

# The development of the Northern Territory Aboriginal Justice Agreement



## 1.1 Introducing the Northern Territory Aboriginal Justice Agreement

In partnership with Aboriginal communities, the Northern Territory Government (NTG) is developing the Northern Territory Aboriginal Justice Agreement (NTAJA or the Agreement).

In 2017 and 2018, the Aboriginal Justice Unit from the Department of the Attorney-General and Justice visited 80 communities and Aboriginal organisations, and conducted over 120 consultations to seek views on how justice issues facing Aboriginal people should be addressed.

A draft Agreement has been developed, underpinned by research, evidence and the views and experiences of Aboriginal people. The draft has now been released for consultation to seek input from Territorians before release of the final Agreement.

This document, *Pathways to the Northern Territory Aboriginal Justice Agreement*, is a companion document to the Agreement. It brings together, in a single publication, the background information, consultation findings and the evidence that informed the development of the Agreement. It provides the rationale for the initiatives and strategies contained in the Agreement.

## 1.2 Vision

For Aboriginal Territorians to live safe, fulfilling lives and to be treated fairly, respectfully and without discrimination, and for Aboriginal offenders to have the opportunity to end their offending.

## 1.3 Aims

Over the seven years of the Agreement, in two stages, the signatories aim to:

- reduce reoffending and imprisonment rates of Aboriginal Territorians
- engage and support Aboriginal leadership
- improve justice responses and services to Aboriginal Territorians.

## 1.4 History and overview of Aboriginal Justice Agreements in Australia

Aboriginal Justice Agreements (AJAs) first emerged as a result of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which handed down its final report in 1991.

Six years later, continued high incarceration rates and deaths in custody of Aboriginal people prompted a high-level meeting of Aboriginal and Torres Strait Islander (ATSI) leaders. As an outcome of this meeting, it was recommended that each state and territory, in coordination with respective Aboriginal Justice Advisory Councils<sup>4</sup> and relevant Aboriginal bodies, develop AJAs to improve the delivery of justice programs and outcomes for Aboriginal people.<sup>5</sup> However, it was not until later that year, at the National Ministerial Summit on Aboriginal Deaths in Custody in Canberra, that all state and territory governments, except the Northern Territory, agreed and adopted the recommendation to implement strategic agreements in partnership with Aboriginal people.

Between 2000 and 2010, Queensland, Victoria, New South Wales, Western Australia and the Australian Capital Territory introduced AJAs, while in South Australia and Tasmania the development of justice agreements was never followed through.

As at 2019, only Victoria has maintained an active agreement. Despite the passage of time, the importance of AJAs was most recently highlighted by the Australian Law Reform Commission (ALRC) in its report *Pathways to Justice - Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Pathways to Justice Report or the ALRC Report) which recommended all state and territory governments renew or develop AJAs in partnership with relevant Aboriginal organisations.<sup>6</sup>

## 1.5 Factors that influence the success of Aboriginal Justice Agreements

To ensure that the NTAJA has the greatest likelihood of achieving its aims, consideration has been given to the four factors identified by academics Fiona Allison and Chris Cunneen that contribute to the ultimate success of an AJA.<sup>7</sup>

### 1.5.1 Effective Aboriginal community engagement in the development, implementation and evaluation of Aboriginal Justice Agreements

Participation, self-determination and capacity building have been consistently identified as instrumental to improving justice outcomes. For these principles to be upheld in the development, implementation and evaluation of AJAs, community capacity and authority to drive decision-making must be supported. The effectiveness of an AJA is contingent on its ability to effectively engage with Aboriginal people. A critical aspect of such engagement is the relevance of the AJA at a regional and local level. This relevance is gained through establishing local plans, activities, services and groups.

### 1.5.2 Effective accountability and evaluation processes, including clarity of objectives and outcomes

A successful AJA requires effective accountability and evaluation processes that incorporate maximum input from Aboriginal people and communities. Monitoring and evaluation processes must be embedded across the agreement and the objectives of the agreement must be both clear and measurable. Independent monitoring is recommended to facilitate accountability and to allow for ongoing feedback that can contribute to improving programs. It is also critical that monitoring and evaluation processes occur with meaningful active participation from Aboriginal people within a clear, robust and transparent governance structure.

### 1.5.3 Continuity and whole-of-government approaches to policy development

Constant change in government policy is a significant barrier to successfully achieving the aims of an AJA. The dynamic, fluctuating nature of policy environments can impede the ability of long-term strategies to succeed, resulting in policies lapsing with no follow-through or continuity.

