



North Australian Aboriginal Justice Agency

COMMUNITY JUSTICE PROGRAM

Legal Policy

Department of the Attorney-General and Justice

Via Email to: Policy.AGD@nt.gov.au

21 September 2022

Dear Legal Policy,

Community Justice Program Submission – Systemic Reforms - Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory Proposals for Consultation

The North Australian Aboriginal Justice Agency Ltd (NAAJA) Community Justice Program writes to outline foundational and indispensable prerequisites to systemic reforms to improve Northern Territory Indigenous actions to address Domestic, Family, and related Community Violence.

In brief, ‘...Country Can’t Hear English...’¹ and ‘...Aboriginal voices need to be heard and Aboriginal experience and expertise need to influence and inform policy, service delivery and law reform on a local, territory and national level...’²

By way of background, NAAJA supports and facilitates Community Justice Groups at Angurugu, Umbakumba, and Milyakburra on the Groote Archipelago, and at Gunbalanya, Wurrumiyanga, Ngukurr and Lajamanu in the Top End and Big Rivers Regions. This submission amplifies the voices of these Groups.

¹ Kerry Arabena, Country Can’t Hear English: A Guide Supporting the Implementation of Cultural Determinants of Health and Wellbeing with Aboriginal and Torres Strait Islander Peoples, commissioned by the Australian Government Department of Health and Completed on behalf of Lowitja Consulting, Melbourne (2020).

²Northern Territory Aboriginal Justice Agreement Implementation Plan 2021–2027 at 17.

DARWIN
61 Smith Street
DARWIN NT 0801
Tel: 08 8982 5100
Fax: 08 8982 5190

KATHERINE
10 Third Street
KATHERINE NT 0851
Tel: 08 8972 5000
Fax: 08 8972 5050

ALICE SPRINGS
55 Bath Street
ALICE SPRINGS NT 0870
Tel: 08 8950 9300
Fax: 08 8953 0784

TENNANT CREEK
61 Paterson Street
TENNANT CREEK
NT 0860
Tel: (08) 8962 1332

Whilst membership and priority actions of Community Justice Groups are a current focus, consultations to date indicate Domestic Family Violence (DFV) is an issue of concern for each Community Justice Group and community, with progress requiring consultation, co-design, employment of Indigenous language and conceptualisations, and two-way learning processes and structures.

Self-determining, trauma informed, localised, and culturally safe and competent programs both on country and in prison are required for all persons incarcerated for DFV offending. Of note, the NT experiences the highest rates of domestic family violence in Australia. On average there are 69 domestic and family violence incidents on a typical day³ and four domestic and family violence related homicides per 100,000 people per year.⁴ Additionally, more than 83 per cent of all adult prisoners are Aboriginal where a majority are incarcerated for domestic and family violence related offences, and domestic violence victimisation rates are highest for Aboriginal women.⁵ Furthermore, adult incarceration costs in the Northern Territory in 2020 of \$338.30 per day and \$123,479.50 per year⁶ create an additional 'down line' financial burden that limits funds available for other purposes including justice reinvestment programs which target issues foundational to DFV. In the absence of readily available programs to support change and meaningful two-way engagement, including as outlined below and in accordance with the APO NT Partnership Principles⁷, concerns that Northern Territory DFSV policy, framework, and legislation are 'unfair, discriminatory or detrimental to Aboriginal people' and enlivening of deficit labelling will remain.

Of note, the 2022 Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement provides '**[domestic family] violence, originating at colonisation, is a result of systemic exclusion, inequalities and all intersection discriminations including racism and sexism.... enough is enough.... we call on all Australian governments to take urgent and ongoing action to invest in the solutions of Frist Nations women to end violence and ensure commitment to our human rights.**⁸

Furthermore, the intersectionality of Indigenous DFV conduct across victims, offenders, family and community requires substantial investments in healing for all and system level improvements so that future work is complex trauma-informed, holistic, and tailored specifically for the needs of Indigenous

³ SUMMARY Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory – Proposals for Consultation NTG 2022 at 8.

⁴ <https://ntcoss.org.au/domestic-family-and-sexual-violence/>

⁵ Northern Territory Aboriginal Justice Agreement Implementation Plan 2021–2027 at 15

⁶ Department of the Attorney-General and Justice Output Reporting Annual Report 2020–21 at p 29.

⁷ <https://www.amrric.org/wp-content/uploads/2019/12/21070504-APO-NT-Partnership-Principles-Updated-version.pdf>

⁸ 2022 Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement at 1.

peoples, not just in justice agencies and diversionary programs, but in health, alcohol and drug rehabilitation, disability, education, and housing Policy reform.⁹

With respect to the Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory - Proposals for Consultation,¹⁰ the Community Justice Program submits it is essential that outcomes, actions, and priorities are cognisant of, and informed by, the following whole of government reform agenda and Indigenous Women’s Voices projects that post-date’s consultations for the 2018 DFSV Framework.

1.1 In 2018 Local Decision Making commenced to facilitate a new working relationship between Aboriginal communities and government agencies to support self-determination, community control of specified service provision and working together to develop policies and practices for service delivery, including for law and justice.¹¹

1.2 In 2020 Northern Territory Law Reform Committee findings included:

1.2.1 Many Aboriginal people across the Northern Territory (NT) subscribe to, adhere to, practise, and consider themselves bound by local Aboriginal laws.

