

# QIFVLS

Queensland Indigenous Family Violence Legal Service

## The effect of Coercive control laws on First Nations Women and families – a Queensland perspective.



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# Acknowledgement

- I would like to acknowledge the *Gimuy, Walaburra, Yidinji and Yirrangangi* peoples, the traditional custodians of the land on which I am on today in Cairns and pay my respects to their elders past, present and emerging. I extend this respect to all Aboriginal and Torres Strait Islander people joining us today and I pay my respect to the traditional custodian of the various lands you are on and I recognise the strength, resilience and capacity of the first Australians.

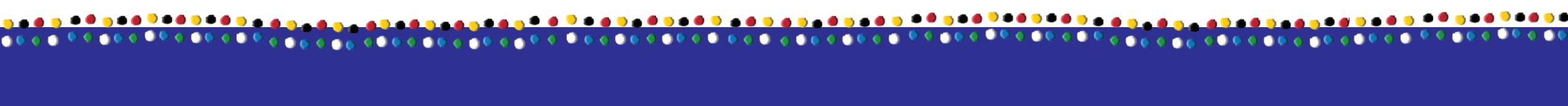
QIFVLS recognises the First Nations people have occupied and cared for this continent for over 65,000 years and continue to do so, as they are spiritually and culturally connected to this country.





The effect of coercive control laws on First Nations  
women and Families:

*A Queensland perspective*



# Current Qld legislation



## **Domestic and Family Violence Protection Act 2012**

# The DFVP Act (Qld)

## 4 Principles for administering Act

- (1) This Act is to be administered under the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.
- (2) Subject to subsection (1), this Act is also to be administered under the following principles—
  - (a) people who fear or experience domestic violence, including children, should be treated with respect and disruption to their lives should be minimised;
  - (b) to the extent that it is appropriate and practicable, the views and wishes of people who fear or experience domestic violence should be sought before a decision affecting them is made under this Act;
  - (c) perpetrators of domestic violence should be held accountable for their use of violence and its impact on other people and, if possible, provided with an opportunity to change;
  - (d) if people have characteristics that may make them particularly vulnerable to domestic violence, any response to the domestic violence should take account of those characteristics;

*Examples of people who may be particularly vulnerable to domestic violence—*

- women
  - children
  - **Aboriginal people and Torres Strait Islanders**
    - people from a culturally or linguistically diverse background
    - people with a disability
    - people who are lesbian, gay, bisexual, transgender or intersex
    - elderly people
- (e) in circumstances in which there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence, including for their self-protection, the person who is most in need of protection should be identified;
  - (f) a civil response under this Act should operate in conjunction with, not instead of, the criminal law.



# The DFVP Act...s.8 definition

## 8 Meaning of *domestic violence*

- (1) *Domestic violence* means behaviour by a person (the *first person*) towards another person (the *second person*) with whom the first person is in a relevant relationship that—
  - (a) is physically or sexually abusive; or
  - (b) is emotionally or psychologically abusive; or
  - (c) is economically abusive; or
  - (d) is threatening; or
  - (e) is coercive; or
  - (f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.
- (2) Without limiting subsection (1), domestic violence includes the following behaviour—
  - (a) causing personal injury to a person or threatening to do so;
  - (b) coercing a person to engage in sexual activity or attempting to do so;
  - (c) damaging a person's property or threatening to do so;
  - (d) depriving a person of the person's liberty or threatening to do so;
  - (e) threatening a person with the death or injury of the person, a child of the person, or someone else;
  - (f) threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed;
  - (g) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;
  - (h) unauthorised surveillance of a person;
  - (i) unlawfully stalking a person.



# The DFVP Act...s.8 definition...

- (3) A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic violence.
- (4) To remove any doubt, it is declared that, for behaviour mentioned in subsection (2) that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.
- (5) In this section—

*coerce*, a person, means compel or force a person to do, or refrain from doing, something.

*unauthorised surveillance*, of a person, means the unreasonable monitoring or tracking of the person's movements, activities or interpersonal associations without the person's consent, including, for example, by using technology.

*Examples of surveillance by using technology—*

- reading a person's SMS messages
- monitoring a person's email account or internet browser history
- monitoring a person's account with a social networking internet site
- using a GPS device to track a person's movements
- checking the recorded history in a person's GPS device

*unlawful stalking* see the [Criminal Code, section 359B](#).



