

Aim Three

Improve justice responses and services to
Aboriginal Territorians



5.1 Introduction

During the AJA consultations many participants expressed the view that justice services and responses are not meeting the needs of Aboriginal people and communities in the NT.

Many of the challenges to improving justice services were recognised and discussed during consultations. The Northern Territory is sparsely populated with many people living remotely. Over 30% of the population is Aboriginal, with over three quarters living in remote or very remote areas. Many Aboriginal people in the NT speak an Aboriginal language at home, and there are 104 Aboriginal languages or dialects. There is also a significant history of grief, loss and trauma among many families which has ongoing impacts and needs to be addressed in accordance with recognised principles of trauma-informed practice.

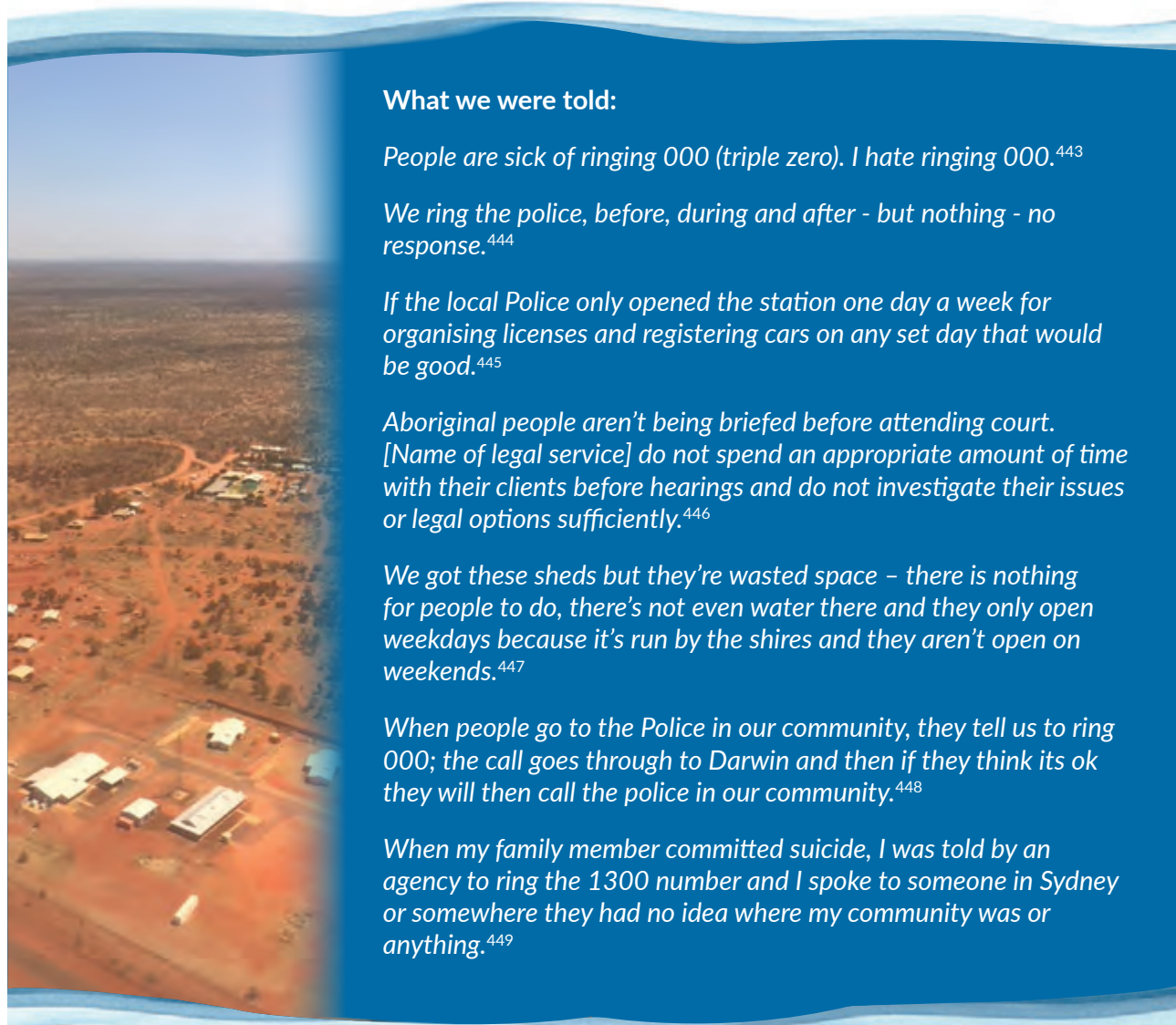
The experiences shared during consultations indicate that improving the cultural competence of justice agencies and professionals is an urgent priority. Effective, culturally competent justice responses and services will help ensure that Aboriginal people are treated fairly and without discrimination.

To reduce Aboriginal incarceration and recidivism rates, the justice system must increase its efforts to tackle the underlying causes of offending and reoffending, and provide greater opportunities for change as an integral part of the system. This must occur for Aboriginal people held in custody and for those in the community.

Improving justice responses and services to Aboriginal Territorians is one of the major aims of the NT Aboriginal Justice Agreement.



5.2 Challenges to service delivery in the NT



What we were told:

People are sick of ringing 000 (triple zero). I hate ringing 000.⁴⁴³

We ring the police, before, during and after - but nothing - no response.⁴⁴⁴

If the local Police only opened the station one day a week for organising licenses and registering cars on any set day that would be good.⁴⁴⁵

Aboriginal people aren't being briefed before attending court. [Name of legal service] do not spend an appropriate amount of time with their clients before hearings and do not investigate their issues or legal options sufficiently.⁴⁴⁶

We got these sheds but they're wasted space - there is nothing for people to do, there's not even water there and they only open weekdays because it's run by the shires and they aren't open on weekends.⁴⁴⁷

When people go to the Police in our community, they tell us to ring 000; the call goes through to Darwin and then if they think its ok they will then call the police in our community.⁴⁴⁸

When my family member committed suicide, I was told by an agency to ring the 1300 number and I spoke to someone in Sydney or somewhere they had no idea where my community was or anything.⁴⁴⁹

5.2.1 Geographical barriers

The NT population is geographically dispersed over a vast region and the NT has extreme weather patterns that make it challenging to deliver year-round services. These unique challenges influence service delivery by government agencies and contracted service providers in the NT.

