

Governance of the Northern Territory Aboriginal Justice Agreement



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Central to the governance of the NTAJA is the guiding principle that Aboriginal Territorians have the right to speak, to be heard, and be actively engaged in decision-making processes that impact on Aboriginal people in the NT. A robust governance structure is critical to ensure the signatories to the NTAJA are held accountable and to monitor the Agreement's effectiveness.

In line with the NTAJA's staged implementation, the Agreement's governance structure will consist of two distinct phases delivered over seven years. Under NTAJA Stage 1 (2019-2021), an initial governance structure will be established. Following an evaluation, the governance structure will be revised under NTAJA Stage 2 (2022-2025).

In all stages of the NTAJA, governance committees will be established to serve as the forum for Aboriginal community representatives to directly discuss Aboriginal justice issues with Chief Executive Officers (CEOs) of NTG agencies. The establishment of local Law and Justice Groups (LJGs) will provide a platform for Aboriginal Territorians to develop culturally-competent, place-based strategies to improve local justice outcomes.

The structure proposed below has been developed to reflect the partners' agreed understanding that only an integrated, Territory-wide, whole-of-government approach will create meaningful change and achieve the Agreement's aims.

6.1 Governance Overview

6.1.1 Stage 1: 2019-2021

A summary of the governance structure for Stage 1 is outlined below and in Figure 29.

The Attorney-General and Minister for Justice will:

- oversee the implementation of the NTAJA within the broader justice portfolio
- table an annual progress report to Parliament reporting on the outcomes of the NTAJA
- communicate and coordinate activities between the Aboriginal Affairs Sub-Committee of Cabinet and the NTAJA Governance Committee.

The Aboriginal Affairs Sub-Committee of Cabinet will:

- provide high-level advice regarding the NTG's strategic priorities, significant policy initiatives and any legislative reforms related to the NTAJA
- provide comment on the annual progress report and other official documentation.

The NTAJA Governance Committee will be established as one of the the main bodies responsible for overseeing all governance-related matters. The Governance Committee will:

- oversee and monitor the implementation of the NTAJA in collaboration with the AJU, and report to the Attorney-General and Cabinet Sub-Committee on a regular basis
- facilitate whole-of-government responses on matters affecting Aboriginal Territorians and provide advice on culturally-competent best practice models
- promote and facilitate broader stakeholder engagement with the NTAJA and related initiatives.

The NTAJA Governance Sub-Committee will be established with selected members from the NTAJA Governance Committee. The NTAJA Sub-Committee will:

- provide assistance and advice to the NTAJA Governance Committee and the AJU on key priorities of the NTAJA Governance Committee
- provide comment and feedback on particular issues for the NTAJA Governance Committee.

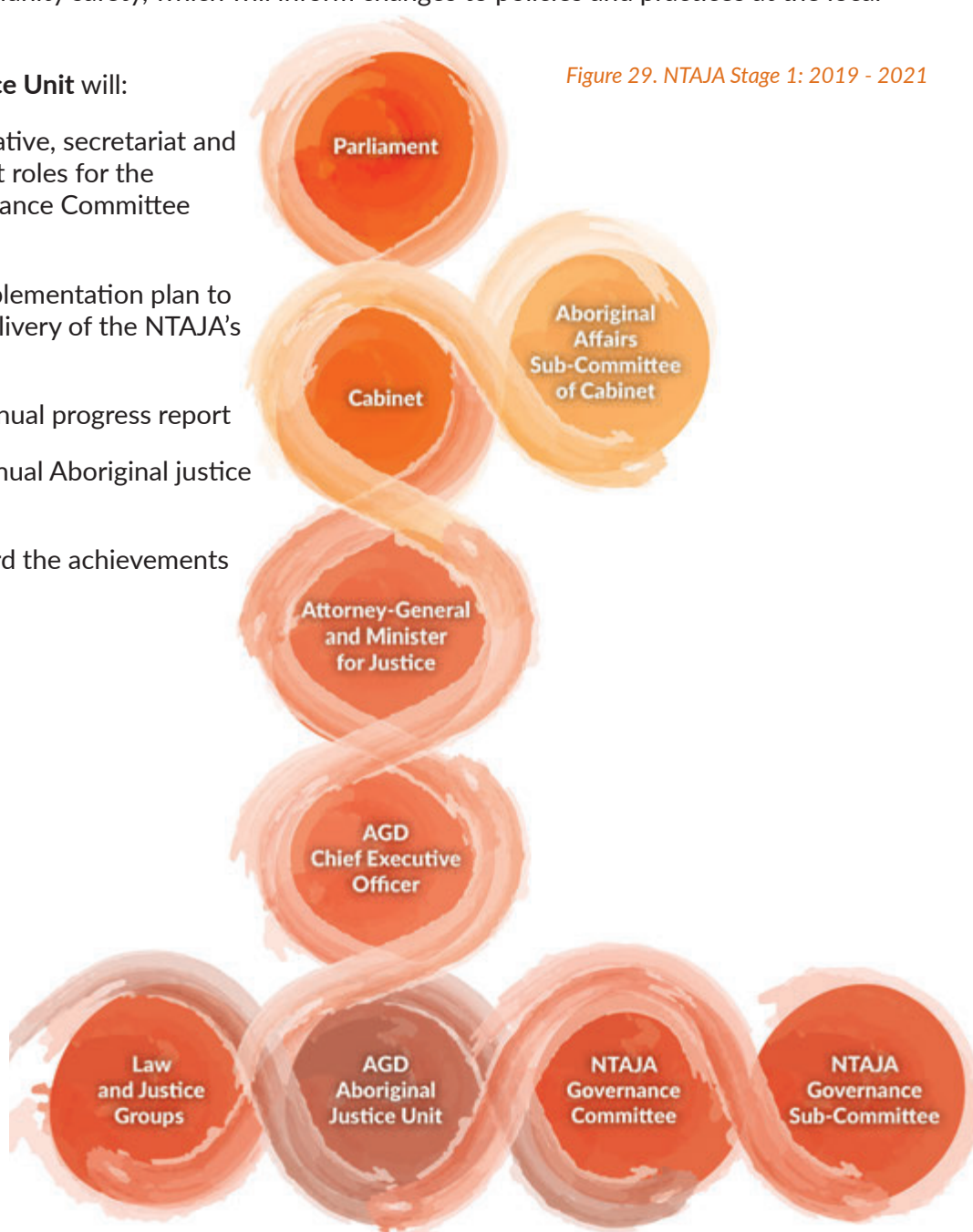
Law and Justice Groups (LJGs) will be established to promote Aboriginal leadership and facilitate change at the local level. With appropriate resourcing and support LJGs will:

- develop and implement a Local Action Plan, which sets out place-based strategies, informed by local evidence, to respond to local justice concerns and improve community safety
- report to the NTAJA Governance Committee on the implementation of the Local Action Plan
- provide feedback to the NTAJA Governance Committee and to NTG agencies on factors affecting community safety, which will inform changes to policies and practices at the local level.

The Aboriginal Justice Unit will:

- fulfil administrative, secretariat and project support roles for the NTAJA Governance Committee and LJGs
- develop an implementation plan to oversee the delivery of the NTAJA's outcomes
- prepare the annual progress report
- convene an annual Aboriginal justice forum
- track and record the achievements of the NTAJA.

Figure 29. NTAJA Stage 1: 2019 - 2021



6.1.2 Stage 2: 2022-2025

The anticipated changes to the NTAJA's governance under Stage 2 are outlined below and in Figure 30.

- Any amendments to the governance structure in Stage 2 will be guided by the recommendations arising from the independent evaluation in Stage 1. Changes to the governance structure will be decided towards the end of NTAJA Stage 1 in consultation with Aboriginal Territorians.
- An Aboriginal Social Justice Commissioner will be appointed for the Northern Territory. While the Commissioner's specific roles and responsibilities will be outlined following the evaluation of governance under Stage 1, his or her responsibilities are likely to include reviewing policies and procedures, advocating for the rights and interests of Aboriginal Territorians, receiving complaints and submissions from Aboriginal Territorians, and liaising with other relevant commissions.⁵⁶¹

Figure 29. NTAJA Stage 2: 2022 - 2025





6.2 NTAJA Governance Committee

The NTAJA Governance Committee (the Governance Committee) will replace the interim AJARC to perform an overarching monitoring and advisory role. The Governance Committee will be guided by terms of reference that define its purpose, responsibilities and working arrangements. The establishment of the Governance Committee will also include a mechanism to ensure greater representation of Aboriginal Territorians. Administrative, secretariat and project support will be provided by the AJU.

6.2.1 Composition of the Governance Committee

The Governance Committee will engage CEOs from key NTG agencies and Aboriginal representatives from major regions across the NT and will be co-chaired by the CEO of the Department of the Attorney-General and Justice, and a member elected from the Aboriginal representatives.

Northern Territory Government Committee Members

NTG agencies to be represented on the Governance Committee include the following, noting that representation may be expanded depending on the subject matter under discussion:

- Department of the Attorney-General and Justice
- Department of the Chief Minister
- Department of Education
- Department of Health
- Department of Local Government, Housing and Community Development
- Department of Infrastructure, Planning and Logistics
- Department of Treasury and Finance
- Northern Territory Police, Fire and Emergency Services
- Territory Families.

