

# NOT THE IDEAL VICTIM

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Media bias, failed investigations, and the  
**unheard stories** of missing and murdered  
First Nations women and children

*Katelyn Clarke*

# PLEASE READ

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Aboriginal and Torres Strait Islander persons are respectfully advised that this report contains images of and references to deceased persons.

All readers are respectfully advised that the report contains images of and references to the deaths of and violence towards Indigenous peoples, including sexual violence, that may cause distress. Such details are only disclosed when it is necessary and relevant to understanding the case. Care has been taken to refer to individuals who have passed away by their substitute names when this is still requested by the family. The names of deceased persons have been taken from media sources which have received permission from the family to use them in a similar context.

# NOT THE IDEAL VICTIM

RAYLENE LORNA LITTLE    CRYSTAL RATCLIFFE    'LITTLE BOY' - 20 MONTHS OLD    CHERYL BRAEDON    4 MONTH OLD BABY GIRL    DEBORAH MELVILLE  
WENDY MURPHY    REB LAKUWANGA    PETRONELLA ALBERT    JODY WEBSDALE    JODIE PALIPUAMINNI    SW  
GLORIA PINDAN    SARAH JOHNSON    ANNE CHANTELL MILLAR    ROSELLE NELSON    ELSIE ROBERTSON    FELICITY COOK



KUMANJAYI WALKER    KAMAHL BAMBLETT    ESTHER GEORGE    PATRICIA CARLTON    JACK SULTAN PAGE    DM    KWEMENTYAYE FOSTER  
JESSICA CARTER    VERONICA LOCKYER & ADELL PARTRIDGE    SASHA GREEN    R RUBUNTJA    DONELLE NEWBERRY    JANIE NORMAN  
DANIELLE KIESHA LANE    CHRISTOPHER DRAGE    CARLENE COOMBE    JOANNE ANDERSON

Media bias, failed investigations and the unheard stories of missing and murdered First Nations women and children

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## ***NOTES***

1. The terms Aboriginal, First Nations, and Indigenous are used interchangeably.
2. Missing refers to cases where women have disappeared under suspicious circumstances, with a strong likelihood that they may have been killed. Murdered refers to cases where missing women are found to be/identified as victims of homicide.

## ***Acknowledgement of Country***

I would like to begin this report by acknowledging the Traditional Custodians of the land upon which it was written, the Dharawal People of the Eora Nation. I also acknowledge the Traditional Custodians of the land on which I receive my education, the Gadigal People of the Eora Nation. I recognise their ongoing connection to the land, water, skies, community and culture. I pay my deepest respects to the Aboriginal Elders, past, present and emerging. I have the deepest respect for the wisdom, knowledge and resourcefulness with which Indigenous people have cared for the land for the past 80,000 years.

I acknowledge the devastating impacts of the atrocities committed against Indigenous peoples during and ever since Invasion. I extend this acknowledgement, particularly to all the Indigenous families and communities that have been touched by these injustices.

I acknowledge that I am living on stolen land and that sovereignty never ceded. This land was, is and always will be

Aboriginal land.

I acknowledge and pay my deepest respects to all the First Nations women and people who fight tirelessly every day for justice, their wisdom, knowledge and resistance through the most difficult of battles.

I would also like to express my deepest gratitude to all those who assisted and supported me throughout my work - my amazing Aboriginal Studies teacher, Ms Carr, my family, members of the community with whom I consulted, and those who completed my survey. I am endlessly grateful for all their help.

*We must demand justice for our First Nations sisters and brothers. We must not simply hear their voices, but listen to them and elevate them.*

*May all your brothers, sisters, daughters, sons, mothers, fathers, grandmothers, grandfathers, aunties and uncles be found and laid to rest.*

Not when or where but how, did we lose you,  
in between Last Seen \_\_\_\_\_ the words become elegy  
echoing sidewalks and streets. Hand out your picture to  
strangers. Post it on Post Office bulletin boards: Missing  
as if it were destination, a place one goes  
to disappear in invisible cities. Except there's no hero like  
in the movies. No ads, mainstream coverage, or TV shows  
to show our story. Are we invisible if no one knows, why?  
When 1,181 women were taken, did eyes cease to have vision  
or pay attention to a body being swallowed up?  
Those left behind who remember you continue on a mission,  
an endless search of the cities in which we loved  
(and love) you. We will never forget. We demand for you  
action, words, even a poem that ends: your lives matter, too.

*Sonnet MCLXXXI: for the missing and murdered Indigenous women on Turtle Island - Tanaya*

Winder of the Duckwater Shashone Tribe (Nevada)

Not the ideal victim:

***Media bias, failed investigations and the unheard stories of missing and murdered First Nations women and children***

*Indigenous women and children are at disproportionate risk of experiencing violence, murder, or going missing. Yet these Aboriginal women and children do not fit the concept of the 'ideal victim', a stereotype based on racist and classist notions of who is a true victim in our patriarchal and predominantly white society. As such, they are deprived of basic rights that are readily conferred upon non-Indigenous victims. Overt and covert racism and systemic failings mean that missing and murdered First Nations women and children rarely, if ever, receive anything that vaguely resembles the well-resourced, comprehensive, passionate and compassionate response from the public, the media and the justice system that all members of a democratic, humane society should expect. This perpetuates the cycle of injustice that the Indigenous community has suffered since colonisation.*

***Colonisation: The Roots of Violence and Injustice Against First Nations People***

Since invasion and colonisation occurred in Australia in 1788, Indigenous people - particularly, Indigenous women and children - have been devalued, dehumanised, had their lives disregarded and been treated as secondary to white people (Welcome to Country, 2022). Historically, Indigenous people were viewed as animalistic and heathen, and Indigenous women were treated as sexual objects to be used and abused (Australians Together, 2018). This ideology of white superiority fueled the British colonists' massacres of Indigenous people, dispossession of their land and removal of their children. This historic dehumanisation of Indigenous peoples and the violence that was so prevalent in colonial times laid the groundwork for the persistent violence and abuse of Indigenous women and children that is so prominent today (Australians Together, 2018). Colonial attitudes towards Indigenous people, and Indigenous women, in particular, continue to influence contemporary perceptions of Indigenous people. Indigenous women were reduced to their sexuality, and referred to as 'gins' or 'black velvet' - notions which continue to

undermine the credibility of victims of violent crimes, particularly sex crimes, who are referred to as 'prostitutes' - even when there is no evidence to suggest this (Phillips, 2016). While the assimilation era is over, Indigenous people are still expected to conform to assimilatory stereotypes. They are only granted the most basic level of respect when they do and shunned when they do not (Bakchos, 2012). The overtly racist attitudes that existed during these times, with attempts to 'breed out the black' and eradicate First Nations peoples, established the very foundations of our society and, as such, are deeply ingrained into our constitution and vital systems including our healthcare, welfare and justice systems (Melville, 2018). As a consequence, systemic racism continually works to undermine Indigenous success in a society that has still not fully acknowledged, or properly compensated, for the atrocities committed against Indigenous peoples in the past as a result of government directions and policies. While these systemic atrocities and injustices are generally regarded as actions of the past, they remain rife within society today, however, they are rarely acknowledged and, oftentimes, are outrightly denied (Australians Together, 2018). As such, some refer to the lack of concern from authorities regarding the violence facing Indigenous people today in Australia and other settler states as a 'subtle genocide' (see Bakchos, 2012).

Noongar woman and associate professor Hannah McGlade co-wrote a case study called 'Femicide and the Killing State', which highlights the ugly reality that Indigenous women in Australia, Canada and the US have been targets of lethal violence since the time of colonisation (Allas et al., 2018). McGlade states:

Black women know the Australian state was built on such violence and that the instruments of law, the police and courts, can never really be trusted to protect black women's bodies. We know that the Australian legal system's tolerance of sexual violence towards Indigenous women is deeply seated in Australian history. (McGlade, in Allas et al., 2018)

In order for our contemporary society to fully achieve its goal of reconciliation between non-Indigenous and Indigenous people, we must not only acknowledge the past, but become aware of how the past is reflected in the present. To understand more about what is happening right now, we must turn first to the confronting statistics.

## ***What does the data tell us?***

### ***Rates of victimisation***

Numerous reports prepared by governmental bodies, such as the Australian Institute of Criminology (AIC), the Australian Bureau of Statistics (ABS), and the Australian Institute for Health and Welfare (AIHW) have highlighted the disproportionately high rates at which Indigenous people are victims of violent crime (e.g. ABS 2017; AIHW, 2020). These rates are particularly high for Indigenous women and children, in comparison to their non-Indigenous counterparts.

A 2017 Australian Bureau of Statistics (ABS) report on the Indigenous status of victims of crime revealed the disproportionate rates at which Indigenous people were affected by a variety of types of violent crime, including homicide, assault, and sexual assault. In New South Wales, the assault victimisation rate was 1,821 victims per 100,000 Aboriginal and Torres Strait Islander persons, compared to 650 per 100,000 non-Indigenous persons, representing an increased likelihood of Indigenous victimisation by a ratio of 2.8. This rate was substantially higher in South Australia, where there were 4,806 victims of assault for every 100,000 Aboriginal and Torres Strait Islander persons, compared to 810 victims per 100,000 non-Indigenous persons, with an increased likelihood of Indigenous victimisation by a ratio of 5.9. The Northern Territory data revealed 7,084 Indigenous victims per 100,000 Indigenous persons, in contrast to 1,104 victims per 100,000 non-Indigenous persons, representing an increased likelihood by a ratio of 6.4 (ABS, 2017). Aboriginal and Torres Strait Islander females were overrepresented as victims of assault, compared to Indigenous males. In New South Wales, South Australia, and the Northern Territory, Indigenous women comprised 65%, 73%, and 75% of the state's Indigenous assault victims, respectively (ABS, 2017). Disappointingly, the latest ABS data crime victim data report from 2021 does not provide a direct comparison between data for Indigenous and non-Indigenous persons (ABS, 2021).

Analysis of national data by the Australian Institute of Health and Welfare revealed that, from July 2015 to June 2017, Indigenous females were:

27 times as likely as non-Indigenous females to have been hospitalised due to assault nationally (9.8 compared with 0.4 per 1,000, respectively), 49 times as likely in remote areas (29 compared with 0.6 per 1,000, respectively), and 57 times as likely in the Northern Territory (36 compared with 0.6 per 1,000,

respectively), after adjusting for differences in the age structure between the two populations. (AIHW, 2020)

Additionally, from 2014 to 2018 “Indigenous females died due to homicide at 8.3 times the rate of non-Indigenous females (4.5 compared with 0.5 per 100,000, respectively)” (AIHW, 2020). Data provided to the Australian Broadcasting Commission (ABC) in 2019 indicated that Indigenous women make up 16% of all female murder victims, despite making up only 3.2% of the female population (Collard & Higgins, 2019).

Crime data indicates significant and important differences between Indigenous and non-Indigenous homicides in Australia. Indigenous homicides are more likely to occur within the family environment, many incidents result from some form of domestic altercation, and alcohol has often been suggested to play a major role (e.g. AIHW, 2020; Cussen & Bryant, 2015; Mouzos, 2001). Further analysis of homicides by the AIHW from 1989–90 to 2016–17 shows that in 87% (866) of homicides where the victim was Indigenous, the perpetrator was also an Indigenous Australian. Of these cases, 69% (595) were domestic homicides. The data also revealed that 72% (819) of Indigenous offenders were under the influence of alcohol at the time of the incident, as were 71% (698) of Indigenous victims; this was more than double the rate for non-Indigenous offenders (31%; 1,640) and victims (30%; 1,622). The number of homicides in which both victim and perpetrator were Indigenous increased by remoteness, from 10% (85) in major cities to 62% (536) in remote areas (AIHW, 2020). Homicide data for Indigenous victims in the period from 2014–15 to 2016–17 revealed that 62% (53) were killed by a partner or family member and a further 21% (18) by a friend or acquaintance. In comparison, non-Indigenous victims were less likely to have been killed by a partner or family member (41%; 242) and more likely to have been killed by a friend or acquaintance (30%; 174) (AIHW, 2020).

While research suggests that sexual violence is higher among Indigenous than non-Indigenous Australians, comprehensive national prevalence estimates for sexual assault are not available (Mitra-Kahn et al. 2016). The available data indicates that, in 2017, Indigenous women were approximately 3 times more likely to be sexually assaulted than non-Indigenous women (ABS, 2017). Similarly, in 2012, rates of sexual assaults among Indigenous children were 2 to 4 times as high as rates for non-Indigenous children (AIHW, 2014). This data highlights the similarities between Indigenous women and children in terms of victimisation, suggesting that these rates may be similar in other areas in which data is currently unavailable.

The Telethon Kids Institute analysed Western Australian data on deaths from external causes from 1983 to 2010 and found that around a quarter of Indigenous mothers who died in that period were homicide victims. Indeed, they found that Aboriginal mothers were 17.5 times more likely to die from homicide than non-Aboriginal mothers (Fairthorne et al., 2016). Linking these higher rates of homicide to the perpetuation of intergenerational trauma, they observed the profound traumatic impact that maternal loss can have on children and their development, leading to prolonged periods of grief, depression, stress, anxiety, problems with identity development, stress associated with transition to out-of-home care, and increased risk of substance abuse and suicide in later life (Fairthorne et al., 2016).

These studies clearly indicate the overrepresentation of Indigenous Australians as victims of violent crime, along with the disproportionate rates of victimisation of Indigenous women and children, both compared to Indigenous males and non-Indigenous women. The marked differences in the data on homicides involving Indigenous victims compared to non-Indigenous victims may provide insight into one of the many reasons why Indigenous victims are so often not treated as legitimate victims by the police, media, or the public.

### ***Missing persons data***

In Australia, there is undeniably a crisis affecting Indigenous women and children, with the available data demonstrating that Indigenous women and children are grossly overrepresented among missing persons across the nation. While First Nations children account for approximately 6% of the Australian population under the age of 18, they make up roughly 20% of missing children (Wellington et al., 2021). Additionally, a 2021 review prepared for the Australian Federal Police found that at least 25.6% of children under 12 and 18% of those aged between 13 and 17 who go missing while in care are Indigenous (McFarlane, 2021).

Similarly, First Nations women account for only 3.2% of the female Australian population, but make up a high proportion of the missing female population. Exclusive data provided to the ABC in 2019 provided initial insight into the extent of the problem. This data revealed that, in Western Australia, Aboriginal people make up 3% of the population, but account for 17.5% of unsolved missing persons cases (the state does not provide gender-specific statistics for Indigenous peoples). In

Queensland, where approximately 4% of the population identify as Indigenous, police estimate that 6% of open, unsolved missing persons cases are Indigenous people. In New South Wales, police were only able to provide data to 2014, in which Indigenous people made up 7% of unsolved cases. Additionally, in New South Wales, 10% of women not found between 2014 and 2019 were Indigenous, despite making up less than 3% of the state's population (see Collard & Higgins, 2019). New South Wales data for 2008-2015 analysed by the Australian Institute of Criminology indicated that just under a quarter (23%) of those reported missing were Indigenous, while in the Northern Territory this figure was 6 in 10 (59%, n=1,239) (Bricknell & Renshaw, 2016).

### ***Scarcity of reliable data***

Crimes against First Nations peoples often go unreported, and race is often ignored in collating data. The lack of reliable data is a major problem - it is hard to call media and community attention to the seriousness of the issue when the available data is unable to accurately capture the extent of the problem. The Australian Institute of Criminology notes in its report titled "Indigenous and Non-Indigenous Homicides in Australia" that the way in which the race of a victim is identified and recorded may affect the reliability of data (Cussen & Bryant, 2015). Current data on victimisation rates is derived from police reports and therefore relies on police to accurately record the Indigenous status of the victim. In some cases, this may be a purely subjective assessment made by police, based solely on the victim's external appearance. As a result, people who identify as Indigenous may not be recorded as such.

In her extensive analysis of data on missing young people in out of home care, McFarlane (2021) observes that:

Much of the data had inconsistencies which saw individuals variously identified as Indigenous in one missing episode, and as non-Indigenous or Not Recorded in another just days later. It is also evident in the large number of 'Not recorded' entries relating to Indigeneity. For example, nationally, the status of over one-third of individual children and youth could not be identified. (p. 62)

The Australian Bureau of Statistics' most recent report on crime victim data states that:

Data about Aboriginal and Torres Strait Islander victims of crime is presented for New South Wales, Queensland, South Australia, and the Northern Territory. Based on an ABS assessment, Indigenous status data for other states and territories is not of sufficient quality and/or does not meet ABS standards for national reporting in 2020. (ABS, 2021)

Importantly, in early 2022, it became mandatory for NSW Police to ask all suspects and victims if they are Aboriginal or Torres Strait Islander and to record their response in the police database. This follows a recommendation from the NSW Police Aboriginal Strategic Advisory Council, with the aim of improving data and, ultimately, creating a fairer justice system (Rawsthorne & Gooley, 2022). Until the state and country make an effort to record comprehensive data in relation to missing Indigenous persons, however, this change remains inadequate.

Even if data collection was carried out diligently by the authorities, Indigenous people face many barriers to reporting crime and, as such, the data would still almost certainly underestimate the extent of the issue (e.g. see Willis, 2011). Rates of non-disclosure are incredibly high in Indigenous communities, with studies indicating that approximately 90% of violence against Indigenous women is not disclosed (Robertson 2000; Taylor & Putt 2007). Similarly, a study found that 75% of Indigenous female sexual assault victims did not report the offence due to fear, either of repercussions or police attitudes (Robertson, 2000). A deep-rooted mistrust exists between many Indigenous people and non-Indigenous authorities, particularly the police, due to both past mistreatment and ongoing injustice. As a result, the family of a missing person may be reluctant to report their disappearance to the police and a victim of abuse or sexual assault may decide not to report this. Indigenous women, in particular, face many barriers in reporting family violence, including the threat of child removal, homelessness and potential isolation from their family and community (Langton et al., 2020). This is especially problematic, considering the high instance of domestic violence-related homicides involving Indigenous women as victims. All of these issues not only affect the data, but have serious real-world consequences for achieving just outcomes in missing and murder cases and also in preventing these events from occurring.

### ***Canadian and US data***

In Canada, Aboriginal women aged 25 to 44 are five times more likely to suffer a violent death than other women in the country. Amnesty International's "Stolen Sisters" reports (2004, 2009) and the Native Women's Association of Canada reports (2009) have documented more than 500 cases of Aboriginal women who have gone missing or been murdered since the 1960s. Half of the cases have never been solved. One of the most significant findings of the "National Inquiry into Missing and Murdered Indigenous Women and Girls" report released in 2019 was that there was no reliable estimate of the numbers of missing and murdered Indigenous women, girls, and 2SLGBTQQIA persons in Canada.

