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Sisters Inside Inc. is an independent community organisation which exists to advocate for the human rights of women in the criminal justice system

TWES Consultation
Department of Employment and Workplace Relations
GPO Box 9828
12M4 Canberra ACT 2601

By email: TWESconsultation@dewr.gov.au

Re: Consultation on improving Prison Employment Services for First Nations Peoples

Thank you for engaging Sisters Inside in this consultation opportunity, we welcome the opportunity to contribute to shaping the service and advocating for incarcerated and formerly incarcerated, and criminalised Aboriginal and Torres Strait Islander women.

Sisters Inside Inc.

Sisters Inside Inc. is an independent community organisation that exists to advocate for the collective human rights of women and girls in prison and provides unique services to meet the needs of criminalised women, girls, and their families. We have more than 30 years' experience supporting criminalised women and girls, and advocating for an end to the racial gendered violence that underpins the carceral system. All our work is directly informed by the wisdom of criminalised women and girls. Aboriginal and Torres Strait Islander women have been central in the formation and drive of Sisters Inside, and their knowledge, experience and input directs all our work. We privilege the voices of criminalised women as the authorities on all matters pertaining to them and our submission is informed by the experiences and knowledge of formerly incarcerated women at Sisters Inside, and our observations of the experiences of incarcerated and formerly incarcerated women and girls that we support.

Consultation with incarcerated and formerly incarcerated and criminalised Aboriginal and Torres Strait Islander women

Challenges faced by criminalised women and girls navigating employment, economic participation and the labour market are very different from men's, challenges that are exacerbated further still for Aboriginal and Torres Strait Islander women and girls. While our submission is informed by the experiences of Aboriginal and Torres Strait Islander women that are part of and supported by Sisters Inside, we are of the strongest view that the most important and authoritative voices to be consulted are those of incarcerated and formerly incarcerated and criminalised Aboriginal and Torres Strait Islander women. We refer the department to The National Network of Incarcerated and Formerly Incarcerated Women and Girls, a representative organisation and the authoritative body for incarcerated and formerly incarcerated women, girls, and gender-diverse people in Australia. The National Network is in a position

to act as consultant through the expertise of its members, as well as to facilitate consultation with other incarcerated and formerly incarcerated women. We believe a relationship with the Network to be an invaluable source of information and expertise.

Below we address discussion questions and discussion topics as prompted by the discussion paper and make recommendations as to how the department can productively and holistically engage incarcerated Aboriginal and Torres Strait Islander women in their service. We also note that we include all incarcerated women in our submission, and note services should include all women held on remand and any other form of detention.

Embedding Priority Reforms

In our view, Closing the Gap has affected little change and had very limited influence in addressing the broadscale systemic and systematic marginalisation and subjugation of Aboriginal and Torres Strait Islander people - factors that underpin and are reinforced by criminalisation and incarceration. As such we are not of the view that the success of the prison employment service design is contingent on its adherence to the Priority Reforms. Instead, we submit that the impact and success of the service is contingent on being informed and shaped by those who the service is intended for - incarcerated and formerly incarcerated Aboriginal and Torres Strait Islander people. Below we provide what we believe alternative, successful interpretations of the priority reforms to be.

Priority Reform 1 - Formal partnerships and shared decision making

Sisters Inside's practice is guided by our belief that there should be "*nothing about us, without us*". We are of the view that self-determination, autonomy, expertise of experience, and control of participants should be at the centre of the service's design and implementation. Success of the service is predicated on engaging with and being guided by the expertise of incarcerated and formerly incarcerated Aboriginal and Torres Strait Islander people. To this end we recommend the department engage and collaborate on service design, requirements, desired outcomes, current shortcomings, future implementations etc. with those with experience navigating incarceration, criminal histories and employment. We also believe that ideally there should be a succession plan to eventually allow the service to be managed and implemented by incarcerated and formerly incarcerated people.

Women's experiences and requirements will differ from men's and will differ between women (e.g for care-givers, mothers, grandmothers, returning to regional, rural or remote communities, victim-survivors of domestically violent relationships, previous access to the labour market etc.), thus requiring a more nuanced consultation, collaboration and delivery approach.

In their collaboration and partnership the department must be reflective and aware of its position in relation to Aboriginal and Torres Strait Islander women so as not to participate in racist assumptions and projections and paternalistic benevolence. Considerations will have to be made in the consultation, design and implementation process for the racial-gendered marginalisation of Aboriginal and Torres Strait Islander women, and the consequences this might have for women's willingness to participate in engagement with a State department authority. An alternative may be that with consent, consultation may be facilitated through liaison with community and support organisations, advocates and advocates.

Priority Reform 2 - Building the Community Controlled Sector

As we submit above, we believe those with experience hold authority in the knowledge of successful service delivery, and self-determined and autonomous participation in the design and implementation of the service is key to the success of the service. If and where a community organisation driven by incarcerated and formerly incarcerated and criminalised Aboriginal and Torres Strait Islander women exists and is able to engage, they will certainly provide invaluable services and support. If not available, we submit that those with experience be supported to form these groups which could ideally go on to become providers, support organisations, employers, advocates etc. as part of the service.

We also submit that all organisations, providers, employers, training providers, support organisations etc. involved in the service delivery should be autonomous and independent from Queensland Corrective Services, parole, the QPS, Child Safety, and any other State institutions that are in any way tasked with control and surveillance of incarcerated and formerly incarcerated people, regardless of their status as a community controlled organisation.

We suggest that alongside fostering employment opportunities and economic participation, a goal of the service should be to build a workforce of Aboriginal and Torres Strait Islander women that will go on to form and contribute to community organisations that in turn can address the needs and support requirements of women leaving prison.

Priority Reform 3 - Transforming Government Organisations

When considering this priority reform and its target to “*decrease (...) the proportion of Aboriginal and Torres Strait Islander people who have experiences of racism*”, we find the department’s ascription of factors that contribute to the criminalisation of Aboriginal and Torres Strait Islander people ignorant and informed by racist ideologies. We refer specifically to “*Key facts and trends of First National imprisonment*” in the introduction of the discussion paper, which attributes rates of incarceration of First Nations peoples to the “*level of criminal activity*”, amongst other oversimplified factors. The ascription of criminality to Aboriginal and Torres Strait Islander peoples is underpinned by racist ideologies and does not take into account the ongoing and systemic criminalisation and subjugation of Indigenous peoples in settler colonies. It is well established that the rate of policing, criminalisation and incarceration of First Nations peoples is a mechanism of the colonial state that continues to systemically and systematically oppress and marginalise. In practice this includes hyper-surveillance by the State and its police, over-policing of communities, removal of children from families, deaths in custody, negligence in healthcare, and social and legal vilification and ascriptions of deviance. We encourage the department to look to the Institute for Collaborative Race Research’s (ICRR) work on the subject and we include a transcript of their evidence given at the *Independent Commission of Inquiry into the Queensland Police Service Responses to Domestic and Family Violence* and a submission made with Sisters Inside in the appendix to this submission.

Further, we implore the department to engage with activism, advocacy, literature and data that unpack the racial, gendered and ableist ideologies and motives that underpin the other factors the department understands to be contributors to incarceration. We also recommend the department interrogate what it understands by “*deep-rooted, intergenerational disadvantage*” and what dynamics of power contribute

to said “disadvantage”, the maintenance of systems of power and subjugation, and how these are central to and dependent on the carceral system.

Culturally competent services for First Nations people in prison

We are not of the view that simply acknowledging strengths, resilience and connections to community and Country are successful in affecting any change in the rates of criminalisation and incarceration. We also find State authorities’ performative acknowledgment of “connection to Country” a cruel practice when the same authorities participate in subjugating practices and criminalisation of Aboriginal and Torres Strait Islander people, actively preventing access to Country and community. The racial and gendered underpinnings of the marginalisation and associated criminalisation of Aboriginal and Torres Strait Islander women must be recognised, unpacked, and dismantled. We must also be aware of the reliance on racial-gendered stereotypes and projections that are embedded in language, and how language in turn reinforce these. We draw the department’s attention to the prevalence of paternalistic and carceral language used throughout the discussion paper that makes and perpetuates racist assumptions about Aboriginal and Torres Strait Islander criminality, dysfunction, and deviance, and portrays criminalised Aboriginal and Torres Strait Islander peoples as powerless and requiring benevolent aid. Examples of this include explicit ascriptions of criminality as noted earlier in our submission, as well as equations of criminality to “addiction”, mental health “problems”, “lack of self-control”, and “familial dysfunction”, without engaging with or unpacking the racial violence Aboriginal and Torres Strait Islander peoples (and First Nations peoples globally) are subjected to in a settler colonial State. We urge the department to recognise the systemic and foundational racism experienced by Aboriginal and Torres Strait Islander peoples in the settler colonial state, and the violence inflicted by its carceral practices.

We refer the department to the expertise and authority of incarcerated and formerly incarcerated and criminalised Aboriginal and Torres Strait Islander women, to consult and collaborate with them about the appropriate design and delivery of the service. To gain understanding of the range of nuanced experiences, goals and requirements, a diverse range of Aboriginal and Torres Strait Islander women should be consulted in an ongoing manner. To ensure difference and diversity is accommodated throughout service delivery, the service should be designed in such a way to continuously incorporate and build on knowledge and experience and adapt accordingly.

We further recommend that to ensure every woman engaging with the service has her needs met, the service be designed in such a way that its delivery can be tailored in real time to the individual participant and shaped in response to their requirements, circumstances, and preferred outcomes.

While not exhaustive, we note below some circumstances and nuances that should be accounted for and accommodated in service design and delivery:

- Skills, training and education a woman already possesses, and those she wishes to pursue.
- Mental health and wellbeing circumstances, and required support.
- Familial dynamics, arrangements, and requirements after release, including women’s roles at mothers, grandmothers, and other primary caregiver responsibilities.
- Instances in which a woman has had her children removed from her care, and circumstances in which she is pursuing having them returned.

- The locations a woman might like to return to or reside at after release, and the particularities surrounding travel and remoteness, infrastructural amenities, access to support services, and job opportunities.
- Requirements for women with disabilities, health conditions (including mental health), substance use and dependence etc.

As we note in our response to the first question prompt, the department must be cognisant of the inherent imbalanced power dynamic between itself as an authority of the State and Aboriginal and Torres Strait Islander women. This dynamic is further exacerbated through criminalisation and incarceration, and the racial-gendered harm affected by the carceral system. To this end the department must implement safe and supported consultation on a voluntary basis. Through experience we find that facilitating consultation through an appropriate organisation, advocacy body or other representative may be successful, both in ensuring consultation is conducted in a safe and appropriate manner, and that the women do not feel coerced and that their advice is accurately presented and interpreted. We note that consultation must only be undertaken completely independently of any State authorities. Under no circumstances should consultation, conversations, support etc. be affiliated with corrective services, 'child safety', parole and probation authorities, or any other State aligned or authorised entity.

We note here that both Sisters Inside and The National Network are organisations that actively engage in and facilitate consultation, and both are readily available to engage with the department to facilitate this.

We also urge the department to consider an approach to service delivery that does not employ a case-management approach and we go on below to expand on this.

Addressing vocational and non-vocational needs

To improve the uptake of and participation in the service, and ensure the best possible outcomes for participants, we suggest the service should be more widely and consistently available to women for the duration of their incarceration. Broadly, we suggest the service diversify and broaden its delivery to provide more entry points from which women may embark on service participation, as well as more pathways for participants to pursue to improve their access to economic participation and employment.

The success of the service and its participant's journey to employment security after release is contingent on working with participants to develop an adaptable and individualised plan. We do not believe a "case management" approach is ever successful, as these models are based on skewed power dynamics that position the manager as a paternalistic, controlling authority, and the managee as inept or dependent, and having to adhere to often unachievable plans which set them up for failure. We note the significant harm associated with "case management" and continuous control and surveillance the State and its agents and institutions have over criminalised women, which leads to their re-criminalisation and re-incarceration. We believe that instead, individual participants must be engaged and consulted from the outset to co-develop a self-directed plan which considers and utilises their skills, knowledge, interests and goals.