As outlined in section 2.2, 77% of Aboriginal people in the NT live in remote or very remote areas. There are 96 remote communities and over 600 homelands in the NT. 75% of roads in the NT are unsealed. Some locations can be inaccessible for part of the year, or only accessible via unsealed roads or by chartered aircraft. Weather patterns complicate service delivery further, with the Top End of the NT prone to flooding, storms and cyclones, and the southern region experiencing intense heat and flash flooding. Access to services is influenced by these distinct physical, geographic, climatic and population features.


Against this background, it can be challenging to ensure that the additional costs of providing services in this environment are fully taken into account in service planning, development and delivery. Many justice-related services have a limited or intermittent (e.g. monthly) presence in certain communities, and may not be available in some communities at all, thereby requiring clients to travel to a larger community or town to access services. In 2014-15, the Productivity Commission found that the primary reason Aboriginal people had problems accessing services was generally because they were either offered infrequently or not offered at all in a community.⁴⁵⁰

This was a recurring theme in the consultations. Aboriginal people raised concerns about the distances they were required or expected to travel to access services and requested that services were offered in communities and regional towns more frequently. Often access to services or a program is required by a court order so attendance is non-negotiable. For example, one community reported that it can cost up to \$600 each way to organise transport to the nearest circuit court which is only accessible via plane or a boat and a vehicle.⁴⁵¹

Urban-based service provision assumes that Aboriginal Territorians can and will travel, often long distances, away from support and family to access the services needed. Low income, no or limited public transport, and limited access to private vehicles can make it challenging for many Aboriginal people to attend specialist programs. This limits access to programs and services that are provided to help Aboriginal Territorians address the underlying causes of their offending. It also limits the capacity of victims, witnesses and persons at risk to access the services they may need.⁴⁵²

Research has highlighted that Aboriginal women in particular, will often refrain from accessing services due to the practical difficulties of childcare and accommodation costs, as they do not have cars, licences, money for travel, or access to accommodation and childcare.⁴⁵³

5.2.2 Language and communication barriers



What we were told:

*There are no interpreters in prison – I've been helping other fellas in here who can't read or write English that well by writing letters for them or reading stuff and explaining it. If I don't help them no one will – it can take days to get an appointment with your lawyer and sometimes we just can't wait that long.*⁴⁵⁴

*Aboriginal people find it difficult to understand the justice system, laws, and court ordered conditions and sentences.*⁴⁵⁵


*When the judge says I can't drink: where is that? Can I drink in Darwin but not at home? I don't have the opportunity to ask these types of questions in court.*⁴⁵⁶

*It's hard for people to talk to psychologists or counsellors because they don't understand the words the counsellors are using – it would be good to have an interpreter to help but there might be English words we don't have in our language.*⁴⁵⁷

Over 15% of the NT population speak an Aboriginal language at home, and there are up to 104 Aboriginal languages or dialects spoken.⁴⁵⁸

The NT Government recognises the importance of providing Aboriginal interpreters when people access justice services and has a whole-of-government Language Services Policy.⁴⁵⁹ The policy aims to identify and provide services to ensure all Territorians receive equitable access to NT Government programs, services and information.

It also aims to support agencies to develop language-appropriate procedures and practices and to enhance the use of language services by NT Government agencies. The policy requires agencies to adopt a systematic approach to language services and envisages that NT Government agencies will develop agency-wide language services policies.



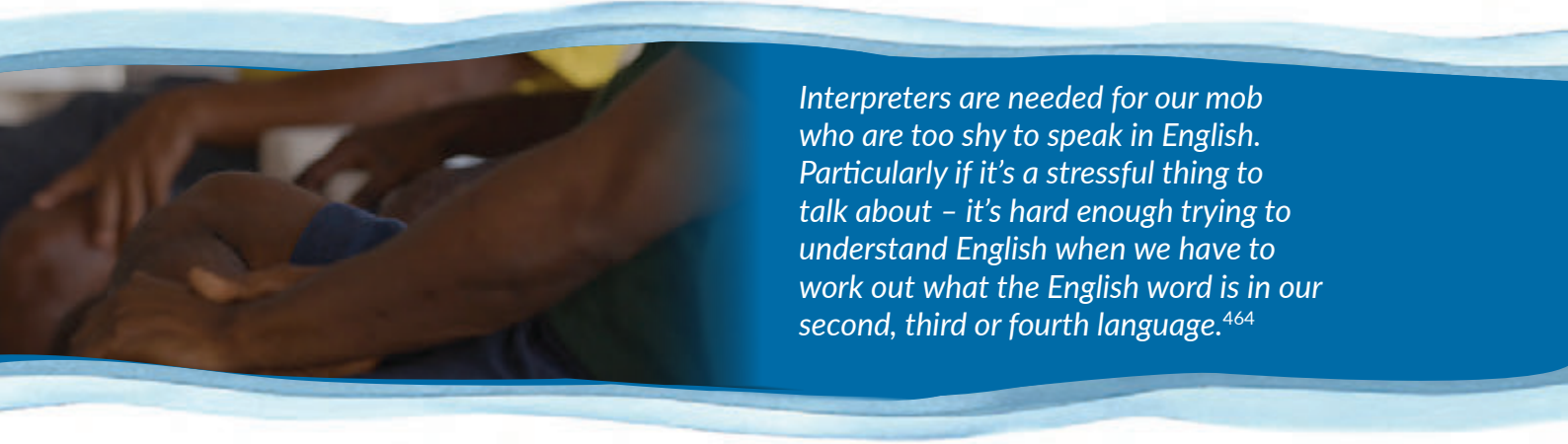
Despite these requirements, it is clear from the NTAJA consultations that many Aboriginal people do not receive the language services they need, and as a result struggle to make sense of justice processes and outcomes. Few agencies have a comprehensive agency-wide language services policy, the notable exceptions being the Department of Health, Northern Territory Police, Fire and Emergency Services and Territory Families.

There are a number of agency-specific initiatives underway aimed at improving service delivery to speakers of Aboriginal languages and access to Aboriginal interpreters in the Territory. For example, considerable work has been undertaken within the justice system towards simplifying language and facilitating interpreter use, including *The Plain English Legal Dictionary* and NT Supreme Court and Local Court *Interpreter Protocols*.⁴⁶⁰ Correctional Services has recorded parole and court orders in four languages.

