As we argued in a submission to this Taskforce, a "'Scottish style' broad offence with high conviction rates and a 'Queensland style' pipeline to incarceration would be a catastrophe for racialised and over policed communities."⁴⁴

Finally, we observe that, since the formal end of the Protection regime in Queensland, police have become more rather than less central to colonial relations here. In an ongoing collaborative ARC funded project, Dr Strakosch is mapping Indigenous-settler governance practices over time. This map shows that when missions and reserves became self-governing Indigenous communities, that coincided with the year a police station began taking prisoners in those communities. That means that

³⁹ Tony Keim, *QLS seeks reform of public intoxication laws*, 2022

<<https://www.qlsproctor.com.au/2022/03/qls-seeks-reform-of-public-intoxication-laws/>>

⁴⁰ Tamara Walsh (2019) *Submission to the Australian Law Reform Commission Inquiry into Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* <https://www.alrc.gov.au/wp-content/uploads/2019/08/51_assoc_prof_t_walsh.pdf>

⁴¹ Kate McKenna and Chloe Chomicki, *Youth Justice review on Palaszczuk Government agenda*, 2 February 2021, <<https://www.abc.net.au/news/2021-02-02/qld-police-union-calls-gps-tracking-repeat-juvenile-offenders/13108240>>

⁴² Lucy Stone and Rebecca Livingstone, *Queensland crackdown on serious youth crime 'working' police say*, 27 August 2021, <<https://www.abc.net.au/news/2021-08-27/queensland-youth-crime-reform-data-revealed/100412328>>

⁴³ Chelsea Watego, Alissa Macoun, David Singh and Elizabeth Strakosch 'Carceral feminism and coercive control: When Indigenous women aren't seen as ideal victims, witnesses or women' *The Conversation* (online, 25 May 2021) <<https://theconversation.com/carceral-feminism-and-coercive-control-when-indigenous-women-arent-seen-as-ideal-victims-witnesses-or-women-161091>>

⁴⁴ ICRR and Sisters Inside (2022) 'Let's Stop It At the Start' joint submission to the Commission of Inquiry into Queensland Police Service responses to domestic and family violence <<https://static1.squarespace.com/static/5fd158df412849720ce27cbd/t/6216c78eea926d5b9209c926/1645660050321/The+State+as+Abuser.pdf>>

people who were effectively previously inmates of other types of carceral systems becoming incarcerated in prisons instead.⁴⁵

QPS officers are aware of the conflictual nature of the relationship they have with First Nations peoples. Any Queensland police officer who has had an engagement with an Aboriginal or Torres Strait Islander community for any sustained period of time is aware of the term "triple C". They know what that means, and it reflects the reality of colonial and racialised policing in this state.

QPS and Indigenous women experiencing violence

Indigenous women experience the violent culture of misogyny that this Commission has heard about throughout this Inquiry through survivor statements and testimonies from Queensland police officers themselves. The QPS often do not believe and belittle women. However, because of the racialised nature of policing here there is a unique form of violence that Indigenous women experience as the result of the intersection of racial and gendered stereotypes.

We provided some stories from survivors themselves in our joint submission to the Inquiry with Sisters Inside.⁴⁶ Their stories demonstrate that Indigenous women not only are belittled or not believed, they are actively criminalised and cast as perpetrators. These are not isolated or aberrational cases. A 2017 review of domestic and family violence related deaths in Queensland found that almost half of the women killed had been identified as a respondent to a DFV protection order on at least one occasion. In the case of Aboriginal and Torres Strait Islander women, that number rose to 100% of deceased women recorded as "both respondent and aggrieved prior to their death."⁴⁷

What this means is that, in the state of Queensland in that time period, not one Aboriginal and Torres Strait Islander women who died as a result of family violence was ever seen as an innocent victim.

There is a denial of the victimhood and testimony of Indigenous women, not just in their encounters with police but even the processes such as the Women's Safety Taskforce process. In order to counter this, here we reproduce two stories from our submission here.