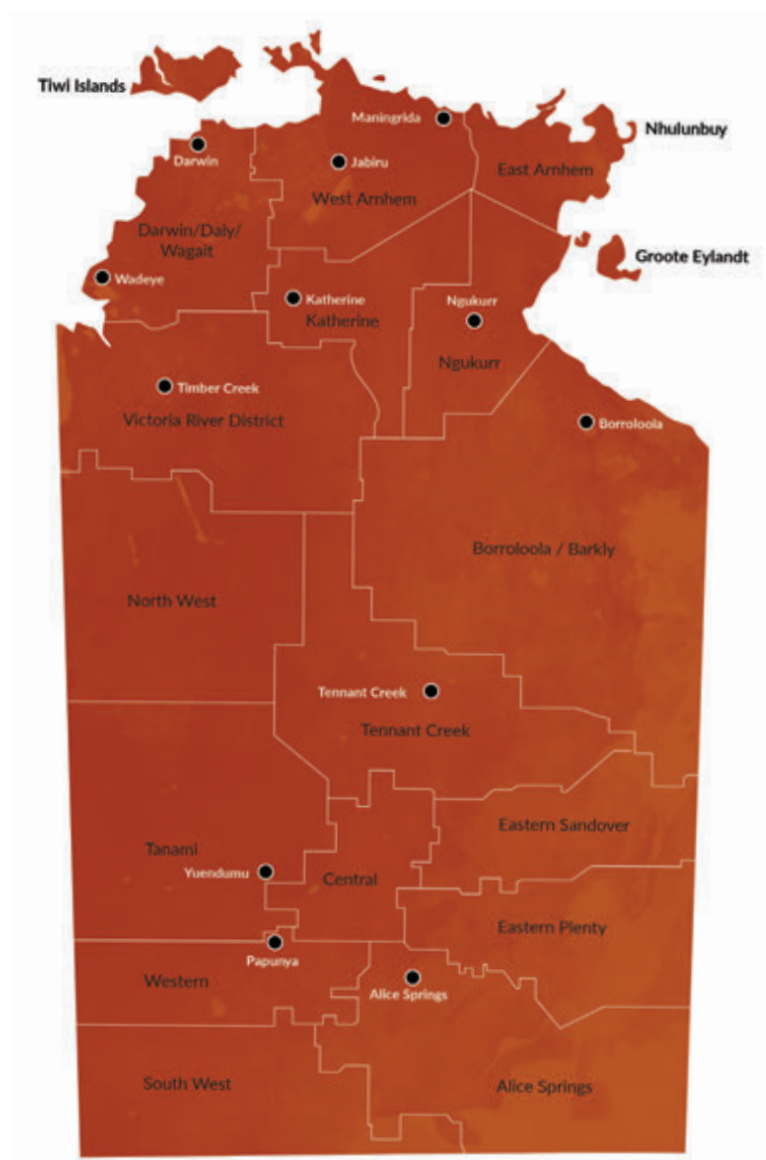
Aboriginal Representatives

The Governance Committee will include gender balanced representation. Aboriginal representatives will be nominated from each region as outlined in Figure 31 and will undergo a selection process prior to appointment. Selection criteria will require applicants of significant merit and standing in their respective regions. Applicants will be required to adhere to high standards of ethical and professional conduct in the performance of their duties, similar to the standards expected of all NT public sector employees in the Northern Territory Public Service Code of Conduct.

It is envisaged that a total of 36 Aboriginal representatives will represent the following 18 regions:

- Alice Springs
- Borroloola /Barkly
- Central Region
- Darwin/Daly/Wagait
- East Arnhem
- Eastern Plenty
- Eastern Sandover
- Groote Eylandt
- Katherine Region
- Ngukurr Region
- North West Region
- South West Region
- Tanami
- Tennant Creek
- Tiwi Islands
- Victoria River District
- West Arnhem
- Western Region

Figure 30. Map of proposed NTAJA Governance Committee's Aboriginal representative regions



Source: Northern Territory Government

6.3 Establishment of Law and Justice Groups

At a local level, the NTAJA will support the formation of LJGs in Aboriginal communities. LJGs are representative groups of Aboriginal people who come together to address issues to improve justice responses and community safety. LJGs will provide a critical platform for local decision-making, including reform of service delivery that is necessary to achieve the aims of the NTAJA.

Establishing LJGs recognises that Aboriginal people are best placed to understand and address the issues impacting on justice outcomes at a local level. There is widespread support for LJGs among Aboriginal community leaders, community-based service providers, educators, and key justice agencies including local police, corrections and the courts.

Members of LJGs will be determined by a locally-driven process that reflects a gender-balanced and fair representation of the cultural groups within a community.

In Stage 1 of the NTAJA, it is envisaged that the NTG will support a maximum of five LJGs to be established. The model will be evaluated towards the end of the first year in order to refine the process for establishing and operating LJGs, before the model is expanded. While it is acknowledged that five LJGs will not be representative of all Aboriginal people and communities across the NT, adopting a phased approach to implementation will allow for the LJG model to be refined and improvements to be made over time.

6.3.1 Roles and responsibilities of Law and Justice Groups

The specific scope and focus of work undertaken by each LJG will be decided by Aboriginal people within that region.

It is envisaged that LJGs will be supported by the AJU and the Governance Committee to develop a Local Action Plan outlining practical strategies to address local issues, which will complement the NTG's LDM framework. Action plans will include place-based, practical strategies to respond to justice concerns identified within the local community. LJGs will provide formal and informal feedback to the Governance Committee and also to NTG agencies about matters affecting community safety. More detail on LJGs is provided in section 4.4.

6.4 Aboriginal Justice Unit

6.4.1 Roles and responsibilities of the Aboriginal Justice Unit

Developing a NTAJA implementation plan

The AJU will be responsible for developing and overseeing a comprehensive implementation plan for the NTAJA, including the Agreement's monitoring and evaluation framework. The implementation plan will play a crucial role in ensuring that parties fulfil their responsibilities under the Agreement by outlining the actions required to deliver on the aims.

The implementation plan will be developed following the release of the final NTAJA.

Convening an annual Aboriginal justice forum

One of the AJU's key responsibilities will be to convene an annual forum to bring together Aboriginal Territorians, relevant government agencies and NGOs, to present and discuss key focus areas relating to the implementation of the NTAJA.

The forum will aim to:

- provide strategic oversight of progress towards the NTAJA's aims, including sharing data that illustrates the extent to which improvements are being achieved

- maintain and renew stakeholders' commitment to the collaborative, partnership-based approach that underlies the Agreement
- allow for open dialogue between Aboriginal Territorians and the NTG on pressure points and drivers of poor justice outcomes for Aboriginal Territorians
- provide opportunities to showcase best practice in achieving cultural competency for professionals and stakeholders engaged in delivering justice-related services.

6.5 Monitoring and Evaluation

The successful implementation of the NTAJA relies on ongoing independent monitoring and evaluation. A monitoring and evaluation framework will be designed and implemented in collaboration with Aboriginal Territorians.

The AJU will develop the monitoring and evaluation framework in line with the following principles:

- a commitment to a transparent reporting process
- a reporting framework that provides for an evidence-based approach
- a process that holds parties accountable for performance under the NTAJA
- the development of indicators that will measure the outcomes of the NTAJA
- a high level of cultural integrity and competency
- commitment to an improvement framework that will address gaps and deficiencies limiting progress towards achieving the aims of the NTAJA.

6.5.1 Inclusion of specific targets in the Northern Territory Aboriginal Justice Agreement

Use of targets under Stage 1: 2019-2021


Throughout Stage 1, measures of success will be chosen that reflect outcomes aligned with the aims of the NTAJA. It is expected that specific targets aligned with the aims will not be set in stage 1. This decision is based upon three observations regarding the use of targets in developing and maintaining AJAs in other Australian jurisdictions.

Foremost, the experience of other jurisdictions demonstrates that targets, particularly those established during the early stages of an agreement's implementation, are at risk of being overambitious. As a result, poorly-devised targets may undermine commitment and trust in the Agreement, and pose an avoidable obstacle to establishing and maintaining constructive partnerships.

Secondly, the use of targets in other jurisdictions has highlighted that setting realistic, achievable targets requires accurate baseline data. In the NT, much of this data has not been comprehensively collected, recorded, validated and analysed.

Finally, it is evident that the issues addressed by AJAs are multi-faceted and interrelated in a variety of complex ways. As the full extent of these issues and their interrelationships are poorly understood, targets set during this early draft stage may provide a poor prediction of the Agreement's success.

Reporting against specific outcomes will provide a more comprehensive account of the strengths



and shortcomings of the NTAJA's approaches, allowing its strategies to be refined by highlighting areas that are showing improvement, those that are successful and those requiring further improvement.

However, this does not restrict the setting of specific targets in Local Action Plans under the direction of the LJGs, which are based on evidence relevant to the local region.

Use of targets under Stage 2: 2022-2025

It is anticipated that targets will be set during NTAJA Stage 2. At this stage, the foundational work implemented under Stage 1 will allow for the development of a practical, relevant, culturally appropriate framework for the establishment of targets. The specific targets will be determined by the signatories to the final Agreement through a culturally competent consultation process.

It is acknowledged that the Council of Australian Governments (COAG) is in the process of completing a refresh of its *Closing the Gap* initiative, including consideration of national justice-related targets.⁵⁶² The AJU will monitor the outcomes of the COAG review and ensure relevant changes are reflected in Stage 2.

6.6 Aboriginal Social Justice Commissioner

The most significant modification to the governance structure in Stage 2 is the proposed appointment of an Aboriginal Social Justice Commissioner for the NT.

The Aboriginal Social Justice Commissioner is expected to be responsible for:

- reviewing the impact of policies and measures introduced under NTAJA Stage 1
- monitoring and reporting on the wellbeing (and human rights) of Aboriginal Territorians
- advocating for the rights and interests of Aboriginal Territorians
- providing advice and making recommendations about cultural competency in the formation of policy and delivery of services
- providing support and guidance to the NTAJA Governance Committee
- collaborating with the AJU to produce an Annual Progress Report
- receiving complaints, including making recommendations relevant to government agencies
- liaising with other relevant commissions, such as the Northern Territory's Anti-Discrimination Commission, the Independent Commissioner Against Corruption, the Treaty Commissioner and the Office of the Children's Commissioner.

Glossary

Aboriginal

The term Aboriginal refers to:

- (a) a descendant of the Aboriginal peoples of Australia; or
- (b) a descendant of the Indigenous inhabitants of the Torres Strait Islands.