Interpreting services are required at many stages in the justice system: at first contact with the police, during police interrogation, while being interviewed by legal practitioners, during a trial or hearing, when being assessed by Corrections staff, when victims and witnesses are being interviewed or giving evidence, or when attending programs in prison or the community to address the causes of offending. Language barriers and cultural differences can have an impact on justice responses, and can result in unfair processes, outcomes and sentencing.⁴⁶¹


The NTAJA consultations identified Aboriginal people's concerns when ringing 000. People complained of long wait times for the call to be answered, no access to an Aboriginal interpreter (yet access to 54 other non-Aboriginal languages is available), operators sometimes failing to understand the situation or the need, resulting in hang ups, abusive calls, frustration, an inability to defuse or triage the call, and the under-reporting of crime.⁴⁶²

The NTAJA consultations also revealed that language barriers and the failure to use qualified interpreters has a significant impact on the capacity of Aboriginal offenders to address the underlying causes of their offending in both the community and in prison. Assessments for access to programs are often conducted without an interpreter, and usually there are no interpreters available during group prison programs. Interpreters are usually only provided for individual sessions with high risk offenders, and often are linked in by phone. Prisoners admitted during the NTAJA consultations that they often didn't understand the content of programs they attended, and had 'just nodded' in sessions so they didn't draw attention to themselves. One prisoner with better language skills said he sometimes helped other prisoners who couldn't understand what was happening in group sessions.⁴⁶³



*Interpreters are needed for our mob who are too shy to speak in English. Particularly if it's a stressful thing to talk about – it's hard enough trying to understand English when we have to work out what the English word is in our second, third or fourth language.*⁴⁶⁴

5.2.3 Technological barriers



What we were told:

We don't have internet access here, they only have it in the office.⁴⁶⁵

A lot of people from this community do not have the means to attend court. There is limited access to post or mail and internet, and so many people aren't even aware when they've received a summons.⁴⁶⁶

Counselling services in remote areas can often be over the phone counselling sessions, and in some instances this may mean talking on a public payphone in full view of the community.⁴⁶⁷

The only public phone is on the oval and is in full view of the community. The oval has lights so people still cannot use the public phone at night time without everyone knowing who called, and when incidents are reported it takes hours for the police to come out and they generally only arrive once the trouble is finished.⁴⁶⁸

Complicating these matters even further is the fact that the availability of technology, including audio-visual links such as Skype, is limited, or at times not considered as an option by service providers in many remote areas across the NT. The quality of the connections and communication achieved are often poor. The high usage and reliance on mobile phones by Aboriginal clients, rather than landlines, prevents easy access to government and other agencies, when the standard 'free' 1800 or 1300 numbers are not free from many mobile phones.⁴⁶⁹ Many Aboriginal people identified that they do not own reliable phones, access to landlines or phone contracts, instead relying on limited pre-paid credit. As a result, Aboriginal people may need to use public pay phones that offer little to no privacy or confidentiality.

Common forms of communication in the wider community, such as email, may also be inappropriate as many Aboriginal clients have little or no access to, or knowledge of, computers or the internet. This can be compounded even further where there are low literacy levels. In addition, emailed communication when clients are using public or shared computers, can place the client's safety and confidentiality at risk. Many Aboriginal Territorians live in areas where there is no post office and no or limited postal service. These factors make two-way communication with service providers and justice agencies problematic, if not impossible.⁴⁷⁰

5.2.4 Impact of poor service delivery

During the NTAJA consultations participants revealed the impact of poor service delivery. Well-meaning but ineffective efforts by Aboriginal and non-Aboriginal people, government and non-government agencies to fix problems were identified and reported on at length during the consultations. Many participants expressed frustration that their concerns were never heard and were not adequately addressed. Such failures have significant impacts on Aboriginal Territorians, resulting in the escalation of the same or interrelated problems over time.⁴⁷¹

The NTAJA consultations and national inquiries and reports have identified and confirmed that where problems remain unaddressed, they can escalate into more serious matters such as homelessness, family disputes, loss of work or income, alcohol or drug problems, mental health issues, or criminal behaviour and imprisonment.⁴⁷² Legal problems have a complex interrelationship with social problems.

The Law Council of Australia has also recognised that when the legal problems of disadvantaged people cannot be quickly identified and resolved, they are likely to escalate and multiply.⁴⁷³

Effective service delivery means Aboriginal Territorians are confident in accessing, navigating and engaging with services. This requires appropriate communication, and ongoing support and partnerships to ensure that Aboriginal Territorians feel comfortable accessing and navigating services.

Without attention to these factors, the ability for Aboriginal Territorians to fully engage in programs and services to end reoffending will be limited or largely ineffective. During the NTAJA consultations it was raised that access to government services and entitlements (such as renewing a driver's licence, or applying for a seniors card) may be hard to navigate for Aboriginal Territorians.⁴⁷⁴

Recognising and addressing these factors are important to achieve the aims of the Agreement.

Improving responses – Births, deaths and marriages

Many activities to improve justice services to Aboriginal Territorians have already commenced.

Over a three-month period in late 2017, the Registrar-General of Births, Deaths and Marriages (BDM) in partnership with the AJU, initiated a pilot project to provide BDM services free of charge to a number of remote communities in the NT.

During this period, the BDM team delivered services to 17 locations, issuing 1265 birth certificates and 33 Aboriginal population record certificates, including processing 347 applications for a name change. This remote service delivery has now been approved as a permanent program.

A further role performed by the BDM team is providing access to wills and advanced personal plans on behalf of the Public Trustee.

Advance personal plans were developed with assistance from the AJU to accommodate Aboriginal people's needs and support Aboriginal Territorians to finalise affairs on death or total incapacity in a culturally competent manner.

The importance of wills became apparent when it was identified that these documents provided Aboriginal Territorians with a culturally-secure legal document that outlined the instructions of a deceased person regarding their estate, distribution of inheritance and type of burial.

Since November 2018, there has been an increase in the number of wills and personal plans that have been created and registered by Aboriginal clients with the Public Trustee.



5.3 Collaboration by government agencies



What we were told:

We have slipped through the cracks in terms of government service provision.⁴⁷⁵

Police hold community safety meetings but no one turns up – they don't help us when we need it.⁴⁷⁶

There is a need within government to engage with other agencies and work together to fix this problem.⁴⁷⁷

Community meetings are breaking down because there have been lots of promises and no outcomes.⁴⁷⁸

The community as a whole needs to be verbally informed of roles and expectations for government consultations in the future.⁴⁷⁹

The shires and intervention changed everything for Aboriginal communities – families used to look after families and worked with the police. Community doesn't come together anymore.⁴⁸⁰

Community members stated that the Police Community Safety Committee is held fortnightly, but is generally only attended by board members from local organisations and government stakeholders.⁴⁸¹

During the NTAJA consultations it was acknowledged that some government and non-government agencies have made considerable efforts to improve service delivery and work together. However, participants felt that the lack of genuine partnership between service providers and communities, and across multiple service providers to benefit communities, continues to hinder progress. Participants felt that the lack of coordination and communication between government agencies and between government and non-government organisations can make service delivery more expensive, less accessible and creates confusion among Aboriginal Territorians as to what services are available.