Hannah, an Aboriginal woman also supported by Sisters Inside, was the victim of extensive domestic and family violence throughout her life, including sexual abuse by her father as a child and at the hands of two different intimate partners as an adult. She told us that in one instance where she had suffered serious physical violence at the hands of her ex-partner and his grandson, the police who attended the scene 'threw me down like I was some animal' with enough force that it 'broke my glasses'. She was then handcuffed before being transported to hospital. She was identified as the perpetrator: 'they took that side...they didn't even want to know what happened from me, my version'. Further, she told us that she wasn't allowed to have anyone see or talk to her in the watch house. She said this was just one of multiple occasions where she was 'abused by police': 'when you're black you got the bad ones; the officers that will treat you like nothing: throw you around, handcuff you tight, whisper in your ear...every chance they get with an Aboriginal person'. In the end, Hannah was incarcerated twice as a direct result of domestic violence relationships where she was the victim.*

⁴⁵ Research paper under review with journal *Political Geography* as at 10 August 2022.

⁴⁶ ICRR and Sisters Inside (2022) 'Let's Stop It At the Start' joint submission to the Commission of Inquiry into Queensland Police Service responses to domestic and family violence
<<https://static1.squarespace.com/static/5fd158df412849720ce27cbd/t/6216c78eea926d5b9209c926/1645660050321/The+State+as+Abuser.pdf>>

⁴⁷ Queensland Government, '[Domestic and Family Violence Death Review and Advisory Board - Annual Report 2016-2017 \(courts.qld.gov.au\)](https://courts.qld.gov.au)' (2017).

Samantha* – *“When the relationship broke down he came to collect his things and was physically violent towards me, he held me against a wall with one hand around my throat, and one arm across my body and arm. My sister was there and so was his friend. My sister called the police and they made me give him his property but did not provide any protection to me. The police told me that it was all sorted and that he was not pressing charges. I was shocked and told them that he had attacked me. They dismissed me and left. Two days later he was still sending my abusive texts and bruising had come up all over my neck and arms so I returned to the police to press charges and get a protection order. I showed the police woman the messages, and she advised there was little she could do as the officers who came after the assault had listed me as the aggressor as he had told them I had refused him access to my apartment to collect his things and that I had been to prison. As she looked at the extremely visible bruising across my neck she told me that it was his word against mine, and that I had been in prison and he had no criminal history. If he pressed charges also it may affect my suspended sentence. She advised that they could not do anything further. I will never go back to the police for help again. The police have shown that they do not believe me because of my criminal history.”*

We note the reality that, throughout the legal system, criminalised women are overwhelmingly the victims and survivors of abuse. For example:

- Up to 98% of women prisoners had experienced physical abuse;
- Over 70% have lived with domestic and family violence (DFV);
- Up to 90% have experienced sexual violence; and
- Up to 90% have survived childhood sexual assault.⁴⁸

This perception that Indigenous women are complicit in the violence that they experience occurs not just in life but in death. We have done confidential work relating to cases of missing and murdered Indigenous women and found that even in death Indigenous women are not deemed worthy of proper investigation. This widespread policing practice has led to the current crisis of missing and murdered Indigenous women, girls and gender diverse people, resulting in the Senate's announcement of a national inquiry.⁴⁹

The highly regarded Canadian Inquiry into Missing and Murdered Indigenous Women and Girls collected extensive evidence over several years.⁵⁰ It found that Indigenous women are more likely to go missing and remain missing, both because they are subject to higher levels of violence when all other factors are controlled for, and because the police are less likely to fully investigate their disappearance. Testimony collected from the families of missing Indigenous women in Canada show a devastating pattern of this police disregard and inaction, based on stereotypical assumptions about these women as wandering off, drunk, partying, engaged in sex work or otherwise to blame for their

⁴⁸ Human Rights Law Centre & Change the Record, *Over-represented and Overlooked: The crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment* (2017) 13,17; Stathopoulos, M. & Quadara, A., *Women as Offenders, Women as Victims: The role of corrections in supporting women with histories of sexual abuse*, (Women's Advisory Council of Corrective Services, 2014); D Kilroy, *Women in Prison in Australia* (Presentation to National Judicial College of Australia and ANU College of Law, 2016).