Throughout this report, the term Aboriginal is used in reference to people of either or both Aboriginal or Torres Strait Islander descent, except where specific reference is made to publications that use other terminology. For example, the ABS uses the term 'Indigenous' to refer to both Aboriginal and Torres Strait Islander peoples. The use of the term 'Aboriginal' recognises the diversity of cultures, languages, clans and skin groups throughout the NT and its use is not intended to diminish or deny these differences.⁵⁶³

Aboriginal Territorian

An Aboriginal person who has their principle place of residence as the Northern Territory.

Non-Aboriginal Territorian

A non-Aboriginal person who has their principle place of residence as the Northern Territory.

Acts Intended to Cause Injury

Acts, excluding attempted murder and those resulting in death, which are intended to cause an non-fatal injury or harm to another person and where there is no sexual or acquisitive element.

Adult

A person at least 18 years of age or a person apparently 18 years of age; if the person's age cannot be proved.⁵⁶⁴ However, the age range may vary depending on usage. For example, NT Correctional Services include 17-year-olds in the category of "adults" when conducting and collating data for the annual prison census.

Aggregate Sentence

Aggregate sentences are based on the common law principle of totality, which applies when a court imposes multiple sentences of imprisonment for multiple offences. The principle of totality comprises two elements:

1. When sentencing for more than a single offence, courts should pass a total sentence reflective of all offending behaviour before the court in a manner that is just and proportionate. Therefore, sentences for more than one offence will usually be longer than a single sentence for a single offence.
2. It is difficult to arrive at a just and proportionate sentence for multiple offences simply by adding together single sentences. It is necessary to consider the offending behaviour, as well as factors personal to the offender as a whole.

The principle is to be applied without the suggestion that a discount is given for multiple offences.

As a result, application of concurrent or consecutive sentences sits within the following guidelines:

Concurrent sentences are applied when offences arise out of the same incident, there is a series of offences of the same or similar kind, specifically when committed against the same person.

Consecutive sentences apply when offences arise out of unrelated facts or incidents, offences that are of the same or similar kind but where the overall criminality will not be sufficiently reflected by concurrent sentences, or one or more offences qualifies for a statutory minimum sentence and concurrent sentences would improperly undermine that minimum.

ANZSOC

The Australian and New Zealand Standard Offence Classification (ANZSOC) provides a uniform national statistical framework for classifying criminal behaviour in the production and analysis of crime and justice statistics. ANZSOC is used in Australian Bureau of Statistics statistical collections, Statistics New Zealand statistical collections, Australian police, criminal courts and corrective services agencies and New Zealand police and justice agencies. Under ANZSOC a three-tiered offence classification system is used to assist with categorising offending behaviour. More information is available at: <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/1234.0>>

Apprehension

The seizure of a person who is suspected of having committed a crime.

Bail

Bail is the means by which a person who has been accused of a crime may apply to the court to be released into the community until their trial begins. Bail may be granted unconditionally or subject to conditions.

BasicsCard

An Australian Government legacy initiative stemming from the implementation of the Northern Territory Emergency Response in 2007. The initiative allows a person to be issued with a reusable electronic key card linked to their income managed funds, which they can access through EFTPOS facilities at approved stores and businesses. A person can only request a BasicsCard once they have been placed on income management either voluntarily or otherwise.

Breach of Bail/ Apprehension

Police apprehension for violation of one or more conditions of bail.

Child

The United Nations Convention on the Rights of the Child defines child as a human being below the age of 18 years. However, children are not held criminally responsible for their actions until they have reached a certain age. Children in the Northern Territory are considered to be criminally responsible from the age of 10.

Cultural Authority

A group or individual with the authority to support decision-making and dispute resolution, or who provides guidance on what the community needs and what will work, particularly in regard to cultural responsibilities and obligations. Cultural authorities exist in various forms, ranging from a regional level of cultural authority to more local advisory groups and incorporated community organisations. They draw on the knowledge and expertise of respected senior people who are acknowledged as holding appropriate cultural authority.

Cultural Awareness

Cultural awareness is defined as having cultural sensitivity, and the awareness and avoidance of cultural bias.⁵⁶⁵

Cultural Broker

A person who facilitates the interaction between one culture and another. Cultural brokers work to educate and prepare the host culture as well as the visitor, dispelling social myths and working through any cultural barriers that may disrupt relationships or cause misunderstandings. Cultural brokers build community and trust among people of different backgrounds, helping parties to work together and build enterprises and ventures, cooperatively and with visions that will benefit both groups.⁵⁶⁶

Cultural Competency

Culturally competent engagement requires:

- an appreciation of and the competency to respond to Aboriginal history, cultures, contemporary social dynamics, and the diversity of Aboriginal communities
- valuing the cultural skills and knowledge of community organisations and Aboriginal people
- clarity about the purpose and the relevant scale for engagement, which may call for multi-layered processes
- engagement that relates to Aboriginal concepts of wellbeing
- long-term relationships of trust, respect and honesty, as well as accessible, ongoing communication and information
- effective governance and capacity within both the Aboriginal community and governments themselves
- appropriate timeframes (including for deliberation and responsive funding, where applicable).⁵⁶⁷

Cultural Safety

A culturally safe environment is one where there is no assault, challenge or denial of a person's identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning, living and working together with dignity and truly listening.⁵⁶⁸

Cultural Security

Cultural security imposes stronger obligations on those who work with Aboriginal peoples to not only be aware of cultural needs, but to actively ensure that cultural needs are met for individuals.⁵⁶⁹ This may involve the inclusion of actions in policies that promote cultural competency or safety.

Custodial Correctional Facility or Prison

A facility in which persons convicted of crimes are forcibly confined and denied freedoms of citizenship under the authority of the state.

Custodial Order

A judicial sentence mandating that a person be taken into custody, either into prison or into some other supervised educational, rehabilitative or therapeutic institution.

Custody

The state of being kept in prison, which may include the period of time a person is waiting to go to court for a trial or hearing.

Declaration

Statements made by the world's governments. They do not create legally binding obligations but they do carry political weight.

Detainee

A youth lawfully detained in a detention centre, in accordance with section 5, subsection 1 of the *Youth Justice Act 2005* (NT).

Detention Centre

A place where young offenders under the age of 18 years are detained while under the supervision of the relevant department (e.g. Territory Families in the NT) on remand or during a sentenced detention period.

Diversion

A term used to refer to a range of strategies that aim to reduce a person's contact with and progression through the criminal justice system, and to reduce the risk of reoffending. Diversion can occur at any point along the continuum of criminal justice responses; pre-arrest, pre-trial, pre-sentence, post-sentence and pre-release.

It is also the pathway of sentencing in which the criminal offender enters a rehabilitation program to remedy the behaviour leading to the original offence, to avoid a recorded conviction.

Equivalised Gross Weekly Household Income

The economic resources available to each member of a household. It can be used for comparing the situation of individuals, as well as comparing the situation of households.⁵⁷⁰

Finalised Defendant

A finalised defendant is a person for whom all charges relating to the one case have been formally completed so that the charges cease to be an item of work to be dealt with by the court.

Homelessness

Homeless people include those living in improvised dwellings, tents, or sleeping out; people in supported accommodation for the homeless; people staying temporarily with other households; people living in boarding houses; people in other temporary lodgings; and people living in 'severely' crowded dwellings.

Justice Order Breach

A justice order is any order or direction handed down by a court of Australia. A justice order breach occurs where the subject of the order does not comply with the conditions of the order. For example, breaching bail conditions is considered a justice order breach.

Lodgement

The bringing of a charge or a formal accusation against someone (often in a court of law).

Maltreatment

All forms of physical and/or emotional ill treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the person's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.

Miscellaneous offences

Offences involving the breach of statutory rules or regulations governing activities that are prima facie legal, where such offences are not explicitly dealt with under any other Division of ANZSOC. This includes defamation, libel and privacy offences; public health and safety offences; commercial/industry/financial regulation; and other miscellaneous offences.

Monetary Order

A judicial sentence imposing the payment of a fine or other pecuniary penalty.

Offender

A person aged 10 years or over who is proceeded against and recorded by police for one or more criminal offences.

Parole

A conditional release from imprisonment during which a prisoner promises to abide by certain conditions.

Police proceeding

A police-initiated legal proceeding, categorised either as a court action or non-court action. Note that this is not a count of offences nor a count of offenders. An offender can be proceeded against multiple times during the reference period, and so can appear multiple times in the police proceedings population.

Principal Offence

Where multiple offences are committed within the same incident on a single date by an offender, the offender is assigned a principal offence using the ABS National Offence Index (NOI), a ranking system of the offence categories of ANZSOC according to their level of seriousness.

Prior imprisonment

Prior record of imprisonment is, for each prisoner, a count of all previous terms of imprisonment across the life-course of that individual. Prisoners who have had a previous term of imprisonment in another state or territory may not be counted as someone who has previously been imprisoned.

Recidivism

The rate at which released prisoners return to prison within a two-year period.

Remand

Alleged offenders may be held in custody before and during their trial (on criminal charges) by order of a court. This is called being on remand. An alleged offender is remanded in custody by a court if they:

- have not applied for bail
- have been refused bail
- cannot meet bail or provide a surety
- are unable or unwilling to meet the conditions set out in the bail bond.

Remanding an offender in custody ensures that the alleged offender attends their next court date and/or trial.

Royal Commission into Aboriginal Deaths in Custody

A Royal Commission established in 1987 by the Australian Government pursuant to the *Royal Commission Act 1902* (Cth) to inquire into Aboriginal deaths in custody and make recommendations that would prevent such deaths in the future.

Royal Commission into the Protection and Detention of Youth in the Northern Territory

A Royal Commission established in 2016 by the Australian Government pursuant to the *Royal Commissions Act 1902* (Cth) to inquire into and report upon failings in the child protection and youth detention systems of the Northern Territory Government.

Social Determinants of Health

The conditions in which people are born, grow up, live, work and age. These circumstances are shaped by the distribution of money, power and resources at global, national and local levels. The social determinants of health are mostly responsible for health inequities - the unfair and avoidable differences in health status seen within and between countries.⁵⁷¹

Special Measure

An action that advances a particular disadvantaged group and is not considered discriminatory.