During the consultations, government agencies recognised that they sometimes found it difficult to work across agencies and also collaboratively with Aboriginal people.⁴⁸² In Alice Springs, it was noted that institutional silos in service delivery (a lack of collaboration between agencies) continue to exist and result in a lack of communication with community members about what programs and services are available. This lack of communication has detrimental effects on Aboriginal people and interferes with the effectiveness of programs. Without input from Aboriginal people and local agencies, services often overlap, are unscheduled, and are disorganised, resulting in poor service delivery that fails to meet the needs of Aboriginal people.

Comments during the NTAJA consultations mirrored a comment made by the former Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma, in 2006:

Put simply, governments risk failure if they develop and implement policies about Indigenous issues without engaging with the intended recipients of those services. Bureaucrats and governments can have the best intentions in the world, but if their ideas have not been subject to the 'reality test' of the life experience of the local Indigenous peoples who are intended to benefit from this, then government efforts will fail.⁴⁸³

The RCPDCNT found that Commonwealth and Northern Territory Government investment in child protection and youth justice services 'is not rigorously tracked, monitored or evaluated to ensure that it is appropriately distributed and directed.'⁴⁸⁴ Evidence presented to the RCPDCNT showed that:

- government funds were directed to programs without reference to the existence of other programs, their target locations or outcomes, with the absence of a clear coordination framework for funding by each level of government
- many remote communities are contending with dozens of different programs delivered by a myriad of government agencies and contracted service providers
- many programs do not appear to have been evaluated against their intended outcomes
- consultation and engagement with affected Aboriginal communities has generally been absent in all levels of program design and service implementation.⁴⁸⁵

The Productivity Commission is conducting an inquiry into expenditure on children and family services in the Northern Territory and is expected to report to the Australian Government in April 2020.⁴⁸⁶

Many of these problems were evident during NTAJA consultations. Few agencies used local data or evidence (current or projected) to inform the delivery of a program. Consultation participants identified that too often agencies deliver programs based on other, often interstate models, with no recognition of geographic or demographic factors, and no invitation for local input to determine if they meet community needs. Failure to properly monitor and evaluate programs, including whether programs are delivered in a culturally competent manner, was also identified as an issue. Effective monitoring and evaluation practices would enable continuous improvements to be made so that services and programs meet the needs of Aboriginal Territorians.

Given the limited services in remote communities, it is vital that service providers are adequately communicating with one another to ensure efficient access to relevant services. It is important that there is greater cooperation, clarity and communication particularly between service providers and government agencies. Figure 26 is an example of government and NGO service mapping for one Aboriginal community, highlighting the importance of effective communication and collaboration given the number of services and programs on offer.



During the NTAJA consultations, there was criticism of police and health agencies for working in isolation, and the lack of Aboriginal people working in these services as Aboriginal Health Workers (AHW) or Aboriginal Community Police Officers (ACPOs).⁴⁸⁷ Other criticisms included a failure to operate in a respectful, culturally competent way and breaches of privacy (for example, attempting to communicate with community members by putting up public notices containing details of individual health appointments, which has caused embarrassment and breached confidentiality).⁴⁸⁸ Although it is important that service providers continue to communicate with community members, this cannot come at the expense of privacy. Such conduct poses a serious risk of increasing community distrust of service providers, and therefore decreases the uptake of necessary services.

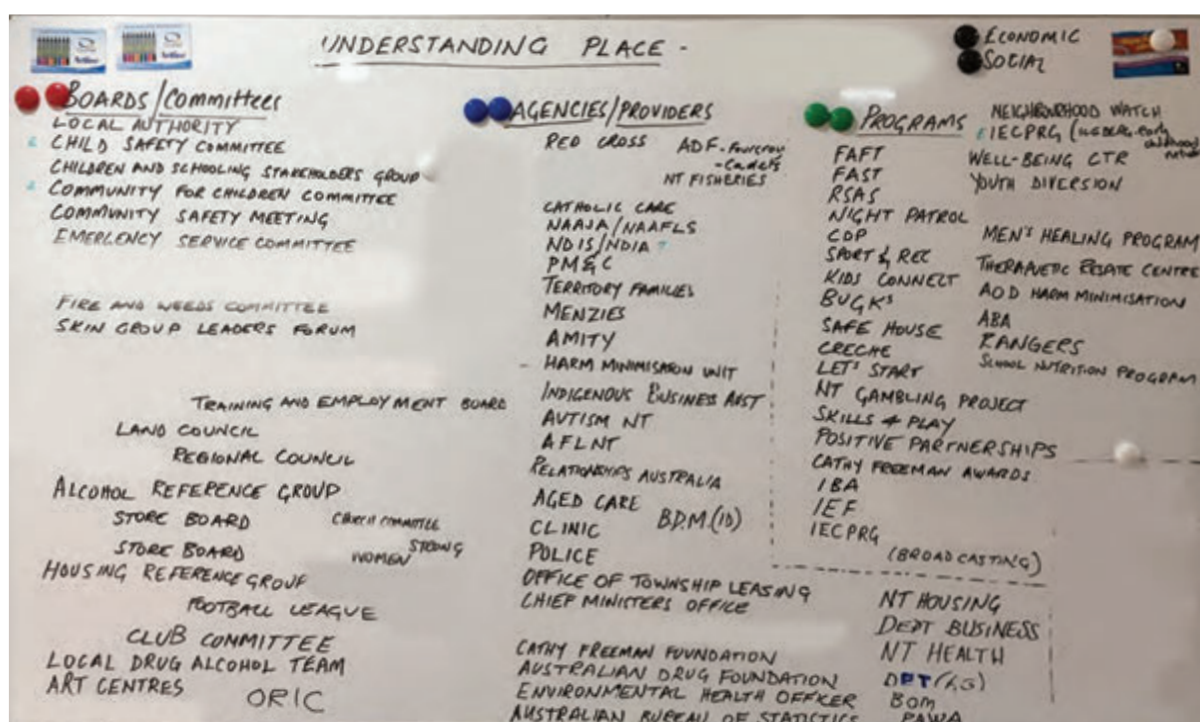
The factors which drive offending and reoffending are highly complex, deeply interrelated, and often different for individuals and communities. Solutions need to be evidenced-based, culturally-safe and agencies need to build their capacity and confidence to work collaboratively within communities. Some opportunities for improvement can be quite straight forward, such as service providers being properly introduced to local residents and engaging with community about important matters. Similarly, employing Aboriginal people in key positions can help ensure culturally competent advice is provided and accessible at all stages.