1.2.2 Local Aboriginal law plays a significant and positive role in building community strength and harmony, including by restoring people who have committed wrongs, protecting, and healing victims, and resolving conflict.

1.2.3 There is strong consensus amongst all Aboriginal people with whom the Committee consulted that it would be improper to use local Aboriginal law to justify or excuse domestic violence.

1.2.4 Law and Justice groups [= Community Justice Groups] are respected as a repository of expertise regarding local Aboriginal law which also have a significant role to play in mediation, the settlement of disputes, diversion of minor offenders and rehabilitation.¹²

1.3 In 2020 the National Agreement on Closing the Gap implemented a domestic violence priority action in Target 13 ‘Aboriginal and Torres Strait Islander families and households are safe: By 2031, the rate of all forms of family violence and abuse against Aboriginal

⁹<https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2020/02/Bevis-RR-Kungas.pdf>

¹⁰ Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory – Proposals for Consultation NTG 2022.

¹¹ <https://ldm.nt.gov.au/>

¹² Two Justice Systems Working Together: Report on the Recognition of Local Aboriginal Laws in Sentencing and Bail, Northern Territory Law Reform Committee, Report 46 November 2020, Findings 1,2, 10 and 14.

and Torres Strait Islander women and children is reduced at least by 50 per cent, as progress towards zero'.¹³ Unfortunately, since this target was introduced DFV related assault in the Northern Territory increased by 27% in 2020 compared to 2019¹⁴ and 2021 assault victimisation rates were the highest ever recorded rates with almost two-thirds (63%) being DFV related.¹⁵

1.4 In 2020 the Wiyi Yani U Thangani (Women's Voices); Securing our Rights, securing our Future Report was published. Adopting a whole of life approach, the report holistically outlines the needs of Indigenous women and girls, provides principles for the design of policy and programs, and recommends measures to effectively promote human rights moving forward.¹⁶ In 2021 the Wiyi Yani U Thangani (Women's Voices) Implementation Framework defined First Nations gendered systems thinking approach and provided for actions to address leadership and decision-making for self-determination; Language, land, water, and cultural rights; Societal healing and intergenerational well-being; and Economic justice and empowerment. Importantly, the 2022 Delegate Statement outlined foundational fundamentals, identified systems enables in working towards ending violence and provided eleven priorities to improve prevention of and responses to violence.¹⁷

1.5 In 2021 the Aboriginal Justice Agreement commenced. Founded on research, evidence and 160 consultations, the Agreement aims to reduce Aboriginal offending and imprisonment; engage and support Aboriginal leadership; and to improve justice responses and services for Aboriginal Territorians.¹⁸

1.5.1 Via self-determination and placed based decision making, specific initiatives relevant to this review include to: Reduce domestic and family violence offending; Review and reform legislative provisions within the justice system that are unfair, discriminatory, or detrimental to Aboriginal people; Increase opportunities for prisoners to participate in high quality programs to reduce reoffending; Engage and support Aboriginal leadership; Establish and support Law and Justice Groups.¹⁹

¹³ <https://www.closingthegap.gov.au/national-agreement/targets>

¹⁴ SUMMARY Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory – Proposals for Consultation NTG 2022 at 8.

¹⁵ <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release>

¹⁶ <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/wiyi-yani-u-thangani-womens>

¹⁷ 2022 Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement at final page.

¹⁸ Aboriginal Justice Agreement 2020 (Northern Territory).

¹⁹ Northern Territory Aboriginal Justice Agreement Action Plan 2021–2022.

1.6 In 2022 consultations opened on the Draft *National Plan to End Violence against Women and Children 2022 – 2032*²⁰ and consultations progressed with respect to a stand-alone National Plan specifically for First National Women that puts Indigenous women and girls front and centre of Domestic Family Violence initiatives, legislation and programs that affect their lives. Importantly, the draft First Nations Action Plan focuses on Voice / self-determination/agency; Strength, resilience, and therapeutic healing; Reforming institutions and systems; Inclusion and intersectionality; and Evidence and data ecosystems to understand First Nations stories.²¹

1.7 As a consequence of the above, the Community Justice Program submits an essential outcome must be to recommend review and reset to ensure alignment with recent developments with respect to both Indigenous Territorians and Indigenous Communities, including of the preamble and objects to the *Domestic and Family Violence Act 2007*.

Finally, existing DFV provisions increase contact with the criminal justice system and Indigenous rates of incarceration without addressing underlying structural and systemic issues. Of note, the approach preferred by community would include self-determinative localised decision-making processes that strengthen culturally secure practice following close consultation with community, community leaders and Aboriginal Community Controlled Organisations. Equally importantly, the voices of Aboriginal leaders vested in cultural authority require support and amplification, and culturally strong responses should be mapped and tapped.

In light of the above we ask Legal Policy to advise of DFV programs available at Angurugu, Umbakumba, Milyakburra, Gunbalanya, Wurrumiyanga, Ngukurr and Lajamanu, and to additionally indicate participant eligibility, frequency of program provision, and whether the content is self-determining and inclusive of local Indigenous voices.

Kind regards,
North Australian Aboriginal Justice Agency Ltd



Vanessa Lethlean
Community Justice Program Manager

²⁰ <https://engage.dss.gov.au/draft-national-plan-to-end-violence-against-women-and-children-2022-2032/>

²¹ Wiyi Yani U Thangani Women's Safety Policy Forum 12 September 2022, Australian Human Rights Commission.