# The DFVP Act – who is captured

## Domestic and Family Violence Protection Act 2012

Reprint current from 10 June 2022 to date (accessed 6 September 2022 at 21:43)

[Part 2](#) > [Division 3](#) > [Section 13](#)

### 13 Meaning of *relevant relationship*

*A relevant relationship* is—

- (a) an intimate personal relationship; or
- (b) a family relationship; or
- (c) an informal care relationship.

# The Human Rights Act 2019 (Qld)

*A Human Rights lens and approach in Qld*



# The Human Rights Act 2019 (Qld)

## Human Rights Act 2019

This is the Act as passed by Parliament (accessed 9 May 2022 at 21:09)

[Part 1](#) > [Division 1](#) > [Section 3](#)

### 3 Main objects of Act

The main objects of this Act are—

- (a) to protect and promote human rights; and
- (b) to help build a culture in the Queensland public sector that respects and promotes human rights; and
- (c) to help promote a dialogue about the nature, meaning and scope of human rights.

# The Human Rights Act...

## Human Rights Act 2019

This is the Act as passed by Parliament (accessed 9 May 2022 at 21:09)

Preamble

▼ Timeline

### Preamble—

In enacting this Act, the Parliament of Queensland recognises—

- 1 The inherent dignity and worth of all human beings.
- 2 The equal and inalienable human rights of all human beings.
- 3 Human rights are essential in a democratic and inclusive society that respects the rule of law.
- 4 Human rights must be exercised in a way that respects the human rights and dignity of others.
- 5 Human rights should be limited only after careful consideration, and should only be limited in a way that can be justified in a free and democratic society based on human dignity, equality, freedom and the rule of law.
- 6 Although human rights belong to all individuals, human rights have a special importance for the Aboriginal peoples and Torres Strait Islander peoples of Queensland, as Australia's first people, with their distinctive and diverse spiritual, material and economic relationship with the lands, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition and Ailan Kastom. Of particular significance to Aboriginal peoples and Torres Strait Islander peoples of Queensland is the right to self-determination.

# The Human Rights Act

## ▸ Division 2 Civil and political rights

- 15 Recognition and equality before the law
- 16 Right to life
- 17 Protection from torture and cruel, inhuman or degrading treatment
- 18 Freedom from forced work
- 19 Freedom of movement
- 20 Freedom of thought, conscience, religion and belief
- 21 Freedom of expression
- 22 Peaceful assembly and freedom of association
- 23 Taking part in public life
- 24 Property rights
- 25 Privacy and reputation
- 26 Protection of families and children
- 27 Cultural rights—generally
- 28 Cultural rights—Aboriginal peoples and Torres Strait Islander peoples
- 29 Right to liberty and security of person
- 30 Humane treatment when deprived of liberty
- 31 Fair hearing
- 32 Rights in criminal proceedings
- 33 Children in the criminal process
- 34 Right not to be tried or punished more than once
- 35 Retrospective criminal laws

## ▸ Division 3 Economic, social and cultural rights

- 36 Right to education
- 37 Right to health services

The *Human Rights Act* recognises 21 specific civil and political rights and 2 specific economic, social and cultural rights.



## Human Rights Act 2019

This is the Act as passed by Parliament (accessed 10 May 2022 at 10:53)

[Part 2](#) > [Division 2](#) > [Section 28](#)

▼ Timeline



### 28 Cultural rights—Aboriginal peoples and Torres Strait Islander peoples

- (1) Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights.
- (2) Aboriginal peoples and Torres Strait Islander peoples must not be denied the right, with other members of their community—
  - (a) to enjoy, maintain, control, protect and develop their identity and cultural heritage, including their traditional knowledge, distinctive spiritual practices, observances, beliefs and teachings; and
  - (b) to enjoy, maintain, control, protect, develop and use their language, including traditional cultural expressions; and
  - (c) to enjoy, maintain, control, protect and develop their kinship ties; and
  - (d) to maintain and strengthen their distinctive spiritual, material and economic relationship with the land, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition or Island custom; and
  - (e) to conserve and protect the environment and productive capacity of their land, territories, waters, coastal seas and other resources.
- (3) Aboriginal peoples and Torres Strait Islander peoples have the right not to be subjected to forced assimilation or destruction of their culture.



# *Closing the Gap – the JPP Qld space*

The National Partnership Agreement on Closing the Gap





## PRIORITY REFORM 1

Developing and strengthening structures so that Aboriginal and Torres Strait Islander people share in decision making with governments on Closing the Gap.