In several communities, Aboriginal people noted that one agency has monthly meetings with all service providers and agencies but, even then, issues are not addressed.⁴⁸⁹ Participants also noted that these community meetings do not adequately involve Aboriginal people.⁴⁹⁰ This undermines trust and confidence between the community, service providers and government agencies.

During the NTAJA consultations, participants outlined that many programs do not come to fruition, or are funded for short periods, and although reasons are given, Aboriginal people are left without the services they need.⁴⁹¹ Another barrier to successful navigation of services is the constant change to programs and services, due to discontinuation or changes in funding and other matters. Consultation participants said some services delivered in remote communities did not have sufficient resources or skilled staff willing or capable to deliver the programs.⁴⁹²

These issues highlight that greater investment in partnerships between Aboriginal communities, government agencies and non-government organisations is required to regain the confidence of Aboriginal Territorians. Working collaboratively is the best way to reduce reoffending, improve services to Aboriginal Territorians and create a safer Territory, and that is why the Agreement will take this approach.

Figure 26. Mapping NGO and government services in a small Aboriginal community



5.4 Cultural competence



What we were told:

Government runs meetings balanda (non-Aboriginal) way – would get greater response from community members if meetings were held outside under a tree.⁴⁹³

The policy of the agency is that they won't let me take a mum if she has had one drop of alcohol, so I can't take them into the safe house. So where do the mums and kids go if I can't take them? I think she goes back to where it is unsafe.⁴⁹⁴

They [the police] sleep here and eat here but otherwise they're working somewhere else... we don't see them as part of the community. They don't feel part of the community either. They travel to Darwin on weekends to see family rather than bringing them out here.⁴⁹⁵

Prisoners stated that being given more time to talk with family on the telephone would help alleviate mental health issues. At the moment they can only speak with family once a week and the telephone conversation costs \$5.00.⁴⁹⁶

Names were called out wrong for people at court – those people were there but did not realise they were being summonsed and now have warrants for their arrest issued.⁴⁹⁷

There are not enough Aboriginal service providers nor Aboriginal employees working in Corrections (i.e. profile of the agency does not match profile of the majority of the agency's clients). This is particularly an issue where a white person has been working with Aboriginal people for months but still has no general knowledge/understanding of Aboriginal people, or the specific Aboriginal person they are working with and their family.⁴⁹⁸

Cultural competence is 'a set of congruent behaviours, attitudes, and policies that come together in a system, agency or among professionals and enable that system, agency or those professions to work effectively in cross-cultural situations'.⁴⁹⁹ A culturally competent service accommodates and caters to the cultural needs and values of Aboriginal Territorians.

The NTAJA consultations found that Aboriginal Territorians are too often exposed to programs, responses and professionals that are not culturally competent. This is a major challenge that the Agreement will seek to address.

Programs that are culturally competent need to be developed and delivered in partnership with, or with input from, local Aboriginal people. There are no standard approaches to developing and implementing cultural competence. Programs that are effective and culturally competent in one context cannot be assumed to work in another. The key is to work closely with Aboriginal people to ensure that the needs of Aboriginal Territorians in that particular region are met.



What we were told:

Police in this community need to do cultural competency training before they are posted in the community.⁵⁰⁰

Tender contracts for service provision to Aboriginal people should have a compulsory requirement to demonstrate previous examples of culturally competent service delivery.⁵⁰¹

There have been a number of attempted suicides in this community and community members would like culturally appropriate mental health services offered in the community.⁵⁰²

There is a lack of cultural competence in government service provision. Aboriginal people don't understand the clinical aspects of health and respectively government services don't appreciate the way Aboriginal people prefer to engage with service providers.⁵⁰³

There are no Aboriginal Community Police Officers or Aboriginal Liaison Officers in this community – Elders think that bringing in ACPOs or ALOs would help calm down any situations that arise in communities. Police would benefit from cultural education before coming into community in order to understand the social dynamics within the community, however, this could be a problem because police officers seem to be rotated every 6 months.⁵⁰⁴

The NTAJA consultations revealed different ways in which programs were falling short of cultural competence. The view was expressed in many consultations that a low uptake of programs, or the ineffectiveness of programs, is often related to the fact that programs are not culturally competent.⁵⁰⁵

Sometimes the values and attitudes of staff are a barrier to culturally competent service provision. A perceived lack of respect for, or an unwillingness to listen to, Aboriginal people can be at the core of the issue. Related to this is an over-emphasis on deficit labelling rather than recognising the strengths and contributions of Aboriginal people. Failure to provide an interpreter when needed can mean that Aboriginal Territorians can't access those programs that are available in prison or in the community. Language barriers and the failure of professionals to appreciate the cultural context and meaning of certain actions can lead to misunderstandings between clients and service providers.

The lack of culturally competent mental health services in communities was frequently raised.⁵⁰⁶ Aboriginal people experience disproportionately high rates of poor mental health and wellbeing. Even when psychologists are available in communities, the short-term nature of the service can make it difficult to build necessary relationships.⁵⁰⁷ Aboriginal community members may not feel comfortable confiding sensitive details to a non-Aboriginal person, especially someone they don't know very well.⁵⁰⁸ Insufficient gender balance of staff can impede access to services including specialist health providers in some communities, as was raised in the AJA consultations.⁵⁰⁹

It was emphasised in the NTAJA consultations that the high rates of suicide and trauma (including intergenerational trauma and grief) experienced by Aboriginal people make it even more important for service providers to be culturally competent and have a capacity for outreach services and face-to-face contact. If they do not, there is a risk that there will be no uptake of services and the trauma and grief will remain undiagnosed, untreated and unaddressed.