Summons

An order to appear before a judge.

Surety

A person who takes responsibility for the performance of an undertaking, for example their appearance in court or the payment of a debt owed.

Treaty

A binding agreement made between governments. Treaties create binding legal obligations under international law. Treaties can also be called covenants, conventions or protocols. Treaties can also be made between governments and Indigenous peoples; the Treaty of Waitangi between New Zealand and the Maori is an example.

Unemployment

Includes all those of working age who, during a given period, were not in employment, who carried out activities to seek employment and who were available to take up employment if given the opportunity.



Unsentenced Prisoner

An unsentenced prisoner is a person held in prison for longer than three months without a sentence. The unsentenced prison population are prisoners who have been placed on bail, remanded in custody, or convicted and awaiting sentence.

Victim

Victims are persons impacted directly by the following offences: *'homicide and related offences'*; *'assault'*; *'sexual assault'*; *'abduction and kidnapping'*; *'robbery'*; *'blackmail and extortion'*; *'unlawful entry with intent/burglary'*; *'break and enter'*; *'motor vehicle theft'*; and *'other theft'*.

Whole-of-Government

Whole-of-government refers to public service agencies working across portfolio boundaries to achieve shared goals and an integrated government response to particular issues. Approaches can be formal and informal. They can focus on policy development, program management and service delivery.

Youth

In accordance with s 6 (1) of the *Youth Justice Act 2005* (NT), the term 'youth' refers to persons under 18 years of age. This term is used interchangeably with 'child' and 'young person' throughout this document.

In all Australian states and territories children aged under 10 years cannot be charged with a criminal offence.

Appendices

Appendix 1. List of consultations for the draft Northern Territory Aboriginal Justice Agreement

Table 4. List of NTAJA consultation locations and dates

Region	Meeting	Date
Darwin	Aboriginal Peak Organisations of the Northern Territory (APO NT) Meeting	2 March 2017
Darwin	United Nations Special Rapporteur	23 March 2017
Tiwi	Snake Bay	24 March 2017
East Arnhem	Ramingining	31 March 2017
Darwin	North Australia Aboriginal Justice Agency (NAAJA) Board Meeting	11 April 2017
East Arnhem	Ramingining	3 May 2017
Barkly	Central Land Council Full Council Meeting	10 May 2017
Darwin	Elders Visiting Program Forum	17–18 May 2017
East Arnhem	Ramingining	22 May 2017
Katherine	Northern Land Council Full Council Meeting	29 May 2017
Alice Springs	Office of the Commissioner for Public Employment Aboriginal Employment Forum	31 May–1 June 2017
Darwin	NAAJA Board Meeting	16 June 2017
Belyuen Shire	Belyuen	3 July 2017
Alice Springs	Alice Springs Show	7–8 July 2017
Barkly	Tennant Creek Show	14–15 July 2017
Victoria Daly Region	Batchelor	17 July 2017
Victoria Daly Region	Nauiyu (Daly River)	19 July 2017
Katherine	Katherine Show	21–22 July 2017
Victoria Daly Region	Nauiyu (Daly River)	25 July 2017
Darwin	Darwin Show	27–29 July 2017
Victoria Daly Region	Pine Creek	1 August 2017
Darwin	Bagot	2 August 2017
East Arnhem	Garma Festival	4–7 August 2017
Darwin	Palmerston Indigenous Village	10 August 2017
Darwin	Aboriginal Affairs Sub-Committee of Cabinet	14 August 2017
Darwin	Aboriginal Affairs Sub-Committee of Cabinet	15 August 2017
Darwin	Acacia	16 August 2017
Darwin	Palmerston Indigenous Village	16 August 2017
Victoria Daly Region	Kybrook Farm (Pine Creek)	16 August 2017
East Arnhem	Ramingining	18 August 2017
Darwin	Knuckey Lagoon	22 August 2017
West Arnhem	Jabiru	19 September 2017
Central/Barkly	Elders Visiting Program Forum	20 September 2017
West Arnhem	Gunbalanya	26 September 2017
West Arnhem	Waruwi	5 October 2017
West Arnhem	Minjilang	6 October 2017
West Arnhem	Waruwi	9 October 2017
West Arnhem	Minjilang	10 October 2017
East Arnhem	Maningrida	19 October 2017
Saltwater Region	Elders Visiting Program Forum	20 October 2017
Darwin	Crime Victims Advisory Committee	13 November 2017
East Arnhem	Maningrida	12 December 2017
Alice Springs	Alice Springs Youth Detention Centre	15 December 2017

Region	Meeting	Date
West Daly	Wadeye (Port Keats)	20 December 2017
Darwin	Don Dale Youth Detention Centre	12 January 2018
Alice Springs	Alice Springs Youth Detention Centre	23 January 2018
Alice Springs	Alice Springs Correctional Centre	23-25 January 2018
Alice Springs	Grandmothers Group	23 January 2018
Darwin	Red Shield Outreach Services Day	30 January 2018
West Daly	Wadeye (Port Keats)	12 February 2018
Groote Eylandt	Angurugu	8 March 2018
Groote Eylandt	Umbakumba	8 March 2018
Tiwi	Tiwi Islands	28 March 2018
Darwin	Aboriginal Justice Agreement NTG staff Workshop	12 April 2018
Darwin	Elders Visiting Program Forum	3-4 May 2017
Alice Springs	Centre for Appropriate Technology Board Meeting	16 May 2018
Groote Eylandt	Milyakburra	5 June 2017
Groote Eylandt	Umbakumba	5 June 2017
Groote Eylandt	Angurugu	6 June 2017
Roper Gulf	Barunga Festival	8 June 2018
East Arnhem	Maningrida	13 June 2018
MacDonnell	Kaltukatjara (Dockers River)	2 July 2018
Central Australia	Mutitjulu	3 July 2018
Central Australia	Ltyentye Apurte (Santa Teresa)	4 July 2018
Central Australia	Aputula (Finke)	4 July 2018
Alice Springs	Alice Springs Show	6-7 July 2018
Central Australia	Aileron	9 July 2018
Central Australia	Aleyaw (Ti Tree)	9 July 2018
Central Australia	Alyuen Homelands	9 July 2018
Barkly	Ali Curung	10 July 2018
Central Australia	Nturiya and Pmata junata (Ti Tree Station and 6 Mile)	10 July 2018
Barkly	Tara Homeland (Barrow Creek)	12 July 2018
Barkly	Wilora	12 July 2018
Barkly	Tennant Creek Show	13 July 2018
Barkly	Kulumindini (Elliott)	19 July 2018
Barkly	Marlinja (Newcastle Waters)	19 July 2018
Victoria Daly	Katherine Show	20-21 July 2018
Central Australia	Mutitjulu	24 July 2018
Central Australia	Ltyentye Apurte (Santa Teresa)	25 July 2018
Central Australia	Aputula (Finke)	25 July 2018
MacDonnell	Ntaria (Hermannsburg)	26 July 2018
MacDonnell	Areyonga	26 July 2018
Darwin	Darwin Show	27-28 July 2018
Nhulunbuy	Garma Festival	3-5 August 2017
Darwin	Darwin Correctional Precinct (Women's Sector)	6 August 2018
Groote Eylandt	Groote Eylandt	7 August 2018
Roper Gulf	Ngukurr	9 August 2018
Roper Gulf	Numbulwar	9 August 2018
Roper Gulf	Burrulula (Borroloola)	10 August 2018
Upper Tanami	Willowra	16 August 2018
Upper Tanami	Yuendumu	16 August 2018
Upper Tanami	Laramba (Napperby Station)	16 August 2018
Upper Tanami	Papunya	17 August 2018
Upper Tanami	Ikuntji (Haasts Bluff)	17 August 2018
Katherine	Elders Visiting Program Forum	29 August 2018
Darwin	Supreme Court Open Day 2018	1 September 2018
Alice Springs	Alice Springs Regional Stakeholders Meeting	13 September 2018
Barkly	Arlparra (Utopia)	13 September 2018

Region	Meeting	Date
Barkly	Ampilatwatja	13 September 2018
Barkly	Tennant Creek Regional Stakeholders Meeting	14 September 2018
Barkly	Owairtilla (Canteen Creek)	14 September 2018
Barkly	Alpurrurulam (Lake Nash)	14 September 2018
Darwin	Minister's Office with Lynne Walker, Policy Advisor, Office of the Chief Minister	18 September 2018
Darwin	Menzies School of Health Lunchtime Seminar – Northern Territory Aboriginal Justice Agreement Presentation	19 September 2018
Katherine	Katherine Regional Stakeholders Meeting	20 September 2018
Palmerston	Palmerston Regional Stakeholders Meeting	21 September 2018
Darwin	Darwin Regional Stakeholders Meeting	21 September 2018
Alice Springs	Amoonguna	10 October 2018
Alice Springs	NGO Meetings	10-11 October 2018
Darwin	Darwin Correctional Precinct (Men's Sector)	16 October 2018
Victoria Daly	Kalkarindji/Daguragu	29 October 2018
Victoria Daly	Lajamanu	29 October 2018
Palmerston	Palmerston City Council	6 November 2018
West Daly	Peppimenarti	11 December 2018
West Daly	Nganmarriyanga (Palumpa)	11 December 2018
East Arnhem	Nhulunbuy Regional Stakeholders Meeting	12 December 2018
East Arnhem	Gunyangara (Ski Beach)	12 December 2018
East Arnhem	Datjala Work Camp	12 December 2018
East Arnhem	Yirrkala	13 December 2018
East Arnhem	Datjala Work Camp	13 December 2018