Outcome - Shared decision-making: Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements.

[LEARN MORE](#)

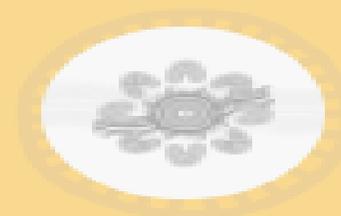
Listen in Language



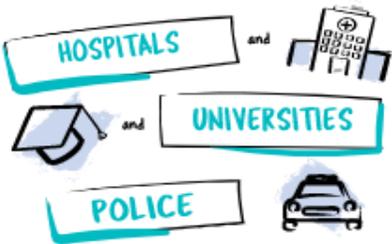
## PRIORITY REFORM 2

Building formal Aboriginal and Torres Strait Islander community-controlled service sectors to deliver Closing the Gap services.

Outcome – Building the community-controlled sector: There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country.



Listen in



### PRIORITY REFORM 3

Ensuring mainstream government agencies and institutions that deliver services and programs to Aboriginal and Torres Strait Islander people undertake systemic and structural transformation to contribute to Closing the Gap.

Outcome – Improving mainstream institutions: Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund.

[LEARN MORE](#)

Listen in Language



### PRIORITY REFORM 4

Shared Access to locally-relevant data and information

Outcome – Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally-relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development.



[LEARN MORE](#)

Listen in



# CTG – Socio economic targets

17 socio-economic targets and outcomes.

4 are critical in the Legal space:

# CTG targets

## TARGET 10

By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent.

**Outcome 10** – Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system.



[READ MORE](#)

## TARGET 11

By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by 30 per cent.

**Outcome 11** – Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system.



[READ MORE](#)

# CTG Targets

## TARGET 12

By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent.

**Outcome 12** – Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system.



## TARGET 13

By 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced at least by 50%, as progress towards zero.

**Outcome 13** – Aboriginal and Torres Strait Islander families and households are safe.

[READ MORE](#)

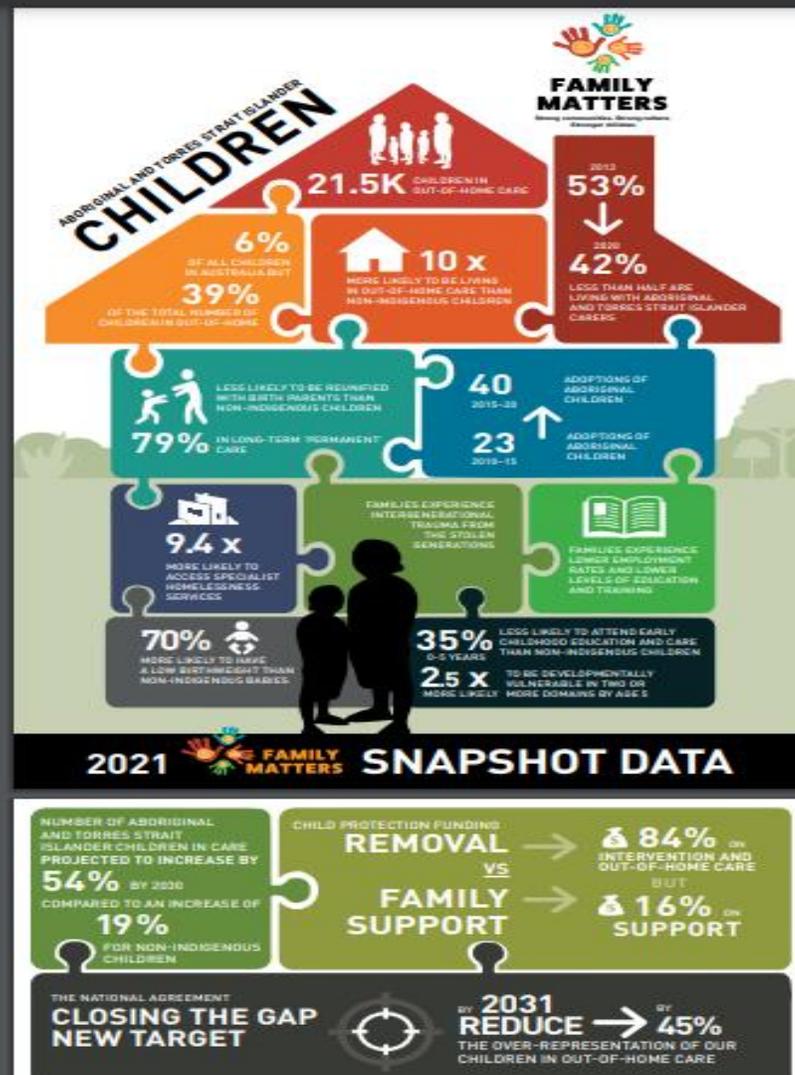
[READ MORE](#)