There have been attempts to improve the cultural competence of justice programs, services and communications. For example, NT Police has pre-recorded police cautions in 18 Aboriginal languages that have been loaded onto almost 1500 mobile devices for use by police. However, data shows that the recordings have been accessed by police only 165 times in its two years of operation.⁵¹⁰ This highlights that training and a greater emphasis on monitoring implementation of initiatives in practice are important to improving and maintaining a culturally competent and confident justice system.

High staff turnover in the NT is a factor that can impact on the provision of culturally competent services. New staff need training and an opportunity to learn about culturally competent service provision before they can deliver services effectively. Trust and respect between community and service providers is critical to this learning.

Building more culturally competent responses and services, in partnership with Aboriginal Territorians, will be a key priority of the Agreement.

5.5 Racism, discrimination and bias



What we were told:

It's hard to have a safe community when police are invisible, un-cooperative or they fail to have a relationship with us.⁵¹¹

It can take up to 12 hours for a police response even though they live and work in the community.⁵¹²

Some [government agency employees] 'talk smart' and are racist to us.⁵¹³

Once upon a time police dropped in for a cuppa - they earnt our respect but not now.⁵¹⁴

The police introduced themselves to the local non-Aboriginal person, but they haven't introduced themselves or engaged with any community members and they have been here from three months to three weeks.⁵¹⁵

Discrimination occurs when someone is treated unfairly on the grounds of attributes like race, sex or age.

During the NTAJA consultations a number of Aboriginal people shared their own or other people's experiences of being treated unfairly in their dealings with justice agencies because they were Aboriginal.

There was also a common perception that there is a strikingly low level of empathy towards Aboriginal defendants, prisoners and clients by some professionals working in the justice system. People saw this as correlating with a poor uptake of, or engagement with, programs and services by Aboriginal people.

The kind of conduct raised during the AJA consultations included:

- racist or derogatory comments or remarks made frequently about Aboriginal people
- Aboriginal people believing they were treated differently by police, correctional services staff or other professionals because they were Aboriginal

- the failure to be offered or provided with an interpreter
- failure to be provided with culturally appropriate programs and/or interpreters, resulting in a situation in which Aboriginal people could not understand or benefit from a program
- the poor treatment of Aboriginal offenders while incarcerated
- police officers berating and talking down to Aboriginal people
- the failure to investigate matters affecting Aboriginal people diligently or at all.⁵¹⁶

During the NTAJA consultations Aboriginal people identified that racism and discriminatory treatment was not limited to justice agencies and was experienced throughout life, including among government and non-government services, schools, shops and businesses. Aboriginal staff facilitating the consultations reported experiencing and being exposed to racism and racist remarks. It is important to emphasise that there are many professionals within and outside the justice system who fulfill their roles with dedication, care and respect, in a professional and culturally competent way.

The Human Rights and Equal Opportunity Commission (HREOC), the RCIADIC, and various academic writings have all noted the relevance of institutionalised racism as a barrier to justice for Aboriginal people over many years and in many jurisdictions.⁵¹⁷

Perceived racism and the differential treatment of Aboriginal people in the justice system has been identified by the Judicial Council of Cultural Diversity (JCCD) as creating barriers which prevent Aboriginal people from seeking help at the early stages of violence. As the JCCD noted, incidents of police treating women dismissively or sending victimised women home to a violent situation or concerning statements from police such as 'it wasn't a serious enough breach', 'it's a family matter', 'it's a cultural issue', 'we can't get involved', or 'you asked for it', all play a role in the continuation of violence.⁵¹⁸

Racial discrimination is likely to be under-reported. According to work undertaken by Chris Cunneen and others, 78.6% of Aboriginal people who identified discrimination as an issue did not seek legal advice or help.⁵¹⁹

Experiences of racism have a profound impact on Aboriginal Territorians, adversely affecting physical and mental health and undermining confidence in government agencies. Racial discrimination in all forms reduces the trust and confidence that Aboriginal Territorians have in police, schools, doctors and other service providers, and reduces the likelihood they will engage with that service, no matter how necessary or urgent.

Researchers have recently explored significant associations between racism and anxiety, depression, suicide risk and poor overall mental health for young Aboriginal people living in the Top End of the NT. Of the 32% of participants who reported experiences of racism, most reported significantly more severe and frequent struggles with mental health. Particularly in late adolescence and early adulthood, Aboriginal people were found to have heightened vulnerability to psychological distress resulting from experiences of racism.⁵²⁰

Experiences of racism have a profound impact on Aboriginal Territorians, adversely affecting physical and mental health and undermining confidence in government agencies.

Racism, discrimination and unfair treatment is unacceptable to the Northern Territory Government in any form, and may also be unlawful. The Agreement will work to reduce racism, discrimination and unfair treatment across all justice agencies and in all spheres of life in the Territory. This will require Aboriginal people and organisations to work closely with professionals in the justice system to create a changed culture in which there is no tolerance for racism and discrimination.

5.6 Complaint mechanisms



What we were told:

Aboriginal people generally don't realise they have a right to complain or even who to complain to.⁵²¹

We don't complain because that's not our way – we feel more comfortable talking to family about problems and so when family aren't good to talk to we get quiet and end up doing things we shouldn't that get us into trouble.⁵²²

People here don't complain because it generally goes nowhere.⁵²³

The community could set up a group to help with complaints process but they need strong people who can talk up.⁵²⁴

Community members expressed consultation fatigue particularly in relation to housing where much has been promised but not much has been done. There are also concerns that there is no complaints mechanism that community members are aware of if government contractors provide poor housing services.⁵²⁵

Concerns were raised that police are being too rough with young children and that a complaints process needs to be established to address this issue.⁵²⁶

There is a low uptake of complaints processes by Aboriginal people in the Northern Territory. Many Aboriginal Territorians don't realise they have a right to complain or have knowledge about how or who to complain to.⁵²⁷

Aboriginal people identified during consultations that the lack of uptake is because they don't have confidence in authorities or complaints processes due to past experience (their own or other people's), or a general expectation that complaining is futile. Some participants described past experiences of racism, or feared that if they made a complaint there would be repercussions for themselves and their family. This was particularly evident during consultations in remote Aboriginal communities.

Compounding these issues are the language and communication barriers, distance barriers and difficulties accessing reliable phones or internet services (described in section 5.2). Lack of confidentiality can also be a barrier to making a complaint. It can be particularly hard to make a complaint as a person in custody, or against authorities, especially when living in a remote community.