Service participation should be made available to incarcerated women for the duration of their incarceration, through a transitional period, and into post release support. We are of the view that

engaging participants 4 months before their release is insufficient and does not foster a woman's success. Instead, we suggest the service be extended to encourage women to engage voluntarily at any time during their incarceration and formulate a personal plan that maps out educational and training pursuits, qualifications, accreditations, vocational exploration, and employment goals. This approach will be effective in supporting women to determine and work towards their goals during their incarceration by gaining training and qualifications, accessing relevant requirements and support, establishing connections, finalising administrative requirements and any other requirements to be met in their journey to accessing employment post release.

We are of the view that the service should be such that it serves as a central structure that manages and coordinates various aspects of supporting women in accessing education and employment. Some of the moving parts of the service delivery will be fostering and advocating for self-determination and autonomy of participants; facilitating training and education; connection between providers, employers and participants; educational and employment support staff that are corrective services staff; provisions of jobs; ongoing support; connection with other organisations including trainers, employers, support services, childcare services, health care services etc.

Further, the service should:

1. Utilise the skills and knowledge held by participants.
2. Foster participants' learning and employment ambitions and goals by facilitating learning and skill building through education, training, and work programs.
3. Form partnerships with providers that connect participants with actual employment opportunities that are attractive and feasible.
4. Provide specific and supported education/training qualifications with the view to enter a specific role/labour market/industry.
5. Provide learning and qualification pathways that align with available employment opportunities, long term vocational pursuits and/or further education.
6. Engage in partnerships that are diverse and that offer different opportunities for participants to engage in a clear plan towards future employment, utilising participants' skill sets or facilitating skill acquisition for particular roles.
7. Partner with providers that acknowledge and utilise the contributions people can make with their knowledge and skills, and that provide opportunity for potential long-term employment, and professional development and advancement.
8. Have education and development programs and initiatives embedded in it, which may be done by accessing and expanding already existing programs and facilities (we note that these are largely inaccessible and understaffed, as such, the service will be tasked to reactive these facilities).
9. Advocate for change of legislative and policy standards and practices that actively exclude criminalised women from accessing employment through the extensive and often unnecessary reliance on criminal history and police checks, working with children checks etc.
10. Engage only with providers and employers that are not connected with state and federal corrections, parole and probation, "child safety", or any other State authority that through whom a woman might be re-criminalised and re-incarcerated etc.

11. Take into account the gendered nature of workforces and industries e.g. the feminised nature of education and training, health care and social assistance, early childhood education etc. precludes many women with criminal histories and those formerly incarcerated from participating in industries in which they would largely find work due to often unnecessary criminal history, police and working with children checks.

A current shortcoming of prison employment and education services is a lack of consistency across the board. We see inconsistent and insufficient employment and educational support staff; inconsistent and interrupted availability of educational, training and employment opportunity access within and between prisons; lack of consistency in the educational opportunities provided and employment opportunities post release; educational opportunities offered in custody that do not feasible lead to employment after release (e.g. where criminal history and police checks certainly preclude access) etc.

We also note here the plethora of skills and knowledge women have and obtain that are disregarded. It is standard practice for women working in “prison industries” (labour which is equatable to enslavement when considering the conditions of work and lack of fair remuneration) to be proficient in skills and productions that could reasonably qualify as practical qualifications and certifications. Further, this work is largely done under the supervision of certified trade instructors that are in a certified position to sign off on these qualifications and certifications.

It is also commonplace for women to work in production for government institutions and companies that will certainly never consider extending employment opportunities for the same women after their release. One such example is the prison based production of hospital gowns and other consumable for Queensland Health, another is the cleaning and refurbishing of audio headsets for Qantas.

Post release support

The barriers imposed and harm inflicted by the extensive State control and surveillance formerly incarcerated and criminalised people are subjected to cannot be understated. State surveillance and control reaches into every single aspect of a person’s life and disregards all right to privacy and confidentiality. This, while certainly not ethical and often legally ambiguous or unfounded, creates significant barriers to accessing confidential healthcare (including mental health support, therapy, drug and other substance use support and therapy etc.), accessing and securing housing, establishing connection with family and community etc. This control and surveillance erodes virtually all employment opportunities, as almost every job – even those not in any way reasonably connected to a person’s charges or history - requires criminal history and police checks, working with children checks, BlueCard applications etc.

We are of the view that the service is able to interrupt the cycle of subjugation and re-criminalisation by understanding the system and advocating for policy and legislative change. Challenging the unnecessary and extensive use of criminal history checks and advocating for a woman’s right to be forgotten is a real and tangible way in which the service may beginning ridding the system of the barrier that actively keep Aboriginal and Torres Strait Islande women from gaining employment and enjoying their rights to privacy and confidentiality.

Further, the service should be designed in such a way to facilitate connection to and support from appropriate organisations that are not affiliated with State authorities, correctional services, parole and probation, Centrelink etc. This connection should be facilitated while a woman is still in custody to ensure a relationship may be fostered and should be supported after her release.

Specific areas of support that must be considered in a woman's path to employment and financial security include parole and probation requirements; geographic considerations relating to relocation, returning home, connecting to family and community, travelling to work, and availability of employment; accessing and securing safe, secure and comfortable housing; access to confidential and autonomous health care, mental health support, drug and other substance support and therapy; and ongoing and future legal matters including child protection matters.

We believe it is fundamentally important that the service ensure that the connections between support organisations, providers, employers and participants are completely autonomous from the above-named State authorities, and that a participating woman's journey to gaining employment is not marred by State control and surveillance.

Overcoming employer bias

We believe the key to ensuring criminalised Aboriginal and Torres Strait Islander women can access employment is to address and dismantle the systems and practices in place that actively exclude and re-criminalise them. Political advocacy and campaigning around the unnecessary implementation of criminal history and police checks and working with children checks is a significant way in which the service may engage employers. With this as a central guiding principle, the service is able to collaborate with non-carceral organisations, businesses, institutions and other employers to enable Aboriginal and Torres Strait Islander women to gain access to appropriate workforces. We argue that the service design and implementation should be such that in this instance too, formerly incarcerated, and criminalised women move into the position of designing, managing and implementing this aspect of the service. From there, advocacy, consultation and collaboration may be run by those who fundamentally understand the complexities and nuances of navigating the labour market as a criminalised woman.

We thank you again for engaging us in this consultation. Sisters Inside remains available for further consultation, as well as for funded engagement with the department and service to coordinate, facilitate and support its design, implementation and delivery.

Please do not hesitate to contact me on (03) 3844 5066 if you wish to discuss our submission or for any other inquiries.

Warm regards,



Debbie Kilroy
CEO Sisters Inside



**Let's stop it at the start:
defunding the Queensland Police Service
as violent perpetrators**

A Joint Submission from Sisters Inside and the Institute for Collaborative Race Research to the 2022 Commission of Inquiry into Queensland Police Service responses to domestic and family violence



13 July 2022

Commission of Inquiry
PO Box 12264
George Street Qld 4003

Dear Commissioner,

Sisters Inside and the Institute for Collaborative Race Research welcome the opportunity to provide the following joint submission to the Commission of Inquiry into Queensland Police Service responses to domestic and family violence. Aspects of this submissions have been taken from our submissions to the Women's Safety and Justice Taskforce ('the Taskforce'). We direct the Commissioner's attention to these submissions, which deal with broader issues relating to women and girls' experiences within the criminal legal system but ask that this submission be considered independently. It provides greater detail about women and girls' experiences of the Queensland Police Service (QPS).

In this submission, we use personal quotes from interviews we conducted with women who have experienced DFV victimisation. They consent to their anonymised stories being used here.

About Sisters Inside and the Institute for Collaborative Race Research

Established in 1992, Sisters Inside is an independent community organisation based in Queensland, which advocates for the collective human rights of women and girls in prison, and their families, and provides services to address their individual needs. Sisters Inside believes that no one is better than anyone else. People are neither "good" nor "bad" but rather, one's environment and life circumstances play a major role in behaviour. Given complex factors lead to women and girls' entering and returning to prison, Sisters Inside believes that improved opportunities can lead to a major transformation in criminalised women's lives. Criminalisation is usually the outcome of repeated and intergenerational experiences of violence, poverty, homelessness, child removal and unemployment, resulting in complex health issues and substance use. First Nations women and girls are massively over-represented in prison due to the racism at the foundation of systems of social control.

The Institute for Collaborative Race Research (ICRR) is an independent organisation, not tied to the institutional interests of any university, association, or academic discipline. Their primary purpose is to support antiracist, anticolonial intellectual scholarship which directly serves Indigenous and racialised communities. ICRR seeks to create deeper engagement with crucial political questions in an institutional context not dominated by whiteness. Its members are invested in activist, community-based scholarship and communication on race, colonialism, and justice. ICCR provides specialised additional support for those engaged in disruptive interdisciplinary research, sustaining a network of established scholars, early career researchers, students, activists and community members who collaborate in the interests of justice.

Executive Summary

The police are perpetrators of racial and gendered violence. In this submission we demonstrate the role of the QPS in maintaining broader systems of violent abuse that include and facilitate domestic and family violence (DFV). 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 is particularly coercive, hierarchical and racially violent.

In line with best practice approaches to domestic violence, we centre the truth of the victims of abuse: Black women. If the Commission also does this, it will see a very different picture of the QPS. The Commission can then begin to understand the growing crisis of Aboriginal and Torres Strait Islander incarceration and victimisation, and perceive the ways in which the QPS have exacerbated this crisis.

Like domestic violence itself, police violence covers a spectrum. It moves from symbolic harm such as racial stereotyping to direct, fatal physical violence. Together these forms of violence create a matrix that entraps Aboriginal and Torres Strait Islander women. Exactly as with DFV, the most foundational violence is the fracturing of trust and reality that takes place when you are harmed by those whose duty is to care for and protect you.

In this submission we outline police violence along this spectrum, starting from the stereotyping that positions Indigenous women as criminals. We then outline the way they are trapped by interlocking state systems of control including prisons and child removal agencies, and finally examine the direct physical violence they experience at the hands of the state, or which the state refuses to see.

The submission is structured in the following sections:

- 1. Criminalisation: 'She was asking for it'**



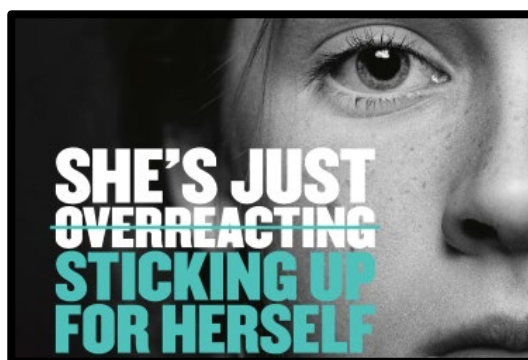
Aboriginal and Torres Strait Islander women who experience domestic violence are overwhelmingly criminalised by police and treated as perpetrators rather than victims.

2. Entrapment: 'He did it because he likes you'



A superficial narrative of Black women's victimhood justifies police intervention, but the QPS brutalises these women in the name of their own protection. They experience the fracturing of reality that comes with not being believed.

3. Murder: 'She's just overreacting'



Even the most direct physical harm to women caused by the QPS and the state is minimised or denied entirely. Confronting the reality of QPS abuse is essential to validate victims and find new approaches to DV.

Because there is 'No Excuse for Abuse',¹ we urge the Commission to examine the outcomes of police action and inaction, rather than their intentions or the justifications they provide.

We already know that First Nations women are massively over-represented in the criminal legal system; they are more likely to be arrested, charged, detained and imprisoned on remand for the same offences, and are less likely to receive a non-custodial sentence or parole, than other women.² Over-policing is to blame – but the cause of this has to be named for what it is: racism. In the settler-colonial state, police have historically been the mechanism used to control, dispossess and harm Aboriginal and Torres Strait Islander peoples.³ Racism in the QPS therefore represents a continuation

¹ 'No Excuse for Abuse' (2020) Our Watch, <https://www.noexcuseforabuse.org.au/>

² Australian Human Rights Commission (2020) Wiyi Yani U Thangani Report at <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-socialjustice/publications/wiyi-yani-u-thangani>; Human Rights Law Centre & Change the Record (n 1) (2017).