⁴⁹Missing and Murdered First Nations Women and Children (2022)
<https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Missingmurderedwomen

⁵⁰ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*; [Home Page - Final Report | MMIWG \(mmiwg-ffada.ca\)](#).

own disappearance. Often, the families were left searching for their loved ones themselves, while police told them that their family members had probably just run away.

The National Inquiry found that stereotypes and victim blaming served to slow down or to impede investigations into Aboriginal women's disappearances or deaths. The assumption that these women were "drunks," "runaways out partying," or "prostitutes unworthy of follow-up" characterized many interactions, and contributed to an even greater loss of trust in the police and in related agencies."⁵¹ There is an automatic assumption that Indigenous women are engaged in criminal behaviour, resulting in excessive use of force by police officers, higher contact, arrest, prosecution and conviction rates, sexual harassment and assault by police officers, and a reluctance to see these women as genuine victims.⁵²

Overall, brutal police responses to Indigenous victims of DFV are the product of intersecting racial and gendered stereotypes. They create a uniquely violent reality for Indigenous women, girls and gender diverse people in this place. These women are positioned as unworthy of full victimhood, as sexually violable and as perpetrators rather than victims of violence. This means they bear the brunt of police violence, and of other forms of violence which police ignore or validate. The result is a **culture of fear** for Indigenous women, girls and gender diverse people, and a **culture of impunity** for those perpetrating violence against them. These cultures produce the distressing realities of DFV harms in First Nations communities, and only fundamentally shifting the structures that produce them will change DFV rates.

Section 3: Pathways Beyond Justice Reinvestment

5. *What would a culturally appropriate/safe/respectful/intelligent police response to domestic and family violence look like?*
6. *Can addressing/ focusing on police responses without addressing other continuing effects of colonisation on First Nations people adequately address domestic and family violence for First Nations people?*
7. *What is required to adequately and holistically address continuing effects of colonisation, including whether a community led justice reinvestment type model could work?*

Ineffectiveness of police training programs

Dr David Singh, an author of this report, has experience codesigning and implementing anti-racist training for the Metropolitan Police in London, and formally liaising with the force on behalf of municipal authorities. The Macpherson Report, produced after an inquiry into the racially motivated murder of a Black British teenager Stephen Lawrence⁵³, recommended a raft of changes with performance indicators to 'restore public confidence' in the Met. This included the use of co-responders – non-police family liaison officers who were connected to 'local ethnic communities'. It also introduced system wide 'racism awareness and valuing cultural diversity' training. Anti-racism training was later made mandatory as part of 'general training', but police racism remains a concern, not least within racialised communities.

The Macpherson Inquiry, and many others like it, introduce at their conclusion a raft of recommendations which seek to better professionalise the Police. However, especially in relation to anti-racism training, these recommendations are unevenly applied and implemented, and those that are implemented are not sustainably funded and rarely exist beyond a few years. Initiatives such as

⁵¹ Ibid p649.

⁵² Ibid p632-633.

⁵³ BBC News, Lawrence: Key recommendations, 24 March 1999 <<http://news.bbc.co.uk/1/hi/uk/285537.stm>>

training that encompass race and gender are normally the first to go in any cost-cutting exercise or austerity push, especially after the full scrutiny of a particular inquiry has passed.

Dr Singh's work with Metropolitan Police in developing joint training with local divisions had mixed results. On the one hand, senior police officers embraced the training as a measure of their anti-racist commitment. On the other hand, rank and file officers pushed back, and negative community encounters with the police continued unabated.

The Macpherson inquiry into the murder of Stephen Lawrence proposed a definition of institutional racism which public bodies accepted, including police forces throughout the country. Action plans to address institutional racism duly followed but these fell into abeyance some years after the inquiry. Remedial measures were felt to be no longer appropriate as 'lessons had been learnt'. Regardless of how the police felt about their continuous improvement, it should be stressed that the communities that Dr Singh worked with in West and East London were not looking for better professionalisation, but greater police accountability, and this was not delivered through the recommendations of the many inquiries they sat patiently through.