# System interaction

What we know about Aboriginal and Torres Strait  
Islander peoples interaction with the *system*



# Family Matters Report 2021



# Wiyi Yani U Tnangani Report 2020



Figure 2.13: Comparison imprisonment rates of Indigenous and non-Indigenous people

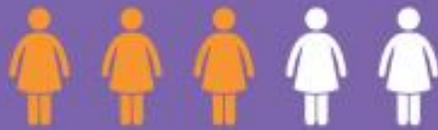


Figure 2.15: Arrested in last five years(a), by age and sex—2014-15.



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# Wiyi Yani U Tnangani Report 2020



**3** in every **5** Aboriginal and Torres Strait Islander women have experienced physical or sexual violence

Aboriginal and Torres Strait Islander women are:

**32** times more likely to be hospitalised due to family violence, than non-Indigenous women

**11** times more likely to die due to assault, than non-Indigenous women



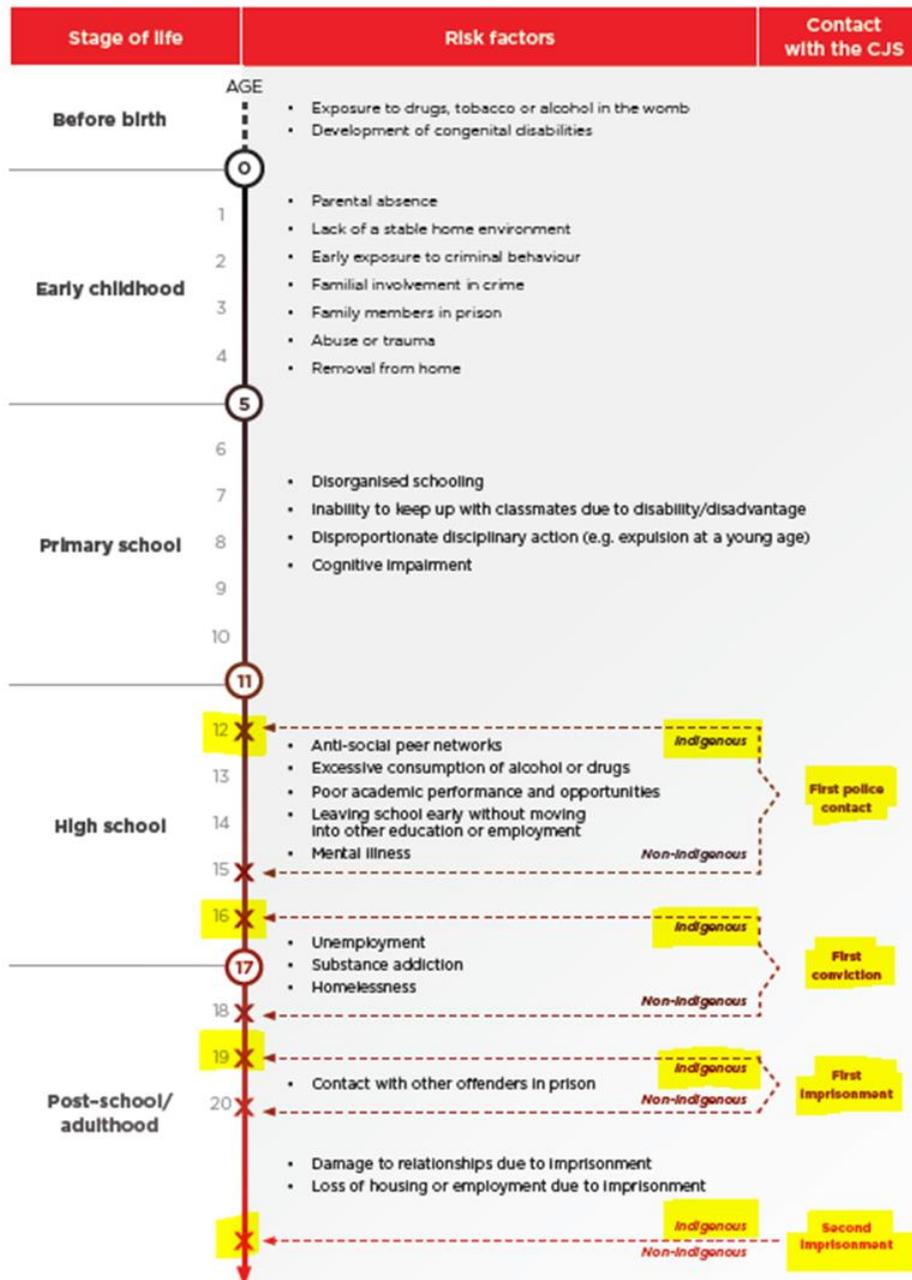
Figure 2.16: Physical or sexual violence against Aboriginal and Torres Strait Islander women.<sup>45</sup>