Appendix 2. Northern Territory Government Workshop Participants

Table 5. NTAJA Government Workshop 12 April 2018

Northern Territory Government Agency	Name/ Position/ Organisation
Aboriginal Areas Protection Authority	Sophie Creighton, Director Sacred Sites Research and Information Unit
Department of the Attorney-General and Justice	Craig Smyth, Acting Deputy CEO
	Leanne Liddle, Director Aboriginal Justice Unit
	David Hollinsworth, Adjunct Professor University of the Sunshine Coast, Facilitator
	Gail Carnes, Senior Project Officer Aboriginal Justice Unit
	Douglas Lovegrove, Project Support Officer Aboriginal Justice Unit
	Calvin Deveraux, Cultural Broker Aboriginal Justice Unit
	Carolyn Whyte, Director Criminal Justice Research and Statistics Unit
Department of the Attorney-General and Justice (Correctional Services)	Rosanne Lague, Director Programs, Services and Improvement Tracy Luke, Executive Director NT Community Corrections
Office of the Commissioner for Public Employment	Neil Pomfret, Advisor Aboriginal Employment and Career Development
Corporate Information and Services	Doug Cooke, Senior Director Digital Policy and Telecommunications
Department of the Chief Minister	Mischa Cartwright, Acting Executive Director Office of Aboriginal Affairs
	Natasha O'Connell, Policy Officer Office of Aboriginal Affairs
Department of Education	Robert Picton, Director Community Engagement and Local Decision Making
	Susan MacPherson, Senior Director School Education
Department of Health	Christine Connors, General Manager Primary Health Care, Top End Health Service
	Margaret Rajak, Manager Patient Travel, Accommodation and Transport Service
	Nicole O'Reilly, Director Primary Health Care Service
	Sharna Deveraux, Principal Policy Officer
Department of Housing and Community Development	Adrian Curry, Director Community Development
Department of Infrastructure, Planning and Logistics	Paula Timson, Acting Director Legislation and Reform
	Glenda Thornton, Director Road Safety and Compliance, DriveSafe Program
	Claire Manalo, Acting Director Motor Vehicle Registry
Northern Territory Police, Fire and Emergency Services	Stephen Martin, Commonwealth Engagement, Airwing and Special Projects Division
Power and Water Corporation	Chantal Bramley, Manager Community Engagement, Solar SETuP Program
	Donna McMasters, Senior Project Officer Regional and Remote Water and Sewer Services
Department of Tourism and Culture	Phillip Leslie, Executive Director Sport and the Arts
Territory Generation	Hieu Nguyen, General Counsel and Company Secretary
Territory Families	Jeanette Kerr, Deputy CEO
	Kelly Cooper, Senior Director Community Youth Programs
Department of Trade, Business and Innovation	Jason Howe, Executive Director Business and Innovation
	Karen Lindsay, Director Workforce Programs

Appendix 3. NTAJA Targeted Stakeholder Workshop Participants

Table 6. NTAJA Workshop 1: 18–19 October 2018

Name	Position	Organisation
Thalia Anthony	Associate Professor	University of Technology Sydney
Harry Blagg	Professor	University of Western Australia
Alan Cass	Professor	Menzies School of Health Research
Steven Guthridge	Professor	Menzies School of Health Research
Leanne Liddle	Director	Aboriginal Justice Unit
Douglas Lovegrove	Project Support Officer	Aboriginal Justice Unit
David McDonough	Director of Policy	Territory Families
Clare Parsons	Royal Commission Coordinator	NAAJA
Tamika Williams	Acting Legal Advisor	Menzies School of Health Research

Table 7. NTAJA Workshop 2: 1–2 November 2018

Name	Position	Organisation
Thalia Anthony	Associate Professor	University of Technology Sydney
Harry Blagg	Professor	University of Western Australia
Phillip Brown	General Manager Workforce and Partnerships	Catholic Care NT
Alan Cass	Professor	Menzies School of Health Research
Chris Cunneen	Professor	University of Technology Sydney
Antoinette Gentile	Director	Koori Justice Unit (Vic)
Russell Goldflam	Principal Legal Officer	NT Legal Aid Commission
John Guenther	Associate Professor	Charles Darwin University
David Hollinsworth	Adjunct Professor	University of the Sunshine Coast
Warren Jackson	Superintendent	NT Police
Leanne Liddle	Director	Aboriginal Justice Unit
Douglas Lovegrove	Project Support Officer	Aboriginal Justice Unit
Caleb Mattiske	Project Support Officer	Aboriginal Justice Unit
Wendy Morton	Executive Director	Northern Territory Council of Social Service (NTCOSS)
Colleen Rosas	Community Representative	N/A
Adelajda Soltysik	Senior Policy Officer	Territory Families
Bill Toy	General Manager Community Engagement	Tiwi Islands Regional Council
Brent Warren	General Manager Youth Justice	Territory Families
John Wilson	Chair	Tiwi Land Council
David Woodroffe	Principal Legal Officer	NAAJA

Appendix 4. Interim Aboriginal Justice Agreement Reference Committee

The AJARC was established in early 2017 to provide governance and guidance in the development of the NTAJA. The AJARC initially comprised 16 members selected from relevant peak bodies, community NGOs and local government (see *Table 8*), and additional or substitute members have been appointed on an as-needs basis. The AJARC convened six times during the 2017-18 period.

Table 8. Members of the interim Aboriginal Justice Agreement Reference Committee

Committee Member	Organisation
Mathew Bonson	APO NT, Southern Representative & Central Australian Aboriginal Legal Aid Service
Samantha Bowden	Making Justice Work
Phillip Brown	Catholic Care NT
Samuel Bush-Blanas	Northern Land Council
Alan Cass	Menzies School of Health Research
Priscilla Atkins	NAAJA
Russell Goldflam	Northern Territory Legal Aid Commission
Olga Havnen	Danila Dilba Health Service
Charlie King	Australian Broadcasting Corporation
Wendy Morton, Co-chair	NTCOSS
Colleen Rosas	Aboriginal Interpreter Service
Marion Scrymgour	Tiwi Islands Regional Council
Jared Sharp	Jesuit Social Services
John Wilson	Tiwi Land Council
David Woodroffe, Co-chair	NAAJA and APO NT Northern Representative
Tony Wurramarrba	Anindilyakwa Land Council

Throughout the development of the NTAJA, the AJARC has:

- advised on contemporary Aboriginal society, customs and traditions, and the historical and social factors underlying the disadvantaged position of Aboriginal Territorians
- contributed insights into customary law and cultural practice in relation to trials and sentencing of Aboriginal offenders
- provided guidance on communication and cultural factors critical to effective community engagement
- advised on the partnership framework and related strategies to enable NTG agencies and Aboriginal Territorians to address the array of complex issues that underlie the disadvantage faced by Aboriginal Territorians
- guided and supported the AJU's work to address Aboriginal over-representation in the criminal justice system in the NT, particularly regarding the high rates of Aboriginal incarceration and recidivism
- advised on options for the role of traditional leadership in local court decision making processes
- provided expertise in the development of management processes for implementing, monitoring and evaluating the implementation of the NTAJA
- provided advice in relation to pilot project proposals against relevant program criteria.

Appendix 5. Aboriginal Justice Agreements in Australia's states and territories, 2000–2019

Table 9. Summary of Australian state and territories status of Aboriginal Justice Agreements

State / territory	Year	Agreement	Status
Queensland	2000	<i>The Queensland Aboriginal and Torres Strait Islander Justice Agreement (2000–2011)</i>	Evaluated in 2006, expired in 2011
Victoria	2000	<i>The Victorian Aboriginal Justice Agreement Phase 1</i>	Expired 2006, renewed
	2006	<i>The Victorian Aboriginal Justice Agreement Phase 2</i>	Evaluated in 2012, renewed
	2013	<i>The Victorian Aboriginal Justice Agreement Phase 3</i>	Evaluation due 2018, renewed
	2018	<i>The Victorian Aboriginal Justice Agreement Phase 4</i>	Commenced mid-2018*
New South Wales	2003	<i>NSW Aboriginal Justice Agreement</i>	Expired 2003
	2004	<i>Aboriginal Justice Plan: Beyond Justice 2004–2014</i>	Expired 2014
Western Australia	2004	<i>Western Australian Aboriginal Justice Agreement 2004–2009</i>	Expired 2009
	2009	<i>State Justice Plan: Aboriginal Community Solutions for State wide Issues (2009–2014) (A non-government strategy developed under the AJA)</i>	Expired 2014
Australian Capital Territory	2010	<i>Aboriginal and Torres Strait Islander Justice Agreement 2010–13</i>	Expired 2013
	2015	<i>Aboriginal and Torres Strait Islander Justice Partnership 2015–18</i>	Expired 2018*
Northern Territory	2019	Not yet adopted. Final NTAJA to be released in 2020.	Under development
Tasmania	n/a	Not adopted	
South Australia	n/a	Not adopted	

Table and content derived from Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2018) 499. **Note:** Although the Justice Partnership has not been renewed, the ACT Government is seeking to design a range of justice-related actions with a number of justice agencies to sit within a broader whole-of-government agreement titled the *Aboriginal & Torres Strait Islander Agreement 2019-2028*. Due for release in 2019, the broader agreement is not specifically justice focused, but has a wider range of focus areas similar to Closing the Gap. The ACT *Aboriginal & Torres Strait Islander Agreement* is being developed following the expiry of an initial whole-of-government agreement implemented from 2015-2018.

Endnotes

¹The spelling of Arrarnta in this context is specific to the Western Arrarnta people of Central Australia.

²Australian Dictionary of Biography, Namatjira Albert (Elea), <<http://adb.anu.edu.au/biography/namatjira-albert-elea-11217>>.

³As a mark of respect, Elders takes a capital E.

⁴The RCIADIC recommended the establishment of AJACs as part of a broader aim to establish a framework for negotiating with ATSI communities. AJACs were subsequently created in all states and territories, except for Tasmania.

⁵Indigenous Justice Clearinghouse, *Indigenous Justice Agreements' Current Initiatives Paper 4* (2013) <<https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/initiative004.pdf>>.

⁶Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017) 18.

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⁹James Dunlevie, 'Campaign Calls for Overhaul of NT Justice System', *ABC News* (online), 22 July 2016. <<https://www.abc.net.au/radio/programs/pm/campaign-calls-for-overhaul-of-nt-justice-system/7654028>>.