Government data collection on missing Indigenous women and girls in the US has similarly been heavily criticised (see Urban Indian Health Institute, 2018). The National Crime Information Center reported that, in 2016, there were 5,712 reports of missing American Indian and Alaskan Native women and girls, though the US Department of Justice's federal missing persons database, "NamUs", only logged 116 cases (Urban Indian Health Institute, 2018). The Centers for Disease Control and Prevention estimate that Native American women are murdered at a rate three times that of white American women, with murder being the third-leading cause of death among American Indian and Alaska Native women (Petrosky et al., 2017; Urban Indian Health Institute, 2018). Data reveals that 21% of missing Indigenous persons in the United States remain missing for thirty days or longer, compared to only 11% of caucasian missing persons (Urban Indian Health Institute, 2021).

The situation in Canada and the US is glaringly and tragically similar to what we see in Australia. The UN High Commissioner for Human Rights has acknowledged that the basic inequalities that exist between Indigenous peoples and the rest of Canada stem directly from the Canadian state's failure to overcome systemic racism, the intergenerational trauma of colonialism and the inadequate provision of specialised services and programs for Indigenous communities (see Sinha et al., 2021). These inequalities - and the overt and covert racism that underpin them - are perpetuated by many powerful forces, one of which is the media. This is particularly evident in media reporting on missing and murdered Indigenous women and children.

## ***Media bias***

### ***Data on media bias***

Marked disparities exist concerning the quantity and quality of media coverage received by different missing persons, which jarringly appears to correlate to the race of the victim. While it is incontrovertible that Indigenous people are overrepresented in missing persons cases, they are, conversely, underrepresented in the media coverage of missing persons. In Australia, no specific quantitative data exists in relation to this issue, although qualitative observations clearly highlight the issue (e.g. see Meyer et al., 2021; Wellington et al., 2021). A number of studies have investigated this issue of media bias in the United States and Canada. Given the well-established parallels between the treatment of Indigenous peoples in Canada, the United States, and Australia, and the similarity in rates of and responses to missing and murdered Indigenous persons across these nations, the data on media bias from Canada and the United States is likely to have relevance to the Australian situation.

The Wyoming Governor's Taskforce on Missing and Murdered Indigenous Persons released its first statewide report in January 2021 (Urban Indian Health Institute, 2021). Prepared by the University of Wyoming's Wyoming Survey & Analysis Center, the report analyzed media coverage of homicide and missing persons cases for Indigenous people in Wyoming, compared to coverage given to other races in the state. The "Missing and Murdered Indigenous People Statewide Report for Wyoming" found that local and state media covered only 30% of cases involving Indigenous homicide victims, as compared to 51% of white homicide victims. Indigenous female homicide victims had the least amount of newspaper media coverage, at only 18%. In addition, the media articles relating to Indigenous homicide victims were "more likely to contain violent language, portray the victim in a negative light, and provide less information as compared to articles about White homicide" (Urban Indian Health Institute, 2021, p.2). Negative character framing was found in 16% of the articles about Indigenous missing persons, while none of the articles about white missing persons included negative character framing. White people in Wyoming were more likely to have an article written while they were still missing - 76% of white missing persons versus 42% of Indigenous missing persons. Indigenous people were more likely to have an article written about them being missing only after they were found dead - 57% of Indigenous missing persons had a first article written about them after they were found dead, compared to zero white missing persons. While 23% of the articles

about white missing persons said they were found alive and well, no articles discussed missing Indigenous people who were found alive and well. The extent of these issues is exemplified in the quote from the Urban Indian Health Institute's Missing and Murdered Indigenous Women and Girls report (2018), in which it was stated that Indigenous women "disappear not once, but three times - in life, in the media and in the data" (p.2).

Research from Canada similarly draws attention to the negative framing and content of news media representations of Indigenous women and girls, as well as the consistently lower media coverage they receive, relative to their non-Indigenous counterparts. With regards to frequency and placement of newspaper articles, on average, missing or murdered white women received 3.5 times more coverage than Indigenous women overall, and were mentioned 6 times more often by the media (Gilchrist, 2010). Additionally, these articles appeared in a more prominent place in newspapers. Articles about white women averaged 1.4 times more words than articles about Indigenous women and 37% of articles about white women appeared on the front page of newspapers, compared to 25% percent for Indigenous women. Articles about the Indigenous women often appeared beside advertisements and soft news and other less significant articles were given more prominent space when placed near the stories of missing or murdered Indigenous women. Such poorly placed articles naturally send a signal to readers that a story lacks urgency and social importance (Gilchrist, 2010).

### ***Missing White Woman Syndrome***

Jewkes (2004) has argued that when a woman goes missing, several key factors predict the media response. Specifically, if the missing woman is young, white, conventionally attractive, and from a "respectable" home, news media are more likely to report and exhaustively investigate the details of her life and disappearance. This bias that divides victims into stereotypes of pure women who are newsworthy victims and fallen women who are not, has been termed "Missing White Woman Syndrome." The late journalist Gwen Ifill coined the term in 2004 to describe the differential media coverage and public support that is generated when a white woman goes missing (Ifill, 2004).

A prominent example of media bias relates to media coverage on the "Highway of Tears" - an 800 km stretch of highway in British Columbia where more than a dozen

young women have disappeared since 1994, and almost twenty young women disappeared or were killed there between the late 60s and the early 80s. Until recently these crimes have received little media attention, perhaps because the majority of victims have been Indigenous women (Rolston, 2010). Nicole Hoar, a Caucasian woman who disappeared in 2002 received a disproportionate amount of media attention at the time of her disappearance. Nicole Hoar's was the first of the Highway of Tears cases to be covered in the mainstream media and it has been argued that if it weren't for her, the media would have done little to inform the public about the tragedies that had occurred here. Before that time, police had not released the race of the victims, however, Rolston's (2010) review of earlier coverage revealed that - prior to Hoar's disappearance - reporters had mistakenly believed all the victims were Aboriginal. Only after tragedy struck a white woman did the media begin focusing attention on the lost Indigenous women, though the amount of coverage given to these Indigenous women remained minimal (see Rolston, 2010).

The disappearance and homicide of 22-year-old Gabby Petito in late 2021 further highlighted the enormous disparities in reporting, specifically the fact that the media provides more compassionate and extensive coverage when the victim is a young white female. Petito's disappearance gained widespread media attention across not only the United States, but around the world. Over six law enforcement agencies searched for her and #GabbyPetito received more than 950 million views on TikTok (Marquez, 2021).

Rosner observed that the disappearance of Petito:

became a sensation, attracting play-by-play coverage in the news and avid amateur sleuthing on social media.... The photos of Petito that filled our screens showed an attractive, blond, young white woman who radiated the curated happiness of a social-media (Rosner, 2021).

Police discovered Petito's remains in Bridger-Teton National Forest in Wyoming. At the same time, according to the Wyoming Statewide Report on Missing and Murdered Indigenous People, more than 700 Indigenous Americans, predominantly women and girls, were reported missing from Wyoming in the past decade (Urban Indian Health Institute, 2021).

Wagner (2021) observes that "there is an inherent obsession with the subversion and destruction of stereotypical 'perfect' constructions of white femininity and family". The idealistic nature of Petito's life - her perfectly curated Instagram and her

seemingly perfect lifestyle - fed this obsession. While women like Petito are referred to as “adventure-seekers” and “America’s daughter” (e.g. see Romano, 2021) when Indigenous and Black missing women do get media coverage, they are labelled “risk-takers” (see Robertson, 2021). Liebler (2021) explains that there are numerous reasons why white women garner so much more media attention than their Indigenous sisters, the most prominent being dominant ideologies. She states that Missing White Woman Syndrome is reflective of the dominant ideology of white supremacy, which is reinforced through reporting within a white racial frame. Twenty-two-year-old Gabby Petito’s case featured heavily in Australia, yet 21-year-old Charlene Warrior, an Indigenous woman from Adelaide, who went missing just one week after Petito, did not receive any such media attention. As of May 18, 2022, Gabby Petito’s case was the focus of 674 times more articles compared to Charlene Warrior’s. Even when a google search included the term “Australia”, the search still revealed nearly 250 times the amount of articles for Petito compared to Warrior. As Australians, we should be deeply confronted by the fact that a crime that occurred overseas, with an American victim, in which our policing system had zero involvement, received vastly more media attention. Gabby Petito has become the face of Missing White Woman Syndrome and these chilling comparisons to Charlene Warrior’s case reinforce the incredibly harmful impact of this media bias.

### ***The ‘Ideal Victim’***

While the concept of Missing White Woman Syndrome taps into key elements of racial bias that impact on coverage of, and investigation into, cases of missing and murdered Indigenous women, children, and young people, it is also helpful to examine more broadly the concept of the ‘Ideal Victim’ developed by Nils Christie (1986). Christie’s concept has become one of the most frequently cited themes of victimological and criminological academic scholarship over the past thirty years (see Duggan, 2018). Christie (1986) identified five attributes of ideal victimhood: (1) the victim is weak (female; elderly or young); (2) the victim was carrying out a respectable project; (3) she could not be blamed for where she was; (4) the offender was big and bad; and (5) the offender was not in a personal relationship with the victim. In many of the cases of missing and murdered Indigenous peoples the victim meets the first criteria of being female and or young. However, as noted above, homicides where an Indigenous person is the victim are more likely to involve domestic altercations and in around two-thirds of solved Indigenous homicide cases,

the perpetrator is a partner or family member (AIHW, 2020). Hence the fifth criteria is not met, as the perpetrator is very often in a personal relationship with the victim. Additionally, the way in which many of the Indigenous victims in these cases have been re-cast, they would not be seen to meet the critical second and third criteria of being engaged in a 'respectable project' and being truly 'innocent' and 'blameless' in the eyes of judgemental others.

### ***'Fallen women': Judgements on the relative worth of the victim***

Jiwani (2008) emphasises the binary nature of media representations of violence against women, which differentiate 'good women' - who are worth saving or avenging - from 'bad women' - who are presented as unworthy victims, beyond redemption. The ideology of superiority and inferiority underlying this binary encourages the valuing of some lives over others and functions as a powerful justification for ongoing racial, gender, and class-based oppression. If a victim is judged to have failed to behave in accordance with prescribed patriarchal concepts of "appropriate" female behaviour and to have put herself at risk because of her bad choices, she is seen as responsible for the violence against her (Jiwani & Young, 2006). According to Jiwani, the "fallen woman" stereotype that makes Aboriginal victims seem less sympathetic in the eyes of the public, is closely related to stereotypes about Aboriginal women in general, which are constructed and perpetuated by the news media. In her review of media coverage of missing women in Canada, Jiwani argues that any "sign of Aboriginal affiliation diminished the credibility of their victim status and therefore reduced the urgency for societal intervention and assistance" (Jiwani, 2008, p. 140).

In her essay "Symbolic and Discursive Violence in Media Representations of Aboriginal Missing and Murdered Women", Jiwani reviews press coverage from 2000-2007 in Canada's daily newspaper of record, *The Globe and Mail*, to illustrate how symbolic and discursive violence was used to mediate representations of the missing and murdered Aboriginal women (Jiwani, 2009). She found that coverage of Aboriginal women clustered around stories of violence, conflicts with governments, custody cases, poverty, and poor health status. Against a historical backdrop of colonialism and exploitation, Jiwani examined how the national press coverage repositions Aboriginal women as criminals, victims of sexual crimes, and "inassimilable others" (p. 63). In stories where women were victims of violence,

Jiwani highlighted themes of culpability invoked by these accounts to ‘make sense of’ these women’s lives and realities, essentially portraying them as a party to their own demise, and therefore unworthy of concern from the public and authorities.

The similarities between Jiwani’s Canadian studies and what is seen here in Australia are glaring. The media depicts Indigenous people as putting themselves in harm’s way because they live in remote communities, because they drink or because they do not leave domestic violence situations, among a plethora of other factors. As Darumbal and South Sea Islander journalist Amy McQuire explains:

Aboriginal women who are victims of violence are often re-victimised in media representations following their deaths. They are painted in dehumanising terms, and seen as responsible for their own deaths. When attempts are made to ‘humanise’ them, it is always in language that sees ‘human’ as close to whiteness, as most palatable to white Australia. Their resistances to overlapping waves of violence throughout their lives, resistances that may not be recognised as such, do not always fit this criteria, and so these resistances are interpreted as ‘angry’ or ‘violent’ and they are dehumanised again. (McQuire, 2021)

Factors that may diminish the legitimate victim status of an Indigenous woman are frequently exaggerated in the media, with a focus placed on such details that are often unnecessary. Similarly, in instances of speculation or belief, these details are reported on as if they are fact, with no room for disputation. Conversely, stories of white female victims of violence tend to focus on the fact that she was an ideal victim, and may even exaggerate aspects of this. These ideal victim factors are frequently placed at the forefront of such stories, in prominent positions such as headlines and opening statements (see Lynette Daley case below for a powerful example).

***Aboriginality alone renders one ‘not the ideal victim’: The role of overt and covert racism***

Christie’s (1986) analysis of the ‘ideal victim’ has greatly enhanced our understanding of which individuals - when hit by crime - are most readily conferred the complete and legitimate status of being a victim, deserving of our sympathy (see Duggan, 2018). However, in his five key criteria for victimhood, Christie does not explicitly

identify the key determining factor in victimology - race. While there is strong evidence for the concept of a perceived 'ideal victim' within society, there is compelling evidence to suggest that - even in cases where a number of the 'ideal victim' criteria are met - the presence of Aboriginality can serve to negate these aspects in the eyes of a white society. Aboriginal victims are often met with skepticism by the media and the public, in relation to their worthiness of the status of 'victim', or their stories are largely ignored and relegated to the status of invisible 'others' (Jiwani & Young, 2006).

Significant disparities exist in the treatment of Indigenous victims of crime, in comparison to white and non-Indigenous victims, in cases where the majority of notable aspects of the case were the same. Gilchrist's 2010 study "Newsworthy Victims?" demonstrates that - even in cases where the missing Aboriginal women are girl-next-door types - they still receive less coverage, and less sympathetic coverage, compared to white victims. Gilchrist compared media coverage of three missing/murdered Aboriginal women and three "matched cases" of white women, who fit a "pure woman" stereotype, to eliminate other potential causes of bias. All six women were close to their families, and none were involved with drugs or the sex trade. Gilchrist found that the white women received more coverage and their articles were longer and more likely to appear on the front page, usually with large photos. In contrast, the stories of these Aboriginal women often had no pictures and tended to appear alongside "soft news", or on the periphery of the page and, "by extension, of reader's consciousness" (p. 10). In addition, descriptions of Aboriginal women were "more detached in tone and scant in detail", in contrast to the "intimate portraits" presented of the white women, which took the form of biographies with details about their hobbies, idiosyncrasies, and life goals (p. 1). News headlines often referred to white women by name - "Jenny we love you, we miss you" and "Waiting for Alicia" - in contrast to the more impersonal headlines about the Aboriginal women - "Teen's family keeping vigil," or "RCMP identifies woman's remains" (p. 8). Gilchrist observed that the lives of these missing/murdered Aboriginal women "have been positioned as 'Others' and relegated to the margins—where their lives were not similarly celebrated and their deaths not equally grieved" (p. 15). Gilchrist argued that the hierarchy of victims in the press is such that conventionally beautiful, middle-class white women are at the top, and "near the bottom of the hierarchy are Aboriginal women who, regardless of occupation, personal achievement, appearance or circumstances, are ignored" (p. 3).

### ***'Otherness'***

Another important reason why missing Aboriginal women may receive less coverage is a sense of 'otherness' (see Nairn et al., 2017). Naturally, it may be easier to empathise with those who look like us and whose lives look similar to ours, and conversely, it may be easier to dehumanise or disconnect from those who do not. When the victim is white, white people may think 'that could have been me' or 'imagine if that was my child', but in Indigenous cases, this reflex response, which sparks empathy, may not be experienced by the non-Indigenous community. Research from the US indicates that higher levels of racial identity are associated with significantly lower empathy for other-race victims (Johnson & Lecci, 2020).

Gilchrist (2010) notes that in cases where the victims are white, the media often communicates a theme of fear and outrage that violent predators are stalking 'our' streets to harm 'our daughters'. This theme was absent in all coverage of the Aboriginal victims she studied. Reporters prefer to cover stories about people they can empathise with, and mostly white reporters may not fully empathise with Aboriginal victims, especially when income, class and other factors come into play. Ironically, while images of murder and serial killings are everywhere in news and entertainment media, the families of Aboriginal victims still have to fight to be heard. Instead - where it is reported on - violence against Indigenous women and children tends to be framed as "an Indigenous problem" (Brown, 2016).

No more is this 'otherness' reflected than in the case of Indigenous children who were in out-of-home care (OOHC). There is a vastly different response from the public when it comes to children in OOHC who go missing or have been murdered, as parents and the community, in general, are not able to relate to this. With regards to missing Indigenous children, McFarlane's (2020) report prepared for the Australian Federal Police presented the disturbing fact that 85% of missing Indigenous youth were in OOHC. Over a quarter of children missing from OOHC and a third of youth missing from OOHC were Indigenous, while Indigenous children and youth made up 8-9% of missing children and youth in Australia who were not in care.

When little Cleo Smith went missing, parents and the community at large could relate, and this mobilised community and media attention and assertive police action. Indeed this case gripped the nation, with a collective sigh of relief when she was found following an exhaustive and rapid investigation. However as detailed in Laura Banks's (2022) heartbreaking article "Little boy lost: The 20-month-old let

down by Australia's child protection system" when children are murdered while in OOHC, their stories rarely make the news.

### ***Newsmaking: A Constructed Reality***

In a society where the lives of Indigenous people and people of colour are systemically undervalued and white people are treated as superior, these biases are continuously reinforced in our daily lives and ingrained into our subconscious. The role of the media in shaping our perceptions of minority groups in society cannot be understated, particularly given that 6 in 10 white Australians claim to have never met an Indigenous person (Pearson, 2017). The concerning reality is that views held in regards to Indigenous people by the majority of non-Indigenous Australians stem from their portrayal in the media, rather than from real world, meaningful interactions. If news was well researched and well balanced, perhaps this would be somewhat less of a concern. However, news is not simply an objective presentation of facts, but a carefully selected narrative based on what journalists decide is important and newsworthy for their target audience.

Decisions about who/what is newsworthy are filtered through a predominantly white middle-class lens (Gilchrist, 2010). A report published by Media Diversity Australia titled "Who Gets To Tell Australian Stories?", revealed that 75% of commentators, reporters and presenters have an Anglo-Celtic background, while just 6% of commentators, reporters and presenters have either an Indigenous or non-European background (Arvanitakis et al., 2020). The authors conclude that:

We lag significantly behind comparable Western democracies when it comes to collecting data on cultural diversity, actively promoting culturally diverse and inclusive media workplaces and implementing measures to recruit, mentor and promote people from culturally diverse backgrounds (p. 37).

This lack of representation in newsrooms leads to a lack of representation in the media we consume each day.