Each NT Government agency has a complaints management process, ranging from formal to less structured, depending on the nature of the organisation. In addition, there are a number of complaint mechanisms that are independent of government and deal with complaints about specific issues, such as the Ombudsman NT, the Children's Commissioner, the Health and Community

Services Complaints Commission, the Anti-Discrimination Commission, and the Independent Commission Against Corruption.

Nevertheless, the uptake of complaints processes by Aboriginal Territorians remains low. Some consultation participants reported that they had never heard of, and had no knowledge of these agencies.⁵²⁸

Recently, the Ombudsman has undertaken several initiatives aimed at increasing engagement with Aboriginal Territorians. These have included:

- visits to Aboriginal communities and organisations across the Territory
- improved reporting of the demographics of complainants (including Aboriginality)
- advertising on Aboriginal radio linked to community visits
- investigations on issues of relevance to Aboriginal Territorians, including the use of Aboriginal interpreters by NT agencies and the experience of incarcerated Aboriginal women.⁵²⁹

Increased awareness among Aboriginal Territorians about the available complaints mechanisms is needed to increase access, build confidence, and improve levels of trust between Aboriginal Territorians and government and non-government service providers. It is also important that Aboriginal Territorians have the capacity to provide feedback on agencies contracted by government to deliver services to Aboriginal Territorians, in order to ensure that barriers to effective service delivery are identified and addressed.

5.7 Media and communication



What we were told:

We need to have signage like they have in other towns and regional areas about crashed cars — only just signs about no grog and no pornography, these are the only ones that are in our community.⁵³⁰

Why hasn't there been a family and domestic violence education awareness campaign given it's such a significant issue?⁵³¹


I don't know what each government agency does or what they can do for me.⁵³²

[We] were not consulted about the outcomes or recommendations from the Royal Commission into the Protection and Detention of Children in the Northern Territory.⁵³³

Just because we can't read and write doesn't mean that you have to use cartoons to get your message across to us.⁵³⁴

The community as a whole needs to be verbally informed of roles and expectations for government consultations in the future.⁵³⁵

During the NTAJA consultations, Aboriginal Territorians expressed concern that they did not have sufficient knowledge or information about what government was doing or what services were provided. This included matters not just relevant to justice, but government services in general. When information or media campaigns or consultations did occur, they were sometimes not relevant to Aboriginal people or not culturally sensitive or appropriate, especially where the target



audience is Aboriginal people. The failure to communicate in a way that works for Aboriginal people contributes to a low uptake of services and confusion about justice and other government responses.

Media and communication are important as they allow people to understand their rights and responsibilities, become aware of the services that are available, become informed and empowered to change behaviours, make informed choices, and comply with instructions including court orders. This helps keep communities safe and strong. The NTAJA consultations revealed a substantial gap in relation to effective and culturally competent communication from government agencies and service providers to Aboriginal Territorians.⁵³⁶

As outlined in section 5.2, language, geography and climate can provide challenges for agencies to deliver effective communication about government policies and programs in the NT. Just over 15% of the NT population speak an Aboriginal language at home, and there are up to 104 Aboriginal languages or dialects spoken.⁵³⁷ 77% of Aboriginal people live in remote or very remote areas.

Without effective communication, Aboriginal people are unlikely to identify their concerns and experiences as legal issues (for example, housing, family violence, child protection, guardianship, consumer law or discrimination issues).⁵³⁸ Without effective communication, people are unlikely to seek help early, and problems can become increasingly serious and overwhelming.⁵³⁹ Research has highlighted that difficulties, especially in the health sector, can compound when the miscommunication is not recognised or addressed.⁵⁴⁰ Without culturally competent communication about rights and entitlements and the avenues of potential assistance, the prospects of Aboriginal communities realising legal entitlements will remain very low.⁵⁴¹

The engagement of local Aboriginal role models, mentors and leaders can be the most effective way of communicating with communities but is frequently underused. There is a need to support and engage local Aboriginal leaders who have the responsibility and capacity to communicate important messages between government agencies and Aboriginal communities.

A significant concern raised during the NTAJA consultations is that communications from government agencies (across all levels of government, and across justice and other agencies) are frequently framed using deficit labelling. This results in the stereotyping of Aboriginal Territorians as disadvantaged, deprived, needy or trouble-makers, rather than recognising their strengths and achievements. It also depicts communities as full of problems and obstacles. This overlooks the incredible contribution that Aboriginal people make on a daily basis to their families and communities. This tendency towards deficit labelling contributes to discrimination and racism and feeds a negative mindset in communities. It impedes the type of empowering collaboration between government agencies and Aboriginal Territorians that would achieve better outcomes. This is an issue that extends beyond the justice system.⁵⁴²

Focussing on the assets of Aboriginal communities, rather than needs, deficits, or problems, represents an important shift in the mindset and practice of people who work with Aboriginal Territorians.⁵⁴³ Discovering and affirming these underutilised assets and untapped potential within Aboriginal communities are hallmarks of a successful and strengths-based approach to improving service delivery.⁵⁴⁴



Deficit labelling contributes to discrimination and racism and feeds a negative mindset towards Aboriginal people.

Insufficient or inappropriate communication was an issue consistently raised in consultations, with many Aboriginal Territorians feeling as though programs were not clearly explained or understood, leading to poor uptake.⁵⁴⁵ During many NTAJA consultations, participants were asked which agency they would approach if they were concerned about a family member and worried that his or her behaviours could lead to offending; only two people identified that they would attend the local health clinic with no other agency nominated.⁵⁴⁶

Where government and non-government service providers are communicating information, this is often done in an inappropriate or inaccessible way, wasting resources and leading to frustration among Aboriginal Territorians, particularly in communities. For example, it was raised in the consultations and in published research that the blue signage referring to alcohol and pornography bans on entry into Aboriginal communities are viewed by many as examples of deficit labelling of Aboriginal people as a group, and also as discrimination and exclusion of Aboriginal voices.⁵⁴⁷

Service providers must also consider the accessibility of various methods and modes of communication. As noted in one consultation, literacy rates are low for some Aboriginal Territorians, making certain means of communication, such as media releases, notice boards or social media, inaccessible.⁵⁴⁸ In addition, standard methods of communication are relatively inaccessible to Aboriginal people, especially in remote communities. Territorians living remotely are less likely to have consistent internet and social media access, good signal coverage, or reliable postal service. The consultations also revealed difficulties accessing television or radio.⁵⁴⁹ These accessibility issues may have a greater impact when a service provider relies heavily on one channel of communication for service delivery, such as a website, online forms, or email.