Additionally, while the Met is often regarded as 'best practice' in relation to community policing, having long engaged in anti-racism and gender-based training and reform process, it has recently been rocked by a series of scandals showing the extent of ongoing violent racism and sexism, including an incident where police officers photographed the bodies of two murdered black women and shared these on a social media group.⁵⁴ Senior officers have this year admitted racism remains a major problem in the Metropolitan Police.⁵⁵ Presently the force is 'on special measures' following concerns expressed by the Policing Inspectorate. The Commission will note parallels to social media based racism and sexism issues in the QPS.

Therefore, we suggest, there is a negligible impact in attempts to better professionalise the police. On the one hand, training is put in place, but on the other hand this accompanies an increase in police powers, and oversaturation of policing in marginal areas. This is seen in the increase in QPS powers that disproportionately target Indigenous and racialised communities, discussed in the previous section.

The reality is that you cannot 'retrain' or culture shift police out of racism in a context in which they are central to enforcing racial order. In Australia, the QPS is much more directly and recently involved in mass murder, dispossession, forced child removals and assault. Any attempts to soften policing through retraining, women's police stations, justice reinvestment within the state or codes of conduct will only legitimise the function of police in perpetrating violence towards First Nations communities.

Defunding police and funding communities

Given the reality of the violent relationship between the QPS and Indigenous people, they must be defunded and deauthorised in relation to DFV. This is not a radical solution, although some may find the language confronting. We share with others in this Inquiry a concern about finding a non-violent approach to addressing violence, and therefore reject policing-based solutions which only increase violence overall. The QPS have shown that they are not able to deliver this non-violent approach. Given that police are perpetrators rather than protectors of Indigenous women, girls and gender

⁵⁴ Vikram Dodd, Met officers joked about raping women, police watchdog reveals, The Guardian, 2 February 2022 <<https://www.theguardian.com/uk-news/2022/feb/01/met-officers-joked-raping-women-police-watchdog-racist>>

⁵⁵ Sima Kotecha, Met Police: Some officers are racist, professional standards chief admits, BBC News, 15 February 2022 <<https://www.bbc.com/news/uk-60379131>>

diverse people experiencing DFV, removing police removes a perpetrator from an abusive situation. We would not ask a DFV victim to stay in a relationship with their abuser, but offer that abuser better training and hope for improvement. Similarly, we must protect victims and survivors of DFV by protecting them from the ongoing abuse, violence, criminalisation and entrapment that they experience in interactions with the QPS.

There may appear to be a contradiction between those talking about the lack of police response to domestic violence and those talking about the over-policing and the criminalisation of Indigenous women. However, in our understanding this is not a contradiction but part of the same violent structure. **The under-policing and over-policing of particular types of experiences by Indigenous women all relate to the fact that their status as genuine victims is devalued. They are over-policed as perpetrators but under-policed as victims.** Therefore, when considering the problem of police disregard for DFV, more police powers, attention and resources will not address this. It will only intensify the problem.

Communities are looking for meaningful responses, and in the absence of those are finding their own. Given that police have long failed Indigenous peoples and communities, Indigenous communities and community-controlled organisations have had to find ways to respond to family violence. They recognise that a police response to what is effectively a social problem does not prevent or solve the issue of family violence. Survivors of family violence who we have spoken to indicate that there are very tangible things they are seeking to secure their safety. These things are not greater enforcement, criminalisation and incarceration, but instead focus on social support to build a safe future for themselves and their families, and finding security from and treatment options for those that have harmed them. Examples of such concrete supports include resources to for secure new rental properties when leaving a violent situation, getting paid leave when they have experienced a violent attack and have no leave at their job, and connecting with support services and others in their community in similar situations. Indigenous women who are survivors/victims of violence do not necessarily want perpetrators incarcerated for a short period of time, because they know these men return to neighbourhoods and communities more violent because of their experience of the violence of incarceration.