### ***Bias of omission: “The Great Australian Silence”***

One broad bias that exists within the media is the bias of omission. This occurs when perspectives and ideas are excluded and a narrative is covertly pushed. This bias is incredibly harmful, as - unlike overt biases of commission which are present due to an action - bias of commission occurs due to inaction. As such, it can be particularly difficult to identify and call out. In her essay ““The Great Australian silence’ 50 years on” Clark (2018), reflects on anthropologist William Edward Stanner’s Boyer lecture “After the Dreaming” about the “cult of forgetfulness” practiced on a national scale in Australia, which he termed “the Great Australian Silence”. This refers to the reality that many Australians do not just fail to acknowledge the colonial brutality, injustices and atrocities of the past, but choose to simply not think about them at all. This has facilitated the maintenance of structural racism and negative stereotypes about First Nations peoples.

Bias of omission is frequently exercised in Australian media, with Indigenous voices being excluded from important conversations, Indigenous stories being moved into less crucial time slots and important issues affecting the Indigenous community rarely being reported on. For example, in 2020, David Speers, host of the prominent ABC *Insiders* show was accused of being racially biased and criticised for never having an Indigenous person on the show’s panel, despite the fact that the show has been airing since 2001 (Sutton, 2020). Intentional bias of omission was reportedly exercised in 2015, by SBS Executive Producer who - under pressure to increase its advertising revenue and ratings - is said to have written to staff directing that stories about “Middle East, Indigenous asylum yarns” which were “of less interest to viewers” should be moved out of a crucial time segment (Korff, 2019). Indigenous voices have been excluded from important discussions, including women’s rights issues, even though they are disproportionately affected by these injustices. On a QandA 2021 panel for the feminist event “All About Women”, it was noted that not a single Indigenous woman was present (Watego, 2021).

Indigenous voices continue to be excluded from conversations that directly concern their culture and injustices against them, which allows for the perpetuation of dangerous misinformation, and continues a colonial process in which Indigenous stories are told and misconstrued by white people, and Indigenous people are denied the right to self-determination. One particularly disturbing instance relates to a media debate about the need to place Indigenous children with white families because of sexual abuse (Finlay, 2018). Channel Seven’s *Sunrise* convened an

all-white panel to discuss the Federal Assistant Minister for Children and Families' comments about placing Indigenous children with non-Indigenous families. None of the panel had expertise on these matters, and they proceeded to spread highly offensive and harmful misinformation. As Summer May Finlay (2018) states, "debate facilitated by the wrong people does little more than stir up emotions and reinforce negative stereotypes rather than focus on solutions."

The exclusion of Indigenous people from the media, advertisement and entertainment industry strongly contributes to the lack of reporting of the stories of Indigenous missing and murdered women and children. It allows a society to flourish in which people view Indigenous people as secondary and less important, as this is a message they are sent directly and indirectly by the media every day. Not only are Indigenous voices ignored and forgotten, but they are spoken over by racist and ignorant ones. This perpetuates a culture of ignorance and 'sweeping under the rug' of atrocities and injustices that has continued since colonisation.

### ***Overt racism in society and the media***

Overtly racist ideas and the normalisation of violence against Indigenous people remain disturbingly prevalent within society. In video games, television shows and in the media, Indigenous people are portrayed as violent and uncivilised savages, and violence - particularly against women - is depicted as an aspect of Indigenous culture. This racism and normalisation of violence influences peoples' perception of real-world violence against Indigenous people, resulting in a less empathetic response from the community and media. In 2015, a game called Survival Island 3 was released onto the App Store and Google Play, in which the player was told to "beware of Aborigines" and required to kill Indigenous Australians by bludgeoning them to death (NITV, 2016). It was removed from these platforms just a month later, after an online petition attracted more than 60,000 signatures condemning the game.

Bill Leak's cartoons depicting Aboriginal peoples, which have featured in mainstream newspapers, have been condemned as racist and offensive by many.

Watego states:

As a daughter of an Aboriginal man and the wife of an Aboriginal man, I know that Bill Leak's claim that Aboriginal fathers are neglectful is not representative of Aboriginal family life. Instead, this cartoon is representative

of a white man's imagining of Aboriginal men.... Leak's agenda of demonising Aboriginal men and ridiculing the abuse of Aboriginal women has been running for well over a decade, and continues a long tradition of white men's fantasies about the inferiority of Aboriginal people. From racist pseudoscientific theories that suggested we were the missing link between apes and humans to the notion that we were a retrogressed or dying race. (Watego, 2016)

However, Prime Minister of the day, Malcolm Turnbull, chose to defend Leak, stating that he was not a racist but 'a controversialist', despite the fact that Leak's work was under investigation by the Human Rights Commission (Hutchens, 2016).



*Bill Leak Cartoons: Source New Matilda, 2016*

Morris (2005) has argued that representations of indigenous peoples as essentially inferior are underpinned by the ascription of a “primitive rationality” derived from “settler notions”, with Indigenous people routinely characterised as “emotive and instinctive” (p. 72), and “ignorant, backward and irrational” (p. 69). This particular, racialised “deficit discourse” - a disempowering pattern of thought, language and practice that represents people in terms of deficiencies and failures - is endemic in Australian media representations of Aboriginal peoples (Fogarty et al., 2018). Journalists use this ‘ignorant, emotional, instinctive rationality’ when portraying Australian Indigenous athletes as “aping” their superiors (Coram, 2011). Mass media images of drunken Aborigines similarly fit with the theme of First Nations peoples having impulse control issues, combined with presumptions of biological inferiority associated with their inability ‘to handle their drink’ (Morris, 2005).

### ***We don't know what we don't know***

This gross misrepresentation of Indigenous peoples in the media, combined with the failure of the media to give adequate attention to crimes against Indigenous peoples, has enormous negative consequences. As a direct result, the Australian public remains largely ignorant of the issues impacting Indigenous individuals, families and communities. This is reflected in the lack of community awareness of the cases of Indigenous missing and murdered women and children.

### ***Investigation into community awareness of the cases of Indigenous missing and murdered women and children***

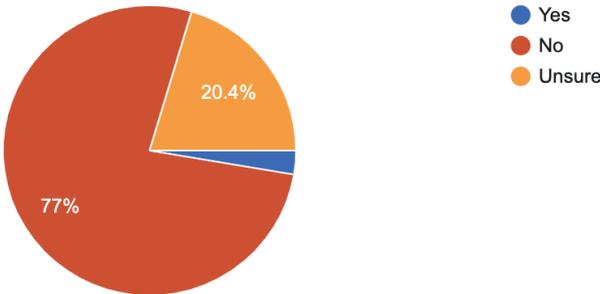
As part of the current report, a survey was conducted to assess recognition by respondents of the face and/or names of Indigenous and non-Indigenous missing and murdered women and children. Additional questions were included to collect information about how respondents interacted with the media. The survey received 113 responses, primarily from International Grammar School students and teachers. The survey reached a broad range of demographics, with an age range from 12-75 years (median age = 16-18 years).

In this survey, less than 3% of respondents felt that the media presents a balanced and accurate representation of Indigenous people, while 77% felt that it did not, and just over 20% were unsure (see Chart 1).

**Chart 1.**

Do you feel that mainstream media and social media present a balanced and accurate representation of Indigenous people, particularly, in comparison to its representation of non-Indigenous people?

113 responses



Respondents were invited to elaborate on this answer, and a variety of distinct responses were obtained:

Please explain your above answer and provide any examples that come to mind

83 responses

- I think the media tends to portray indigenous people as a collective body. They tend to assume that all Aboriginal people agree on everything which is ridiculous and often misrepresent their views because of it. A lot of important issues get politicised and rarely is any meaningful change made
- Media and social media do not present a balanced representation of Indigenous people. Noticeably on topics such as Australia day, personally, I feel that it is a two sided debate, however from talking to communities and indigenous politician's relatives on Red Earth I now see that there are plenty of different perspectives on the issue. Which we don't hear about on the media.
- Generally people follow new-sites which reflect their personal views on social media, so the representation is dependant on the person and what they follow
- Not much representation about positive achievements of indigenous people, mostly in the news for negative reasons

I believe the media does not do a good job of accurately portraying indigenous people as I think that not many people are aware of the difficulties and trials faced by indigenous people every day.

I believe there has been more attempts to include the experience of First Nations people in the media (<https://www.theguardian.com/australia-news/2021/may/24/discrimination-against-indigenous-australians-has-risen-dramatically-survey-finds>). However, I believe mainstream media representations tend to be skewed at either ends of a socially-acceptable/conforming and deviant continuum with regards to dominant white-Australian culture. (E.g. Brooke Boney as a young, successful media personality versus stories of crime or family violence in Indigenous Communities)

I selected unsure because, of the limited news that I have seen recently on my Facebook news feed, I don't remember seeing any reports on indigenous people. I think that might show that my access to news is too limited to comment on how they are represented.

I don't really have comparisons as it is rarely mentioned on either platforms at all

Indigenous people usually tokenised within the media

Most news corporations do not report on indigenous people or issues unless it is a big public thing or event.

I feel that mainstream media such as the news or newspapers do not have accurate representation of indigenous peoples. Although, on some social media platforms such as TikTok, indigenous peoples are able to personally spread information about themselves and their communities. This allows for a more detailed and accurate representation of our indigenous communities. I believe that mainstream media such as the news needs to work on proper representation and accurate representation of Australia's indigenous people

There is a distinct lack of positive stories and indigenous voices to tell the stories

Indigenous people are often portrayed as criminals, less educated or lesser than non-Indigenous peoples.

The commercial media operates in the 'market place' & as such always has an eye on their audience. First Nations Peoples are a small fraction of that market and for decades have been a part of the Australian story that the majority has preferred to ignore.

There's quite a large underrepresentation of Indigenous people in mainstream media (such as the entertainment industry), and on social media there is often no one other than Indigenous people bringing light to issues that Indigenous people face.

I believe that indigenous people are often still represented as a minority group in the media yet it is clear that there have been changes made to address and minimise this issue in modern media however I personally do not see a large amount of indigenous representation in the media to make a solid conclusion

The media doesn't focus on the issues that indigenous people face.

Stories are mostly negative, such as poor conditions in remote housing, drugs, etc.

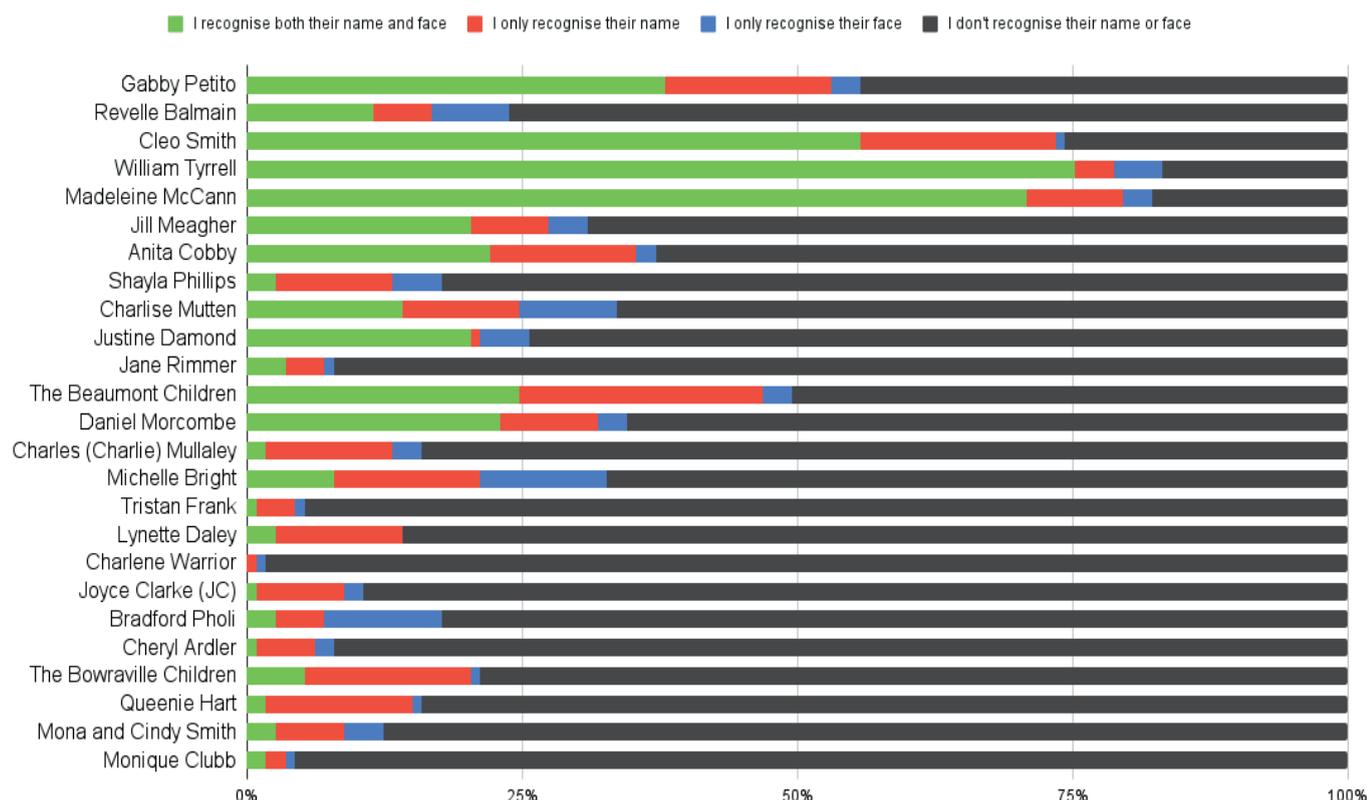
Within main stream media, reports on indigenous communities are typically only published or talked about when it's a negative tone. More positive and informative stories need to be addressed I personally feel.

I think social media provides a more accurate representation. also mainstream media shows too much of the negative thing (ie. if a white person commits a crime they're not white they just committed a crime but otherwise it becomes a whole race thing)

No. Mainstream media seems to only advertise the faults in indigenous individuals/stuff they do wrong. And with white people/non indigenous individuals this is much less common.

The main component of the survey comprised questions relating to 25 missing and/or murdered persons cases - 13 non-Indigenous and 12 Indigenous cases. Respondents were asked, “*Have you heard of or do you recognise (the person)*” with four response options: (1) I recognise both their name and face; (2) I don’t recognise their name or face; (3) I recognise only their name; and (4) I recognise only their face.

Recognition of Missing and Murdered Persons



**Graph 1. Recognition of faces and/or names of missing and murdered Indigenous and non-Indigenous persons.**

The above stack chart presents data for the 13 non-Indigenous cases, followed by the 12 Indigenous cases. The differences between the two groups are striking. Four of the non-Indigenous cases were recognised by more than half the respondents - William Tyrrell (83.2%), Madeleine McCann (82.3%), Cleo Smith (74.3%) and Gabby Petito (55.8%). A further 5 of the non-Indigenous cases were recognised by more than a quarter of the respondents - The Beaumont Children (49.6%), Anita Cobby (37.2%), Daniel Marcombe (34.5%), Charlise Mutten (33.6%) and Jill Meagher (31%). Recognition of non-Indigenous cases ranged from 8% to 83.2%. In contrast, recognition of Indigenous cases ranged from 1.8% to 32.7%. Only 1 of the 12

Indigenous cases was recognised by more than a quarter of respondents - Michelle Bright (32.7%). This was followed by The Bowraville Children (21.2%), Bradford Pholi (17.7%) and Queenie Hart (15.9%).

Notably, out of the four most recognised cases, only William Tyrrell and Cleo Smith are Australians. The most recognised non-Indigenous case, William Tyrrell, was recognised by 2.5 times more people than the most recognised Indigenous case, Michelle Bright. The median recognition rate for non-Indigenous cases was 34.5%, over 2.5 times higher than for Indigenous cases, with a median rate of 13.3%.

When asked to what extent did people follow each case, the cases of non-Indigenous victims Madeleine McCann, William Tyrrell, Cleo Smith and Gabby Petito were the primary cases followed by the survey respondents. Others had few or no followers.

White and non-Indigenous cases have remained in the public consciousness for years since they went missing. For Indigenous missing persons, there are so many cases, yet so little information. Whether they be long-running, or recent cases, Indigenous missing and murdered persons are still rarely remembered by those outside of their families and communities. The Beaumont children went missing decades ago in 1966, yet they are still remembered across the nation. Madeleine McCann went missing in 2007, yet not a year goes by without a mention of her case in the media. William Tyrrell went missing in 2014, yet the nation has never forgotten the little boy in the Spider-Man suit. A year before Tyrrell's disappearance, Indigenous woman Monique Clubb went missing. She has never been found, yet the current survey found that less than 5% of people remember her. Indigenous boy Bradford Pholi has been missing for nearly 40 years now, but less than 20% of people remember him. And, for so many of these people, little more information exists than their Australian Federal Police Missing Persons profile.

### ***Media and Investigational Failures: Justice Denied***

The lack of media coverage of missing and murdered Indigenous peoples establishes a vicious cycle, whereby the lack of police resources and attention given to crimes against Aboriginal women and children may be reinforced by the absence of media interest and pressure. It is likely that the more media and community interest there is in a crime, the more police resources will be funnelled into the investigation, increasing the likelihood that a case will be solved (Gilchrist, 2010). Missing person

cases involving First Nations people are less likely to be solved than cases involving non-Indigenous victims. Recent media reports reveal innumerable deaths of Indigenous children and women in which the perpetrator remains at large and for which justice has never been secured (see Brown, 2016; Porter & Whittaker, 2019).

### ***Failures of policing and our justice system***

#### ***True differences and false assumptions***

To understand why our system repeatedly fails Indigenous women and children, we must understand the underlying assumptions that drive investigative decision-making. In this regard, it is of interest to note the statement made in the Australian Institute of Criminology Report:

Aboriginal and Torres Strait Islander people may represent a distinct group of missing, as a naturally more transient population and one potentially less inclined to report an absence to police. Among the Indigenous community an absence may be just that—understood by the person ‘missing’ and their family as time elsewhere—but in some instances may mask a genuine missing episode. Similarly, there may be reluctance about engaging with police, or cultural mores about public identification of community members, that delay reporting a missing person event to police or contributing to missing person investigations. Instead, there may be a preference to rely on personal networks to locate a missing family member or friend. Police also observed delays in reporting to police, with the Indigenous community often turning to family members to help locate someone thought missing before seeking assistance from the police. This sometimes resulted in delays in reporting of up to three or four months. Transience among community members further complicated the assessment of whether an individual absent for a few days or weeks was genuinely missing or had travelled elsewhere. Police cautioned against the risk of stereotyping periods of absence as usual practice but also the converse risk of treating every absent episode as a missing person event. Consultation with family may then be particularly critical to ascertaining the normalcy of a person’s absence in such episodes. (AIC, 2017)

The most important point in the statement made above is the caution against ‘the risk of stereotyping’. Every case is unique, however generalisations and assumptions

have repeatedly hampered investigations, and it is concerning that some of those generalisations and assumptions (e.g. around the ‘transience’ of Indigenous people) may impede investigations.