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¹⁶Department of Treasury and Finance (NT), *Northern Territory Population Projections (2019 Release)* (April 2019), 9 <<https://treasury.nt.gov.au/df/economic-group/population-projections>>.

¹⁷Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016: Summary Commentary* (2016) cat. no. 3238.0.55.001. <<https://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>>.

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¹⁹Department of Treasury and Finance (NT), *Population - Northern Territory Economy: Aboriginal Population* (2018) <<https://nteconomy.nt.gov.au/population>>.

²⁰Aboriginal Interpreter Service, *Aboriginal Languages in NT* (19 July 2018) <<https://nt.gov.au/community/interpreting-and-translating-services/aboriginal-interpreter-service/aboriginal-languages-in-nt>>.

²¹Derived from Australian Bureau of Statistics, *Census of Population and Housing: Reflecting Australia - Stories from the Census, 2016 - Cultural Diversity* (2017), cat. no. 2071.0, table 12.

²²Northern Territory Government, *Aboriginal land and permits* (24 March 2016) <<https://nt.gov.au/property/land/aboriginal-land-management/aboriginal-land-and-permits/land-council-roles-and-contacts>>. Note: The four Northern Territory land councils incorporated under the *Aboriginal Land Rights Act 1976* (NT) include the Anindilyakwa Land Council (Groote Eylandt), Central Land Council, Northern Land Council and Tiwi Land Council.

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nt.gov.au/community/local-councils-remote-communities-and-homelands/services-to-remote-communities-and-homelands>.

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²⁹ Australian Bureau of Statistics, *Female life expectancy: Life tables for Aboriginal and Torres Strait Islander Australians, 2010-2012* (2013) cat. no. 3302.0.55.003; Australian Bureau of Statistics, *Male life expectancy: Life tables for Aboriginal and Torres Strait Islander Australians, 2010-2012* (2013) cat no. 3302.0.55.003; Australian Bureau of Statistics, *Infant Mortality, Deaths Australia, 2018* cat. no. 3302.0; Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander Health Performance Framework 2017 Report: Northern Territory*, Cat No AIHW 159, 2018, 134; Australian Bureau of Statistics, (2016a). 2049.0 - Census of Population and Housing: Estimating Homelessness. Canberra: ABS. Retrieved from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/2049.0>; Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander health performance framework 2017: supplementary online tables*, Cat. no. WEB 170, Canberra; 2017; Australian Bureau of Statistics, *'Estimates of Aboriginal and Torres Strait Islander Australians: completed year 12'*, 2016;

Northern Territory Department of Health, *Northern Territory Aboriginal Health Plan*, 2015, retrieved from: <<http://hdl.handle.net/10137/798>>; Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander Health Performance Framework 2017 report: Northern Territory*, 2017. Available at: <<https://www.aihw.gov.au/getmedia/0e60dc3c-a582-4b7f-a4d1-1e623a91745e/aihw-ihw-186-2017-hpf-nt.pdf>>. Note: Weekly income relates to the median equivalised gross weekly household income for Indigenous adults.

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³³ Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander Health Performance Framework Report* (2018), Cat. No. IHW 194, Canberra, table 2.06. Retrieved from <<https://www.aihw.gov.au/reports/indigenous-health-welfare/health-performance-framework/contents/tier-2-determinants-of-health/2-06-educational-participation-and-attainment-of-adults>>.

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³⁶ NT Department of Health 2015, *Northern Territory Aboriginal Health Plan* (2015), 9. <<http://hdl.handle.net/10137/798>>.

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- ⁴⁷ The Balnaves Foundation, *Investing in Territory Kids and Generational Change – Hearing for Learning* (2018) <<https://balnavesfoundation.com/philanthropy-supports-journalism-copy-copy-copy-copy-copy-2/>>; Menzies School of Health Research, *Hearing for Learning Initiative (HfLi): Investing Generational Change – Hearing for Learning Initiative* (2018) <https://www.menzies.edu.au/page/News_and_Events/E-Newsletter/Healthy_Tomorrow/December_2018/Hearing_for_Learning_Initiative/>.
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- ⁴⁹ Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2016* (2016) Table 8A.7.2 <<https://www.google.com/l?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwjyzuDordLhAhWNfCsKHS4jC94QFjACegQIAxAC&url=https%3A%2F%2Fwww.pc.gov.au%2Fresearch%2Fongoing%2Fovercoming-indigenous-disadvantage%2F2016%2Freport-documents%2Foid-2016-attachment8A-healthy-lives.xlsx&usg=AOvVaw2TK21h3kOhjMMqyZIlh29L>>.
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- ⁵¹ Australian Bureau of Statistics, *3303.0 – Causes of Death, Australia, 2017* (2018) <<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/3303.0~2017~Main%20Features~Intentional%20self-harm,%20key%20characteristics~3>>.
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- ⁵⁵ Northern Territory Government, *Northern Territory Crime Statistics Data through December 2018* (2018) 34, Table 4.34. The involvement of alcohol in a domestic violence offence is determined by the NT Police at the time of the offence. Of DVF offences that included assault, 59.3% involved alcohol. Of all assault offences, 59.3% involve domestic violence.
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- ⁷¹ Consultation issue no.785.
- ⁷² Consultation issue no.794.
- ⁷³ Australian Bureau of Statistics, *2016 Census - Employment, Income and Education* (2017) TableBuilder.
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- ⁸² Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 373 [11.91].
- ⁸³ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 371 [11.88].
- ⁸⁴ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 353 [11.25].
- ⁸⁵ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 375 [11.110].
- ⁸⁶ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 376 [11.104].
- ⁸⁷ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017) vol 1, 9.
- ⁸⁸ Australian Institute for Health and Welfare, *Youth Justice in Australia 2017-18* (2019) cat no. JUV 129, Table 2.1, 5 <<https://www.aihw.gov.au/getmedia/f80cfc3b3-c058-4c1c-bda5-e37ba51fa66b/aihw-juv-129.pdf.aspx?inline=true>>.
- ⁸⁹ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017) vol 3B, 10.
- ⁹⁰ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017), vol 3B, 19.
- ⁹¹ Troy Allard, April Chrzanowski & Anna Stewart, 'Targeting crime prevention to reduce offending: Identifying communities that generate chronic and costly offenders' (2012) No. 445 *Australian Institute of Criminology: Trends & issues in crime and criminal justice* <<https://aic.gov.au/publications/tandi/tandi445>>.
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- ⁹⁴ Australian Institute of Health and Welfare, *Child protection Australia 2017–18* (2019) cat. no. CWS 65, 71, Table A2.
- ⁹⁵ Australian Institute of Health and Welfare, *Child protection Australia 2017–18* (2019) cat. no. CWS 65, Table S3.
- ⁹⁶ Australian Institute of Health and Welfare, *Child protection Australia 2017–18* (2019) cat. no. CWS 65, Table S14.
- ⁹⁷ Children in this data refers to persons under 18 years of age.
- ⁹⁸ Eileen Baldry et al, 'A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system' (2015) *UNSW*, 10 <<http://unsworks.unsw.edu.au/fapi/datastream/>>

unsworks:37093/binb10f2bda-8816-4112-aeab-6cd6d8efe6f7?view=true>.

⁹⁹ Eileen Baldry et al, 'A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system' (2015) *UNSW*, 10 <<http://unsworks.unsw.edu.au/fapi/datastream/unsworks:37093/binb10f2bda-8816-4112-aeab-6cd6d8efe6f7?view=true>>.

¹⁰⁰ Ruth McCausland, Elizabeth McEntyre and Eileen Baldry, 'Indigenous People, Mental Health, Cognitive Disability and the Criminal Justice System' (2017) Brief 22 *Indigenous Justice Clearinghouse*, 2 <<https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/research-brief-24-final-31-8-17.pdf>>; Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 66 [2.43].

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¹⁰² Ruth McCausland, Elizabeth McEntyre and Eileen Baldry, 'Indigenous People, Mental Health, Cognitive Disability and the Criminal Justice System' (2017) Brief 22 *Indigenous Justice Clearinghouse*, 4 <<https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/research-brief-24-final-31-8-17.pdf>>.

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¹⁰⁷ Australian Bureau of Statistics, *Recorded Crime – Victims, Australia, 2017* (2018) cat. no. 4510.0, Table 16 <<https://www.abs.gov.au/ausstats/abs@.nsf/mf/4510.0>>.

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¹¹⁰ Australian Institute of Criminology, *Indigenous perpetrators of violence: prevalence and risk factors for offending* (2010) 59. <<https://aic.gov.au/publications/rpp/rpp105>>.

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¹¹² ABS 4517.0 Prisoners in Australia 2018 Snapshot at 30 June 2018.

¹¹³ Australian Bureau of Statistics, *Corrective Services, Australia December Quarter 2018* (2018), cat. no. 4512.0.

¹¹⁴ Australian Bureau of Statistics, *Corrective Services, Australia December Quarter 2018* (2018), cat. no. 4512.0.

¹¹⁵ Australian Bureau of Statistics, *Corrective Services, Australia December Quarter 2018* (2018), cat. no. 4512.0, table 12.

¹¹⁶ Australian Bureau of Statistics, *Prisoners in Australia, 2018* (2018), cat. no. 4517.0, table 20.

¹¹⁷ See, eg, Productivity Commission, *Report on Government Services 2015-2016* (2017) Volume C: Justice, Correctional Services, Chapter 8, Table 8.19; PwC's Indigenous Consulting, *Indigenous Incarceration: Unlock the Facts* (2017), 27; quoted in ALRC at [4.9].

¹¹⁸ Productivity Commission, *Report on Government Services 2015-2016* (2017), Volume C: Justice, Correctional Services, Chapter 8, 8.19; PwC's Indigenous Consulting, *Indigenous Incarceration: Unlock the Facts* (2017), 27; quoted in ALRC [4.10].

¹¹⁹ Productivity Commission, *Report on Government Services 2017-2018* (2019) Volume C: Justice, Correctional Services, Chapter 8, Table 8A.17. Note: this includes total net operating expenditure and capital costs.