Continuity in strategic planning is important. The majority of jurisdictions that have developed AJAs have also formulated an overarching whole-of-government Aboriginal strategic policy covering a broader social and economic framework. This allows AJAs to focus upon Aboriginal justice issues. This approach has been found to impact the overall effectiveness of an AJA.

### 1.5.4 Effective consideration of Aboriginal victimisation and recognition of the links with other civil and family law needs

Aboriginal Territorians are overrepresented in the criminal justice system as both offenders and victims.<sup>8</sup> Focusing on offenders alone neglects a significant aspect of Aboriginal justice challenges. Separating offending and reoffending from victimisation undermines the ability to improve justice outcomes due to the significant overlap in factors that contribute to Aboriginal people becoming both victims and offenders. Effective AJAs clarify the capacity and responsibility of justice agencies in relation to victims of crime.

A successful AJA also recognises the importance of family and civil law outcomes, and their interconnectedness with criminal justice outcomes.

## 1.6 Policies, strategies and reforms aligned to the Northern Territory Aboriginal Justice Agreement

There are many Northern Territory Government policies, strategies, and reforms that align with the aims of the NTAJA.

The key initiatives, projects and reforms outlined below inform the content of the NTAJA and will drive change across government agencies to achieve positive outcomes for Aboriginal Territorians.

Table 1. NT Government initiatives that align with the NTAJA

NT Government Agency	Year	Initiative
Department of the Attorney-General and Justice	2018	<i>Domestic and Family Violence Amendment (Information Sharing) Act 2018 (NT)</i>
		Victims of Crime Reform Discussion Paper
Department of the Chief Minister	2018	Barunga Agreement
	2018 – 2028	Starting Early for a Better Future: Early Childhood Development in the Northern Territory
	2018 – 2028	Local Decision-Making Framework
	2018 – 2019	Northern Territory Alcohol Harm Minimisation Action Plan
	2019 – 2029	Everyone Together NT Aboriginal Affairs Strategy (currently in draft)
Department of Education	2015 – 2024	A Share in the Future – Indigenous Education Strategy
	2016 – 2018	Everyday Counts – NT School Attendance and Engagement Strategy
Department of Health	2010 – 2020	NT Chronic Conditions, Prevention and Management Strategy
	2015 – 2018	NT Aboriginal Health Plan
	2015 – 2021	NT Mental Health Service Strategic Plan
	2016 – 2026	NT Health Aboriginal Cultural Security Framework
Department of Local Government, Housing and Community Development	2017 – 2026	Our Community. Our Future. Our Homes
	2018 – 2023	NT Homelessness Strategy
Northern Territory Police, Fire and Emergency Services	2018 – 2023	Strategy 2023: Prevention. Integrity. Unity
Territory Families	2018 – 2028	Domestic, Family and Sexual Violence Reduction Framework
	2018 – 2023	Safe, Thriving and Connected: Generational Change for Children and Families

## 1.7 Development of the Northern Territory Aboriginal Justice Agreement

### 1.7.1 Overview of process

The NTAJA is a result of efforts and contributions made by Aboriginal Territorians, NT Government agencies, non-government organisations (NGOs) and professionals representing a variety of sectors, as well as the wider community. In addition, the process of developing the Agreement is underpinned by comprehensive research and a strong emphasis on embedding cultural competency at all stages.

A summary of the key stages in the development of the Agreement is provided in Table 2, along with an overview of the stages that remain to finalise the Agreement and commence its implementation.

Table 2. Timeline for the development and implementation of the NTAJA

Date	Milestone	Description
<b>Work to date</b>		
2016	Making Justice Work campaign	The Making Justice Work campaign lobbied for six key 'Asks' in the lead-up to the 2016 NT election, the first of these being the establishment of an AJA. <sup>9</sup>
Oct 2016	Government commits to an AJA for the NT	On 19 October 2016, the Hon. Natasha Fyles MLA, NT Attorney-General and Minister for Justice, outlined the Government's commitment to develop an AJA in a speech to Parliament. <sup>10</sup>
May 2017	Aboriginal Justice Agreement Reference Committee (AJARC) established	To assist in guiding the development of the NTAJA, an interim AJARC was established comprising 16 representatives from peak bodies and community organisations in the NT.
Jul 2017	Launch of the Aboriginal Justice Unit (AJU)	On 5 July 2017, the NT Attorney-General and Minister for Justice launched the AJU to deliver the NTAJA. <sup>11</sup>
Jul 2017	NTAJA consultation process commences	In July 2017, the AJU commenced a consultation process across the NT to meet with Aboriginal Territorians, NTG agencies, NGOs, other relevant organisations and the broader community.  Over two years, over 120 consultations were conducted by the AJU, including 80 consultations in regional and remote locations and with Aboriginal organisations.
2017-18	Research and data collection	A fundamental aspect of the AJU's work is the collection and analysis of qualitative information and quantitative data. Working with other NTG agencies and the Australian Bureau of Statistics (ABS), the AJU has developed an evidence base to inform the content of the NTAJA.
2017-18	Commencement of projects aligned to the NTAJA	In the process of developing the NTAJA, numerous projects have commenced in response to immediate issues identified by the AJU.