### ***Lack of Trust in Authorities***

The above quote from the AIC (2017) acknowledges that Indigenous persons may be reluctant to report to the police. However, in not explaining the underlying reason why this is the case, the statement could be seen to reinforce the view that Indigenous people are uncooperative and create obstacles to their own access to support and justice. The reality is that, after suffering massive historical trauma, many Indigenous people do not trust authorities. The first national project to record mass killings of Indigenous Australians has found that around half of all massacres of First Nations people were carried out by police or other government forces. The final findings of the eight-year-long Colonial Frontier Massacres Digital Map Project show that most massacres were planned, in a deliberate attempt to eradicate Aboriginal people and Aboriginal resistance to the colonisation of Australia (University of Newcastle, 2022). It has been suggested that the role of the police was never to protect Indigenous people, but to protect white people from Indigenous people. As a consequence of this history and ongoing racism and discrimination, Indigenous people may not report crimes that are taking place or may disengage rapidly when they perceive a lack of compassion or concern from authorities. And, of course, crimes that do not get reported typically do not get counted, meaning that data on crimes against Indigenous persons grossly underestimates the extent of the issue.

As acknowledged by the WA Police Commissioner in his historic 2018 apology, police were heavily involved in the practices that created the Stolen Generation:

the forceful removal of Aboriginal and Torres Strait Islander children from their families and their communities; the displacement of mothers and their children, sisters, fathers and brothers – the loss of family and resulting destruction of culture [which] has had grave impacts... land dispossession, violence, racism, incarceration and deaths in custody have occurred through a history of conflict with Aboriginal people and police. (Dawson, 2018)

### ***Failure to assist***

While Indigenous people may understandably be reluctant to place their trust in authorities, statements like that made by the AIC (2017) above ignore the repeated failure of police to assist Indigenous communities. This failure was acknowledged by the 2016 NSW police apology made to the families of the three children who went missing in Bowraville in the early 1990s - two of whom were later found murdered, the other missing and presumed murdered. The families of the three Bowraville children - Colleen Walker-Craig, Clinton Speedy-Duroux and Evelyn Greenup - are still awaiting justice. The initial police investigation into these deaths was characterised by multiple failures and shortcomings, including failure to follow up on crucial leads, and serious delays in the collection of evidence due to racial assumptions made by investigating police officers because of the victim's Aboriginality (Pasco, 2021). As noted by Porter & Whittaker:

Apologies offer little in the face of systemic police failures, especially in circumstances where failures in the initial police investigation directly impede chances of receiving a fair trial and the quality of evidence necessary in securing an eventual conviction. (Porter & Whittaker, 2019)

### ***'Gone walkabout'***

One critical issue impacting police investigations and, ultimately, justice, is the consequence of being deemed 'a runaway' or being assumed to have 'gone walkabout'. Even if a missing person report is made to the police, if the missing person is a child or young person, police can use their discretion to declare the child or young person a runaway. Police delayed filing a missing person's report for Colleen Walker-Craig, while the family of Evelyn Greenup, age 4, were told she went on 'walkabout' (Pasco, 2021). When this happens, there is no amber alert and generally no media coverage. The critical window of time to locate the victim immediately following the crime is, therefore, often tragically, lost.

As stated by Jash:

First Nations people are over-represented in missing persons reports and history has shown it takes a deceased body for any kind of public response, for news headlines, for police to try and give families the justice they deserve. (Jash, 2021)

### ***Death 'not suspicious'***

There are many, many examples of the deaths of young Aboriginal people being deemed 'not suspicious'. This has serious consequences on the priority and dedication of resources and the media attention a case receives. There have been numerous cases in which Indigenous victims have been quickly concluded as 'accidental' or 'self-induced', despite compelling evidence suggesting otherwise (e.g. see Schubert, 2018). This was evident in the case of eight-year-old Kieffen Raggett, whose death was quickly deemed 'accidental', despite the presence of evidence to suggest otherwise, including large rocks stuffed down his pants which concealed his drowned body (Callinan, 2012). When the police are directly implicated in the death of an Indigenous person, the seriousness of police actions is often minimised and the behaviour and character of the victim are made the focus, and there is typically no action taken against the police involved. This is evident in the fact that no one has ever been convicted for an Indigenous death in custody (Whittaker, 2020).

### ***CASE FILES: Powerful and tragic examples of failures of media and policing to ensure justice***

Selecting cases to detail in a report such as this is harrowing and incredibly challenging. Sadly, there are all too many examples to choose from, and there are so many more cases that could not be mentioned here as there has been little or no media coverage. Six cases have been selected, each of which provides confronting evidence of the failure of our media, justice system and the broader community to ensure that these individuals and their families receive the justice they so deserve.

#### ***Kumanjaya Walker: Shot by police, crucified by the media***

Kumanjaya Walker, a 19-year-old Warlpiri man, was shot and killed by police while resisting arrest (Ross, 2022). When stories about young Indigenous people like Kumanjaya do make headlines, the narrative is often entirely reversed by the media, with the cases of these Indigenous victims reported in an entirely unsympathetic manner that is disturbingly similar to reporting regarding perpetrators. This issue is particularly pertinent to deaths in custody, most notably, in the case of deaths occurring due to police brutality, during arrest, or police pursuit. In these situations,

prominent mainstream news outlets tend to focus on details that are irrelevant to the facts of the case, such as the victim's criminal history or upbringing. When reports are constructed in this manner, it appears as though the Indigenous victims are actually the ones who have committed the crime in question, undermining any aspect of their victimhood.

In Kumanjayi Walker's case, the language used to describe him in the media was jarringly negative, relative to both the language typically used to describe non-Indigenous victims and to the language describing his white murderer. Walker's family remembers him as "a traditional young Aboriginal man" (Breen & Roberts, 2022), "who loved animals, who loved his family, who loved his family, who loved his partner, his friends, his homelands, who loved music" (Allam, 2022). When he was killed at the young age of 19 after being shot three times by police officer Zachary Rolfe, the media remembered him as an "unwanted baby" and "violent Aboriginal offender" (Porter & Lee, 2022).

On November 9 of 2019, police were called to arrest Walker after he breached parole to attend the funeral of a community Elder (Ross, 2022). Warlpiri Elder and Yuendumu community leader, Eddie Robertson said the teenager had agreed he would surrender to police on the day after the funeral. Robertson said he had spoken to Sergeant Julie Frost about Walker's plan and that the pair had then agreed Walker would be taken into custody after the funeral, which was originally planned for November 8 but had been moved to the 9th (Ross, 2022). Police, however, escalated the order to arrest Walker, after he allegedly threatened two other policemen on November 6 (Ross, 2022). On November 9, when a group of Immediate Response Team officers arrived, with what were mistaken for military-style assault weapons, Walker lunged at then-Constable Zachary Rolfe with a pair of scissors, leaving a shallow puncture wound on the officer's shoulder (Hope, 2022). He then shot Walker, who was subsequently wrestled by another officer onto a mattress (Hope, 2022). Rolfe fired a second shot at point-blank range, 2.6 seconds after the first shot and 0.53 seconds later, he fired a third shot (Hope, 2022). Walker died at the police station later that day from catastrophic internal injuries (Allam, 2022).

Days later, Rolfe was charged with murder (Hope, 2022). The trial began in early 2022 and, after five weeks, Rolfe was found not guilty of murder (Mackay, 2022). Prosecutors conceded that the initial shot was justified, however, stated that the fatal second and third shots took it "too far" (Bunch, 2022). A government forensic

pathologist stated, “in these circumstances, I don’t think that pair of scissors would have caused fatal injury” (Gibson, 2022).

Rolfe was put on trial, not Walker. Yet a number of news articles preceding the trial criticised Walker’s character and upbringing, effectively attributing the blame to Walker. Rolfe, on the other hand, was described as a well-educated hero in the unfortunate circumstance of being on a “curly” job (Shorten, 2022), in which he was actually the victim, as his life was threatened by a “violent and disturbed teenager” (Bolt, 2022). Many statements made in these articles were not of any relevance to the case and have also been criticised for failing to include character statements offered by his family for more balanced reporting.

Zachary Rolfe was described by various news sources as a decorated officer, a star pupil and a “private schoolboy” who “fell in love with policing ‘to help people’”(Ruiz & Zaczek, 2019; Dunlop, 2019; Shorten, 2022). *The Australian* frequently reported on the case, producing over 160 related articles between May 6 and November 13, a large number of which were written by Kristen Shorten. In an article by Shorten, Rolfe’s upbringing and background are described - including trivial details such as the fact that he completed his schooling at one of “the city’s most prestigious schools”, his mother is a personal injury lawyer and his father, an Audi dealer and member of the National Australia Day Council (Shorten, 2022). He is commended for his heroic actions and ambition and described as “competent, eager and smart” and “a very good communicator”, “very well educated” and “very fit” (Shorten, 2022). The 3,000-word article did not mention, in its body, the words “Kumanjayi Walker”, once. In a second article published by *The Australian*, he is described as a hero, who “shot Walker to save [his] partner’s life” (Aikman, 2022). *The Australian* also aired an ‘exclusive documentary’ interview with Rolfe, in which he states “I did what I had to do” (Shorten, 2022). Along with this, Kristen Shorten released a 37-part podcast titled “Yuendumu: The Trial”, four episodes and over an hour of which involves episodes dedicated to “Zachary Rolfe’s Story” (News Corp Australia, 2022). In one of these episodes, Zachary Rolfe speaks about “growing up in affluent Canberra, his military experience, joining the Northern Territory Police Force and why he felt more comfortable in Kabul than in Alice Springs”. In a Sky News segment by Andrew Bolt, the reporter provides a distorted account of the events, exaggerating the danger facing Rolfe and making a case for self defence - he states that Walker “stabbed him with scissors, until he was shot”, possibly implying that Walker repeatedly stabbed Rolfe and only stopped when he was shot, while Rolfe is described as having stepped

back after he was stabbed and then shot (Bolt, 2022). Further, Bolt poses a question to the police “how can you now feel safe under this administration in defending yourself from a potentially murderous attack?”. In this statement, Bolt confirms his view that Rolfe acted in self-defence and, once again, exaggerates the threat he was under. At the time of airing, it had been shown in court that the weapon would not have caused a fatal injury. Additionally, Bolt claims that the scissors were open when Walker stabbed Rolfe, however the forensic pathologist stated that the blades were closed, meaning that they had a thick, blunt tip (Gibson, 2022). The majority of these articles failed to disclose the fact that Zachary Rolfe had allegedly acted violently in four different arrests of Aboriginal men and falsified reports, prior to the shooting (Bucci, 2022).

In the articles written by Shorten about Kumanjayi Walker, his mother and guardians and Walker himself were presented as holding far more of the responsibility and blame for his death than Rolfe did (Shorten, 2022). The media endeavoured to paint a picture that Walker’s life was doomed from the start, stating that “the odds had been against him before he was even born” and that his murder only sped up the inevitable - effectively absolving Rolfe of any blame. Similarly, in the Sky News interview, Andrew Bolt describes Kumanjayi Walker as a “violent Aboriginal offender” from a “volatile Aboriginal town” who “never had a chance” (Bolt, 2022). Shorten’s article describes Walker’s birth mother as “a sniffer, who drank heavily while pregnant”. It states that Leanne Oldfield and Sampson Anthony, to whom Walker’s mother gave him after deciding she was no longer able to care for him, “grew him up’ in an environment of alcohol abuse and severe domestic violence”. The article provides Kumanjayi Walker’s medical history, stating that, by 2002 he was “suffering from an ear infection, a chest infection, nits and scabies”. Shorten claims that it is “impossible to understand that incident without knowing Walker’s history” and proceeds to provide numerous points that are, ultimately, irrelevant to the case - it is clearly established that Walker did not act in a life-threatening manner and that excessive force was used and, therefore, disclosing his “troubled history” does not provide an understanding into “that incident”. This statement implies that it was, in fact, Kumanjayi Walker’s upbringing and history that caused his death - not the actions of one police officer. The article, which is also just over 3000 words, mentions Zachary Rolfe just once - in its final line. In the extensive article, which manages to comprehensively detail Walker’s criminal and medical history, a timeline of his upbringing and the fact that he “followed Mariah Carey fan pages”, only one sentence is offered in relation to the events of November 9. Its preceding line,

referring to his previous interaction with the police on November 6, explicitly states what the article had implied throughout - that Walker was responsible for his own death: “Walker’s violence, when the two officers arrived to arrest him, could have got him - or them - killed.” Walker’s ‘violence’ could not have got him killed. Walker’s ‘violence’ is not what killed him. The three bullets, fired by Zachary Rolfe, killed him (Bucci, 2022).

The erasure of Zachary Rolfe from Kumanjayi’s story is a deliberate, calculated attempt on behalf of Shorten and the media to minimise Rolfe’s role in Walker’s death and to convince the reader that ultimately it was not Rolfe who caused Walker’s death - it was his mother’s neglect, his marijuana use, his ear infection and his “volatile Aboriginal town” (Shorten, 2022).

In contrast, the articles focused on Rolfe describe his past achievements, his privileged upbringing, and his respected parents, and treat him as both a hero and the real victim. Walker is presented as the offender, with his criminal history, trouble in school, addictions and medical history all detailed in the article.

Walker may indeed have been some of these things - a troubled teen, a criminal, a “dysfunctional child with poor impulse control and inability to control his emotions” - but he was also more (Shorten, 2022). He was a brother, son, grandson and partner. He was described as funny, kind, talkative and cheeky (Hocking, 2020). He was loved. He *was* a victim. Walker may also have done some of the things in his history that he has been accused of. No one is attempting to say otherwise. But, one thing is for certain, he did not cause his own death. And no matter what he did, his life mattered, and he quite simply should not have died that day.

### ***Allison Bernard: Gone and forgotten, leaving family searching for answers***

Whether they be long-running, or recent, it is a tragic reality that Indigenous missing persons cases are rarely remembered, except by those whom they loved and who loved them. One such person is Ms Allison Bernard, a 23-year-old Kokopera woman who disappeared without a trace in 2013 (ABC News, 2022). Nine years later, her children, family and community remain grief-stricken, not knowing what happened to their beloved mother, daughter and niece (Kilroy, 2021). Her heartbroken child still asks relatives: “Do you know where my mummy is?” (Chamberlin, 2019). Ms Bernard’s case has been described as an “uncomfortably Australian story” and

advocates have said the reaction to Bernard's disappearance is a tragic example of the systemic disregard for Indigenous women (Hinchliffe, 2022).

Ms Bernard, from the small Queensland town of Kowanyama, had been visiting her boyfriend further north (Lackey, 2019). On the night of her disappearance, she caught a ride to the small town of Coen in Cape York on her way home. There, she met with her Aunty Deanne Greenwool, who lives in Coen, making plans to stay at her home. "She said, 'Aunty, I'm going to the pub; I will be back,'" said Ms Greenwool, recalling her final interaction with Ms Bernard. "I said: 'OK, I'll get dinner cooked'". Ms Bernard left in the afternoon and walked a short distance to the pub. Ms Greenwool never saw her again (Lackey, 2019).

Ms Bernard was last seen in February of 2013, leaving a remote pub with a stranger, quarry caretaker Thomas Byrnes in Coen (Newton, 2022). Thomas Byrnes is believed to be the last person to see Ms Bernard, who went home with him later that night. After leaving the hotel, Ms Bernard and Mr Byrnes drove about an hour north to the Archer River. Byrnes claims that, at the Archer River quarry, Ms Bernard urinated herself. She then had a shower, while he put her urine-stained clothes in the washing machine. After this, Byrnes claims, they had a consensual sexual encounter and, later, while he was in another room, Ms Bernard walked off into the night, either naked or in a towel, and he never saw her again. No trace of her has ever been found (ABC, 2022).

Following her disappearance, Byrnes did not report her missing. He stated later that he believed there was a possibility she may turn up (ABC, 2022). The morning after her disappearance, Byrnes went to the Archer River Roadhouse and spoke to his friend, Scott Templeton, the State Emergency Service controller for Cohen. According to Templeton, Byrnes was worried because he had taken an Aboriginal woman back to the quarry, who was now missing and he was concerned her relatives would come after him. Templeton claims he told him to report her missing, but Byrnes did not do so (ABC, 2022). Ms Bernard's uncle, Teddy Bernard, said family reported her as missing on the 13th of February, three days after she was last seen. They were concerned, as Ms Bernard had been desperate to get to her friends and travel back to Cairns because it was her son's birthday on the 13th of February (Chamberlin, 2019).

As is the case for so many of these Indigenous missing persons and murder cases, the investigation into Ms Bernard's disappearance was marked by a series of investigative failures and miscommunications. The media has remained largely

silent throughout its entire nine years and, up until 2021, just a handful of articles had been published online about her case. Over the past year, Ms Bernard's disappearance has received more media attention, however it has still barely made its way into the national news cycle, let alone the national consciousness.

A recent inquest in Cairns has heard that Byrnes gave conflicting information to police who immediately deemed him suspicious. In a series of critical miscommunications, however, this information was not passed on to senior officers at the time or other police teams, including searchers and the homicide squad (Richardson, 2022). Search coordinators told the inquest that, had they been told to consider that foul play may have occurred, they would have altered their efforts to find Ms Bernard. Senior officers, including in the homicide squad and covert operations team, were not informed of their colleagues' suspicions regarding Mr Byrnes and his differing accounts in the years after Ms Bernard went missing. Lawyers assisting the coroner highlighted a police process chart for a missing person, which was titled, "Remember, when in doubt, think homicide until the contrary is proved" (Richardson, 2022).

According to various police officers, Mr Byrnes gave numerous differing accounts of his actions on the day he saw Ms Bernard. The discrepancies ranged from telling some officers he had picked Ms Bernard up on the side of the road, telling others he had met her in the Archer River pub, to briefly saying Ms Bernard had stolen his car, before recanting that version of events (Richardson, 2022). The inquest heard that, while he did not call to report Ms Bernard missing, Byrnes made a call to police later that night, accusing Ms Bernard of stealing his work car. Thirteen minutes later, he called again to retract his statement, saying he had remembered where the vehicle was (Newton, 2022).

During the inquest, police were also questioned about the handling of forensic evidence. The clothes which Ms Bernard had allegedly urinated in were given to the police, but were not tested for the presence of urine. When questioned, Senior Constable Worth said he was not aware any such test existed (Richardson, 2022). Mr Byrnes claimed he had cleaned these clothes in the washing machine, but a caretaker who moved into the quarry house shortly after told police there was no electricity to the washing machine. This information was never followed up (Newton, 2022).

Additionally, small amounts of blood were found on a towel in Byrnes's home (Richardson, 2022). Mr Byrnes said the blood was his, as he claimed to have been struck by shards of stone when trying to dislodge his bogged ute which had become wedged in a rock (Newton, 2022). Senior Constable Worth said it was "certainly not a life-threatening amount of blood", but, when questioned, agreed the amount of blood could be consistent with strangulation (Richardson, 2022). Swabs and under-fingernail samples were not taken from Mr Byrnes, which may have been able to demonstrate a struggle (Richardson, 2022).

The possibility of the blood found being a result of strangulation was a crucial acknowledgement, as Byrnes's violent history was revealed during the inquest. Andrew Hoare, the barrister for Ms Bernard's family, called this violent past into question, revealing three incidents in which Byrnes had strangled people. "Your first mechanism of violence against these other people is choking and strangulation - do you see that?" Mr Hoare asked (Newton, 2022). "Yes," Mr Byrnes replied.