Critically, Indigenous women know that becoming involved with police in DFV situations often directly leads to their families being flagged with child protection authorities, and exposes them to the devastating prospect of having their children taken away.⁵⁶ This is a major reason that they do not call police. Therefore, giving increased authority to state social agencies is not a solution – these state agencies have long been part of colonial and racial control of Indigenous communities. Justice reinvestment which only moves resources *within the state* is perpetuating the problem. Instead, real change can only come from looking to the Aboriginal and Torres Strait Islander community controlled sector, which already deals with DFV in non-violent, supportive and culturally appropriate ways, without secure funding or recognition.

Our proposed solution aligns with some of the suggestions put by others to this inquiry, which focus on authorising community organisations to respond directly to DFV incidents. However, these

⁵⁶ Emma Buxton-Namisnyk, Domestic Violence Policing of First Nations Women in Australia: ‘Settler’ Frameworks, Consequential Harms and the Promise of Meaningful Self-Determination, *The British Journal of Criminology*, 2021;, azab103, <https://doi.org/10.1093/bjc/azab103>; Cunneen, C. and Libesman, T. (2000), Postcolonial trauma: the contemporary removal of Indigenous children and youth people from their families in Australia. *Australian Journal of Social Issues*, 35: 99-115. <https://doi.org/10.1002/j.1839-4655.2000.tb01088.x>

proposed solutions often do not take account of the structures of funding and authority that would prevent such a solution being rolled out in a systematic way.

Authorising non-violent community-based responses to DFV means going beyond pockets of best practice or appealing proposals without major structural reform. The shift to community responses must be considered in relation to two major factors:

- The massive expansion in police powers and authority over the past decades in Queensland, which has directly resulted in the unacceptable rates of incarceration of all Indigenous people, but especially women and girls (discussed in detail in the previous section).
- The chronic and worsening defunding of the Aboriginal and Torres Strait Islander community controlled sector over the past twenty years.

Funding and authorising community responses requires addressing and changing both these dynamics over the whole state of Queensland. ACCOs cannot be asked to respond to DFV without secure, systematic funding and recognition of their authority. Doing this *is* defunding and deauthorising police; our proposed solution therefore builds upon those suggested by others to the Inquiry.

We share the concern about solving the problem of violence in our community. The challenging part is getting the State to imagine what a non-violent response to violence might look like, as it struggles to see beyond solutions that involve increasing its own authority in terms of its relationship with Indigenous people.

The need to systematically fund Aboriginal and Torres Strait Islander community control

The Aboriginal and Torres Strait Islander community-controlled sector (ACCS) refers to those organisations who are run by Indigenous communities themselves, with majority Indigenous boards and accountability to specific local communities. We are not referring to Indigenous service delivery organisations such as Aboriginal & Torres Strait Islander medical services, legal services and kindergartens/pre-schools, or to mainstream services with Indigenous-specific service units.

Our current research project funded by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)⁵⁷ focuses on the strength and sovereignty exercised by these organisations. They deliver for their communities in ways that are accountable and go far beyond the specific services they may hold grants to deliver. However, these organisations struggle in the context of systematic defunding over the past twenty years, and a heavy burden of government scrutiny and micromanagement.

Since the formal end of the self-determination policy era, and the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 2004, federal and state Indigenous policy has been focused on ‘mainstreaming’ services to communities. This shift directly targeted and sought to undermine the role of the ACCS:

“The Prime Minister’s first press conference [on the move to mainstreaming] was called to announce an audit of all organisations funded by ATSIC. After two terms in office they were still a clear target of Minister Vanstone’s comments in a speech at the National Press Club, where she said: The history of these [Indigenous] services is that they’ve been provided through Indigenous organisations. Some do a tremendous job but there has been waste, there has been corruption and that means service

⁵⁷ [Still Here — Institute for Collaborative Race Research \(icrr.com.au\)](http://icrr.com.au)

provision hasn't been what it should be. If we continue to regard these organisations as untouchable and unaccountable we are failing our Indigenous citizens yet again. (Vanstone 2005)".⁵⁸