# The Qld specific evidence base



- It costs \$111,000 per year to accommodate a prisoner in Qld.
- In 2019-2020, it costed over \$300 per day to detain 1 woman in a Qld jail while it costed \$1,640.00 to hold a young person in detention.
- By way of contrast – community based supervision costs \$271.00 per young person per day.

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



Source: QPC analysts.

## QPC 2019 – Risk factors and contact with the criminal justice system, Qld.

## Engendering Justice – the Sentencing of women and girls in Qld



The **Qld Sentencing Advisory Council's** August 2022 report found :

- Aboriginal and Strait Islander women and girls were **7.7 times overrepresented**;
- Nearly half of all sentenced girls in Qld identified as Aboriginal or Torres Strait Islander (46.9%), compared to 29.9% of sentenced women.
- Compared to non- Indigenous women, Aboriginal & Torres Strait Islander women are more likely to be taken into police custody for non-violent crimes, such as public intoxication;
- The incarceration of Aboriginal & Torres Strait Islander women is typically characterised by lower level offending (such as justice procedure and breach offences), prior incarceration, and short terms of imprisonment. These short terms of imprisonment can exacerbate existing disadvantage and make it extremely difficult for a female offender to reintegrate back into community.

# The Qld pathway

Qld's pathway to responding to responding to the epidemic of domestic and family violence – finally *hearing her voice* and a 4-phase plan to address coercive control



Women's Safety and Justice Taskforce



## Hear her voice

*Report one*

Addressing coercive control and domestic and family violence in Queensland

## Hear Her Voice Report 1:

- 89 recommendations made
  - 85 recommendations specific to Govt – all 85 recommendations accepted (in whole or in principle)
- Qld will move to criminalise coercive control following a 4 phase plan to implement the recommended program of reform.

# Women's voices heard: Historic overhaul in addressing Domestic and Family Violence

Published Yesterday at 09:49 AM

## JOINT STATEMENT

### Premier and Minister for the Olympics

The Honourable Anastacia Palaszczuk

### Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence

The Honourable Shannon Fentiman

Premier Anastacia Palaszczuk has announced a historic overhaul of laws and practices to better protect Queensland women from domestic and family violence and hold perpetrators to account.

The \$363 million package of reforms includes:

- New laws and programs to recognise, prevent and punish coercive control including making coercive control a criminal offence
- A Commission of Inquiry into police practices
- Expansion of the Domestic and Family Violence courts
- Better support for women
- A special strategy for First Nations communities
- Funding for perpetrator programs to change men's behaviour and stop the cycle of violence
- Expansion of High-Risk Teams and co-responder models to ensure victims receive a joint response from police and DFV services.
- Increased respectful relationships education to all Queensland children and young people

All are the result of Justice Margaret McMurdo's Women's Safety and Justice Taskforce's first report *Hear Her Voice* handed down in December.

"The Taskforce received more than 700 submissions from women and girls with lived experience of domestic and family violence," the Premier said.

"In addition, women have literally taken to the streets to say 'enough is enough'.

"My government has heard.

"My government has listened.

"My government is acting."

# Qld Government response to Hear Her Voice Report 1:

- Media Statement:  
<https://statements.qld.gov.au/statements/95120>



**Women's** Safety and Justice Taskforce



# Hear her voice

REPORT TWO | VOLUME ONE

Women and girls' experiences across  
the criminal justice system

## Hear Her Voice Report 2:

- 1888 recommendations made
- Report delivered to Government on 1 July 2022. Awaiting Government response.
- Broader reform package proposed by the WSJT following women and girls' experience through the criminal justice system.