Ms Bernard came from a small, tight-knit community and loved her family, who instantly suspected foul play (Hinchliffe, 2022). Had she been a white woman, her disappearance and the search and investigations following would have been televised across the nation. There would have been appeals and rewards for information. But Allison was an Indigenous woman and her case was met with relative media silence.

Racist stereotypes and assumptions came into play which hindered the investigation - Mr Byrnes said she had come to his home and then "gone walkabout" (Hinchliffe, 2022). As noted above, the racist assumption that Indigenous people wander around as part of their culture is a recurring theme in Indigenous missing persons cases, downplaying the seriousness and the potential of homicide.

While recent updates in the case have been regularly reported by the local Cairns Post, a paid-subscription site, the lawyer representing Bernard's family at the inquest, Debbie Kilroy, says other media coverage has been "pretty much nonexistent" (Hinchliffe, 2022). Kilroy states:

Ms Bernard is not the young white woman that the media or police are interested in...If it was a white woman that was disappeared, never to be seen again, there would have been a hell of a lot of resources thrown into that investigation, there would have been national media coverage and she would have been found back in 2013. (Hinchliffe, 2022)

Ms Kilroy and the Bernard family have stressed the cultural importance of finding Ms Bernard's body and burying her on Country to send the spirit home. Debbie Kilroy stated that Ms Bernard must be "taken home and buried cultural ways and her spirit can rest at peace" (Hinchliffe, 2022). Her Uncle, Teddy Bernard explained, "In Aboriginal culture, when someone dies, you've got to have a body to send the spirit home. But we don't have a body, we don't have anything" (Stanton, 2022). In Aboriginal spirituality, a person's spirit is believed to "continue on after our physical form has passed through death", explained Elder, Uncle Eddie Kneebone (Korff, 2019). After death, the spirit of an Aboriginal person returns to the Dreaming, from where it will return as a human, an animal, a plant or a rock. While Indigenous spirituality is diverse and varies between each group, this fundamental philosophy of interconnectedness and connection with the Ancestors remains largely the same (Korff, 2019).

Ms Bernard's family was once again denied justice at the inquest, as the State does not pay for families to attend Coronial Inquests, with many of her family members unable to afford to attend the Court (Stanton, 2022). Debbie Kilroy started a fundraiser to cover the costs of travel and accommodation, which has received over half of its \$30,000 goal (Kilroy, 2021). Ms Kilroy's organisation, 'Sisters Inside', ended up covering the costs for airfares, accommodation and food, and the campaign is now aiming to reimburse the organisation. Kilroy stated:

While we're hoping that there will be a finding at the end of Ms Bernard's inquest, by the coroner, we're also pushing a recommendation that families are funded by the government to attend inquests for their loved ones in the future. (Stanton, 2022)

Debbie Kilroy is not convinced the renewed search will find Ms Bernard, but she hopes, for the sake of her family, it does (Hinchliffe, 2022).

Her Uncle, Teddy Bernard, said:

She was loving mother for her two kids, always respected her grandmother... and we miss her. I think my niece being indigenous, police in north Queensland did not prioritise her as a missing person. There was a person of interest that I don't think the police investigated thoroughly. It still kind of haunts me today (Chamberlim, 2019).

“I know you’re here with me bub”, stated her Aunty, Ms Greenwool, “but I’d really like to know where you are” (ABC, 2022).

The inquest is likely to resume for a third sitting in November or December of 2022 (Newton, 2022).

### ***Sasha Kwementyaye Green: Failed investigations, victim-blaming and institutional racism***

Sasha Green was 25 years old when she was killed in 2013. She was found dead in a vacant parking lot in the town of Tennant Creek. Nearly nine years later, no one has been charged (Campbell, 2017). After a series of police failures resulting in a severely botched investigation, Sasha’s family has lost their chance to achieve justice (Schubert, 2018).

Sasha was found lying dead next to her sleeping partner Rodney Shannon, both under an unzipped sleeping bag (AAP, 2018). They were surrounded by a puddle of water, after a night of heavy rain and Sasha was bleeding out from her femoral artery, with a stab wound in her upper thigh (Schubert, 2018). A family member spotted them early in the morning when she went to wake them up and realised Sasha was dead after only Shannon awoke. Shannon went to the house of a second family to get help, and the police and ambulance arrived shortly after (Cavanagh, 2018).

Four years after her death, a Coronial Inquest was held. Sasha’s parents, Louise Rankine and Casper Green have accused the Northern Territory Police of carrying out a substandard investigation into her suspicious death because she was Indigenous (Bardon & Zillman, 2017). From the moment police arrived at the scene, they failed to adhere to a number of important standards, ultimately resulting in a gross miscarriage of justice (Cavanagh, 2018). In the Inquest, Coroner Greg Cavanagh neither accepted nor denied the assertion of the Green family and their lawyer that racial bias led to these failures (AAP, 2018). Multiple aspects of the investigation are consistent with this accusation of racial bias, including the fact that the police developed an “irrational preoccupation” with a theory that Sasha’s injury was self-inflicted, despite there being no history of self-harm (Nine News, 2018). As in so many Indigenous deaths, the premature decision to exclude the possibility of her death being a homicide meant that the case did not receive the priority that it

deserved (Cavanagh, 2018). Because of this, the case was not declared a major crime at the time as it should have been in order to command sufficient resources and supervision (AAP, 2018). This echoes the culture of victim-blaming that is so often seen in Indigenous cases. Had the police committed to exploring other theories, the case may have had a very different outcome.

Ms Green's death was not declared a major crime until four years later, just two weeks before the inquest (Schubert, 2018). The lead detective of the investigation applied for this declaration, which would have allocated more resources and supervision from senior police to the investigation. The application was passed to the then-Superintendent of Crime, James O'Brien. Cavanagh states that, from there "it appears that it went no further" (Cavanagh, 2018). It was only upon receiving the notice that an inquest had been set down, that it was realised the declaration had not been made by senior police. After this, it still took a further eight months for the declaration to finally be made.

A number of critical police errors and oversights from the outset seriously hindered the investigation, ultimately denying the possibility of justice.

After arresting prime suspect Rodney Shannon on the day of Ms Green's death, he was released just hours later, before police had forensically examined all of the vital evidence (Dunlop, 2017). A unit the couple had been in that night was not examined for another five days and there was evidence it had been cleaned (Campbell, 2017). Vital DNA evidence was also destroyed by police without being tested.

Disturbingly, the idea that Sasha's death was a suicide was planted in the minds of the police by Rodney Shannon (Cavanagh, 2018). On the evening of Ms Green's death, just after Rodney was released from arrest, he stated that his cousin had given the details of Ms Green's act of self-harm and said that it happened inside the house. When his cousin's statement was taken two days later, she was not asked whether she had said those words to Rodney. Five days after this, she was asked whether she had said Ms Green had self-harmed. She denied it. By this time, the lead investigator had left Tennant Creek (Cavanagh, 2018).

The Northern Territory Judge Greg Cavanagh was scathing in his 2018 report (Cavanagh, 2018). The report states that the Major Crime Squad sent two officers to take over the investigation, one of whom was on his first day with the Squad. When these detectives arrived, crucial evidence that had been noted by the Senior Sergeant who commenced the investigation was overlooked and undervalued. The inquest

identified three critical pieces of evidence that arose within the first hour which should have been followed up: the 000 call, statements made to first responders, and a video that showed Ms Green's stab wound and the congealed blood. Critically, in the 000 call, Ronald Plummer had told the call-taker, "I dunno I think someone got stabbed or whatever". Cavanagh highlights that, as it is apparent that those taking statements were not seeking to understand how it was known that Sasha Green was stabbed, an important opportunity was missed.

During the inquest, nearly four and a half years after Ms Green's death, police acknowledged that:

More expertise should have been placed on the ground initially; the officers should have stayed longer; a case theory was arrived at too early in that it was suspected Kwementyaye Green had self-harmed; there was information available early in the case that should have been recognised as inconsistent with that theory; the suspect should not have been released prior to the completion of the necessary investigations; stronger governance and better communication practices should have taken place; the handling of forensic evidence required better management and two items were destroyed (pubic hair and a blood sample of Kwementyaye Green); a media broadcast should have been formally created and disseminated; the governance and supervision of the investigation and the timely submission of the coronial brief were not satisfactory. (Cavanagh, 2018)

While still dismissing the idea that racial bias contributed to this monumentally flawed investigation, Cavanagh went on to state:

The investigation was undertaken by inexperienced officers in an incompetent fashion. In my view, it was so poor that prosecution would only have been possible if the killer confessed...There is no doubt that incompetent management of this case from all levels contributed to the very poor outcome. (Cavanagh, 2018)

Ms Green's family and their lawyer, John Lawrence, remain adamant about the devastating impact racial bias had in this investigation. Green stated:

I thought in my mind it could be racism, that's the reason why they took so long, four years and a half...[The police] should all get their act together and

start looking at killings of Aboriginal people everywhere. We all live in Australia. It doesn't matter what colour we are (Schubert, 2018).

Mr Green said he was disappointed with some of the evidence during the inquest, including the fact it took five days after Sasha Green's body was found for police to search the inside of the unit where she was drinking before her death.

Her father said:

It could be different if she was white. I think they would have investigated for months and months... We're supposed to get treated the same way. We're all humans. (Bardon & Zillman, 2017)

Sasha had served a prison sentence for stealing, and her father also had been in jail for assault and fighting with police, which he believes may have influenced the treatment they received. Mr Green said:

The police, they are probably looking at me because I've got a criminal record, and the police will say 'Ah stuff him, he's a criminal, so why do we have to investigate his daughter?' (Bardon & Zillman, 2017).

Mr Lawrence said the only explanation of the police's multitude of failures was "institutional racism" (Schubert, 2018). He continued:

Aboriginal people are still considered by many as unworthy, as second-class citizens, and that's the explanation as to why once again these investigations into killings of Aboriginal women and children don't get the attention they deserve (Schubert, 2018).

In the inquest, Lawrence highlighted that these failures were not exclusive to Ms Green's case. He argued that the flawed investigations that also occurred into the deaths of Kieffen Raggett and Natalie McCormack, both in the Northern Territory, were a product of institutionalised racism. The eerie similarities in these investigations strongly support this idea. In all three cases, the police were unreasonably focused on a theory that the victim had either killed themselves, or that their death was accidental (Cavanagh, 2018).

Ms Green and Ms McCormack both bled to death from a puncture wound to their thigh. Ms McCormack had no history of self-harm, but there was a history of domestic violence with her spouse. Just as in Ms Green's case, police investigators

were told by her husband that the wound was self-inflicted, and the police adopted this view, failing to investigate the case appropriately (Cavanagh, 2018).

Cavanagh, however, pointed to the successful investigation into the death of Aboriginal woman, Wendy Murphy, stating that, while Ms Green's case "looks exceedingly poor" compared to the investigation of non-Indigenous woman, Carlie Sinclair, "Having said that, it looks exceedingly poor when compared to the investigation into the death of Wendy Murphy" (Cavanagh, 2018). The successful investigation of one Indigenous woman does not change the fact that there is evidentially a pattern of ignorance and indifference expressed by investigators in these cases, which strongly supports the view that institutional racism contributed to the exceedingly poor outcome of this case.

Mr Green's concerns are reinforced in the reporting of Sasha's case. While Ms Green's murder remains unsolved, there has not been a single article written about her since 2018, when the findings of the inquest were released. Disturbingly, despite the fact that it has been nearly nine years since her death, only eight articles related to her are available online. This is excluding articles that are direct copies of each other, or that do not substantially relate to her or her case. The earliest of these articles was published in 2016 and the remaining articles were published in late 2017 and mid-2018, all in the months surrounding the inquest. A number of these simply repeated the findings of the inquest, and only the articles written by the ABC provided a substantial amount of information from Sasha's family (See Bardon & Zillman, 2017; Schubert, 2018). This is also due to the incredibly limited amount of information released by the police, which is vital in directing the media when a serious crime is being investigated (Hope, 2016).

Additionally, when the range of available media is so restricted, it is especially confronting to see reporting which perpetuates a culture of victim-blaming and reinforces stereotypes. An article summarising the key points of the inquest into the death of Sasha Green, published by the Adelaide News (Chlanda, 2018), listed a number of criticisms by the judge, such as "inexperienced investigators" and "inadequate supervision by police", which both highlight the genuine issues that led to a failed investigation in this case. Following this, it states, "The Judge may well have added teenage pregnancy, sustained domestic violence and alcohol, alcohol and more alcohol." This is followed by: "Kwementyaye Green was 25 years old when she died. She had given birth to her first child at 15 - before even reaching the age of consent". As soon as the reader reads this - before they even know how she died, or

anything of relevance about her - an image and idea is conjured. Instantly, prejudice is evoked, assumptions are made and the chance of her being treated as a legitimate victim, worthy of society's concern and compassion, is reduced or eliminated. It is difficult to see how these details have any relevance in this article. They do not have any genuine relevance to her death and certainly do not work to evoke empathy or lead to her being remembered as someone who mattered, someone who loved and was loved - something that is almost guaranteed for white women.

Disturbingly, the earliest article on Sasha's case (Hope, 2016) and notably, one which is centred around the perspective of her family, also perpetuates these stereotypes. The article states that Casper Green has described his daughter Sasha as "bright and full of life". It continues, "But like many in Tennant Creek, Sasha also had troubles. She was a heavy drinker and had been in strife with police". The article does not elaborate on this point and, once again, its relevance is unclear. Not only is the statement itself upsetting, but also its placement, directly after a positive comment from her father. This negative comment from the journalist serves to detract from the father's statement, particularly, with the use of the word "but". It is especially disappointing as, apart from this section, the article is highly informative and gives voice to the concerns of her parents.

Disparities have been noted between Ms Green's case and Darwin mother Carlie Sinclair, whose death in the same year prompted a very different response. In Sinclair's case, there were multiple public appeals and a \$250,000 reward was offered by the police. Within 18 months, Ms Sinclair's partner Danny Deacon was charged and, in 2016, he was convicted of her murder. In Ms Green's case, however, there was no police public appeal, press conference or reward offered for information (Bardon & Zillman, 2017).

The Green family's lawyer, John Lawrence, compared Ms Green's investigation and media response to this case. He highlighted that there were about double the number of detectives working on Ms Sinclair's case, and nine police media releases, while there was only one in Ms Green's case (Schubert, 2018). Carlie Sinclair received a greater number of police media releases than the total number of articles written about Ms Green. Ms Sinclair, however, received hundreds of articles. While Carlie Sinclair's case has been closed for nearly six years, reports continue to be written to document updates relating to the case. In sharp contrast, Sasha Green's case is still unsolved and, with no updates since 2018, has left no mark on the media or public consciousness.

Particularly concerning is the fact that this attention given to Carlie Sinclair's death may have contributed to the lack of concern or resources given to Ms Green's case. This is a detail that was implicitly mentioned in the inquiry, yet has received no attention or critical analysis in the media. Cavanagh stated, "It is obvious that at the time of this investigation there was quite a deal happening in Major Crime. It was described as 'busy'. One of the other cases being dealt with was the disappearance of Carlie Sinclair." It is evident that Sinclair's case received substantially more resources and attention, both in terms of number of media releases and detectives involved. It is possible that the dedication of these resources to this case contributed to Ms Green's case being under-resourced, and that focus on this case contributed to the substantial amount of errors and miscommunications that occurred. Sinclair's death was also declared a major crime from the outset however, shockingly, Green's case was not declared a major crime for four whole years (Schubert, 2018).

Nearly nine years later, Sasha's parents, Casper Green and Louise Rankine are still without justice. After the inquiry and the revelation of the true extent of investigative failures, the possibility of a conviction seems even more remote. Sasha was mistreated not just in her death, but also in the years that followed, in the investigation and in the media. Her case was silenced by the media and therefore went unnoticed in society. It became just one of many cases of violence against Indigenous women rendered invisible. She became just another statistic - a woman without a face, without a personality, without an impact.

"We're just hoping and wishing to get justice done so we can leave our daughter to rest in peace, and me and my partner can get on with our life," said Casper Green, Sasha's father (Campbell, 2017).

"I've been waiting and I'm still waiting. We're still grieving for my daughter. We want justice," her mother Louise Rankine said (Bardon & Zillman, 2017).

Following the inquiry, Cavanagh made a number of recommendations to ensure that such injustices do not occur again. In late 2018, Northern Territory Attorney-General Natasha Fyles tabled a report to the Legislative Assembly responding to the inquest into Sasha Green's death. In the report, Ms Fyles stated:

The NT Police Force is also developing new training models specifically focused on raising awareness of unconscious bias, assisted by the establishment of a newly formed Aboriginal and Torres Strait Islander Development Unit. (Vanovac, 2018).

### ***Charlie Mullaley: Police fail in their fundamental duty to protect the innocent***

Charlie Mullaley was only 10 months old when he was brutally murdered by his stepfather (Bath, 2022). We don't know if he loved animals, a summer breeze or the water, or if he had an infectious giggle. The media and the public didn't remember him. Had the police intervened in the way they were supposed to, Charlie may still be alive today. Instead, they ignored the desperate pleas of Charlie's mother, Tamica Mullaley, and her father.

Hours before Charlie was murdered, Tamica Mullaley had confronted her partner, Mervyn Bell, over a cheating allegation. She was left bloodied, distressed and stripped naked on a Broome street. Bell was described as having bashed Mullaley, "like he would've if he was in a boxing fight" (Brown, 2021). On witnessing the assault, a neighbour called Ms Mullaley's father, Ted Mullaley, and the police (NJP, 2021). However, by the time the police arrived, Bell had fled the scene (Allam, 2020). When officers arrived, Ms Mullaley was sheltering in a neighbour's carport, covering her naked, bleeding body with a borrowed bedsheet and visibly distressed (Bath, 2022). When Ted arrived, he witnessed Ms Mullaley yelling at the police, "Go away, nobody wants you here" (Hill, 2019, p.306). Tamica Mullaley did not want the police involved, stating later "I know that police aren't that great in Broome. I just wanted to go with Dad". The police, however, refused to leave. Mr Mullaley had requested that police arrest Bell, however they advised they needed to talk to Ms Mullaley first (NJP, 2021). The police had a duty of care to attend to her as a victim first, and a witness second, but, instead of being treated as a victim, she was pressed as a witness for her account of the events that night. The police were not in desperate need of a witness - they had already interviewed the neighbour, who provided an account of the entire altercation. Then, when Ted arrived, he told them who did it - Mervyn Bell - and provided police with information on the perpetrator. With all this information, why did police need to interrogate a clearly traumatised victim of violence to obtain her account (Hill, 2019, p.307)?

Tamica stated:

I was completely battered and bruised, he hit me all over the head and everything. So yeah, I didn't want to talk to police. I just wanted him charged, and for me to get in the car and go home. (Hill, 2019, p.307).