³ Wolfe, P, 'Settler colonialism and the elimination of the native' (2006) 8 *Journal of Genocide Research* 387; A Porter and C Cunneen, *Policing settler colonial societies* (2020).

of colonial values implicit in the organisation since its inception. The 1,700 current or former Queensland police officers who were revealed to be members of a private Facebook page which featured extensive racist, sexist and homophobic posts demonstrates that these values are alive and well.⁴

Conclusions

Therefore, **the police cannot be the solution to the crisis of domestic violence**. Addressing superficial issues of police 'culture' will not change their status as perpetrators of violence. Instead, as the Australian Government domestic violence campaign states, we must '**Stop It At The Start**'⁵ and defund the police in relation to DFV. Any proposed solution must be evaluated against the following criteria:

Does this proposed solution expand the authority of the police and the state over women's lives, especially over the lives of First Nations women? Does it increase the resources allocated to police in the name of that authority?

If the answer is yes, then this proposal will reproduce and increase violence.

This Commission of Inquiry has the opportunity to break the following cycle: apparent concern for violence against Black women, extension of state authority in the name of protecting these women, increased surveillance and control over these women's lives, and a subsequent intensification of the violence that was ostensibly the subject of concern. It can do this if it centres the voices of Black women and recognises the racial violence they experience at the hands of the state. We must stop this violence where it begins and return control to women who experience DFV.

⁴ Jenkins, Keira (2021) Racist police-run Facebook group under investigation, NITV News, 13 July at <https://www.sbs.com.au/nitv/article/2021/07/13/racist-police-run-facebook-group-underinvestigation>

⁵ 'Violence Against Women. Let's Stop It At the Start' (2022) Australian Government https://www.respect.gov.au/?gclid=EAlalQobChMli9DqgoX1-AIV0CMrCh1UpgvVEAAYASAAEgJNFfD_BwE&gclsrc=aw.ds

1. Criminalisation: ‘She was asking for it’



DFV and criminalised women

The evidence is overwhelming: criminalised women and girls are almost always survivors of violence.⁶ In turn, victims of DFV are routinely criminalised.

The QPS is the most notable agent of this criminalisation. It is very common that the first encounter of DFV victims with police leads directly to the wrongful identification of these women as perpetrators, to assaults by officers, to the removal of children, to imprisonment and/or to further subjection to DFV. Cross-applications and DVOs have been shown to be often extensions of the abuse perpetrated by men against women; we consider the QPS is complicit in this abuse by wrongly supporting these cross-orders.⁷

The intersection of DFV victimisation and criminalisation is particularly clear when considering the most intensively criminalised women and girls – those currently incarcerated. Repeated studies have found that:

- 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.⁸

⁶ 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).

⁷ J Wangmann, 'Gender and Intimate Partner Violence: A Case Study from NSW' (2010) 33 *University of New South Wales Law Journal* 945; H Douglas and R Fitzgerald, 'Legal process and gendered violence: Cross-applications for domestic violence protection orders' (2013) 36(1) *University of New South Wales Law Journal* 56.

⁸ 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*

In testimony to the Queensland Crime and Corruption Commission, the General Manager of the Brisbane Women's Correctional Centre (BWCC) recently acknowledged the very different profile of women prisoners compared to men and the central role of trauma in these women's lives:

... 80 per cent of women that come to gaol, or more, are victims before they're perpetrators. It's just a different environment... (Darryll Fleming)⁹

Similarly, almost all girls in children's prisons have been sexually assaulted.¹⁰ The vast majority of criminalised women have been routinely denied their most basic human rights – first in the wider community, then in prison.

QPS officers called to attend DFV situations often do not believe the allegations of these women and girls, and further criminalise and punish them because of this interaction with police. The legitimate fear that this will occur already prevents women from reporting violence to the police.

The following story was recounted to a Sisters Inside worker by a woman – Samantha* - who had a long history of sexual violence victimisation. She received a 5 year imprisonment sentence for fraud offences. Upon her release from prison, she experienced violence in a new relationship:

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.

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).

⁹ Crime and Corruption Commission (2018) Evidence Given by Darryll Fleming: Transcript of Investigative Hearing: Operation Flaxton Hearing No: 18/0003.

¹⁰ Department of Justice and Attorney General (n/d) Youth Detention Centre Demand Management

*Name has been changed to protect identity.

Strategy 2013-2023, unpublished (Released to the ABC under Right to Information laws) 4; Wordsworth, M. (2014) 'Qld youth detention centres operating "permanently over safe capacity" and system in crisis, draft report says', ABC News, 17 September at <https://www.abc.net.au/news/2014-09-17/crime-boom-overwhelms-youth-detention-centres-inqueensland/5751540>.

Aboriginal and Torres Strait Islander Women and Girls

Aboriginal and Torres Strait Islander women “are victimised at alarmingly high rates compared with the wider community.”¹¹ This fact should elicit particular care and concern from the QPS for these women’s experiences.

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 violence.¹² 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.¹³ 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.”¹⁴

Yet, rather than the QPS paying careful attention to Indigenous women’s needs as victims in DFV situations, Aboriginal and Torres Strait Islander victims experience the QPS not as protector but perpetrator. The QPS routinely racially stereotypes these women as criminal and dysfunctional. Rather than being protected from existing violence, they are subjected to new forms of racial violence at the hands of the state – via police assault, charges, stereotyping, disregard, incarceration, and child removal. Naming victims as perpetrators is a form of violence in itself, which directly violates and delegitimises women already suffering harm from DFV.

We agree with the statement by Nancarrow et al that ‘racism, poor relationships with local communities, misogyny, and the patriarchal culture of the police service’ are to blame for the routine misidentification and criminalisation of women and girls in these situations.¹⁵ White women may sometimes be accorded the position of legitimate victim, but this position is not available to Black women. Blackness is sufficient condition for a woman to be viewed as a perpetrator, and as deserving of the violence she experiences. This is directly demonstrated by statistical evidence: 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 almost 100% of deceased women recorded as “both respondent and aggrieved prior to their death.”¹⁶

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

¹¹ Marcia Langton, ‘Two Victims, No Justice’. *The Monthly* (July 2016).

¹² *Ibid*, p3.

¹³ 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. “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 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”. National Inquiry into Missing and Murdered Aboriginal Women and Girls, ‘Our Women and Girls Are Sacred, Interim Report’ (2017), p.56.

¹⁴ Marcia Langton, ‘Two Victims, No Justice’. *The Monthly* (July 2016).

¹⁵ Nancarrow et al (n 4) 79.

¹⁶ Queensland Government, ‘[Domestic and Family Violence Death Review and Advisory Board - Annual Report 2016-2017 \(courts.qld.gov.au\)](#)’ (2017).

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, police and courts incarcerated Hannah twice as a direct result of domestic violence relationships where she was the victim.

2. Entrapment: ‘He did it because he likes you’



Once Aboriginal and Torres Strait Islander women and children encounter the QPS and the criminal legal system, this system ensnares them in a system of direct and indirect violence which is incredibly difficult to escape. This experience can be likened to that of coercive control - a focus of the Taskforce.¹⁷

In this context, we must pay very careful attention to the construction of notions of ‘victimhood’ in relation to Indigenous women and children. An abstract and racialized narrative encompassing Black women’s victimhood justifies police and state intervention into their lives. Yet when confronted with actual individuals, the QPS and wider society rarely sees these women as legitimate victims who do not deserve their suffering. This is the result of the long-standing colonial practice of denying Black women’s humanity in ways that legitimise their dispossession and violation.¹⁸ Trapped by racialised constructions, Aboriginal women can never attain actual victimhood. Instead, they are brutalised by the police and criminal legal system in the name of their own protection. Indigenous women

¹⁷ See our earlier joint submission to this Taskforce on [coercive control specifically](#) (2021).

¹⁸ For a thoroughly documented history of this refusal to accord Black women victim status by the state, police and settlers, see for example 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); and Liz Conor, *Skin Deep* (University of Western Australia Press, 2016); Fiona Foley, *Biting the Clouds: A Badtjala perspective on the Aboriginals Protection and Restriction of the Sale of Opium Act, 1987*. (UQP, 2020); Jonathan Richards, *The Secret War* (University of Queensland Press 2008).

experience the fracturing of reality that comes from being harmed by those who are meant to protect you, and from the wider world refusing to believe that this harm is taking place.

This entrapment involves collusion between the individual perpetrators of DFV and the QPS. Survivors of DFV observe the performance of gender and racial sympathies and solidarities – they know that white male QPS officers will side with white male perpetrators. One woman that Sisters Inside supported, Wendy*, felt that police did not take her suffering seriously due to a masculine culture of ‘mateship’ between her partner and the male police officer that would attend the incidents. She felt that her distress was treated as a mere annoyance by this police officer:

The fighting got so bad that I started calling the police – in total 17 times. We both ended up taking out DVOs on each other. I would be the one who was taken away or ordered to leave every time the police came because it was his house. They would always chat to him like he was a mate and would always take his side of the story over mine. A Constable once said to me “if you don’t stop making these calls, you’ll end up in jail”.

Sarah*, another woman Sisters Inside supports, described police as having a ‘patronising’ response and taking no action at all when she reported that her partner had breached a DVO. Sarah said the police emphasised the financial costs of opening a domestic violence case. Further, she noted that when she reported being routinely strangled by her partner to a senior police officer, “he asked ‘did that happen during sexual experiences?’...I thought what the hell does that have to do with anything...I don’t know how that helped for him to ask that”. Sarah said this experience made her realise “you’re supposed to be able to trust authority and people in that position and it just doesn’t go like that”. QPS’s tolerance of sexism is evidenced by their failure to sack any of the 84 front line police officers who are DVO respondents.¹⁹

Similar accounts have been recorded in the extensive research conducted on this topic. For example, an Aboriginal woman explained the racialised basis of policing to Nancarrow et al in the most comprehensive Australian research on this issue – the Australian National Research Organisation for Women’s Safety (ANROWS) study: “I was already convicted in their eyes I know because that’s how they treated me, and as a black woman against the white man too they—nobody wants to hear your story, they’re going to believe the white man”.²⁰

Crucially, this solidarity is not the result of misguided police culture or ignorance, but a long-standing practice of complicity between the state and settlers in relation to violence towards Indigenous people. This complicity creates a culture of impunity that facilitates DFV towards Indigenous women and the crisis of missing and murdered Indigenous women more generally (see the following section).

There are several ways in which entrapment may manifest, for example, when Indigenous victims are arrested for outstanding warrants for minor offences or unpaid fines, are incorrectly identified as the perpetrator of violence, or when police escalate their interaction and the victim receives police-interaction charges (such as ‘obstruct’ or ‘assault’ police) as a result. As the Commissioner would no

¹⁹ Smee, Ben (2020) ‘Queensland police: 84 officers accused of domestic violence in past five years’, The Guardian, 3 March at <https://www.theguardian.com/society/2020/mar/03/queensland-police84-officers-accused-of-domestic-violence-in-past-five-years>

²⁰ H Nancarrow et al, *Accurately identifying the “person most in need of protection” in domestic and family violence law* (Australian National Research Organisation for Women’s Safety, 2020), 8.

doubt be aware, the latter scenario ended in tragedy for Tamica Mullaley. These interactions may also result in the woman being breached on a suspended sentence, bail, or community-based order and sent to prison. Aboriginal and Torres Strait Islander women report being afraid of going to the police following violent assault due to the fear of dying in custody if arrested.

Sisters Inside has worked alongside many First Nations women prisoners from remote communities who have called on police for assistance with a family violence situation and have instead been issued a domestic violence order (DVO). A significant number of women will then breach these orders, for example, when the order affects their ability to care for their children or leaves them homeless. Our direct experience and the available evidence both demonstrate that breach of DVOs is a leading cause for women's imprisonment in Queensland.²¹

Sisters Inside have first-hand experience of seeing girls and young women being forced into the child protection system and isolated from the support of their family and community when they report being a victim of violence, particularly sexual assault. This is viewed as punishment by the state for reporting violence. Further, mothers and carers are at risk of being put on notice to child protective services by inviting police into the home when reporting DFV incidents.²² Mothers routinely tell Sisters Inside that they put up with violence for long period of time because of the very real fear of the state taking away their babies.