# Courage and political will

**“Courage starts with  
showing up and letting  
ourselves be seen.”**

—BRENÉ BROWN

RD

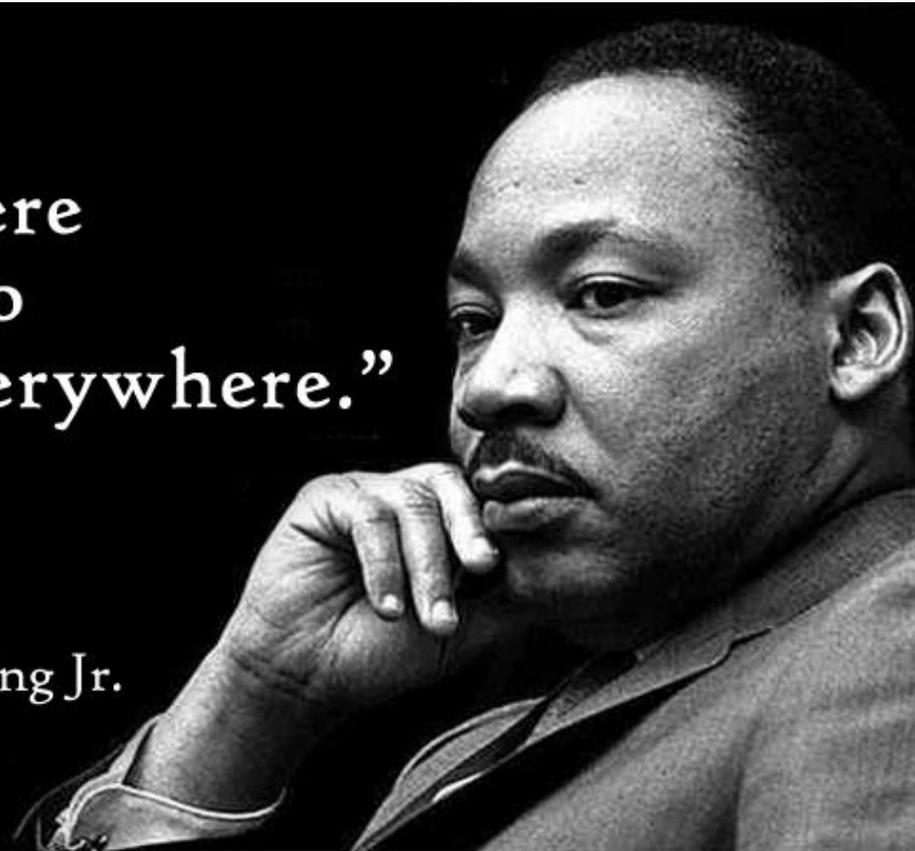


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# Equity, Equality, Justice

“Injustice  
anywhere  
is a threat to  
justice everywhere.”

—Martin Luther King Jr.





References/  
links:

1. *Domestic and Family Violence Protection Act* (2012) Qld: <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2012-005>
2. *The Human Rights Act* (2019) Qld: <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005>
3. The National Partnership Agreement on Closing the Gap: <https://federation.gov.au/about/agreements/closing-gap-partnership-agreement>
4. The Family Matters Report 2021: <https://www.familymatters.org.au/the-family-matters-report-2021/>
5. The *Wiyi Yani U Thangani (Women's Voices)* Report, Social Justice Commissioner, June Oscar, Australian Human Rights Commission, 2020: <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/wiyi-yani-u-thangani>
6. The Queensland Productivity Commission Report 2020, *Inquiry into imprisonment and recidivism*. <https://apo.org.au/node/273991>
7. The Queensland Sentencing Advisory Council, *Engendering justice – the sentencing of women and girls in Queensland, August 2022*: <https://apo.org.au/node/273991>
8. The Queensland Women's Safety and Justice Taskforce – *Hear her voice Report 1: Addressing coercive control and domestic and family violence in Queensland 2021* and *Hear her voice Report 2: Women and girls' experience across the criminal justice system, 2022*: <https://www.womenstaskforce.qld.gov.au/>
9. The Queensland Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence 2022: <https://www.qpsdfvinquiry.qld.gov.au/>



# Any Questions?

If you think of any questions after the session, please feel free to contact us on the details below or at [plo@qifvls.com.au](mailto:plo@qifvls.com.au).

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It's a wrap!  
Enjoy the Indigenous Justice  
Clearing House Event!