But police insisted that Tamica explain what had happened. Increasingly distressed and agitated, she spat at one of the officers, Constable Paul Moore. Moore lunged at Ms Mullaley, who was holding her baby. Ted then took the baby off her and gave it to a female officer and tried to protect his daughter. Tamica fled from the police, who chased her around her father's ute, and as she tripped over, Moore pinned her to the ground with his knee against her back. In the events that ensued, Ms Mullaley escaped to the safety of her father's ute, locking the doors, but was restrained once again after the police smashed the windows with their batons. She was then thrown into the back of a paddy wagon (Hill, 2019, p.307).

As Ms Mullaley's Auntie, Kathleen Pinkerton, explains, "She wasn't being a good victim. She wasn't standing there in the sheet, dripping in blood, trying to control all this emotion that was going on with her" (Brown, 2021). Tamica was traumatised, terrified and severely injured. All she wanted at that moment was her dad, but the police refused to let her be with him.

Police then indicated that they were taking Tamica to the police station and not the hospital. When Ted initially asked for an ambulance to be called, he was told that an ambulance would not come, and was provided with no further explanation. It took much begging from her father for them to agree to take her to hospital - in handcuffs (Collard, 2020). Tamica was suffering from a lacerated kidney, bruised spleen and internal bleeding. Had she not received the urgent medical attention that Mr Mullaley had to beg for, doctors explained, she would have died (Hill, 2019, p.308).

During the altercation with police, Mr Mullaley had asked that a female officer look after the baby, but they refused. Instead, the child was placed in the care of the neighbours - Bell's cousin and his family. When Mr Mullaley followed them to the hospital, baby Charlie was left with the neighbours (Bath, 2022). Thirty minutes after the police and Mr Mullaley had left, Bell returned to his cousin Lyndon's residence and claimed that he would take Charlie to Mr Mullaley. An hour later, when Ted Mullaley arrived back at Lyndon's house to collect the child, Charlie was gone. He was informed that Bell had taken him (NJP, 2021).

Ted Mullaley rushed back to the hospital to speak to an officer. In a panic, he explained to the officer that Charlie had been taken. The officer informed him that they did not have any resources to investigate this, as one of their two cars was there at the hospital monitoring Ms Mullaley, and the other was "back at the station doing business". The "business" in question was writing up charges against Tamica for

assault, and Ted, for hindering police. (Bath, 2022). While Charlie's life was at serious and imminent risk, abducted by the violent Mervyn Bell and both their whereabouts unknown, the police were preoccupied with arresting and charging Tamica and Ted Mullaley.

In the hours that followed, Ted Mullaley went to the Broome police station several times and repeatedly called 000, telling them Bell had threatened to kill the baby and asking them to search for the child (Menagh, et al., 2020). When Mr Mullaley first arrived at the station, his concerns were, once again, ignored. Mullaley was instantly met with prejudice by an officer who described him as smelling of alcohol and "who knows what else", being aggressive and irrational and seeming more concerned about his vehicle than his grandchild, as Bell was driving one of his cars (Hill, 2019, p.309). An inquiry later confirmed that these claims were entirely unfounded, with Ted explaining that in the eyes of this officer, he "was just another blackfella drunk" (Hill, 2019, p.309). The operator who Mullaley later spoke with on the phone relayed to the station that Mr Mullaley was "extremely concerned for his grandson", but his fears were persistently downplayed and disregarded (Allam, 2020).

Despite his pleas, the West Australian police failed to act or initiate a search for baby Charlie for over ten hours and threatened to arrest Ted if he continued calling 000 (NJP, 2021). During the 15 hours that followed, Mervyn Bell was observed by a number of members of the public as acting in an erratic and worrying manner. Witnesses reported that a man was carrying a limp baby, but the police still did not take action. These incidents were also reported to police in other jurisdictions, but, as no alert had been filed by Broome police at this time, they were never followed up (Pinkerton, 2022). When an alert was finally put out, authorities issued the wrong licence plate details for the car Bell was driving (Brown, 2021).

By the time Charlie had been found, Bell had had the baby for approximately 15 hours, in which he horrifically abused him before rushing his lifeless body to a roadhouse almost 1000 kilometres away from Charlie's home (Menagh, et al., 2020). Baby Charlie was found with injuries from his head to his feet, including broken bones, third-degree burns, internal bleeding and severe lacerations. His genitals had also been severely injured (Brown, 2021).

In 2014, Bell was found guilty of the rape and murder of ten-month-old Charlie Mullaley. In 2015, Bell committed suicide in prison (Wahlquist, 2015).

Despite the unimaginable trauma the father and daughter had been through, barely a month later they were back in court. The police had decided to follow through and charged Tamica with assault and Ted for obstructing police on the night of Charlie's abduction. They were both found guilty. Tamica was found guilty as, according to the Magistrate, she was "in control of her senses" (Hill, 2019, p.315).

Hannah McGlade states:

His reasoning was nonsensical, referring to Tamica being worried her baby would see her bloodied and injured...This finding by the Magistrate reaffirms the police behaviour and their inherently racist conduct that failed to recognise and respect her as a victim of a violent assault. (McGlade, 2021)

While Charlie's killer, Mervyn Bell has been convicted and 'justice' has been served in the conventional sense, the Mullaley family is still fighting passionately and relentlessly for justice from a broken system that refused to hear their voices. The police had committed more effort and time in prosecuting Tamica and her father than they did in finding her baby boy - invaluable time that could have prevented his death.

Addressing the media outside the court, Tamica Mullaley stated:

They never looked for Charlie at all, and the police need to be accountable for not looking for him. They could have looked for him and he'd still be alive. It's all wrong, but this is the law and this is how things work. (Parke, 2015)

When Mervyn Bell was found guilty, the judge deemed it an "evil" crime that "shocked the public conscience" (Menagh et al., 2020). In reality, what happened to Charlie and his mother barely left a mark on the Australian psyche. While his case has received more attention in recent years - particularly following the case of Cleo Smith - at the time of his death, Charlie received little media coverage. While Charlie was murdered in 2013, there were only six Google search results for articles that mentioned him, up until 2015. All of these articles were written in 2014, the year after Charlie's death, when Mervyn Bell was sentenced and generally focused on this. Similarly, in 2015 only six news articles were written. This was the year when Bell committed suicide in prison, and all but one article were centered around this. An article by *Mammamia* pointed out that while Cleo Smith had 70 million Google hits in media mentions, Charlie had only six thousand (Bath, 2022).

As Hannah states in her book, *Mapping Deathscapes*, “Tamica and Charlie’s case was so shocking, and should have gained national media attention, but it did not, and received little public attention” (McGlade, 2021).

Watching the extensive and dedicated police resources and publicity missing girl Cleo Smith received was particularly painful for the Mullaley family, who did not receive anything remotely similar (Wellington, et al., 2021).

Dr Melissa Razuki of the National Justice Project highlighted the devastating inconsistencies in how the two cases were approached in the vital initial 24-hour period. Razuki observed:

There were over 100 police looking for Cleo, there was a million dollar reward, and then, within sort of another 12 hours, Scott Morrison was saying that the AFP were going to use all sorts of secret satellites to find this child. When Charlie went missing, the police wouldn’t even look... and even when Ted said, ‘you can track him, he’s got a phone’, they said, ‘it’s going to cost us \$800 to do a track’. (Bath, 2022)

Even when Ted said he was happy to pay, the officer refused, insisting it would take too long. “If they had tracked the phone and located the car, they would have found Charlie and his abductor, and he might be alive today,” Dr Razuki stressed (Bath, 2022).

Explaining the racial disparities highlighted by these two cases, Tamica’s Auntie, Kathleen Pinkerton stated:

We’re happy that we’ve got police to do that, but we’re also unhappy that they don’t seem to do it for every child that’s missing and particularly Aboriginal children. That’s the reason they didn’t look for Charlie - we think it’s because they straightaway profiled my brother and my niece. (Bath, 2022)

This racial profiling was clearly observable at numerous points during this case. However authorities still refuse to take any accountability or admit that racism played a role.

Following the Cleo Smith case, academics, journalists and social media users alike have utilised the spotlight on missing children to bring attention to Charlie’s case. Under a Facebook post by *Stand Up, Speak Out*, about Charlie Mullaley’s case, one user commented, “And hardly any media coverage of this at the time... Why are we

only hearing about this 8 years later?” Bundjalung human rights advocate, Nessa Turnbull-Roberts tweeted more broadly about the lack of attention directed towards missing Indigenous children, as highlighted by the Cleo Smith case.

Turnbull-Roberts tweeted:

Happy that Cleo was found, but where is the same energy for Blak children missing. Where’s the advocacy? Advertisements? Response?...A yt child goes missing, funds are raised, media is keeping tabs and reporting everyday, state detective units provide the epitome of care and response. But if you are a Blak child! Silence (@TurnbullVanessa, 2021).

Speaking to *Mammamia*, National Justice Project CEO, George Newhouse explained:

If you’re a white baby and you’re abducted, everyone knows your name. People know Cleo’s name, they know the Beaumont children. But I challenge people to name the Bowraville children who were murdered, and no one outside of the Indigenous community in WA have even generally heard of baby Charlie. (Bath, 2022)

Nine years later, a survey conducted alongside this report found that, as suggested by Mr Newhouse, nearly 85% of respondents do not recognise Charlie Mullaley at all. Over 74% of respondents recognised Cleo Smith to some degree. Similarly, 83% of respondents recognised William Tyrrell, who went missing just over one year later, to some degree.

In April 2016, Western Australia’s Corruption and Crime Commission (CCC) investigated the response of Broome police to the abduction of Charlie Mullaley. While it concluded that several police failures that night had contributed to a delayed and ineffective response, it stated that those failures did not justify a finding of serious police misconduct. “Whether a more rapid response may have saved Charlie is impossible to know”, the report found, “but it is important to recognise that Bell alone was responsible for Charlie’s fate” (Banks et al., 2016).

Dr Hannah McGlade, a Noongar human rights advocate and lawyer criticised the CCC’s findings, highlighting that, although it acknowledged there were police failures, it also stated that Tamica Mullaley was “unco-operative and aggressive, which contributed to the failure” (CCC, 2016). In this section of the report, the blame is effectively laid on Tamica for preventing officers from establishing who assaulted her, which “impacted on the actions of police who attended subsequently (McGlade,

2021)". Dr McGlade states that the CCC "are also keen to find that Mervyn Bell was the person solely responsible for Charlie's murder, exonerating the police of any real responsibility" (McGlade, 2021).

The Mullaley family was incredibly disappointed with the findings of the CCC and, in 2019, took their fight to the Western Australia Supreme Court, applying for an inquest on the grounds that Charlie's death was caused or contributed to by an action of a member of the police force (NJP, 2021).

In 2020, however, this was denied, when a judge found it was "not necessary or desirable in the interests of justice" for an inquest to be held (Collard, 2020).

In 2022, Tamica's Aunty, Kathleen Pinkerton and the National Justice Project launched a petition asking the WA Attorney General and Premier for three things; a coronial inquest or parliamentary inquiry into the way the WA police failed Tamica, Ted and Charlie; a meeting with the Attorney-General; and an investigation into how the Crime and Corruption Commission failed to focus on why WA police did not ensure Charlie's safety (Pinkerton, 2022). The Mullaley family have managed to make progress in their fight for justice, with the Attorney-General, the ministers for police and women, and the Children's Commissioner for Victims of Crime agreeing to meet with them (Bath, 2022).

When Hannah Clarke and her precious children were brutally murdered by her ex-partner, there was, appropriately, national outrage and mourning. Their deaths put coercive control and domestic violence in the spotlight (e.g. AAP, 2022; Noble, 2022). A stream of articles were written about 'failures in our system', including the fact that police lacked proper training to deal with domestic violence and that domestic violence orders are often ineffective and aren't enforced consistently by the courts (e.g. AAP, 2022; Gleeson, 2020; Smee, 2020). Government, media, community groups and the justice system mobilised, and nationally there was a strong felt need to do something to honour these young lives lost and prevent such an atrocity from ever occurring again. Real, important, and positive change has occurred, such as critical new laws regarding coercive control that have subsequently come into being (Noble, 2022). Yet when Tamica was brutalised in the street by Bell in the presence of baby Charlie, there was no such horror or outrage. And when Charlie was taken by this violent, enraged man, no one outside of his family showed any concern about his safety, despite the clear and present danger to this defenceless, precious baby boy. When that little boy was brutalised in ways that

are unbearable to even contemplate for a moment, a nation did not cry out and declare this must never happen again. And the authorities charged with the responsibility of keeping our children safe were allowed to fully abdicate that responsibility, with barely a murmur from the media or the public. This callous disregard for the life of this young woman and her baby is shocking, incomprehensible and, at the same time, tragically all too common an experience for Indigenous victims of crime.

There exists a deep-rooted mistrust between Indigenous people and the police. In order to ensure the safety of Indigenous women and women, the police and justice system need to work passionately to slowly restore this trust, through words and actions. Instead, at this time, the concerns of Indigenous women continue to be ignored. When Indigenous women come into contact with police as victims, too often, they end up being blamed for their lot or are themselves labeled a perpetrator. And, time and time again, the police refuse to acknowledge any wrongdoing. As a result, many Indigenous women remain hesitant to seek the “help” of authorities, at times with utterly devastating consequences for these women and the vulnerable children in their care.

### ***Queenie Hart: 'Black justice' and the power of the media***

Queenie Hart was a quiet, modest and happy-go-lucky Wakka Wakka woman. A traveller, member of the Murgon Impara's marching team with an interest in fashion, she loved and was loved by her Cherbourg community. She loved children, but Queenie would never get the chance to have her own (McQuire, 2021). In 1975, when Queenie was just 28 years old, she was brutally assaulted and left alone to die. Nearly 50 years on, she and her family have still not received justice, in the traditional sense, and they never will. However, her case serves as a prime example of the power and importance of the media in achieving a form of justice.

On April 19th, 1975, a fisherman discovered Ms Hart's body caught in the mangroves on the riverbank at Lakes Creek in Rockhampton. She was naked and had been sexually assaulted, with reeds and sticks jammed in her genitals. Two blouses and a long white slip Queenie had been wearing were gathered around her neck and shoulders. Her slip had been knotted twice around her arms just below the shoulders, making it impossible to move. A post-mortem determined her cause of death as drowning (Doneman & Eeles, 2021).

Born and living under the oppressive weight of the protection period, Queenie was controlled in her life and after her death. The *Aboriginals Protection and Restriction of the Sale of Opium Act (1897)*, gave authorities immense control over almost every aspect of the lives of Aboriginal and Torres Strait Islander peoples in Queensland (SLQ, 2019). The Act stripped many Indigenous people of their basic freedoms in relation to movement and labour, custody of their children and control over personal property (Australians Together, 2018). Superintendents were appointed to many Indigenous communities, including the Hart family's Cherbourg community, to carry out the provisions of the Act (SLQ, 2019). This Act restricted their economic freedoms, with the wages of Aboriginal and Torres Strait Islander workers paid to the superintendent (Stolen Wages, 2016). This denial of access to wages for Indigenous peoples is now known as the Stolen Wages.

Queenie Hart had travelled to Rockhampton where she died, 500 kilometres from her Cherbourg home. All Queenie's mother, Janey Hart, wanted was to bring her daughter back home to be buried on Country, but she was denied this by these oppressive colonial policies (Stünzner, 2021). Queenie's cousin, Lewis Orcher had been forced off the mission because he refused to work for free. When he tried to return to visit Janey Hart, he was escorted off the mission by police. Janey wanted to use her pension to pay for Queenie to be brought home, so Mr Orcher went to the bureaucrats in Cherbourg and asked for permission to access the fund, but they refused. Lewis then offered to pay, but the authorities still denied the request to have Queenie returned to Cherbourg for burial (McQuire, 2021).

Instead, her mother was granted permission only to attend a small funeral ceremony in Rockhampton. "Very few people were able to go to the funeral," Lewis Orcher said. If it had been held in Cherbourg, he explained, "three-quarters of the settlement would have turned out to the funeral" (McQuire, 2021). Queenie was buried in Rockhampton in an unmarked grave, alone. There was no headstone, no flowers, no memorabilia, "no words to say she had died, or that she had lived (McQuire, 2021). Just grass and dirt - Country that was not hers. Janey Hart died in 1983 and would never see her daughter returned to her (Stünzner, 2021). Queenie's eight siblings, as well as her mum and dad are all buried in a plot in Cherbourg cemetery. Queenie was the only one who was buried alone (McQuire, 2021).

Queenie Hart was last seen on the night of her death with a man named Steven Henry Kiem, who claimed this was the first time they had met. They had been drinking at Victoria Hotel and left at 9 pm, taking a taxi from the pub to Lakes Creek Road. Kiem was later arrested and charged with the murder of Ms Hart (Doneman & Eeles, 2021).

The case went to trial in the Rockhampton Supreme Court in late August that year. The defence immediately attempted to determine how the prosecution case claimed Kiem caused Queenie to drown (Doneman & Eeles, 2021). During legal arguments which continued in the absence of the jury, Kiem admitted to violating Hart's genitals with sticks and reeds after what he claimed was consensual sex. He also admitted to having tied Queenie's arms behind her back, saying he had done so to prevent her from injuring herself (Doneman, 2020). Ms Hart was crying out for help as Kiem left to apparently call for an ambulance, yet he never returned or called the ambulance (Doneman & Eeles, 2021).

On the first day of the trial, the murder charge against Kiem was dropped after the judge ruled a jury could not be satisfied beyond a reasonable doubt that he was responsible in any way for Hart drowning (Doneman, 2020).

Her case was reviewed several times with no further evidence produced to reopen the investigation or trigger double-jeopardy laws for Kiem to be retried for murder (Doneman, 2021).

Queenie's murder remains unsolved. Steven Kiem died in 2019, and as he was the only suspect, police confirmed they had closed the cold case into her death in late 2021. Queensland Police Service Assistant Commissioner Mike Condon explained:

When considering the evidence that's available and was available at the time, the decision made by the presiding judge, the fact that the suspect, Steven Kiem, is deceased — my view is that the file would be classed as inactive and no further action be taken... The reality is, all our opportunities have been extinguished... particularly by the death of Kiem and the fact that the evidence at the time was presented to the presiding judge...Clearly, there were a lot of loose ends the prosecution couldn't tie up to ensure that a strong case [could] go to court. (Doneman, 2021)

Mr Condon also commented on the critical evidence that was Kiem's admission to tying up and sexually violating Ms Hart, which was heard in the absence of the jury, stating that this was "something that the jury should have heard at the time" (Doneman, 2021).

As in so many of these cases, the grief and pain experienced by Ms Hart's family following her death was compounded by the ways in which the media reported on her murder. The coverage was not based on the fact that a beloved member of the community had been lost - that someone had lost their precious life - but on a graphic and voyeuristic description of her injuries. Newspaper reports called her "coloured" and "dark" and she was labelled a prostitute, despite there being no evidence to suggest that she was a sex worker (McQuire, 2021). Through these descriptions, Queenie was effectively blamed for her own death, accused of placing herself in a position of vulnerability by working in an industry that she was not even part of. By placing this label on Queenie, she was reduced to this perception of her sexuality, perhaps in an attempt to downplay the seriousness of and justify Kiem's sexual violence towards her. This label, frequently used to dehumanise, degrade and justify acts of violence against Indigenous women, is reflective of colonial attitudes and actions through which Indigenous women were treated as sexual objects to be exploited by white men. In colonial times, Indigenous women were reduced to their sexuality, referred to as 'gins', and the white men who had sex with them, 'gin jockeys' (Phillips, 2016). Even if Queenie were a sex worker, this would not in any way excuse Kiem's violence. People who were close to Queenie were incredibly distressed and upset by this coverage of Queenie's death, which was not at all reflective of the woman they knew.