2017-18	Meetings of the AJARC	The first AJARC meeting was held on 26 May 2017, and it convened regularly over 2017–18. The AJARC has and continues to provide ongoing assistance and advice to the AJU regarding the direction and content of the draft Agreement.
Apr 2018	NTG whole-of-government workshop	To incorporate input from NTG agencies into the development of the NTAJA, the AJU held a one-day workshop on 12 April attended by 33 senior staff representing 15 NTG agencies.
Jul 2018	NTG inter-agency discussion paper released	As a follow-up to the whole-of-government workshop, the AJU circulated a discussion paper to NT Government agencies seeking formal input to deliver a whole-of-government approach in the development and implementation of the NTAJA.
Jul 2018	Inter-agency staff secondments to AJU commence	To build on inter-agency partnerships developed through the NTG workshop and discussion paper, key agencies commenced secondment arrangements with the AJU.
Oct and Nov 2018	Two targeted stakeholder workshops	To develop and expand on the key themes arising from the consultations, the AJU facilitated two workshops with professionals representing various stakeholder organisations on 18-19 October and 1-2 November.
Sept 2019	Release of the draft NTAJA	The draft NTAJA will be released for wider consultation, along with the <i>Pathways to the NTAJA</i> document that outlines the consultation findings and evidence.
<b>Refinement of the draft NTAJA</b>		
Late 2019 - early 2020	Consultation on the draft NTAJA	The draft NTAJA will be subject to a second round of targeted consultations across the NT.
2020	Refinement of the draft NTAJA	The draft NTAJA will be refined based on feedback obtained during the second round of consultations.
2020	Release of the final NTAJA	The final NTAJA will be signed by parties to the Agreement and will enter into effect.
<b>Implementation phase</b>		
2019-21	NTAJA Stage 1 implementation	The NTAJA will be delivered over seven years in two stages.
2022-25	NTAJA Stage 2 implementation	Stage 2 will allow for further refinement of the NTAJA.

## 1.7.2 Approach to consultations

The first major undertaking by the AJU in the development of the NTAJA was the commencement of a two year, Territory-wide consultation process to build partnerships and gather feedback to inform the content of the Agreement.

Over 120 consultations were held, including 80 consultations in remote and regional communities, homelands and outstations, and with Aboriginal organisations. An issues register captured over 1,000 comments. Consultations focused on listening and hearing the voices of Aboriginal Territorians.

Consultations on the NTAJA attempted to operate within a culturally-safe and appropriate framework. Wherever possible, Elders, leaders, interpreters, and cultural brokers were engaged by the AJU to facilitate the meetings. Relevant stakeholders, such as police, education, health, and regional council staff, were invited to attend these meetings. Suggestion boxes were placed in a number of communities that enabled additional feedback in a safe and confidential manner.

This robust and extended consultation process ensures that the NTAJA reflects a shared vision and that the content is built on a deep and abiding respect for the cultural values and expertise of Aboriginal people. The views and experiences of Aboriginal Territorians have shaped the Agreement. Research and data analysis has also been undertaken to ensure that the Agreement is founded on credible evidence highlighting the current challenges facing Aboriginal Territorians in the justice system.

During the consultation process, it was important to accept and acknowledge that historically government engagement with Aboriginal Territorians has been associated with interventionist policies, limited consultation and unfulfilled commitments. Often governments have failed to build on the strengths and expertise of Aboriginal communities. These legacies persist and have weakened trust and hindered relationships between NT Government agencies and Aboriginal Territorians.

A second phase of targeted consultations will occur following the release of the draft NTAJA. In this phase, the AJU will reaffirm partnerships established during the initial consultations and seek further input prior to the release of the final Agreement in 2020.



*I'm 56 now, I'm trying to get back on my feet and this is the first time I've been asked what I need so I can do better on the outside, and I can see something happening with you mob coming and asking us all about why we're in here - it feels good - I feel a bit of healing talking to you mob about my story.<sup>12</sup>*

Figure 01. Locations visited during consultations for the draft NTAJA