Tracey* also told us that the risk of criminalisation while she was on bail was used against her when she was a victim of rape by her former partner:

Even though I was ordered not to see my ex-partner, he came to the house I was living in...he came into the bedroom where I was sleeping and raped me. I was crying the whole time and couldn't believe what was happening. He just got up and left after he was done. I went to the police about what happened, and they told me that it probably wouldn't hold up in court, but nonetheless they went and arrested and interviewed him. He told them I'd been meeting him in secret in breach of my bail and had lied to the police. They believed him and told me that I had no case in court, so I just dropped it. I felt so helpless and hopeless. I was the one always getting punished and he got away with just everything

It's Not a Bug, It's a Feature

The hostile and coercive relationship between the QPS and Indigenous communities is enduring. It is not the result of an unfortunate police culture or the individual ignorance of officers. Rather, it is fundamental to the origins of the QPS, which has always policed racialised communities differently to white communities. The QPS works *for* white communities, with their cooperation and consent, to offer them protection and facilitate their occupation of this place. In contrast, QPS' relationship with Indigenous communities has always been violent – these treating these communities as a threat to be violently managed. The police have been directly involved in dispossession, frontier killings and complicity with white crimes against Aboriginal women. This is why we say that QPS polices racialised communities through control rather than consent. Coercive racialized policing is as real in a DFV

²¹ Queensland Sentencing and Advisory Council, *Baseline report: The sentencing of people in Queensland* (2021) 22.

²² Davis, M. & Buxton-Namisnyk, E. (2021) Coercive Control law could harm the women its meant to protect. Sydney Morning Herald, 2 July 2021.

context as in every other context – in fact, DFV policing is freighted with the additional history of the race-based sexual violence that characterises Queensland history.

Historically, Queensland is characterised by an intense frontier culture, violent policing practices and a racialised sexual economy centred on the trade of opium in pearling and other industries.²³ Aboriginal women are subject to specific and distressing tropes of sexual availability that have rendered them always consenting and unable to be the worthy victims of sexual and other violence. Aboriginal women are regularly seen as victimised by Aboriginal men, but in fact research into historical and contemporary colonial relations show that mass sexual violence by white men toward Aboriginal and Torres Strait Islander women was central to colonisation.²⁴

The police have been complicit in this, actively participating, refusing to prosecute white perpetrators and reproducing narratives about Indigenous women’s alleged sexual availability and dysfunction: “[t]echnically, killing Indigenous people was unlawful, but the police, the courts and the government did not act.”²⁵ Extreme sexual violence and murder were acceptable and un-prosecuted. Police were also direct perpetrators of racial violence; the earliest police in the Queensland area were Native police, specifically tasked with dispossession and violent ‘dispersal’.²⁶ The Native Police in Queensland operated in “the context of lawful racial violence that pervaded the Australian colonies at that time...Native Police camps were opened, closed and shifted as the frontier of settlement moved northwards and westwards.”²⁷

There was a strong sense of solidarity amongst white policemen, and between police and colonial society; “[t]hey could expect hospitality, the sharing of information and protection by brother officers.”²⁸ In contrast, police treatment of Aboriginal people was brutal, often undocumented and legitimised as a response to the violent threat these people allegedly posed. The colonial legal system took white men’s accounts of their intentions and interactions as fact, often citing their ‘high character’ and good intentions and taking at face value claims they were responding to an Aboriginal threat.²⁹

²³ Fiona Foley, *Biting the Clouds: A Badtjala perspective on the Aboriginals Protection and Restriction of the Sale of Opium Act, 1987*. (UQP, 2020)

²⁴ 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).

²⁵ Jonathan Richards, *The Secret War* (University of Queensland Press 2008) p.8.

²⁶ “In colonial Australia, the early police were modelled on the Royal Ulster Constabulary: the paramilitary police model, which oversaw the 19th century oppression of Ireland” and their 1837 founder Alexander Maconochie was influenced by the Sepoys (a paramilitary force in India financed by the East India Company) Paul Gregoire ‘The Inherent Racism of Australian Police: An Interview With Policing Academic Amanda Porter’ Sydney Criminal Lawyers (online, 11 June 2020) [The Inherent Racism of Australian Police: An Interview With Policing Academic Amanda Porter \(sydneycriminallawyers.com.au\)](https://www.sydneycriminallawyers.com.au)

²⁷ Jonathan Richards, *The Secret War* (University of Queensland Press 2008) p.7.

²⁸ Ibid, p8.

²⁹ As examples: In 1933 Constable Scott was acquitted of chaining and beating to death “a lubra named Dolly” when bringing in fifteen ‘blacks’ for cattle spearing. The Coroner was ‘unable to say if the assault had contributed to her death’ and Scott was acquitted with ‘sympathy’ by the judge (*Canberra Times* 14 and 15 November 1933). In 1895 Western Australian settler Gurriere chained an Aboriginal woman to a verandah post for three days and she died immediately after release. He was fined 5 pounds and the court cited his good character and ‘total absence of malicious intent’. Liz Conor, *Skin Deep* (University of Western Australia Press, 2016) p.149.

It is essential that this Commission gives consideration is to the structural role of the QPS in policing racial hierarchies in the past and present. Queensland Police Service is shaped by colonialism, and has played a key role in implementing racist, violent policies from its inception as an institution. Its contemporary racist cultures and practices are well documented³⁰ including in the 2016 judgement in *Wotton vs Queensland (No 5)* that QPS officers contravened section 9(1) of the *Racial Discrimination Act* through discriminatory collusion, stereotyping and excessive use of force.³¹

3. Murder: ‘She’s just overreacting’



Even the most direct physical harm to women caused by the QPS and the state is minimised or denied entirely. Confronting the reality of QPS abuse is essential to validate victims and find new approaches to DV. Additionally, the QPS and Queensland criminal legal system facilitate a broader culture of impunity for perpetrators of violence towards racialised women. They do this by failing to properly investigate and prosecute perpetrators, especially when these perpetrators are white men.

Racism operates through dehumanisation. The suffering of dehumanised women is not seen as real or worthy of redress. In erasing Indigenous women’s victimhood, the state also erases perpetrators – allowing abusers (including the state itself and QPS) to continue violent behaviours.

As the devastating case of baby Charlie and Ms Tamica Mullaney shows, this erasure of suffering can take place even when police are confronted with a battered, bloody and naked victim of DFV. In this case, the police arrested the woman for assault, with devastating consequences for her baby. An investigation also appeared to blame the woman for the failure of police to act upon 19 the threats to her baby, stating, “it is possible that officers became distracted by [the woman’s] disorderly and

³⁰ Most recently by Veronica Gorrie, *Black and Blue: A Memoir of Racism and Resilience*. Scribe (2021).

³¹ “The QPS officers with command and control of the investigation into Mulrunji’s death between 19 and 24 November 2004 did not act impartially and independently... [Hurley] was never treated as a suspect, nor promptly removed from the island. The police officers discounted and ignored accounts from Aboriginal witnesses implicating Senior Sergeant Hurley. Incorrect and stereotypical information about Mulrunji and the circumstances of his death was passed to the coroner, while relevant information from Aboriginal witnesses was not passed on... An emergency declaration issued under the [Public Safety Preservation Act 1986](#) (Qld) after the police station was set on fire... was part of facilitating an excessive and disproportionate policing response, including the use of SERT officers”; Judgement in *Wotton vs Queensland (No 5)* [2016] FCA 1457 (5 December 2016)

obstructive behaviour and did not stop to examine why she came to be naked and injured”.³² Meanwhile, the woman was charged with assault against police and found guilty, though the court congratulated itself by acting ‘mercifully’ in refusing to send her to jail.

It is not that police ‘misidentify’ victims or do not know where to look for signs of DFV. The dehumanising racial stereotypes that police hold outweigh the physical reality of DFV harm they witness. This renders the violence unseeable to them, to the point that police deny victimhood even at its most confronting.

Missing and Murdered Indigenous Women

Australian police and criminal legal systems are reluctant to properly investigate and prosecute direct murders of Indigenous women. They are more likely to declare them missing of their own accord or somehow responsible for their own deaths.

Even in cases where extreme violence by a white male perpetrator undeniably caused the death of an Aboriginal woman, and a body is present, the Australian policing and criminal legal system positions these men as not fully responsible and/or guilty of lesser crimes. The threshold for viewing white male perpetrators as responsible for murder of Aboriginal women appears extremely high in Australia. The perception of the women as sexually consenting, criminal, dissolute, intoxicated or threatening is regularly used by perpetrators to legitimise their actions and is accepted by police and courts.

The stories of Ms Daley,³³ Ms Dann³⁴ and Ms Clubb³⁵ reveal key elements that together form a matrix of disregard for Aboriginal and Torres Strait Islander women’s suffering. In their investigative practices and individual interactions, they position Indigenous victims as disposable and complicit in their own deaths, frame missing women as wandering off or as threats by perpetrators seeking to avoid culpability for their brutal actions, and the reluctance of authorities to prosecute for murder and/or appropriately sentence white perpetrators. Additionally, of course, police and prisons are directly responsible for killing women through deaths in custody.

The highly regarded Canadian Inquiry into Missing and Murdered Indigenous Women and Girls collected extensive evidence over several years.³⁶ 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

³² Corruption and Crime Commission. (2016). Report on the Response of WA Police to a Particular Incident of Domestic Violence on 19-20 March 2013. [Report on the Response of WA Police to a Particular Incident of Domestic Violence on 19-20 March 2013_0.pdf \(ccc.wa.gov.au\)](https://www.ccc.wa.gov.au/Report-on-the-Response-of-WA-Police-to-a-Particular-Incident-of-Domestic-Violence-on-19-20-March-2013-0.pdf)

³³ Caro Meldrum-Hanna and Clay Hichens (2016) ‘Lynette Daley’s death: DPP under scrutiny after unprosecuted killing’ ABC, 9 May <https://www.abc.net.au/news/2016-05-09/nsw-dpp-under-scrutiny-over-lynette-daleys-unprosecuted-killing/7393368>

³⁴ AAP (2020) ‘Man sentenced for killing Aboriginal mother hours after meeting’ NITV, 2 July <https://www.sbs.com.au/nitv/nitv-news/article/2020/07/02/man-sentenced-killing-aboriginal-mother-hours-after-meeting>

³⁵ Isabella Higgins and Sarah Collard (2019) ‘Lost, missing or murdered?’ ABC 8 December <https://www.abc.net.au/news/2019-12-08/australian-indigenous-women-are-overrepresented-missing-persons/11699974?nw=0&r=HtmlFragment>

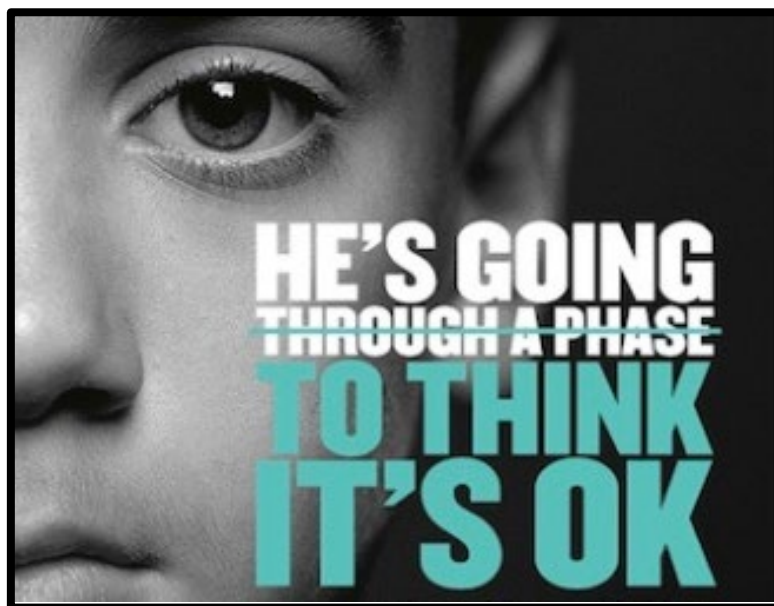
³⁶ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*; [Home Page - Final Report | MMIWG \(mmiwg-ffada.ca\)](https://www.mmiwg-ffada.ca/).