Her cousin, Lewis Orcher said:

The way they described her, as a prostitute could not be further from the truth...It was very damaging and completely out of left field... She's not going to sell her body for a beer, that's not the Queenie that I knew...I felt what they were doing to Queenie was victim blaming. That is one of the things that really hurts, even now when I think about it, it's really a gross injustice. The final indignity of someone who has been grossly murdered. It's like well you deserve it, you're a prostitute (McQuire, 2021).

Since these initial reports, Ms Hart has been forgotten by the media and, indeed, the broader community. Following a 2019 Seven News podcast about the death of Margaret Kirstenfeldt, who is believed to have also been killed by Steven Kiem, the first two online articles were written about Queenie Hart. Both of these reports were inadequate, not focusing on Queenie as a person, or even as an individual case, but only in terms of her relevance to Kirstenfeldt's case. These articles looked at Queenie's death like a true-crime case, focusing on the trial, her injuries and Steven Kiem and his background, rather than Queenie as a person and the impact the denial of justice has had for her family. Of course these aspects of her death are important, however it is crucial to note that these were the first recent reports on her death and therefore played a critical role in determining the community response, which was minimal. This is interesting, as they had clearly done substantial research into her case and could have reported on it separately from Margaret Kirstenfeldt's case. Instead, they only addressed Queenie's death when it provided a basis for the theories surrounding Kirstenfeldt's death, humanising Margaret Kirstenfeldt and generally ignoring Queenie Hart, referring to Queenie as "a Rockhampton woman", while Margaret Kirstenfeldt was called "21-year-old Margaret Kirstenfeldt", despite the fact that they later stated they had permission to use Queenie's name (Doneman, 2020). These reports on the two women included a number of quotes from Ms Kirstenfeldt's sister, while only including a brief statement from Ms Hart's niece.

Due to the death of prime and lone suspect Steven Kiem, these issues with the trial and the fact that the case has now been closed, Queenie Hart's family has been denied justice in its traditional sense. After learning about the case, South Sea Islander and Darumbal journalist Amy McQuire stated that she "wondered what justice would look like in a case where there could be no 'justice' in a traditional sense" (McQuire, 2021). In 2021, Ms McQuire met with Queenie Hart's community, her family and friends and wrote a moving article detailing their battle to bring Queenie home. Her article was unique not only because it was one of the first articles written about Queenie, but also due to its distinct perspective, which humanised Queenie in a way that other articles had not done. Amy McQuire's article spoke not just about Queenie's death, but also about her life. Instead of allowing Queenie's case to be framed by her killer, the courts, and the media, and focusing primarily on her death - as in all previous reports - McQuire spoke to a number of people who were close to Queenie, including her childhood friend, her cousin and her niece, ensuring that she could be remembered for the woman that she truly was. As an Indigenous woman, Amy McQuire was also able to provide a personal and compassionate report,

explaining how her own heritage drew her to the case. McQuire stated, “For me, it’s been really important to ensure that we remember her the way her family wanted her to be remembered” (Stünzner, 2021). Amy McQuire organised a GoFundMe on behalf of Ms Hart’s niece, Debbie West, with the aim of raising \$20,000 to help bring Queenie Hart back home to Country. Her article on Queenie Hart received a massive community response and in less than one day of its publication, over \$23,000 was raised. While Queenie and her family have been denied justice in the eyes of the law, Ms McQuire’s work allowed for them to achieve what she calls ‘black justice’. “For Queenie’s family, black justice means bringing her home to Country to be with her family and her ancestors,” Amy explained (McQuire, 2021). Queenie’s niece, Debbie West stated, “We may never get justice, but our justice is getting her home to be buried with her family on her own Country, Wakka Wakka Country” (Stünzner, 2021). Although there have been no updates since, her family planned to have her remains exhumed from the unmarked grave and brought back home to Cherbourg at the end of October, where they planned to celebrate Queenie’s life, just months after the funds were raised (Doneman, 2021).

Amy McQuire’s devotion to the case of Queenie Hart demonstrates the power of the media to achieve justice and the importance of community awareness of such cases. Before Amy McQuire’s work, Ms Hart’s family felt they were the only ones who remembered her or who had even heard of her case. After her article was published, Queenie’s case received a compassionate response from the community, which saw funds raised in under a day, resulting in long-overdue justice after an almost fifty-year battle. Queenie has now been laid to rest on her Country, surrounded by her loved ones, and her family have finally been able to give her a proper send-off. Yet she has now, once again, been largely forgotten by the wider community. In the survey, over 84% of respondents did not recognise Queenie at all. Of those who did recognise her, under 2% recognised both her name and face. It is vital that we do not forget about these cases, even after justice has been served. This case communicates the horrific and devastating impacts of the protection period, which compounded the grief felt by the community after Queenie’s death, and denied justice for so many years. A valuable lesson can be learnt about the importance of the ways in which we report on such cases, and the responsibility that journalists have to frame cases in a way which focuses on the victims and their families, with the genuine aim of achieving justice for both.

***Lynette “Norma” Daley: Brutally murdered and failed by our media and justice system***

In 2011, Lynette Daley, a 33-year-old Bundjalung woman, was killed in a brutal sexual assault on a secluded New South Wales beach (Sainty, 2020). Ms Daley was left to bleed out on the beach after she was repeatedly and vigorously sexually assaulted by two men, Adrian Attwater and Paul Maris while on an Australia Day camping trip (AAP, 2017). The two men lied about what happened to her and attempted to cover up her death, washing the blood off her body and burning a blood-stained mattress and her clothing. Hours after he assaulted her, at which point she had lost two litres of blood, Maris finally called an ambulance, but by the time it arrived, she was already dead. Justice Elizabeth Fullerton stated that Attwater’s “attitude to Ms Daley at the time of offending was one of callous disregard” (ABC, 2017).

Lynette’s murder was largely ignored initially, both by the media and the justice system. Despite a thorough police investigation in 2011 and the findings of a Coronial Inquest in 2014, which strongly recommended charges be laid, the Office of the Department of Public Prosecutions (DPP) chose not to prosecute the men (Ford, 2017). In 2012, the DPP dropped Ms Daley’s case without reasoning and chose again not to proceed with the case in 2014 after the inquest. In her 2018 essay, ‘For Her, We Must’, Professor Marcia Langton stated, “The state prosecutor is required to take account of community standards, and his refusal to prosecute in 2011 reflected public acceptance of violence against Aboriginal women” (Langton, 2018).

Prior to 2016, when a Four Corners report thrust Lynette’s case into the national spotlight, the case received no more mainstream media coverage than local NSW headlines (Hart & Gilbertson, 2018). During this five-year period, only three articles were published online about her case, the last written just over a year after her death and the period after this was marked by media silence. Ms Daley’s case has been contrasted against the murder of white woman Jill Meagher, who made international headlines after her 2012 sexual assault and murder. In the year following Ms Meagher’s death, nearly 1,000 articles were published online about her. While Jill Meagher was an Irish woman living in Australia and therefore received media coverage in both countries, when filtered for Australian articles only, she still received nearly 400 reports.

Whilst there remained a very significant disparity in the quantity of media reporting on each, the Lynette Daley case did eventually appear in mainstream Australian

media. In May 2016, the case was brought to the attention of the public in a Four Corners' investigative report (Four Corners, 2016). The report highlighted the violence of the perpetrators and the systemic injustice in the failure of the State to resolve the case. By centering the perspective of Daley's family, as well as the critical perspective of experts, the report presented a salient account of racial and gendered injustice (Hart & Gilbertson, 2018). This report prompted a massive community response, with many taking to social media to express their shock, disgust and frustration about the way the case was handled. "The system failed Lynette Daley and her family terribly. #4Corners" stated NITV reporter, Karen Michelmore, via Twitter (@K\_Michelmore, 2016). "Compare the public's response to Jill Meagher's death and the prosecution of her killer with what happened to Lynette Daley", tweeted Lauren Ingram. Ms Ingram called for an investigation into the actions of the DPP, stating "The DPP has declined to prosecute the killers of Lynette Daley TWICE. A full investigation should be launched as to why #4Corners" (@laureningram, 2016). Susie Cunningham tweeted, "These blokes surely must be brought to justice for Lynette Daley's death. What a disgusting case of human depravity. @4corners #4Corners" (@SusieCunningh87, 2016). Many also used the hashtag "#JusticeForNorma", using her nickname. Within days of the report, a crowdfunding page was created to support Lynette's parents, along with her seven children and a petition "demanding answers" was set up, receiving almost 68,000 signatures (North, 2016).

Following this immediate and enormous community response prompted by the Four Corners report, the NSW Office of the Department of Public Prosecutions (ODPP) announced an independent review of Lynette Daley's case, just two days after it aired.

In a media release from the ODPP, the Director of Public Prosecutions, Lloyd Babb, stated:

Recent media reports have raised questions about my Office's decision not to prosecute following the tragic death of Lynette Daley... It is appropriate that I review the matter to determine whether the correct decision was made.

(North, 2016)

Following the independent review, just over a month later, Adrian Attwater and Paul Maris were charged over Lynette Daley's death. Attwater was charged with manslaughter and aggravated sexual assault, and Maris, with an accessory after the fact to manslaughter and aggravated sexual assault (ABC, 2017). In September of 2017,

Attwater and Maris were both found guilty by a jury in a decision returned in just 32 minutes (Ford, 2017).

While this newfound media coverage led to justice for Ms Daley and her family, with this increased presence of Ms Daley's case in the media, the disparities between the ways in which Lynette Daley's case and white cases were reported, such as that of Jill Meagher, became disturbingly clear.

Many authors have argued that news media crime narratives promise women protection within the broader community "if they comply with dominant imperatives of what constitutes 'goodness'" (Cripps, 2021). If a woman's experiences of crime do not fit the ideal 'good woman' type, then it is likely that her experience will be narrated through stereotypes focusing on her sexuality and/ or inept mothering. This focus has the effect of diminishing not only the narrative of her victimhood but also her worth by inscribing that she somehow had agency or was blameworthy for her victimhood (Cripps, 2021). The cruel and detached media coverage that ensued and, indeed, the previous lack of media coverage and hesitance to prosecute can, in part, be attributed to the fact that Lynette Daley did not fit the criteria of an 'ideal victim' (Schwobel-Patel, 2015). Namely, three out of the five criteria were certainly not met: she was not carrying out a 'respectable project', she could be blamed for where she was, as she had voluntarily gone on this trip, and the offenders both had a personal relationship with her. These factors not only influenced the media coverage she received, but the media coverage exaggerated these ideas in order to shift the blame from Ms Daley's white attackers and onto herself. Similarly, irresponsible reporting on the part of a number of news outlets allowed Attwater and Maris to construct an image of Ms Daley that determined the public's perception of her as a person, and as a victim.

Jill Meagher, however, did fit these ideal victim criteria. Most notably, she had no personal relationship to the offender and could not be blamed for where she was. Ms Meagher was abducted off the street and dragged into a lane, assaulted and murdered by a man she had never met (Sutton, 2017). An article that analyses Jill's 'final walk' exemplifies this perception of blamelessness, stating that it set out to find out "how a smart and capable young woman could step out onto a well-lit city street for a 700m walk, never to make it home" (Sutton, 2017).

The media coverage received by each woman was governed by their perceived ability to assimilate into dominant forms of femininity. Jiwani and Young argue that the

presumed inability of Indigenous women to assimilate into such ideals often leads to them being held responsible for the violence they suffer (Jiwani, 2014; Jiwani & Young, 2006). Cripps (2021) argues that this reaffirms “the notion that, because Indigenous women do not fit an ‘ideal good woman’ type, their victimhood is less newsworthy”.

Morse argues that the performative role of media gives meaning to death and constructs it as grievable (Morse, 2018, p. 243). Through the framing of stories, the news media provides a demonstration of something meaningful and valuable being lost. Lynette Daley was described as someone who “simply had ‘no direction’”, which rendered her life non-grievable (Robertson, 2016). Jill Meagher, conversely, was described as having “a very bright future in front of her” (Independent.Ie, 2012). The use of such language communicates whether the reader is to feel that something meaningful and valuable has been lost, or whether the victim was just another ‘disposable outsider (Tucker, 2016)’.

An analysis on the media coverage in this case found marked disparities in the use of language and its connotations between Ms Daley and Ms Meagher’s cases (Hart & Gilbertson, 2018). The keyword ‘mother’ was routinely used to mark Ms Daley as, for example, a ‘young mother’ and a ‘mother of seven’. Jill Meagher was depicted as a future mother, and thus a tragic loss. Connor (2007) has proposed that the spectacle of Aboriginal maternity as abject and failing, has played, and continues to play “a significant role in... the articulation of racial difference and the assignation of racial hierarchy”. The term ‘mother’ often appeared in the context of intoxication, for example, the headline “‘Drunk’ mother, 33, died after a ‘wild sex session’” (AAP, 2017) or the detail provided that “the mother-of-seven was also found to have taken methylamphetamine”.

The media displayed damaging irresponsibility in its reporting of the case, allowing the voices of the perpetrators to construct an image of Lynette Daley and the events of her death, rather than her family members or experts such as the forensic pathologist who determined her cause of death. The term ‘wild sex’ - how Attwater had described the sexual assault - was frequently quoted, but only directly referenced as a claim 55% of the time, and otherwise appeared as though it were an accurate description of what had happened the night Ms Daley was killed (Hart & Gilbertson 2018). Terms such as ‘wild sex’ and ‘sex session’ were often used uncontextually in sensationalist headlines and, even after Adrian Attwater was found guilty of aggravated sexual assault, articles frequently stated that Ms Daley died “after

having rough sex”, rather than that she died after a violent sexual assault. The keyword ‘consensual’ was repeatedly used to frame violence, with explanations that the perpetrators ‘claimed’ or ‘maintained’ they had engaged in ‘consensual’ sex. This detail was never prefaced with, and very rarely followed by the fact that, regardless of any claim, forensic pathologists determined that Ms Daley’s level of intoxication meant that consent would have been impossible. In such instances, the media allowed the voices of the perpetrators to speak over the critical findings of experts, calling into question Attwater and Maris’ guilt and, therefore, Ms Daley’s victimhood.

Additionally, Adrian Attwater claimed to be Lynette’s boyfriend, something her family does not believe, yet one in five articles stated this as fact, emphasising the idea that Ms Daley not only knew Attwater, but that she knew him intimately.

It was also noted that “the presence of the two men, and their position in ending Daley’s life was effaced through routine passive use of the words ‘death’ or ‘died’ to propose that rather than ‘killed’, Daley ‘died from’ or ‘of’ ‘blunt force genital tract trauma’, ‘injuries’, or ‘blood loss’”

Hart and Gilbertson explained that:

By emphasising their claims that ‘consensual’ ‘wild sex’ had occurred (rather than violent sexual assault or rape), and consequently that Daley ‘died’ (rather than was killed) violence was effaced throughout the vast majority of coverage. (Hart & Gilbertson, 2018)

Thus, in the coverage of this case, victimisation is itself altogether denied and erased, evoking Butler’s important assertion that for those who are regulated to the outskirts of the ‘normatively human’; ‘violence leaves a mark that is no mark’ (Butler, 2003).

An article in *the Age*, titled “It could have been any one of us” (Wells, 2012) unknowingly captured the key distinction between the cases of Jill Meagher and Lynette Daley. Essentially, when white society looks at Lynette Daley’s case, there is not that same feeling of ‘it could have been me’ or ‘it could have been my daughter’. Jill Meagher was a young, conventionally attractive, white woman and the media and public struggled to comprehend how such an evil act could befall someone so undeserving, with such a bright future ahead of her. Yet as framed by the media, Lynette Daley - just four years older than Ms Meagher - was only ‘young’ in terms of being ‘a young mother of 7’. Descriptions of Ms Daley sought to further the racial divide in cases of violence against women, effectively portraying her as culpable in

her own death. The framing of her death against a backdrop of her personal experiences of alcohol and drug abuse and perceived inept mothering holds her responsible for, and deserving of, her own victimhood. The focus on such details evokes a less sympathetic and even indifferent response, having normalised violence as both expected and accepted as an experience that befalls Aboriginal women (Neely, 2015).

### ***Lessons We Must Learn***

Each and every Australian should be appalled and confronted to learn the stories of missing and murdered Indigenous women and children, and the history of colonialism upon which they are overlaid. Indeed, we cannot change the past, but each and every one of us has a responsibility to acknowledge it, own our shared or individual failings, and use this to support real change.

### ***What can we learn from the US?***

In the US, Grassroots Native-led efforts, particularly over the past five or six years, are starting to bring national attention to the issues of crime and violence that affect Indigenous people. In 2019, the Trump administration formed the Task Force on Missing and Murdered American Indians and Alaska Natives, which became known as Operation Lade Justice. In April 2021, Secretary of the Interior Deb Haaland, a member of the Pueblo of Laguna, created a Missing and Murdered Unit within the Bureau of Indian Affairs to improve collaborative efforts among law enforcement agencies. Previously, Haaland sponsored the Not Invisible Act in 2019 to improve intergovernmental coordination and consult with tribes to establish best practices to lessen the number of missing Indigenous people (see Golden, 2021). In October 2021, President Joe Biden proclaimed October 11 to be Indigenous People's Day, a day to acknowledge the atrocities of the colonisers and to recognise the ongoing contributions of Native people.

The Wyoming Missing and Murdered Indigenous Women report recommended adequate funding and resources to officers in Native American communities to combat this epidemic and further address systemic discrimination (Urban Indian Health Institute, 2021). Minnesota became the first state to implement a state office on

Indigenous people who have gone missing and been murdered, hoping to establish “statewide protocol for investigations” and appropriate allocation of resources for tribal law enforcement (Missing and Murdered Indigenous Women Taskforce, 2020).