Since then, the burden of government distrust and scrutiny has increased. "While the Indigenous sector which underpins Aboriginal and Torres Strait Islander development is largely unacknowledged, it is paradoxically over-regulated (see Dwyer et al. 2009, Sullivan 2009). Regulation takes two forms. There are rules imposed by the legislation that an organisation incorporates under, and there are conditions imposed by the various sources of an organisation's funding."⁵⁹ Grants are small, short terms, do not provide operational funding and involve onerous reporting requirements.⁶⁰

New public management reforms have led to an increase in the number of small-scale, limited duration and narrowly targeted grants. A 2012 audit by the ANAO (2012a:32) on Capacity development for Indigenous services delivery underscored the sheer number of small, short-term grants awarded to Indigenous organisations. The 3 largest Commonwealth Government departments administered more than 2,000 funding agreements to more than 900 Indigenous organisations through 2010–11. The average duration of these grants was 15 months (ANAO 2012a). The 820 Indigenous organisations funded under just one grant system were required to submit 20,671 performance, financial and acquittal reports during this period (ANAO 2012a). FaHCSIA funded the largest number of organisations, and more than half of these grants were less than \$55,000 in value, and many were for less than \$1,000 ([Funding Indigenous Organisations](#))

In 2014, the Abbott government introduced the Indigenous Advancement Strategy. This program centralised all Indigenous specific Federal grants within the Department of Prime Minister and Cabinet and required all organisations to competitively tender simultaneously. It also cut \$534 million from the Indigenous budget. "Comprehensive Senate and ANAO reviews of the IAS process found it 'deeply flawed', with ad hoc decision making, unrealistic timelines, major shifts of funding to large non-Indigenous corporations, loss of many effective community programs and no community consultation (ANAO 2017, Senate 2016). In particular, the Senate review found that the IAS has had a significant negative effect on community capacity and... failed to 'give weighting to the contribution and effectiveness of Aboriginal and Torres Strait Islander organisations to provide to their community beyond the service they are directly contracted to provide' (Senate 2016, vii)."⁶¹

There was a sharp decrease in funding to ACCOs: "The Issues Paper demonstrates that mainstream organisations are being funded instead of ACCOs, stating that in 2015-16, 82% of government

⁵⁸ Desert Knowledge CRC, (2010) Working paper 737, <http://www.nintione.com.au/resource/DKCRC-Working-paper-73_Indigenous-sector-organisations.pdf>

⁵⁹ Ibid

⁶⁰ "Governments tend to over-emphasise 'risk and uncertainty' and respond by measures that reduce local discretion, centralising decision-making authority and accountability. Due in part to the application of contestability principles, public finances in remote Indigenous contexts have generally become fragmented and unstable, leading at times to considerable duplication and administrative burden. This can divert limited resources and talents available to Indigenous organisations away from delivery of outcomes to their constituency" [Funding Indigenous organisations: improving governance performance through innovations in public finance management in remote Australia \(full publication; 15 Oct 2014 edition\) \(AIHW Closing the Gap Clearinghouse\)](#)

⁶¹ Strakosch, 'The Technical is Political' Australian Journal of Political Science

expenditure on Aboriginal and Torres Strait Islander people went to mainstream services, with the remaining 18% funding Indigenous specific services. This means that \$4 of every \$5 of Indigenous Expenditure is going to non-Indigenous organisations.”⁶²

Finding non-violent, community-based solutions to DFV requires securely funding and recognising the authority of the ACCS. Indigenous families and communities are already involved in responding to DFV in the absence and violence of current police responses. The Commission should examine existing successful Indigenous led models responding to DFV, and resource and authorise these in a formal structured way.

While the state asks for and receives more police officers and resources, Indigenous families and communities carry the burden of not only police failings but the subsequent violence that they experience in this process of engaging with police. *Strong Women Talking* is an excellent example of an Indigenous community-controlled organisation that is survivor led and victim centred. They identify the reality that when Indigenous women seek to leave an abusive relationship that they must counter the violence that they experience through seeking help from the state - from the police through to the social services sector with the risks of losing their children after having reported an experience of violence. Small pockets of Indigenous organisations are already navigating the various layers of violence that Indigenous women experience in the course of seeking safety for their families. These organisations are the true ‘best practice’ in DFV responses. In looking to these organisations, the Commission can find models for non-violent DFV support that will benefit all women, girls and gender diverse people.