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 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.”³⁷ 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.³⁸

As found in the Canadian Report on Missing and Murdered Indigenous Women, through their direct violence and their support for violence by others, police are directly responsible for the culture of impunity that facilitates DFV and other forms of violence towards racialised women. The QPS are the perpetrators not the protectors of these women – and always have been in this place.

4. Defunding: ‘Let’s stop it at the start’



Police powers and resourcing have continued to expand in Queensland in the last year, capping a trend that has been evident for two decades.³⁹ This expansion has been accompanied by a rapid escalation in the rates of incarceration of Aboriginal people, including women and girls. These are not unrelated trends.

³⁷ Ibid p649.

³⁸ Ibid p632-633.

³⁹ The Honourable Mark Ryan, *Record \$2.86 billion police budget to boost community safety* (15 June 2021) <https://statements.qld.gov.au/statements/92396>

There is an assumption contained in the Taskforce's Discussion Papers, and in mainstream discourse about policing of DFV generally, that police operate as a protective force rather than a threat or source of violence. This assumption is not universal, but rather reflects only the particular interests and experiences of a narrow but powerful constituency: middle-class white people.⁴⁰ It is clear from the discussion above that for many women, reporting violent crimes does not keep them safe. Police do not prevent violence against women; rather, they become involved after the violence has happened, and then, too often, exacerbate its harmful effects.

Far from being a trauma-informed and evidence-based approach, interaction with police too often leads to imprisonment for women who have experienced DFV, childhood abuse, mental illness, and/or substance abuse. Imprisonment then creates further trauma by isolating the woman from her family and community, as well as routine practices such as strip searching, shackling, and solitary confinement that are known to acutely re-traumatise women and girls with lived experience of violence. Further, once imprisoned, whether sentenced or on remand, the evidence is clear that most women will return to prison, generating massive costs for the Queensland economy as well as an incalculable personal cost for that woman, her family and community.

We do not believe that the role of the police in perpetrating systemic sexism, racism and violence against women and girls can be ameliorated through increasing the numbers of women and First Nations officers, or improving the 'cultural capability' of the QPS through greater training. These are 'band-aid' solutions that are unable to deal with the state (and therefore racial) violence at the core of policing in this colony and the demonstrable failure of criminalisation as a response to violence. Implementing a 'co-responder model' is not a solution we support either; this will primarily serve to reinforce and extend the existing ineffective and inefficient approach. Rather, we must ensure that sexual violence and DFV support services continue to be community-based, independent and 'on the side of the woman', rather than (an inevitably subordinate) part of the police response required to pressure women and girls to report violence.

We wish to raise to the Commissioner's attention two key points. Firstly, that certain women – criminalised and Aboriginal and Torres Strait Islander women – are not helped by police when they experience DFV victimisation, instead, they are often harmed as a result of this contact. Secondly, this issue cannot be ameliorated through mere 'cultural' changes within the QPS, such as further training or greater workforce diversity, because it is an inherent feature of an institution built on racism, sexism, and punishment. There is nothing 'unwitting' or 'unconscious' about the racialised nature of Queensland policing.

Therefore, decreasing the authority and resources of the QPS **in itself is a solution to the violence experienced by racialised and criminalised women**. Redirecting this power and resource to community based social programs is also ideal, but we reiterate that the most important factor is the net increase or decrease in police power. Therefore, all solutions considered by this Commission should be evaluated against the following questions:

⁴⁰ Watego et al, *Carceral feminism and coercive control: when Indigenous women aren't seen as ideal victims, witnesses or women*. The Conversation, 25 May 2021.

Does it expand the authority of the state and police over women's lives, especially over the lives of First Nations women? Does it increase the resources allocated to police in the name of that authority?

If the answer is yes, then this proposal will reproduce and increase violence.

This Commission of Inquiry has the opportunity to break the following cycle: apparent concern for violence against Black women, extension of state authority in the name of protecting these women, increased surveillance and control over these women's lives, and a subsequent intensification of the violence that was ostensibly the subject of concern. It can do this if it centres the voices of Black women and recognises the racial violence they experience at the hands of the state. We must stop this violence where it begins and return control to women who experience DFV.

TRANSCRIPT OF PROCEEDINGS

INDEPENDENT COMMISSION OF INQUIRY INTO QUEENSLAND POLICE
SERVICE RESPONSES TO DOMESTIC AND FAMILY VIOLENCE

COMMISSIONER: HER HONOUR JUDGE DEBORAH RICHARDS

COUNSEL ASSISTING: RUTH O'GORMAN QC
ANNA CAPPELLANO

Land Court of Queensland, Brisbane Magistrates Court,
Level 8/362 George Street, Brisbane.

Friday, 5 August 2022

1 COMMISSIONER: Yes.

2

3 MS O'GORMAN: Good morning, Commissioner. I do have a
4 tender bundle to tender, but I need to add a couple of
5 documents into it. So I might do that at the end of
6 the evidence this morning.

7

8 COMMISSIONER: Sure.

9

10 MS O'GORMAN: There are three witnesses giving evidence
11 this morning from the Institute for Collaborative Race
12 Research, and it's intended that they will all be giving
13 evidence at the one time. Those witnesses are here, and
14 we're ready to proceed. So I call Professor Watego,
15 Dr Singh and Dr Strakosch.

16

17 <DAVID SINGH, affirmed:

18

19 <CHELSEA WATEGO, affirmed:

20

21 <ELIZABETH STRAKOSCH, affirmed:

22

23 <EXAMINATION BY MS O'GORMAN:

24

25 MS O'GORMAN: Professor Watego, Dr Singh and Dr Strakosch,
26 each of you are directors and principal researchers at the
27 Institute for Collaborative Race Research.

28

29 DR STRAKOSCH: That's right.

30

31 MS O'GORMAN: Your submission to the Commission, which was
32 done in collaboration with Sisters Inside, was provided to
33 us on 13 July 2022; that's correct, isn't it?

34

35 DR SINGH: Yes.

36

37 MS O'GORMAN: It sets out the purposes and focuses of the
38 institute and the work that it does and that each of you
39 contribute to?

40

41 DR STRAKOSCH: Yes.

42

43 MS O'GORMAN: All right. In terms of your own individual
44 background, Dr Singh, you're a race scholar with
45 qualifications in bachelor of arts, master of arts and PhD
46 in literature.

47

1 DR SINGH: Yes.

2

3 MS O'GORMAN: Professor Watego, you are a researcher in
4 the areas of race, racism and Indigenist health humanities;
5 you have qualifications which include a bachelor of applied
6 health science, honours in applied health science and a PhD
7 in public health.

8

9 PROF. WATEGO: That is correct.

10

11 MS O'GORMAN: And, Dr Strakosch, you have conducted
12 research over a long period of time which has focused on
13 Indigenous policy, colonialism, political relationships,
14 bureaucracy and new public management?

15

16 DR STRAKOSCH: That's right.

17

18 MS O'GORMAN: Your qualifications include a bachelor of
19 arts, honours in political science and a PhD in political
20 science?

21

22 DR STRAKOSCH: Yes.

23

24 MS O'GORMAN: Further to receiving the submission from
25 your institute, we have asked that you provide us with an
26 expert report further addressing some of the matters that
27 you raise in your submission. We've also sent you ahead of
28 this morning seven questions that we would ask that you are
29 able to address this morning to help inform the Commission
30 about some of the matters within your particular areas of
31 interest. I'm going to move through those questions in
32 turn, and it's totally a matter for the three of you as to
33 which one of you would like to take the lead in answering
34 any of those questions.

35

36 The first question that we have posed to you is: in
37 what ways are the continuing effects of colonisation being
38 experienced by First Nations people?

39

40 DR STRAKOSCH: I might respond to this. My area of
41 research has covered comparative colonialisms. So we
42 wanted to, with your indulgence, spend just a few minutes
43 explaining our understanding of colonisation based on the
44 political science and sociological literature because that
45 really informs when we talk about the different
46 relationships between the Queensland Police Service and
47 non-Indigenous people and the Queensland Police Service and

1 Indigenous people. It's really based on our understanding
2 of colonialism, how that connects to race and the ways in
3 which it's ongoing today.
4

5 So what we want to highlight is and what I have looked
6 at in my research is Australia as a settler colony. This
7 is a particular type of colonial environment. There are
8 four English-speaking settler colonies - Australia,
9 New Zealand, Canada and the US - and there's a distinction
10 that's often made between settler colonies and extractive
11 or conventional colonies. So conventional colonies, we
12 might think of India or Africa, where a minority of
13 colonisers from Europe come to exploit the resources and
14 the labour of Indigenous people and their land. Most of
15 those extractive colonies have decolonised structurally
16 after the Second World War.
17

18 But there is another type of colonisation that's known
19 as settler colonisation, in which a majority of colonisers
20 come to stay in a place. They come to stay to replace
21 Indigenous people on their land and to establish a new
22 political society and occupy that land. Now, most settler
23 colonies have not decolonised. There has not been a moment
24 of kind of institutional break or reformation so we can
25 meaningfully say that settler colonialism is an ongoing
26 relationship. The questions of jurisdiction, of land
27 ownership are very much live and unresolved.
28

29 That is the case in all of the four settler colonies
30 that I talked about. However, Australia has a particular
31 history which gives it a particular inflection especially
32 around race. In the other settler colonies, colonists
33 recognised the political sovereignty and/or landownership
34 of Indigenous people. That meant they proceeded through
35 colonisation - they still colonised. They proceeded by
36 treaties or conquest or other forms of kind of taking
37 political - what they saw as taking political control.
38

39 In Australia, based on a racial assessment of
40 Indigenous people as so inferior that they did not possess
41 either landownership or political sovereignty, Australia
42 was colonised on the basis of settlement; that is, just the
43 wholesale occupation of this place. In the absence of
44 political life here, that remains the legal justification
45 for the Australian State today. Even though landownership
46 has been contested by the High Court and some changes have
47 been made, the High Court has been very clear that it is

1 not able to make decisions on the question of Indigenous
2 sovereignty because that would potentially fracture the
3 legal skeleton of the Australian State and would call into
4 question its own authority.

5
6 So when we talk about colonialism and racism in
7 Australia we mean this in a very real sense, that there is
8 a structural conflict that's ongoing and that the
9 Australian State itself still rests on a legal
10 justification that is based on an assessment of the
11 inferiority of Indigenous people as so savage that they do
12 not have political institutions.

13
14 This, we would suggest, is one of the reasons that
15 it's quite difficult to talk about race in Australia,
16 because it's very much bound up with live political
17 questions, but it's also one of the reasons we talk about
18 the Queensland Police Service as having a particular
19 relationship with Indigenous people, because it has been
20 one of the instruments on the frontline of that process of
21 colonisation and dispossession.

22
23 MS O'GORMAN: Can I ask you then --

24
25 COMMISSIONER: Sorry, can I just ask one thing from that.
26 When you talk about Queensland Police I take it you mean
27 really it's all police or is it particularly Queensland?

28
29 DR STRAKOSCH: I do intend to address that in the second
30 question.

31
32 COMMISSIONER: Okay.

33
34 DR STRAKOSCH: It is all police, but it is also Queensland
35 Police specifically.

36
37 MS O'GORMAN: And that leads me to that question. Are you
38 able then to explain the role of policing more specifically
39 in relation to colonisation?

40
41 DR STRAKOSCH: Yes, definitely. So Queensland has a
42 particular colonial history. It's quite intense. It's
43 quite violent. The pearling and the opium industries were
44 particularly violent and caught up with Indigenous people
45 and their exploitation.