¹²⁰ Productivity Commission, *Report on Government Services 2017-2018* (2019) Volume F: Community services, Youth Justice Services, Chapter 17, Table 17A.21.

¹²¹ Productivity Commission, *Report on Government Services 2017-2018* (2019) Volume C: Justice, Correctional Services, Chapter 8, Table 8A.17 and Volume F: Community services, Youth Justice Services,

Chapter 17, Table 17A.20. Note: for adult offenders, this includes total net operating expenditure and capital costs.

¹²² Commonwealth, Royal Commission into Aboriginal Deaths in Custody (1991) *National Report* vol 1, [1.6.1] <<http://au/other/IndigLRes/rciadic/>>.

¹²³ Derived from Australian Bureau of Statistics, Prisoners in Australia, (2017) cat. no. 4517.0 <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/7B1DF284B985CDE1CA25835A0010FCD7?opendocument>>.

¹²⁴ Derived from Australian Bureau of Statistics, Prisoners in Australia (2017) cat. no. 4517.0 <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/7B1DF284B985CDE1CA25835A0010FCD7?opendocument>>.

¹²⁵ Australian Institute for Health and Welfare, *Youth Justice in Australia 2016-17*, (2018) cat no. JUV 116, Table 3.1, 8 at <<https://www.aihw.gov.au/getmedia/19707990-1719-4600-8fce-f0af9d61331c/aihw-juv-116.pdf.aspx?inline=true>>.

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¹²⁷ Consultation issue no. 993.

¹²⁸ Consultation issue no. 216.

¹²⁹ Consultation issue no. 901.

¹³⁰ Consultation issue no. 50.

¹³¹ Consultation issue no. 52.

¹³² Criminal Justice Research and Statistics Unit, *Number of breach bail apprehensions by status and Aboriginality*, (2018) unpublished data.

¹³³ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Glossary. <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4519.0Main+Features12016-17?OpenDocument>>.

¹³⁴ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Explanatory Notes <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4519.0Explanatory%20Notes12016-17?OpenDocument>>.

¹³⁵ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Glossary <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4519.0Main+Features12016-17?OpenDocument>>.

¹³⁶ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Table 25. <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4519.0Main+Features12016-17?OpenDocument>>.

¹³⁷ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Table 23 <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4519.0Main+Features12016-17?OpenDocument>>.

¹³⁸ Derived from Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, requested data, unpublished. (file: ABS Data Request – Offenders_1).

¹³⁹ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Explanatory Notes <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4519.0Glossary12016-17?opendocume nt&tabname=Notes&prodno=4519.0&issue=2016-17&num=&view=>>>.

¹⁴⁰ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0, Explanatory Notes <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4519.0Glossary12016-17?opendocume nt&tabname=Notes&prodno=4519.0&issue=2016-17&num=&view=>>>.

¹⁴¹ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory *Final Report* (2017) vol 2B, 229-31; Commonwealth, Royal Commission into Aboriginal Deaths in Custody (1991) *National Report* vol 3, [21.2.30]; Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 451-455.

¹⁴² Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory *Final Report* (2017) vol 2B, 247-9.

¹⁴³ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report no 133 (2017), 457 [14.41].

¹⁴⁴ Consultation issue no. 108.

¹⁴⁵ Consultation issue no. 180.

¹⁴⁶ Consultation issue no. 239.

¹⁴⁷ Consultation issue no. 202.

¹⁴⁸ Northern Territory Government, Department of the Attorney-General and Justice, *Being granted bail* (2016) <<https://nt.gov.au/law/courts-and-tribunals/being-granted-bail>>.

¹⁴⁹ Northern Territory Government, Department of the Attorney-General and Justice, *Being granted bail* (2016) <<https://nt.gov.au/law/courts-and-tribunals/being-granted-bail>>.

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- ¹⁵² Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 154 [5.26].
- ¹⁵³ See, eg, Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 155 [5.33]; Final Report of the Royal Commission into Aboriginal Deaths in Custody, 1991, Volume 3, [21.4.5].
- ¹⁵⁴ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 157-8 [5.41-5.44].
- ¹⁵⁵ Final report of the Royal Commission into Aboriginal Deaths in Custody, 1991, Volume 3, [21.4.2].
- ¹⁵⁶ See, eg, Consultation issue no. 108; Consultation issue no. 186; Consultation issue no. 202; Consultation issue no. 336; Consultation issue no. 665; Consultation issue no. 932.
- ¹⁵⁷ Criminal Justice Research and Statistics Unit, Department of the Attorney-General and Justice (NT), *Breach of bail apprehensions* (2018) requested data, unpublished.
- ¹⁵⁸ Criminal Justice Research and Statistics Unit, Department of the Attorney-General and Justice (NT), *Breach of bail apprehensions* (2018) requested data, unpublished.
- ¹⁵⁹ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 169 [5.85].
- ¹⁶⁰ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 169 [5.85].
- ¹⁶¹ Australian Bureau of Statistics, *Prisoners in Australia, 2017* (2017) cat. no. 4517.0, Glossary <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/s/4517.0Glossary12017?opendocument&tabname=Notes&prodno=4517.0&issue=2017&num=&view=>>>.
- ¹⁶² Derived from Australian Bureau of Statistics, *Prisoners in Australia, 2013 to 2017* (2013-2017) cat. no.4517.0, supplied data, unpublished.
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- ¹⁶⁵ Derived from Northern Territory Government, Department of the Attorney-General and Justice, Criminal Justice Research and Statistics Unit, *Youth Detention Annual Statistics 2012-13 to 2015-2016* (2015 to 2016) Table 15 (2015-16); Table 15 (2014-15); Table 15 (2013-14); Table 15 (2012-13) <<https://justice.nt.gov.au/attorney-general-and-justice/statistics-and-strategy/criminal-justice-statistics>>; derived from Northern Territory Government, Territory Families, (Criminal Justice Research and Statistics Unit), *Youth Detention Annual Statistics 2016-2017* (2018) unpublished, 12, Table 4.
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- ¹⁶⁹ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Summary, Report No 133 (2018),13.
- ¹⁷⁰ Consultation issue no. 201.
- ¹⁷¹ Consultation issue no. 139.
- ¹⁷² Consultation issue no. 186.
- ¹⁷³ Consultation issue no. 155.
- ¹⁷⁴ Consultation issue no. 186.
- ¹⁷⁵ Consultation issue no. 631.
- ¹⁷⁶ Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-2017* (2018) cat. no. 4519.0, Table 22.
- ¹⁷⁷ This is derived from ABS data on the number of defendants finalised listed by most serious offence, or principal offence (i.e. the offence category, based on ASOC or ANZSOC, that describes the most serious offence type associated with a finalised defendant.). The principal offence is determined by how the offences were finalised and/or the rankings in the National Offence Index (see glossary).
- ¹⁷⁸ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-17* (2018) cat. no. 4513.0, Explanatory Notes, no. 6 & no. 29 <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4513.0>>.
- ¹⁷⁹ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-17* (2018) cat. no. 4513.0, Explanatory

Notes, no. 6 & no. 29 <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4513.0>>.

¹⁸⁰ Australian Bureau of Statistics, *Criminal Courts, Australia 2016-17* (2018), cat. no. 4513.0, Table 12.

This finding is derived from ABS data on the number of defendants finalised. For this data set, a finalised defendant is defined as 'a person or organisation for whom all charges relating to the one case have been formally completed so that the defendant ceases to be an item of work to be dealt with by the court'.

¹⁸¹ Australian Bureau of Statistics, *Criminal Courts, Australia, 2012-13 to 2016-17* (2014-18) cat. no. 4514.0, Table 12 (2018) ; Table 12 (2017); Table 11 (2016) ; Table 9 (2015); Table 9 (2014).

¹⁸² Australian Bureau of Statistics, *Criminal Courts, Australia, 2012-13 to 2016-17* (2014-18) cat. no. 4514.0, Table 12 (2018) ; Table 12 (2017); Table 11 (2016) ; Table 9 (2015); Table 9 (2014).

¹⁸³ Australian Bureau of Statistics, *Criminal Courts, Australia*, (2018) cat. no. 4513.

¹⁸⁴ Criminal Justice Research and Statistics Unit, *Number of breach bail apprehensions by status and Aboriginality* (2018) unpublished data.

¹⁸⁵ See glossary for explanation of ANZSOC.

¹⁸⁶ Department of the Attorney-General and Justice, 2018, *Criminal Courts Lodgements by Australia and New Zealand Standard Offence Classification (ANZSOC) and Indigenous Status, Supreme Court; Local Court; Children's Court*, 2013-2018, Northern Territory Government, unpublished.

¹⁸⁷ Department of the Attorney-General and Justice, 2018, *Criminal Courts Lodgements by Australia and New Zealand Standard Offence Classification (ANZSOC) and Indigenous Status, Supreme Court; Local Court; Children's Court*, 2013-2018, Northern Territory Government, unpublished.

¹⁸⁸ Consultation issue no. 866.

¹⁸⁹ Consultation issue no. 280.

¹⁹⁰ Consultation issue no. 876.

¹⁹¹ Consultation issue no. 886.

¹⁹² Derived from Australian Bureau of Statistics, *Recorded Crime – Offenders, 2016-17* (2018) cat. no. 4519.0 requested data, unpublished.(file: ABS Data Request – Offenders_1).

¹⁹³ For the ABS *Criminal Courts, Australia* data set, if a person is a defendant in a number of criminal cases dealt with and finalised separately within the courts during the reference period, this person is counted more than once within that reference period.

¹⁹⁴ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-2017* (2018) Table 12. <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4513.0Main+Features12017-18?OpenDocument>>.

¹⁹⁵ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-2017* (2018) Table 12. <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4513.0Main+Features12017-18?OpenDocument>>.

¹⁹⁶ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-17* (2018) cat. no. 4513.0, Explanatory Notes, no. 6 & no. 29 <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4513.0>>. In line with the finalised defendant data provided previously these figures includes all defendants who have been a *proven guilty* finalisation in Higher, Magistrates' or Children's Courts during the reference period. Where a defendant is proven guilty in a number of criminal cases dealt with and finalised separately within the courts during the reference period, this person is counted more than once.