### ***What can we learn from Canada?***

In 2016, the Canadian government launched an independent National Inquiry into Missing and Murdered Indigenous Women and Girls in response to repeated calls from survivors, Indigenous communities, and non-profit organisations to address the staggering rates of violence against Indigenous women (National Inquiry into Missing and Murdered Women and Girls, 2019). In its report published in 2019, the Inquiry concluded that the violence “amounts to a race-based genocide of Indigenous Peoples” (p. 50) that especially targets women, girls and members of the LGBTQ2S+ community and revealed that the root of this violence was the persistent and deliberate “violations of basic human and Indigenous rights” (p. 5). Testimony from family members and survivors attested to the impacts of multigenerational and intergenerational trauma and marginalisation in the form of poverty, insecure housing or homelessness, and barriers to education, employment, health care and cultural support. Experts argued that “specific colonial and patriarchal policies” displaced women from their traditional roles in communities and governance and diminished their status in society, leaving them vulnerable to violence (p. 175). The report concluded that the nation required transformative legal and social changes to resolve this crisis. The Commissioners framed their recommendations as ‘Calls for Justice’, and stated that they are legal imperatives, not optional recommendations. In total, the report made 231 individual Calls for Justice, addressed to all governments (federal, provincial, territorial, municipal, and Indigenous); media, academic institutions and artists; health service providers; transportation service providers and the hospitality industry; police services and justice system actors; Canadian law societies and bar associations; education institutions and authorities; Correctional Service Canada; and all Canadians (National Inquiry into Missing and Murdered Women and Girls, 2019).

However, the inquiry was criticised by families who felt unsupported by the process and claims of dysfunction arose after the resignation of key members of the commission (Bridges, 2021). Frustratingly, Indigenous advocates say that little has been done to address the problem.

Lynne Groulx, CEO of the Native Women's Association of Canada (NWAC) tweeted:

Almost three years after the National Inquiry into #MMIWG released their Final Report, we are still waiting on the concrete actions that must be taken outlined in the Calls for Justice (@groulx\_lynne, 2022).

In a powerful display of unity, communities hung red dresses on May 5th this year to symbolise the many Indigenous women and girls who have gone missing or been murdered in the past decades.

RoseAnne Archibald, national chief of the Assembly of First Nations in Canada tweeted:

I'm wearing red on #RedDressDay to remember all the #MMIWG and to honour their families and communities. I'm wearing red also because I continue to hold a vision of the future where our women and girls are protected and treated with dignity and respect always. (@ChiefRoseAnne, 2022).

In both Canada and the United States, May 5th has been observed, since 2017, as a National Day of Awareness for Missing Indigenous Women and Girls. In Australia, the first week of August is recognised as National Missing Persons Week and May 25th is commemorated across the globe as International Missing Children's Day, however there are no nationally recognised days to specifically acknowledge Indigenous missing persons. Observing such a day, or indeed a week, could provide one way to acknowledge the disproportionate rate at which Indigenous peoples are victims of violent crimes, drawing attention to the ongoing injustices that Indigenous people face in this country, while also focusing attention on the stories of these women, children, their families and communities.

### ***A National Task Force?***

Advocates have called upon the Australian Federal Government to establish a national task force to address the issue, as has been done in Canada and the United States. However, others such as Linda Burney have cautioned setting up such a task force before fully understanding the problem (Collard & Higgins, 2019). Instead, they have called for a Senate Inquiry, which is now scheduled for June 2022. The Senate Inquiry into Missing and Murdered First Nations Women and Children has a number

of critical objectives, including the investigation of the number of First Nations women and children who are missing and murdered, the identification of the systemic causes of all forms of violence against First Nations women and children, the identification of concrete and effective actions that can be taken to remove systemic causes of violence and increasing the safety of First Nations women and children and to investigate the ways in which they can be commemorated (APH, 2022).

It will be critical that any Australian Inquiry learns from the US and Canadian experience, drawing on strengths from these approaches and, where possible, avoiding the problems they have encountered.

### ***Data matters***

Over 30 years ago, the Royal Commission into Aboriginal Deaths in Custody (1991) highlighted the fact that inaccurate recording of Indigenous status carries potentially adverse implications for the individual involved, and that under-reporting of Indigenous status creates major obstacles to effective policy and planning. The Royal Commission ushered in the mandatory recording of Indigenous status in the criminal justice system. It is deeply concerning, then, that data provided by the various police forces regarding the identification of Indigenous status of missing and murdered women and young people remains incomplete, inconsistent, and therefore unreliable (e.g. Higgins & Collard, 2019; McFarlane, 2021).

In her extensive analysis of data on children and young people reported missing from out-of-home care in Australia, McFarlane (2021) observes:

Australian research into the Indigenous experience of going missing is very limited. Few studies appear to have utilised Indigenous researchers or explored community knowledge about Indigenous children who go missing. Predominantly white services and institutions have also not been as effective as they should be, including in conducting research into and responding to Indigenous people's experiences of going missing. (McFarlane, 2021, p. 56)

Improving the quality of Indigenous status identification across all relevant data sets must be a priority. Comprehensive information on Indigenous family violence is limited by under-reporting by victims, potentially due to the lack of culturally

appropriate services, language differences and lack of trust in police, and systemic changes are required to address this (Mitra-Kahn et al., 2016). We need nationally comparable data on violence against Indigenous persons and missing Indigenous persons cases from police, courts, health and welfare sources (AIHW, 2020). It is unacceptable that, in 2022, this is still not available.

Bringing to light the stories of Indigenous women and children through accurate, detailed and systematic data is an integral part of moving toward meaningful change that ends this epidemic of violence. The government and the justice system must support Indigenous researchers to utilise an approach similar to that described by the Urban Indian Health Institute (2018) in the US, which is “taking huge steps to decolonize data by reclaiming the Indigenous values of data collection, analysis, and research, for Indigenous people, by Indigenous people.” (p.23).

### ***Changing the culture of media***

In relation to Indigenous women in Canada, Gilchrist has argued that:

The systematic exclusion, trivialization, and marginalization of missing/murdered Aboriginal women can be described as symbolic annihilation. This symbolic annihilation contributes to Aboriginal women’s unequal treatment in other societal domains, further entrenching their marginalization in Canadian society (Gilchrist, 2010, p. 15).

The current examination of missing and murdered First Nations women and children demonstrates that this argument is, tragically and shockingly, very much relevant to the Australian context. As Gilchrist (2010) has called for the racial bias in the Canadian press to be “named, confronted, and dismantled - without further delay” so too must the racial bias in the Australian media (p. 15).

True acknowledgement of the devastating and ongoing impacts of colonialism requires substantial changes in the way that media reports on Indigenous stories. In her article “Why we need to educate journalists about Aboriginal women’s experience of family violence”, Brown (2016) investigated how Aboriginal family violence is reported by the Victorian print media. She reported that few articles mention possible determinants of Aboriginal family violence beyond alcohol or drug addiction. Less than 3% of articles about family violence included the reasons why

Aboriginal women enter and stay in violent relationships, as a legacy of colonisation and intergenerational trauma.

As Brown argues:

The complexity of a news story is important. We must understand that the disproportionate rate of violence experienced by Aboriginal women stems from a long history of intergenerational trauma. When the media portrays high levels of family violence as culturally inherent, stereotypes are reinforced and we may be more likely to accept the violence and less likely to report it. (Brown, 2016)

Brown (2016) observes that the complexity of news stories about Aboriginal family violence depends on the story's source, with more complex stories always having an Aboriginal-controlled community organisation as a source. She also makes a strong case that journalists need training in the ongoing impact of settler colonialism and its impacts in different communities.

The analysis above highlights the critical role played by the media in constructing our realities and determining how we engage with and react to the stories of victims. Use of language is a central determinant of our emotional responses to victims and it has been noted, time and again, that the language used to describe Indigenous victims is starkly different from the language used to describe non-Indigenous victims (e.g. see Gilchrist, 2010; Jiwani, 2009; Jiwani & Young, 2006). Cripps (2021) states that, while the families of victims may be able to counter, to a certain degree, the image of the victim as defined by the perpetrator and shared in court proceedings, they are placed in a position where they must effectively compete against the media, the justice system and the perpetrators, who have the power to reinforce the Aboriginal violence 'template'. This template constructs Indigenous people as deserving of the violence that befalls them. All too often, reporting maintains a linear focus on the crime and criminal proceedings, rather than making any genuine attempt to personify the victim and share their story. The focus on the victim's responsibility for their vulnerability shifts responsibility and attention away from the perpetrator. Cripps (2021) calls for reform of the media's engagement in cases of murdered Indigenous women "to achieve a reimagined justice where Aboriginal women's lives are valued and respected as victims of crime" (p. 300).

### ***Challenging Cognitive Biases***

There exists a plethora of cognitive biases which influence the way media reports on and society responds to cases of violence against Indigenous people, and their perceptions of Indigenous people in general. Even the most balanced and reputable media is not without bias, and many news sources display a strong and explicit bias. In the digital world, the media, entertainment and advertisement sectors have a high level of responsibility, with an ability to either disrupt these biases, or reinforce them. The prevalence and influence of cognitive biases can be combated through acknowledgement and action, although they can likely never realistically be removed entirely. This points to a real need for changes across these sectors. While there are many measures that can be taken by news organisations, arguably, the most effective is to put Indigenous reporters and journalists at the forefront of their own stories. These harmful narratives need to be disrupted.

The mere exposure effect is a psychological phenomenon by which people tend to develop a preference for things simply because they are familiar with them. This bias strongly supports the need for increased diversity in media representation and the positive portrayal of Indigenous peoples in the media. This bias is prevalent in society due to the narrow demographic of people portrayed in the media, and assists in reinforcing all of the above biases and psychosocial phenomena. As a result, people are raised to have deep-rooted prejudices that may be difficult to disrupt later in life.

As it is virtually inevitable that a child growing up in a non-Indigenous family, in a predominantly non-Indigenous community will be primarily exposed to non-Indigenous people and may have limited contact with Indigenous people, this simply intensifies the role and responsibility of the media in shaping attitudes towards race. Therefore, it is incredibly important that mainstream media sources portray Indigenous people in a balanced, positive and representative manner as, for many people, this may be the only 'contact' in life they have with Indigenous people.

### ***Indigenous Responses***

With a lack of committed government action in the missing and murdered persons crisis, Indigenous communities in the United States, Canada and Australia have taken

to establishing their own organisations to support and protect their own communities and to spread awareness to and educate broader society.

The Native American-led initiative “Not Our Native Daughters” was created to provide education about and increase awareness of the missing, exploited and murdered Indigenous Women & Children in the US. It currently plays a key role in legislative work (Not Our Native Daughters, 2018).

In Canada, the organisation “It Starts With Us” is a partnership between the organisations, “No More Silence”, “The Native Youth Sexual Health Network” and “Families of Sisters In Spirit”. It is a database that documents Indigenous women, Two-Spirit and Trans people who have gone missing, or died as a result of violence. Its purpose is “to honour our women and provide family members with a way to document their loved ones passing while asserting community control of our own record-keeping” (It Starts With Us, 2017).

In Australia, with the lack of data or awareness surrounding these issues, there are few services such as these that provide resources to educate the broader community or to document these injustices. Despite this, there are a range of organisations established and led by Indigenous communities to support Indigenous women and children who are victims of violence, and provide support to the families of missing and murdered Indigenous women and children.

In New South Wales, Wirringa Baiya is an Aboriginal Women’s legal centre which provides Indigenous women and children with a culturally-sensitive and gender-specific service and provides female Indigenous survivors of violence with access to appropriate legal representation, advocacy, advice and referral (Wirringa Baiya, 2022).

The Tangentyere Women's Family Safety Group is an Alice Springs service working in the area of early intervention and primary prevention of family and domestic violence. This work is done through training women in family and domestic violence for family safety, supporting Aboriginal Women’s voices and views on the issues of family and domestic violence through advocacy, activism, publicity, promotion and networking, and resource development (Tangentyere Family Violence Prevention Program, 2018).

These two services, and many others like them, allow for early intervention and prevention of the escalation of domestic violence. This is absolutely vital in

combatting the missing and murdered Indigenous women and children crisis, as the majority of homicides occur at the hands of a family member or intimate partner.

The South Australian organisation, Nunkuwarrin Yunti operates with the purpose of continuing to “lead the way in the design and delivery of contemporary culturally based health and social and emotional wellbeing services to build a healthy Aboriginal and Torres Strait Islander community”. The organisation offers a service known as ‘link-up’, which provides family tracing, reunion and counselling services to Aboriginal and Torres Strait Islander people and their families who have been separated under the past policies and practices of the Australian Government. Assistance is also provided to people over the age of 18 years who have been adopted, fostered or raised in institutions. The organisation notes that it does not exist to locate missing persons, however it works to provide justice for families who have been affected by past policies of the Australian Government (Nunkuwarrin Yunti, 2016).

Organisations such as these, that are led by Indigenous peoples, are able to provide services to members of the community in a way that is sensitive, compassionate and culturally conscious. It is therefore critical that government funding is provided for these services to continue their work, and that members of the community are made aware of the resources and support systems available to them.

As Professor Marriott has observed in relation to confronting research on the rates of homicides of Indigenous mothers, the reality is that many young Aboriginal women had no one to help them in a crisis. Moreover, they also needed more support services throughout their lives, embedded within their communities and culture. She explained:

The culturally safe birthing experience, culturally safe and secure child health experience, schooling that values your cultural identity and strengthens your cultural identity and through to the choices that you make around your aspirations supporting young people more to have greater aspirations in life. (Marriott, quoted in Griffiths, 2016).

Fredericks et al. (2022) discuss how First Nations people are increasingly turning to social media to illuminate the role of colonialism in the continued oppression of Aboriginal and Torres Strait Islander people and communities. They state:

In doing so, Indigenous people are disrupting what we call the ‘colonial algorithms’ that shape misguided perceptions of Indigenous people and identities. Analysing Indigenous use of social media and centring our discussion around several Indigenous-led online campaigns, we demonstrate how online platforms are bringing an array of social issues to light in ways that privilege Indigenous voices and perspectives, ultimately disrupting and shifting oppressive colonial algorithms (Fredericks et al., 2022, p.158).

### ***Acknowledging the devastating and ongoing impacts of colonialism***

For progress to occur, all Australian governments, institutions and communities must acknowledge the devastating and ongoing impacts of colonialism. No lasting change can be forged if this is not done. As Nairn et al. observe:

Across many countries and domains of social life, identification of patterns in the colonisation of Indigenous peoples offers both powerful explanations of peoples’ situations and points at which decolonising actions can serve to promote justice, equity, and a sustainable social order. (Nairn et al. 2017, p. 7)

Actions to address the ongoing impact of colonisation on Indigenous Australians may include “addressing intergenerational trauma through healing strategies; strengthening connection to culture, language, knowledge and cultural identity; strengthening support for families; implementing specific initiatives for Indigenous women and girls; implementing targeted initiatives for Indigenous men and boys; challenging the condoning of violence in Indigenous communities; having a judicial system that ensures equality in law and access to justice; and reducing the rate of incarceration” (AIHW, 2020).

Non-Indigenous Australians and institutions have a responsibility to address the effects of colonisation by working to challenge and prevent all forms of racism, increase non-Indigenous Australians’ understanding of Indigenous culture, identify and amend racist and discriminatory laws, policies and institutional practices, and challenge the deep-rooted cultural acceptance of violence against Indigenous Australians (AIHW, 2020). It is critical to note that violence does not only occur between Indigenous Australians. The homicide data illustrates that violence against Indigenous Australians perpetrated by non-Indigenous people - though less common - is real and should absolutely not be dismissed (Cussen & Bryant, 2015).

### ***Human Rights Framework***

The Australian Human Rights Commission's (2011) Social Justice Report highlighted that lateral violence is intrinsically linked to disadvantage and lack of participation in decision-making. The Report urged governments to move from characterising Indigenous Australians as dysfunctional and to recognise them as capable and resilient, empowering First Nations people as they pursue solutions. A human-rights-based framework for addressing lateral violence could offer solutions and should be based on the following principles: self-determination, participation in decision-making, non-discrimination and equality, and respect for and protection of culture (AHRC 2011).

We have much to learn from Gunn's (2017) article "Engaging a Human Rights Based Approach to the Murdered and Missing Indigenous Women and Girls Inquiry". Gunn outlines three Human Rights instruments that have particular relevance to murdered and missing Indigenous women and girls: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Rights of the Child, and the International Convention for the Protection of All Persons from Enforced Disappearance. This approach includes:

Using international human rights norms to evaluate and recommend changes to the laws that failed to protect, and in some cases contributed to, murdered and missing Indigenous women and girls. Such an approach would also include international human rights principles such as Canada's duty of due diligence to prevent, investigate, prosecute, punish, and compensate for murdered and missing Indigenous women and girls. (Gunn, 2017, p.92)

Such an approach avoids victimisation and re-victimisation and keeps Indigenous women and children's needs front and centre.

### ***Remembering***

Amy Mcquire states:

By remembering our people who have lost their lives, by making claims of their worthiness as people, and by making visible the violence - not only that

which ended their lives, but which they resisted throughout their lives - we resist these active attempts at silencing. We must continue to mourn for them. (McQuire, 2021)

### ***Resilience and Self-Determination***

Jackie Huggins, Bidjara and Birri-Gubba Juru, Co-Chair, Reconciliation Australia powerfully conveys the strength and indomitable spirit of Indigenous women:

Aboriginal and Torres Strait Islander women possess a strength and resilience which most people cannot even begin to comprehend. We are the backbone of our communities. We are the life-givers, the nurturers and the carers. We are equally leaders, elders, role models and activists. We advocate fiercely for our own and work tirelessly every day for change. We are survivors, and we are fighters. We are the roots of the oldest known continuing culture on Earth. We have overcome the odds just by being here, living, breathing and fighting, every day. (quoted in Allas et al., 2018)

### ***Conclusion***

Australia has often been referred to as ‘The Lucky Country’ and is viewed by many as a strong, democratic and free nation. The sad and shameful reality is that there remains widespread inaction at every level of government and in the media, in relation to the grave issue of missing and murdered Indigenous women, children and young people. The evidence, data, and analysis presented here illustrates the maze of injustice that impacts missing and murdered First Nations people and demonstrates how they are, effectively, made to disappear in life, the media, and in the data. There exists a striking lack of understanding by government bodies, the justice system and the media of the magnitude of this human rights issue. As a direct result, few Australians have an accurate picture of the realities. In a day and age where information is so easily accessible, we cannot afford to continue the legacy of the ‘Great Australian Silence’. The stories of these missing and murdered Indigenous women and children are not *untold*, but are simply *unheard* - their families and communities have been campaigning for justice for years, but have been persistently ignored by a society that refuses to listen. First Nations people have carried an unbearable burden of fighting for justice from a system that did not support them -

and in some cases actively worked against them - when they should have been allowed to grieve for their lost loved ones. This trauma has been compounded by a collective failure to listen - first, by the police, then by the media, and then by society as a whole. It is evident that deep, structural change is required at every level of society. On an individual scale, we must work to challenge our subconscious prejudices and combat biases displayed by the media by actively seeking out stories that represent Indigenous people in a balanced and accurate manner. The media must work to create a diverse workforce that is representative of broader society, and allow for self-determination by placing Indigenous journalists and reporters in charge of their own stories. At a government level, laws must be implemented to address this crisis, and this must be underpinned by meaningful and continued consultation with Indigenous communities. We, as individuals and as a society, must elevate the voices of and demand justice for our First Nations sisters and brothers. As we did for Cleo, as we did for Gabby, and as we continue to do for William and Madeleine - we must fight for them. We must not stop fighting for deep, structural change until justice is served. We cannot change the past, but we certainly can change the future of our Nation and we have a collective and individual responsibility to do so.

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