46
47 The earliest police in Queensland were the Queensland

1 Native Mounted Police. They were established here in 1864.
2 Henry Reynolds, who is an historian, has called them the
3 most violent organisation in Australian history. Their
4 specific task was to disperse native camps, including mass
5 murder and including sort of the dispossession and moving
6 on of Indigenous people from their land so that it could be
7 occupied by white settlement.

8
9 This is not a history that's been disavowed by the
10 contemporary Queensland Police Service. In 1964 at the
11 centenary of the establishment of the QPS a senior police
12 officer said, "Walker [who was the original lieutenant of
13 the Mounted Police] and his Force soon established
14 themselves. He tamed the natives, saved the whites, and
15 made the country comparatively safe."

16
17 "The Native Mounted Police had certain privileges.
18 Its officers could, and frequently did, transfer to the
19 [main] Queensland Police Force without loss of rank. Its
20 officers were chosen from men whose qualifications were
21 supposed to be education, breeding, knowledge of drill and
22 firearms, and ability to handle natives."

23
24 This period of frontier violence was burning itself
25 out by about 1910, and native police camps were moving
26 northwards. The native police then started operating much
27 more intensely in the Northern Territory after 1910 where
28 dispossession was still live.

29
30 But in Queensland we, if you like, pioneered another
31 regime of racial control here that is very well known
32 historically around the world and that is the protection
33 legislation, the Aboriginal Protection and Sale of Opium
34 Act 1897, which is an extremely draconian set of rules that
35 govern every aspect of Indigenous people's lives, including
36 if they could marry, where they could live, if they could
37 keep their children, where they could work. The money from
38 their work was taken by the government and often not given
39 back. This is the stolen wages case that we talk about.
40 They were overseen by a chief protector in Brisbane but by
41 local protectors in regional areas, and the local protector
42 was usually the police, the leading policeman in the area.

43
44 So that means right up until '50s, '60s in Queensland
45 up until the '80s, because we did not dismantle protection
46 legislation under Joh Bjelke-Petersen fully until the '80s,
47 in fact there is a famous quote from Rowland, who is an

1 historian, who says in the '80s you could be arrested in
2 Queensland either for committing a crime or for being
3 Aboriginal and you could be removed to any mission.
4

5 So what that means is police were often directly
6 involved in catching escapees from missions, they were
7 directly involved in removing children from their families,
8 and enforcing people to go to work in often very violent
9 and sexually violent situations.

10
11 So one other thing we would just like to mention quite
12 quickly is that there's a particularly history of sexual
13 violence in relation to Indigenous women all over
14 Australia. It's quite intense in Queensland and there's a
15 lot of documentation from here about that. Mass sexual
16 abuse of women, rape and murder was very common on the
17 frontier, including capturing Aboriginal women and taking
18 them to stations. The police were often complicit in that.
19 The police didn't act. There's a great deal of evidence
20 for that. In several cases police were accused and/or
21 prosecuted for killing Aboriginal women but they were never
22 convicted. It was seen as an accident or there was
23 assumption of the good intent of these police officers.
24

25 So when we say that there is a particular relationship
26 between the Queensland Police Service and Indigenous people
27 we mean it in a very tangible sense. We mean it's ongoing,
28 it's structural, and racism is foundational to it. The way
29 that the Queensland Police Service polices for settlers is
30 by content, but the way it has policed Indigenous people
31 has always been through control, and that is for political
32 purposes as we've outlined here.
33

34 MS O'GORMAN: Building on that then, can you explain for
35 us the ways in which the continuing effects of colonisation
36 contribute to one of the matters that we're tasked to look
37 at, which is the over-representation of First Nations
38 people in the criminal legal system today?
39

40 PROF. WATEGO: Yes, so I think if we look at the current
41 context, particularly here in the state of Queensland, the
42 violent relationship and the one of control over Indigenous
43 peoples is evidenced in a range of legislative changes --
44

45 COMMISSIONER: Can I just interrupt you for a second. So
46 this is Professor Watego speaking now.
47

1 PROF. WATEGO: Yes.

2

3 COMMISSIONER: If you can just identify yourself just for
4 the record when you speak.

5

6 PROF. WATEGO: Sure. So if we look at, for instance, the
7 introduction of the public nuisance charge here in the
8 state of Queensland, which was directed at Aboriginal and
9 Torres Strait Islander people in Far North Queensland quite
10 explicitly so, it's no surprise that within one year of its
11 introduction an Aboriginal man dies in custody.

12

13 We saw with the more recent youth justice reforms the
14 Queensland Police Service Union were very clear that they
15 were targeting Indigenous children. We've also seen with
16 this conversation around criminalising coercive control we
17 know that Indigenous women are going to be
18 disproportionately affected, yet the State has continued on
19 with the calls to criminalise coercive control. This is
20 despite the evidence put before the Royal Commission into
21 Aboriginal Deaths in Custody, where a recommendation was
22 made to reduce the ways in which Indigenous peoples become
23 incarcerated to prevent deaths in custody. What we've seen
24 is an expansion of police powers despite the evidence base
25 that Indigenous people are disproportionately affected and
26 that relationship is still a very violent one in a very
27 tangible sense.

28

29 Last year we were invited to give an expert report to
30 the Queensland Sentencing Advisory Committee to explain the
31 overrepresentation of Indigenous people, and particularly
32 Indigenous women, on assaults against first responders.
33 They didn't understand how that came about, and so we
34 looked at the relationship between first responders, from
35 police to ambulance officers, in its historical context,
36 and we found cases of police-assisted leprosy raids, the
37 nature of relationships of policing on Boundary Street here
38 in the City of Brisbane, to contemporary examples that were
39 on the public record where there had been allegations of
40 assaults against public officers by Indigenous peoples, yet
41 in those cases many were found to have been false claims
42 and in fact the police were the instigators of violence.
43 So we were able to conclude that the overrepresentation may
44 be a result of this violent relationship that the police
45 and Indigenous peoples have always experienced.

46

47 I think it's important to recognise that this is just

1 not some abstract theorising. Any Queensland police
2 officer who has had an engagement with an Aboriginal or
3 Torres Strait Islander community for any sustained period
4 of time is aware of the term "triple C". They know what
5 that means, and it's a very succinct articulation of the
6 role of police today in this country, particularly in the
7 state of Queensland.

8
9 DR STRAKOSCH: Yes, so I just wanted to follow up that too
10 by just highlighting the fact that when we talk about
11 colonisation as continuing this is really evidenced in the
12 rising incarceration rates in the last 30 years. So not
13 only since the Royal Commission have they not decreased, as
14 the Commission recommended; they have actually increased.
15 As part of an ARC-funded mapping project which maps
16 Indigenous-settler colonial relationships in Australia what
17 we saw was that at the end of the protection era, around
18 the 60s, when missions and reserves became self-governing
19 communities, that coincided with the establishment of a
20 police station in those communities and we saw people who
21 were effectively previously inmates of other types of
22 carceral systems, of missions and reserves, more and more
23 becoming incarcerated in prisons, so being moved to
24 different types of incarceration, and the police becoming
25 more central rather than less central to the violent
26 relationship of colonisation.

27
28 MS O'GORMAN: Some of the evidence that the Commission has
29 heard to date has included evidence of negative attitudes
30 being held by members of the Queensland Police Service
31 towards the issue of domestic and family violence
32 generally. Are you in a position to offer your views about
33 how those kinds of attitudes would impact upon Indigenous
34 women and girls uniquely?

35
36 PROF. WATEGO: Certainly. I think most definitely
37 Indigenous women experience the violent culture of misogyny
38 that this Commission has heard in terms of survivor
39 statements as well as the testimonies from Queensland
40 police officers themselves about not being believed and
41 being belittled. What we argue, though, because of the
42 racialised nature of policing with Indigenous peoples and
43 the intersection of being negatively racialised and
44 gendered that there is a unique form of violence that
45 Indigenous women experience, of which we provided some of
46 those accounts in the joint submission to Sisters Inside.

1 So how this plays out for Indigenous women is not only
2 are they not believed or they're belittled; what we're
3 seeing is that Indigenous women are cast as perpetrators,
4 as victims of violence, and there was - I think it was a
5 2017 study looking at deaths - family violence related
6 deaths in the state of Queensland and found that up to
7 50 per cent of those who had died as a result of family
8 violence had been named as a respondent on a domestic and
9 family violence order.

10
11 When they looked specifically at Indigenous women,
12 100 per cent had been named as a respondent prior to their
13 death. So, if you think about it, in the state of
14 Queensland not one Aboriginal and Torres Strait Islander
15 women who died as a result of family violence was ever seen
16 as an innocent victim. So we see the denial of victimhood
17 of Indigenous women, not just in their encounters with
18 police but even sometimes through the processes, certainly
19 through the Women's Safety Taskforce process, in terms of
20 not believing their accounts and dismissing them. That's
21 I guess - we really draw attention in our submission to the
22 testimonies of Indigenous women as well as the statistical
23 accounts that confirm what they're saying. The evidence is
24 very clear that Indigenous women experience a unique form
25 of violence.

26
27 I think the other thing we need think about also is if
28 we look at some of those testimonies we have the perceived
29 criminality of Indigenous women weaponised against them as
30 a way to deny them victimhood, and certainly I think Hannah
31 and Samantha's stories in our submission speak to that.
32 What's troubling here is that, if you look at women in
33 prison, over 90 per cent have experienced some form of
34 abuse. If we look at Indigenous - look at children in
35 detention, close to 100 per cent have experienced some sort
36 of sexual assault. So at no point in their lifecycle are
37 Indigenous women ever considered victims of violence, are
38 always criminalised, and that's our concern about police
39 responses particularly to Indigenous women as victims of
40 violence, is they're never seen as a victim in need of care
41 or protection, which is one thing, but they're framed as
42 perpetrators and all complicit in the violence that they
43 experience.

44
45 We see it not just in life but also in death. So work
46 that we've undertaken in informing coronial inquiries about
47 missing and murdered Indigenous women, and this is not just

1 unique to Queensland, though we have looked at Queensland
2 Police Service cases, is that even in death Indigenous
3 women are not deemed worthy enough for proper
4 investigation, hence the Senate's announcement of an
5 inquiry into missing and murdered Indigenous women in this
6 country, because the failure of police to properly
7 interrogate what has happened. So even in death Indigenous
8 women are denied victimhood in this country.

9
10 DR STRAKOSCH: Just to add on to that quickly, in doing a
11 lot of that research we engage quite extensively with
12 the Canadian inquiry into missing and murdered Indigenous
13 women, girls and gender diverse people, which is generally
14 regarded as a very good inquiry. It spoke to 2,500
15 witnesses and Indigenous communities, and produced a very
16 voluminous report. So some of the terminology that we use
17 in our submission comes from the findings of that report,
18 which found that the violence that Indigenous women
19 experience firstly can't be reduced to their socioeconomic
20 circumstances. Being Indigenous was enough if you
21 controlled for all other factors. We submit to experience
22 more violence not just in domestic and family situations
23 but also stranger violence.

24
25 The reasoning that they gave for why this was the case
26 was that there was a culture of impunity that existed in
27 which violence against Aboriginal and Torres Strait
28 Islander women or Indigenous women in Canada was not seen
29 as sufficiently problematic that it warranted proper
30 investigation by the police. There were many stories of
31 families of Indigenous women going to police asking for
32 help, to be told, "No, she's probably drunk. She's
33 probably a sex worker. Come back in three weeks." So
34 these families were left alone. That's not just a harm
35 that's done to those particular families. What they found
36 was this creates a culture within which people can
37 perpetrate violence, including domestic and family
38 violence, against Indigenous women and know that they're
39 safe, and that is the fundamental reason that Indigenous
40 people experience domestic and family violence in the way
41 that they do.

42
43 MS O'GORMAN: From your point of view then is there scope
44 for meaningful improvement in relation to police responses
45 to domestic and family violence, particularly in
46 First Nations communities, either by better training for
47 police or some other measures?

1
2 DR SINGH: I'm Dr David Singh. I'll take that question,
3 if I may. Inquiries such as this and many others often
4 introduce at their conclusion a raft of recommendations.
5 Most - they often are unevenly applied, implemented, and
6 those that are implemented rarely exist beyond two, three
7 years because there's not been sustainable funding for
8 their continuance. Initiatives such as training that
9 encompass race and gender are normally the first to go in
10 any cost-cutting exercise. They're rarely ring-fenced in
11 any kind of austerity push on the part of local councils
12 and NGO sectors.