¹⁹⁷ Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-2017* (2018) Explanatory Notes <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4513.0Main+Features12017-18?OpenDocument>>.

¹⁹⁸ A *proven guilty* finalisation is an outcome of criminal proceedings in which a court accepts that a charge is proven through a guilty plea entered by a defendant or the defendant is found guilty by the court. See Australian Bureau of Statistics, *Criminal Courts, Australia, 2016-2017* (2018) Glossary: 'Proven Guilty'. The ABS, in their *Criminal Courts, Australia* data set, categorise these alternatives into custodial and non-custodial orders. If the court hands down a custodial order, convicted persons may receive 'custody in a correctional institution', 'custody in the community', or a 'fully suspended sentence'. <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4513.0Main+Features12016-17?OpenDocument>>.

¹⁹⁹ NT Department of the Attorney-General and Justice, Northern Territory Correctional Services and Youth Justice, *Annual Statistics 2016-2017*(2017) 28, Table 20.

²⁰⁰ Northern Territory Government, Department of the Attorney-General and Justice, Criminal Justice Research and Statistics Unit, *Mandatory sentencing data* (2019) internal, unpublished data.

²⁰¹ Northern Territory Government, Department of the Attorney-General and Justice, Criminal Justice Research and Statistics Unit, *Mandatory sentencing data* (2019) internal, unpublished data.

²⁰² Northern Territory Government, Department of the Attorney-General and Justice, Northern Territory Correctional Services and Youth Justice, *Annual Statistics 2016-2017*(2017) 28, Table 20.

²⁰³ Northern Territory Government, Department of the Attorney-General and Justice, Northern Territory Correctional Services and Youth Justice, *Annual Statistics 2016-2017*(2017) 28, Table 20.

²⁰⁴ Australian Law Reform Commission, '*Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*', Report No 133 (2017), 41 [1.17].

²⁰⁵ Derived from Australian Bureau of Statistics, *Prisoners in Australia, 2014-18* (2014-18) cat. no. 4519.0; Table 16 (2018); Table 16 (2017); Table 15 (2016); Table 15 (2015); Table 15 (2014) <<https://www.abs.gov>

au/ausstats/abs@.nsf/mf/4517.0>. Note: Comparatively, Aboriginal prisoners held for 'acts intended to cause injury' accounted for 54% of Aboriginal census prisoners recorded between 2014 and 2018.

²⁰⁶ Northern Territory Government, Department of the Attorney-General and Justice, Criminal Justice Research and Statistics Unit, *Number of persons held for fine default only, by Aboriginal status* (2018) internal, unpublished data.

²⁰⁷ Northern Territory Government, Department of the Attorney-General and Justice, Northern Territory Correctional Services and Youth Justice, *Annual Statistics 2015-2016* (2017) 28; Australian Law Reform Commission, 'Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples', December 2017, 268. [7.152].

²⁰⁸ See, eg, Derived from Australia Bureau of Statistics, *Prisoners in Australia 2008 – 2017* (2018), cat no. 4517.0 supplied data; Australian Bureau of Statistics, *Prisoners in Australia 2008 – 2017* (2018), cat no. 4517.0, Table 26.

²⁰⁹ Australian Law Reform Commission, 'Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples', Report No 133 (2017), 268 [7.152].

²¹⁰ Australian Law Reform Commission, 'Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples', Report No 133 (2017), 288 [9.19-9.20].

²¹¹ See, eg, Consultation issue no. 312; Consultation issue no. 314; Consultation issue no. 319; Consultation issue no. 334; Consultation issue no. 866; Consultation issue no. 876; Consultation issue no. 879.

²¹² *Sentencing Act 1995* (NT).

²¹³ *Sentencing Act 1995* (NT) s 78D —DI.

²¹⁴ Northern Territory Office of Crime Prevention, 'Review of the Northern Territory *Sentencing Amendment (Mandatory Minimum Sentences) Act 2013* (2015) 9.

²¹⁵ *Sentencing Act 1995* (NT) s 78D —DI.

²¹⁶ *Sentencing Amendment (Mandatory Minimum Sentences) Act 2013* (NT) s6, Division 6A, amending *Sentencing Act* (NT).

²¹⁷ *Sentencing Act 1995* (NT) s 53A.

²¹⁸ *Sentencing Act 1995* (NT) s 78BA (1).

²¹⁹ *Sentencing Act 1995* (NT) s 78B.

²²⁰ *Sentencing Act 1995* (NT) s 55.

²²¹ *Domestic and Family Violence Act 2007* (NT) ss 121, 122.

²²² The current provisions establish five levels of violent offences with corresponding mandatory sentences of three or 12 months' imprisonment. *Misuse of Drugs Act 1990* (NT) s 37 (2); *Sentencing Act 1995* (NT) s 53 (1), 55. The violent offences attracting mandatory sentencing include offences such as (but not limited to) terrorism, murder, manslaughter, setting man traps, attempting to injure by explosive substances, common assault, assaults police/judges/magistrates/member of crew of an aircraft, unlawful stalking, robbery, and assault with intent to steal.

²²³ *Sentencing Act 1995* (NT) s 4.

²²⁴ *Sentencing Act 1995* (NT) ss 78DI, 78DH (2).

²²⁵ Law Council of Australia, *Policy Discussion Paper on Mandatory Sentencing* (2014) 51.

²²⁶ Law Council of Australia, *Policy Discussion Paper on Mandatory Sentencing* (2014) 51.

²²⁷ Law Council of Australia, *Policy Discussion Paper on Mandatory Sentencing* (2014) 30; Stephen Jackson and Fiona Hardy, 'The Impact of Mandatory Sentencing on Indigenous Offenders' (Speech delivered at Sentencing Conference, National Judicial Conference, Canberra, 7 February 2010).

²²⁸ Consultation issue no. 257.

²²⁹ Consultation issue no. 39.

²³⁰ Consultation issue no. 1.

²³¹ Consultation issue no. 579.

²³² Consultation issue no. 26.

²³³ Consultation issue no. 326.

²³⁴ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Final Report, Report No 133 (2018), 254 [7.96].

²³⁵ Productivity Commission, *Report on Government Services 2017 Volume C: Justice Table 8A.20*.

²³⁶ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 254 [7.96] – [7.97].

²³⁷ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 236 [7.23].

²³⁸ Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples*, Discussion Paper 84 (2017) 26 [1.32].

²³⁹ See, eg, Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *Final Report* (1991) vol 5, recommendation 94; Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples* (2017), 14.

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- ²⁴³ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017) vol 2B, 259, citing Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2016*, Productivity Commission, Canberra, page 1 of Table 11.A.3.43.
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- ²⁴⁷ Australian Institute of Health and Welfare and Australian Institute of Family Studies, *Diverting Indigenous offenders from the criminal justice system* (2013) 1 <<https://www.aihw.gov.au/getmedia/0422b2d9-dd3f-41a2-aa8e-e13a9cf9afca/ctgc-rs24.pdf.aspx?inline=true>>.
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- ²⁵⁰ Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017) vol 2B, 276 – 277.
- ²⁵¹ See, eg, Consultation issue no. 72; Consultation issue no. 183; Consultation issue no. 793.
- ²⁵² See, eg, Consultation issue no. 165; Consultation issue no. 412.
- ²⁵³ See, eg, Consultation issue no. 312; Consultation issue no. 322; Consultation issue no. 345.
- ²⁵⁴ Consultation issue no. 930.
- ²⁵⁵ Consultation issue no. 221.
- ²⁵⁶ Consultation issue no. 203.
- ²⁵⁷ Consultation issue no. 697.
- ²⁵⁸ Consultation issue no. 213.
- ²⁵⁹ Consultation issue no. 56.
- ²⁶⁰ Consultation issue no. 203.
- ²⁶¹ See, eg, Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2017), 208; Commonwealth, Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, *Final Report* (2017) vol 2B, recommendation 25, 42, 323.
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- ²⁷⁰ Consultation issue no. 201.
- ²⁷¹ Thalia Anthony and Will Crawford, 'Northern Territory Aboriginal Community Sentencing Mechanisms: An Order for Substantive Equality' (2014) 7(2) *Australian Aboriginal Law Journal* 79, 80-82.

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- ²⁷⁷ Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples*, Discussion Paper 84 (2017) 197.
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- ²⁹² Australian Bureau of Statistics, *Prisoners in Australia 2018* (2019) cat no. 4517.0.
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- ³¹² Consultation issue no. 186.
- ³¹³ Consultation issue no. 325.
- ³¹⁴ Consultation issue no. 318.
- ³¹⁵ *Parole Act 1971* (NT) s 5.
- ³¹⁶ Australian Law Reform Commission, *Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, Report No 133 (2018), Recommendation 9-2.
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- ³³⁵ See, eg, Consultation issue no. 119; Consultation issue no. 236; Consultation issue no. 336; Consultation issue no. 339; Consultation issue no. 866.
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- ³⁸³ Consultation issue no. 708.
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- ³⁸⁵ See *Partnership Principles* on page 9 of the draft *Northern Territory Aboriginal Justice Agreement*.
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- ³⁹⁰ Thalia Anthony and Will Crawford expressed that Lajamanu has become a safer community due to the operation of the Kurdiji Law and Justice Group. See commentary in Final Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, November 2017, Volume 2B, 323 <<https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>>.
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- ³⁹⁴ Consultation issue no. 382.
- ³⁹⁵ Consultation issue no. 915.
- ³⁹⁶ Consultation issue no. 971.
- ³⁹⁷ Consultation issue no. 26.
- ³⁹⁸ Consultation issue no. 494.
- ³⁹⁹ In Canada, reports of this type are known as 'Gladue Reports'. More information can be found in Aims 1 and 2 of the NTAJA and the Final Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, November 2017, Volume 2B, 32 <<https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>>.
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⁴¹⁰ Consultation issue no. 615.
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