Media campaigns serve as powerful tools to raise awareness of certain issues, promote policy changes, or increase engagement with services. It is essential that these initiatives are developed in close consultation with Aboriginal Territorians to ensure they are sensitive, appropriate, and meet the needs of the target audience.

A lack of diversity depicted in mainstream media campaigns undermines efforts to appeal to the wide range of Aboriginal viewers. Similarly, communications targeting Aboriginal Territorians should aim to represent the diversity of the NT's Aboriginal population, including people from various coastal and inland communities, language groups, and regional and remote locations.⁵⁵⁰



The NTAJA consultations and previous research have indicated several barriers to engagement with media campaigns by Aboriginal Territorians. The consultations identified that simplistic cartoons, caricatures and messaging, such as those depicted in Figure 27, should be used with caution. While visual aids can be useful when communicating messages to people with low literacy skills, research indicates they can be patronising and offensive to many Aboriginal people.⁵⁵¹ In addition, these cartoons may be perceived to promote negative stereotypes of Aboriginal people. Dissatisfaction with these forms of communication was particularly noted among demographic groups and regions where language proficiency and literacy tended to be higher, such as middle-aged participants and those living in metropolitan and regional areas. In general, they were seen as ineffective and a demonstration of the low level of cultural competency that was delivered by government agencies.⁵⁵²

Consultations identified that the heavy reliance on celebrity figures for media campaigns was ineffective for Aboriginal Territorians. The consultations highlighted that Aboriginal viewers may be less receptive to celebrity figures, particularly when interstate Aboriginal footballers are used in communication campaigns, as they are not perceived to have experienced the same personal circumstances as many Aboriginal Territorians, especially experiences of remoteness, hardship and poverty.⁵⁵³ Rather, the involvement of local community leaders as role models and change agents, especially those that focused on women, was seen as relevant, engaging and empowering.⁵⁵⁴

These issues present ongoing challenges that the NT Aboriginal Justice Agreement will seek to address by improving communication about justice agencies, responses and services.

Figure 27. Examples of inappropriate communication and messaging displayed in Aboriginal communities



Failure to communicate in a way that works for Aboriginal people contributes to a low uptake of services and confusion about justice and other government responses.

Improving responses – After-hours police messaging service

Projects such as the after-hours police messaging service highlight how government agencies can provide greater access and understanding of services that benefit Aboriginal Territorians.

Until recently, the Joint Emergency Service Communication Centre (JESCC) received over 3,000 calls each month, diverted from local police stations when police were not physically present. While some of these calls are emergency-related, the majority were non-urgent and administrative in nature.

To address this situation, the AJU partnered with the Aboriginal Interpreter Service (AIS) and NT Police to provide recorded voice announcements in 20 different Aboriginal languages at remote and regional police stations. This initiative aims to address language barriers and the lack of knowledge among many Aboriginal Territorians about how to navigate the emergency police response system.

The recorded message notifies callers in the local Aboriginal language to hang up and dial 000 if their call is an emergency, or to hang up and dial 131 444 if they require non-urgent police assistance.

For callers who wish to speak with the local police station, the call is then directed to that police station. If local police are not on duty or are away from the police station, callers are able to either leave a message in English or their local Aboriginal language, which will be translated and responded to upon the police officer's return to the station.

This process is currently operating in 62 police stations and will soon be available in all 64 police stations across the NT. Once fully implemented, it is estimated that calls to the JESCC will decrease, giving police more time and resources to respond to emergency situations. The project will also assist in breaking down barriers between NT Police and Aboriginal communities to ensure that Aboriginal Territorians are confident to navigate, access and understand the process of response for police services in both emergency and non-emergency situations.

Since the recorded message was implemented in October 2017, the AJU and NT Police have identified a significant reduction of calls to regional police stations. Figure 28 demonstrates this early success. A short video explaining the project is available online.⁵⁵⁵



A further project is expected to deliver significant improvements. At present, callers to the NT Police JESCC can access interpreter services for 54 different languages when calling 000 (general emergency services) or 131 444 (police service). However, none of the languages available are Aboriginal, despite 15% of the NT population speaking an Aboriginal language at home.⁵⁵⁶

This pilot project will see an interpreter from the AIS placed at the JESCC for a period of time to assist Aboriginal callers overcome language and communication barriers and to capture data from the trial. The project will involve partnerships between several government agencies, including NT Police, AGD, and AIS. It is envisaged that the interpreters will speak several Top End and Central Australian languages to assist in triaging emergency calls to NT Police.

This is an important step in mitigating the cultural and language barriers often facing Aboriginal Territorians, and will enable calls to be responded to and triaged more appropriately and efficiently. It will also work towards building a culturally responsive service model and restoring trust between Aboriginal Territorians, NT Police and other government service providers.

Figure 28. Out of office calls to regional police stations transferred to the JESCC, 2017-2019



Source: Northern Territory Government, Northern Territory Police, Fire and Emergency Services, *Out of Office Police Station Regional Calls Data 2017-19* (2019) internal, unpublished data.

5.8 Renewal of government contracts servicing Aboriginal Territorians

The NTAJA consultations identified that many services delivered to Aboriginal Territorians are outsourced to NGO providers. Participants reported that services are rarely monitored and evaluated, and there are inadequate mechanisms for Aboriginal Territorians to provide feedback to government on the delivery of services that impact on communities.

In some communities, services are offered but not well attended or in some instances contracted services are not delivered at all. During consultations, Aboriginal people told us that low uptake of services is due to lack of community ownership and poor levels of cultural competency.⁵⁵⁷ Some of the specific concerns identified during consultations included:

- client information not being kept confidential⁵⁵⁸
- failure to deliver culturally safe services, for example one community reported that having only one female health worker meant Aboriginal men were unlikely to attend the health clinic as it is culturally inappropriate to see a female about men's health issues⁵⁵⁹
- contractors not turning up to deliver services in community but still reporting delivery to the government agency.⁵⁶⁰

The NTAJA envisages that input from Aboriginal Territorians will be sought and considered before making a final decision regarding the award or renewal of contracts that affect Aboriginal Territorians. Ensuring the views of Aboriginal Territorians on the quality and effectiveness of service delivery are taken into account when contracts for services are awarded or renewed will help identify those services working effectively with Aboriginal people, avoid duplication of services and promote accountability. The proposed expansion of Law and Justice Groups under the Agreement is expected to assist NT Government agencies with this task.