13
14 Training itself, I'm originally from London,
15 I've worked with the Metropolitan Police in developing
16 joint training with local divisions, and this has had mixed
17 results. On the one hand, senior police officers embrace
18 the training. On the other hand, rank and file push back,
19 to the extent that the training didn't last beyond one or
20 two years before it was called into question.

21
22 In the aftermath of the Macpherson inquiry into the
23 murder of Stephen Lawrence we saw that the police
24 throughout the country accepted the definition of
25 institutional racism, accepted that they were
26 institutionally racist, and set in place plans to address
27 that institutional racism. Within about three years they
28 declared themselves no longer to be institutionally racist
29 and therefore in no need of remedial action.

30
31 From the point of view of community, certainly those
32 that I worked with in West and East London, they didn't
33 really want the promise of better professionalisation, they
34 wanted more police accountability, and that's certainly not
35 what they got through the various recommendations of the
36 various inquiries that they all sat patiently through.

37
38 So I would argue that there is a kind of negligible
39 impact that attempts to better professionalise the police.
40 On the one hand, training is put in place, but on the other
41 there has invariably been an increase in police powers,
42 oversaturation of policing in marginal areas. We've had
43 certainly here in Queensland Facebook groups where racist,
44 homophobic and sexist comments are traded freely without
45 censure. There is a particular canteen culture where this
46 training simply doesn't permeate or kind of advance police
47 understanding in any sustained way. So I would question

1 the value of training overall, having been personally
2 involved in co-designing training for the largest police
3 force in the world.
4

5 PROF. WATEGO: If I may add, I think if we look to the
6 Royal Commission into Aboriginal Deaths in Custody, where
7 things like cultural awareness training, the engagement of
8 Indigenous police liaison officers and even recruitment of
9 Indigenous police officers, they haven't been effective in
10 reducing deaths in custody, and I think there is a concern
11 that training accessorises the expanding authority of an
12 institution that we know to be violent to Indigenous
13 peoples. If we think about violent relationships, as this
14 inquiry is concerned with, we wouldn't tell a woman to stay
15 with her perpetrator who is abusing her and just give him
16 some better training. So I think if we think about these
17 violent relationships as taking place not just in homes but
18 at the hands of the State, the logic doesn't stack up here.
19

20 MS O'GORMAN: You suggest in the draft summary report that
21 you've provided to the Commission that the QPS ought to be
22 defunded and de-authorized in relation to domestic and
23 family violence. The Commission has heard from some
24 individuals and communities about the need for a better
25 policing response, including a greater police presence, in
26 some communities and an increase in police responses in
27 some communities. Would you explain for us how it is that
28 your suggestion to defund and de-authorise the police in
29 relation to domestic and family violence offers the safety
30 that from your point of view Indigenous peoples and
31 communities are seeking?
32

33 PROF. WATEGO: I think given we've explained the violent
34 relationship that Indigenous people have with police our -
35 we share a concern about a non-violent approach, a
36 non-violent society. What de-authorising and defunding of
37 police is is an appeal for a non-violent approach to
38 addressing violence, and unfortunately the Queensland
39 police have proven themselves incapable of doing that, as
40 the Women's Safety and Justice Taskforce has heard, as this
41 inquiry has heard.
42

43 It's also recognising that the police have long failed
44 Indigenous peoples and communities, and Indigenous peoples
45 and communities and Indigenous community-controlled
46 organisations have had to find ways to respond to family
47 violence in the absence of police who do not attend or

1 don't care without the necessary resourcing to do so. So
2 I guess we would argue that this is not really a radical
3 position but rather a responding to the reality of the
4 violent relationship that Indigenous peoples have with
5 police at this point.
6

7 DR STRAKOSCH: Just to build on that, while it might seem
8 like there's a contradiction between people talking about
9 the lack of police response to domestic violence and then
10 talking about the over-policing and the criminalisation of
11 Indigenous women, there's actually not a contradiction in
12 our understanding. These under-policing and over-policing
13 of particular types of experiences by Indigenous women all
14 relate to the fact that their status as genuine victims is
15 devalued. So they are over-policed as perpetrators but
16 they're under-policed as victims, and that is part of the
17 violent structure.
18

19 So it's not a question then of, well, where there's
20 under-policing, more police will solve that. In fact,
21 people are looking for a response, people are looking for
22 meaningful responses, and in the absence of those are
23 finding their own. When we talk about defunding and
24 de-authorising police, it might sound kind of confronting,
25 but what we're actually talking about is moving substantive
26 resources and authority and power to community-controlled
27 Aboriginal organisations in a systematic way over the whole
28 state. So not in terms of pockets of best practice that
29 kind of seem really appealing but don't actually change the
30 distribution of authority or funding in relation to this,
31 and the basic reality of making that change would require
32 enormous and sustained refunding of the Aboriginal
33 community-controlled sector, which has been systematically
34 defunded over the last 20 years, since the end of ATSIC,
35 and genuine resourcing for those organisations to be able
36 to take control of these situations. So defunding and
37 de-authorising police does align with some of the
38 suggestions that others have put forward. However, it
39 requires it to be done in a systematic, widespread way that
40 involves large amounts of funding and a real shift in
41 power.
42

43 PROF. WATEGO: If I can add, I think a lot of Indigenous
44 communities recognise that a police response to what is
45 effectively a social problem does not prevent or treat,
46 solve the issue of family violence in our communities.
47 When you speak to survivors of family violence there are

1 very tangible things they are seeking in terms of securing
 2 their safety, from having the resources to have better
 3 security on a rental property, to getting paid leave when
 4 they have experienced strangulation and have no leave at
 5 their job and are not entitled to crisis payments through
 6 Centrelink. Like, there are very practical tangible things
 7 that Indigenous women are seeking as victims of violence
 8 that extend beyond incarcerating somebody for a short
 9 period of time, because we know these men return to our
 10 neighbourhoods and our communities often more violent than
 11 what they were when they went in because of the violence of
 12 incarceration. It doesn't solve the problem. So we share
 13 the concern about solving the problem of violence in our
 14 community. The challenging part is getting the State to
 15 imagine what a non-violent response to violence might look
 16 like, and unfortunately it can't see beyond that in terms
 17 of its relationship with Indigenous people.

18
 19 MS O'GORMAN: In explaining that answer then, you,
 20 Dr Strakosch, already have referred to Aboriginal
 21 community-controlled organisations and your view that there
 22 needs to be a far greater funding of them in a systemic
 23 way. My final question is whether there is merit in giving
 24 consideration to the development of a co-responder model
 25 which includes Aboriginal and Torres Strait Islander
 26 community-controlled organisations as part of the model.

27
 28 DR STRAKOSCH: Yes, and I suppose I did address some of
 29 those core questions. Basically our experience, especially
 30 Professor Watego's experience, in organising in the
 31 community-controlled sector is that there are really
 32 important, accountable things happening but that is being
 33 done without a great deal of support or funding. So the
 34 practices are there, but the community-controlled sector
 35 has been - especially since 2014, when Tony Abbott brought
 36 in the Indigenous Advancement Strategy, we saw over
 37 30 per cent decrease in funding to the community-controlled
 38 sector within a year, and most of that funding went to
 39 churches, Anglicare, their big kind of social service arms.

40
 41 So, unbeknownst to many people, there has been a
 42 massive transformation and a kind of real attack on the
 43 community-controlled sector. It's holding on, but when
 44 talking about something like a co-responder model when
 45 you're talking about community-controlled organisations it
 46 has to take account of the situation they have been put in
 47 and the fact that many are operating on - they're running

1 60 different government grants, they're always short-term,
2 there's no sustained funding. Those are the issues that
3 actually need to be addressed to make a meaningful change
4 in something like a co-responder model.

5
6 PROF. WATEGO: Our institute is working on a research
7 project funded by the Australian Institute of Aboriginal
8 and Torres Strait Islander Studies looking at the
9 community-controlled sector here in the state of Queensland
10 and have a strong sense of how structurally underresourced
11 the sector is. I'm sure if you did an audit of community
12 and social services funding here in the state of
13 Queensland, a very small proportion of funding for
14 community and social services goes to Aboriginal and Torres
15 Strait Islander community-controlled organisations, and
16 that has been by design, not because of poor Indigenous
17 governance.

18
19 There has been a mainstreaming of services. So we no
20 longer support Indigenous models of service delivery,
21 despite the fact that we know in health the Indigenous
22 model of primary health care is an exemplar of best
23 practice in health globally. So it's not that Indigenous
24 communities can't innovate, aren't providing services to
25 our communities, but are structurally underresourced. So
26 while the State seeks to get more police officers you've
27 got Indigenous families and communities carrying the burden
28 of not just their failings but also the subsequent violence
29 that they experience in this process.

30
31 So, for instance, Strong Women Talking is one
32 Indigenous community-controlled organisation that is
33 survivor led, victim centred, and they talk about when
34 Indigenous women seek to leave a relationship that they
35 have to counter the violence that they experience through
36 seeking help, from the police through to the social
37 services sector, and the risks of child safety of losing
38 their children having reported an experience of violence.
39 So we've got these very small pockets of Indigenous
40 organisations, not fully resourced, that are trying to
41 navigate the various layers of violence that Indigenous
42 women are experiencing in the course of seeking safety for
43 their families. So when we say de-authorise and defund the
44 police, there are clear ways in which that resourcing could
45 be better spent that actually attends to reducing and
46 addressing violence and safety.

47

1 MS O'GORMAN: Thank you for addressing our questions.
2 There may be some further questions now.

3
4 COMMISSIONER: Can I just ask you about that reduction in
5 funding to community organisations. That 30 per cent
6 reduction, when's that from?

7
8 DR STRAKOSCH: So Tony Abbott introduced when he became
9 Prime Minister the Indigenous Advancement Strategy, which
10 moved all federal funding for all grants and programs
11 related to Indigenous people into the Department of the
12 Prime Minister and Cabinet and required all organisations
13 to re-tender simultaneously for those. There have been
14 Senate inquiries into that process. It wasn't handled very
15 well. But what we saw at the other end of it without a
16 great deal of transparency was this massive defunding.
17 There have been efforts to kind of make some changes, but a
18 lot of organisations have folded since then.

19
20 COMMISSIONER: That's my next question. Have
21 organisations had to close as a result?

22
23 DR STRAKOSCH: A lot keep going because they have to.
24 Like, they're accountable to their communities, and that's
25 why they're doing what they're doing, and are piecing
26 together funding from all kinds of different places
27 creatively. But some simply have not been able to survive,
28 because it's been attrition as well. That was the last
29 body blow. But since mainstreaming, which became formal
30 policy in 2004 with the end of the self-determination
31 policy era and the end of ATSIC, there has been a steady
32 decrease in the funding of the community-controlled sector.

33
34 PROF. WATEGO: And this has occurred at both federal and
35 state level. So in terms of, you know, community and
36 social services that are state funded, as a board member of
37 an Indigenous community-controlled organisation in Inala,
38 we were largely volunteer based and have 80 buckets of
39 funding for discrete projects, of which creatively we have
40 to support families but are not directly funded to support
41 Indigenous women who are victims of violence, and this
42 plays out in lots of communities.

43
44 COMMISSIONER: When you've got to apply for a lot of
45 different grants, it takes a lot of time too.

46
47 PROF. WATEGO: Absolutely.

1
2 COMMISSIONER: Time you could spend doing other things, I'm
3 sure.

4
5 DR STRAKOSCH: It's probably also worth saying that there
6 is a specific regime of acquittal that requires a higher
7 level of reporting from Indigenous corporations and
8 organisations, ORIC, which has been challenged as racially
9 discriminatory, but in - basically on the assumption that
10 Indigenous organisations governance is not as adequate as
11 others requires more intensive reporting from Indigenous
12 organisations. So there are often 30 per cent of time and
13 effort routinely put into reporting and acquitting to
14 government to show that these organisations are functional
15 while they're delivering over and above the money that
16 they're funded for to their communities.