Overall, more oversight, surveillance, training, information, statistics, laws, police powers, women officers, Indigenous liaisons, welfare quarantining – in short, more and better state authority – is always seen as the solution to harm experienced by Indigenous people. As noted above, the state generally positions Indigenous peoples as responsible for their own suffering. Even when the state identifies its own part in causing harm, its solution is still the extension of the very powers that precipitated that harm. There is never a questioning of the value of intrusive state ordering of Indigenous lives.

Recommendations

1. Defund and deauthorise the QPS in relation to DFV

- a) Evaluate all potential solutions and recommendations against the following criteria: *Does it expand the authority of the police and state over women’s lives, especially over the lives of First Nations women and communities? Does it increase the resources allocated to police in the name of that authority?* If the answer is yes, the proposal will reproduce and increase violence.
- b) Reform legislation that leads directly to the incarceration of Indigenous women, girls and gender diverse people who experience violence. This must include changing or abolishing public nuisance laws, the use of the charge of ‘contravening the direction of a police officer’ or obstructing police (the most common reason that Indigenous women are

⁶² NATSILS, Submission to the Productivity Commission Issues Paper – 2019: Indigenous Evaluation Strategy, <https://www.pc.gov.au/data/assets/pdf_file/0006/245373/sub097-indigenous-evaluation.pdf>

incarcerated in Queensland) and the practice of incarceration for bail violations. These changes alone would prevent 52% of custodial sentences for Indigenous women.⁶³

- c) Examine in depth the historical and contemporary relationship between the QPS and First Nations communities in Queensland. Fundamental change can only come when this violent relationship is fully acknowledged and commitments are made to change the model of policing through control.

2. Fully fund and recognise the authority of the Aboriginal and Torres Strait Islander Community Controlled Sector (ACCS) in relation to DFV

- a) Conduct a full audit of current State funding to the ACCS. This needs to cover social funding provided by the *Department of Communities, Housing and Digital Economy* and *Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships* to ACCOs, covering community support, housing funding, family support programs, disability support and other social programs. How much of this money is going to ACCOs, and how much to mainstream organisations such as sports clubs and church social service corporations? Funding for government programs, especially in the area of justice (for example, Murri Courts), are not an alternative to funding Indigenous community control. The criteria for assessing this funding level must be only counting funding to organisations that are Indigenous controlled and accountable to their community.
- b) Securely and fully fund the sector, beginning with ACCOs that are specifically supporting victims of DFV.
- c) Take action to break the links between QPS intervention into DFV and child removal practices, to ensure that Indigenous children stay with their families. Reporting DFV should never expose a victim to the trauma of forcible child removal. This is crucial to building any level of trust between Indigenous communities and the QPS in relation to DFV responses.

The issue is the fundamental role of police in Australia's settler colonial society. Until this can be changed, and a form of policing based on consent rather than coercion be developed, it is far better that police are defunded and deauthorised. They only increase racial and gendered violence for First Nations communities.

Even when animated by apparent concern for Black victims, the state's solution is always the extension of its own powers – the very powers that precipitated harm. We urge the Commission to reflect on this fundamentally violent dynamic, and to refuse its part in continuing to extend police authority in the name of better 'caring for' and controlling Indigenous lives. Instead, we point to the need to systematically refund the Aboriginal Community Controlled Sector (ACCS) and support existing Indigenous community responses to DFV. The ACCS is already providing alternative non-violent responses to DFV, and the Commission need only look to its work to find models for best practice DFV responses and prevention for all women.

⁶³ Lorena Allam, *Number of women sentenced to jail in QLD jumped 338% with a third being Indigenous*, The Guardian, 17 August 2022 <<https://www.theguardian.com/australia-news/2022/aug/17/number-of-women-sentenced-to-jail-in-queensland-jumped-338-with-a-third-being-indigenous>>

Appendix A: Expertise of ICRR

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