17
18 COMMISSIONER: All right. Thank you. Ms Hillard, do you
19 have questions?

20
21 MS HILLARD: I have a few.

22
23 <EXAMINATION BY MS HILLARD:

24
25 MS HILLARD: Can I just say that Women's Legal Service
26 Queensland have few Indigenous women clients because when
27 they contact Women's Legal Service they choose to engage
28 with Indigenous organisations. So can I just ask you to
29 bear that in mind when I ask my questions.

30
31 One of the things about giving the voice to
32 First Nations women is I think understanding that when we
33 talk about statistics of the experience of women that that
34 is not because their community is violent; is that right?

35
36 PROF. WATEGO: Yes.

37
38 MS HILLARD: When we have a look at page 6 of
39 exhibit C01053 at the bottom there you set out some
40 statistics, and you talk about how a First Nations woman is
41 32 times more likely to be hospitalised due to domestic and
42 family violence; 10 times more likely to die due to an
43 assault; 45 times more likely to experience violence at
44 all; and five times more likely to be killed because of
45 domestic and family violence. In respect of those
46 statistics is that a symptom of what you have described as
47 under-policing a victim and over-policing the woman as a

1 perpetrator?

2

3 MS O'GORMAN: Can I just interrupt very briefly.
4 Mr Operator, would you mind putting this document on the
5 visualiser. The full number is [COI.053.0006].

6

7 MS HILLARD: The paragraph right down the bottom. Thank
8 you.

9

10 MS O'GORMAN: Just in case you need the material in front
11 of you.

12

13 PROF. WATEGO: Thank you for the question and I think it's
14 an important point to make, is that a statistical story can
15 be used to reproduce these racialised imaginings of
16 Indigenous people's communities and cultures as inherently
17 violent. I think as Liz pointed out what makes Indigenous
18 women susceptible to violence is the culture of impunity
19 that exists in a settler colonial context in relation to
20 the care and worth of Indigenous women's lives.

21

22 DR STRAKOSCH: So this is a really core issue. It's
23 something that has come up in a number of our kind of
24 expert reports in relation to violence experienced by
25 Indigenous women. People know these statistics. In fact
26 recitation of the statistics of violence that Indigenous
27 women experience is something that the government and state
28 agencies often do and that the media often does.

29

30 But there is an implicit assumption that those
31 experiences of violence in one way or another attach to
32 either the culture of Indigenous people, the behaviour of
33 Indigenous people, even in the most progressive formulation
34 the reverberating intergenerational effects of colonialism
35 always locate the harm and the behaviour that leads to that
36 harm in Indigenous people.

37

38 What we are talking about here, we say that's an
39 unacceptable reason to justify those kind of statistics.
40 It's a very racist reason to do that. In fact the only way
41 we can understand those is when we understand the series of
42 relationships that are taking place here within which
43 Indigenous people since first colonisation have lived
44 within a structure of violence. It has been an extremely
45 violent experience. It continues to be an extremely
46 violent experience.

47

1 Police - this is not a question of intention; this is
2 a question of structure - have been on the frontline of
3 that violence, and the interactions of all these different
4 agencies have led to a situation in which Indigenous women
5 live in a culture of fear because they know they can be
6 subject to violence and they know they don't have redress,
7 while perpetrators live in a culture of impunity.

8
9 PROF. WATEGO: And we also witnessed the contradiction of
10 victimhood. So the statistical story tells the story of
11 Indigenous women as agentless, as victims, yet we know when
12 Indigenous women present as victims they're never treated
13 as such. So we're conscious of the political function
14 which those statistical stories are used to further justify
15 more control over the lives of Indigenous women in this
16 country.

17
18 DR STRAKOSCH: We won't sort of recite particular cases
19 which are extremely violent, but there are many cases where
20 Aboriginal women are violently assaulted in great distress
21 in front of police officers and, even with the physical
22 reality of their victimisation in front of them, are
23 arrested or are treated as perpetrators or are ignored.

24
25 MS HILLARD: One of the things that you spoke about in
26 your answer there as well as has emerged in evidence before
27 the Commission is that there is often a fear of a
28 First Nations woman about the interference by the State and
29 the removal of her children and the involvement of the
30 Department of Child Safety. I know the statistics say that
31 a child is likely to be sexual abused or physically abused
32 in a domestic relationship if they're a First Nations
33 child. Do you want to say anything about that and how that
34 can be addressed in order to prevent violence and to
35 protect?

36
37 PROF. WATEGO: If I might, with the permission of my
38 sister I would just like to share her experience. She was
39 strangled by a former partner in Ipswich, one of the shitty
40 suburbs I guess that police would refer to. She had the
41 wherewithal to call Triple 0 in the midst of it so they
42 were aware of what was happening and the severity of this,
43 and her children also were on the phone to Triple 0.

44
45 The police presented in the middle of the night. She
46 passed out and managed to escape semi-naked down the
47 street. When the police presented they did not press

1 charges, despite the severity of the offence, on the basis
2 that in her state of distress she said she just wanted to
3 go to sleep.
4

5 They removed the perpetrator but did not press
6 charges. I had to advocate on her behalf. The police
7 subsequently apologised for, I quote, dropping the ball on
8 this one. Yet when she went to make her statement and with
9 her children they asked her to clarify the spelling of her
10 daughter's name for the reason that they couldn't find her
11 on the system. There was a presumption that as a victim of
12 violence that they would be clients of the system.
13

14 Then when she presented to her GP, who was a registrar
15 that wasn't experienced in dealing with trauma, within
16 hours of that assault made comments on her medical file
17 about child safety and "mum's mental health", which raised
18 concerns for her around contact with Child Safety.
19

20 Now, that matter was dealt with by the courts just
21 last Friday. She spoke in her victim statement about the
22 failings of police and all of those social services and
23 that it was an additional form of violence because these
24 were the agencies that were meant to care and protect, yet
25 she felt even more threatened through their interactions.
26 In fact it was her family who had to advocate for her. In
27 her victim statement her concern in relation to the
28 perpetrator, who has now since been released having served
29 time, is for him to get better and for there to be a
30 therapeutic response to what took place.
31

32 So these stories, yes, are very real for us in this
33 region of working mothers who are presumed, even in the
34 most severe cases, to not be legitimate victims and then
35 cast under the eye of the State, whether it's Child Safety,
36 at the local GP, and deemed unworthy of care by Queensland
37 Police, who in that instance should have pressed charges
38 regardless of what state she was in given the severity of
39 the crime.
40

41 DR STRAKOSCH: If I could just follow that up because that
42 does lead to something in our submission that we haven't
43 discussed where we talk about the interconnection between
44 violent care and violent control and that the way that care
45 from the State, whether it goes right back to the
46 protection era, the language of that, of missions caring
47 for Indigenous people while they controlled them, right up

1 to child welfare services have also been an instrument that
2 have interacted with those systems of control in the kind
3 of colonial context. So some of our concern around
4 particular types of justice re-investment that move
5 services from carceral systems like the police to State
6 social service systems is that in the experience of
7 Indigenous people those systems are really interconnected,
8 especially as it comes to family separation.
9

10 MS HILLARD: And just picking up on some aspects of your
11 answer and something that Counsel Assisting asked you, I'm
12 gathering from that example that you have just provided
13 which you would see many, many similar kinds of examples
14 that you're really saying that there needs to be a light
15 shone on the perpetrator who is the actual offender and
16 there needs to be preventive actions in place in a
17 culturally appropriate, trauma-informed but also a race
18 appropriate perspective; do you have anything you want to
19 say about that?
20

21 PROF. WATEGO: I think it's thinking about how do we take
22 a non-violent approach to dealing with domestic and family
23 violence. Given we know the violence of the State via its
24 various agencies, how do we de-authorise the power that
25 they hold, the violent power that they continue to hold
26 over Indigenous families, and it's witnessed in the
27 incarceration rates, it's witnessed in increasing
28 over-representation of Indigenous children under the
29 Child Safety system, which has proven to be not very safe
30 for our children. So the question is at what point do we
31 start to look at the violent relationships the State has
32 with Indigenous peoples and be as committed to the safety
33 of Indigenous women when it comes to violence perpetrated
34 by the State as well as those by intimate partners.
35

36 DR STRAKOSCH: And I suppose just to tie that back to the
37 current process that's ongoing, inquiries have been a
38 regular feature of the Queensland Police Service. So the
39 Queensland Native Mounted Police were subject to four
40 inquiries in the first 10 years of their operation. So
41 what we've seen in Queensland is inquiries often tracking
42 the violence of these organisations, perhaps making
43 adjustments that make them seem more palatable, but not
44 actually, for example in the case of native police, making
45 any substantive changes to the mandate and the resources of
46 those agencies.
47

1 So in the context of the current inquiry it's very
2 critical and important work but it's taking place in the
3 state in which there's a massive expansion of policing.
4 Queensland is leading the way in terms of expansion of its
5 police force and the expansion of bail and other laws which
6 are sharply leading to increasing incarceration for
7 Indigenous women specifically, many as a result of breaking
8 domestic and family violence orders that the police have
9 approved of issued in kind of domestic violence situations.

10
11 MS HILLARD: One of the things - and this is my last
12 question - that has emerged from different First Nations
13 communities, different First Nations representatives and
14 the like is that they want to be proactively involved in
15 helping the problem and they want to participate in working
16 around whatever the infrastructure is that exists. You've
17 spoken about funding. You've spoken about the need for
18 funding. A witness yesterday spoke about intergenerational
19 plans and funding. Did you want to say anything about
20 that?

21
22 PROF. WATEGO: I would just point out that Indigenous
23 families and communities are already involved in responding
24 to domestic and family violence. It is a matter of
25 resourcing and authorising that in a more formal structured
26 way. So I think it's really important. I think there
27 hasn't been an examination of the exemplars of success in
28 terms of Indigenous led models responding to domestic and
29 family violence, thus we can't imagine anything beyond a
30 police response despite the evidence of its violence that
31 we continue to hear about.

32
33 MS HILLARD: Thank you, Commissioner. That was my last
34 question.

35
36 COMMISSIONER: Thank you. Ms Morris?

37
38 MS MORRIS: Thank you, Commissioner. I would like to, if
39 I may, please, seek a short break to take some
40 instructions.

41
42 COMMISSIONER: Yes. That's fine. We'll just adjourn for
43 15 minutes.

44
45 **SHORT ADJOURNMENT**

46
47 COMMISSIONER: Ms Morris?

1
2 MS MORRIS: Thank you, Commissioner. I have no questions.

3
4 MS O'CONNOR: No questions, thank you, Commissioner.

5
6 MS O'GORMAN: I don't have any further questions and, in
7 the circumstances, might Professor Watego, Dr Singh and
8 Dr Strakosch be excused.

9
10 COMMISSIONER: Dr Strakosch, Professor Watego and
11 Dr Singh, thank you so much for coming in this morning.
12 It's been very informative, and you're free to leave.
13 Thank you very much.

14
15 <THE WITNESSES WITHDREW

16
17 MS O'GORMAN: Commissioner, there are two further
18 witnesses that we will be able to get through between now
19 and lunch. The first witness is Teressa Tapsell. I call
20 Ms Tapsell.

21
22 <TERESSA TAPSELL, sworn:

23
24 <EXAMINATION BY MS O'GORMAN:

25
26 Q. Ms Tapsell, you have provided a statement to
27 the Commission dated 12 July 2022?

28 A. Yes.

29
30 Q. All right. Thank you. As I understand it, you are
31 presently the acting senior research officer for the
32 First Nations and Multicultural Affairs Unit within the
33 Communications, Culture and Engagement Division; is that
34 right?

35 A. Yes.

36
37 Q. And your substantive position is as a police liaison
38 officer training officer with recruit training at the
39 Police Academy at Oxley within the People Capability
40 Command?

41 A. That's correct, yes.

42
43 Q. Now, although you've been in the acting role with the
44 FNMAU, is it the case that you have continued to also work
45 as the police liaison officer in your substantive role as
46 well?

47 A. That's correct, yes.