MYTH: Community Courts are simply a get out of jail free card and are soft on crime.

FACT: The AJA found that with Aboriginal people, NT Police have an over-reliance on arrest as opposed to issuing cautions, warnings, infringements, or non-response such as coming back to talk to people the next day when there is no longer a safety issue. In data for police proceedings by way of a court actions, Aboriginal Territorians are taken into custody in 75 per cent of proceedings while non-Aboriginal Territorians were taken in to custody in 57 per cent of proceedings. Police discretion not to arrest or charge an Aboriginal person plays an important role in determining criminal justice responses for that person. Previous reviews and inquiries have raised concerns about police using their discretionary powers inappropriately against Aboriginal people, and considered the failure by police to use arrest as a last resort. NT Police have been found to over-charge young people and contribute to high Aboriginal youth detention rates. Aboriginal people are less likely to be granted bail and bail conditions are disproportionately onerous. The difficulty in meeting bail conditions means Aboriginal people spend unnecessarily long periods on remand. About 85 per cent of Aboriginal people who are granted bail are found in breach by police.

MYTH: Police need to be tougher on Aboriginal people because crime is out of control and it always seems to be the same people committing the crimes.

FACT: The AJA found that with Aboriginal people, NT Police have an over-reliance on arrest as opposed to issuing cautions, warnings, infringements, or non-response such as coming back to talk to people the next day when there is no longer a safety issue. In data for police proceedings by way of a court actions, Aboriginal Territorians are taken into custody in 75 per cent of proceedings while non-Aboriginal Territorians were taken in to custody in 57 per cent of proceedings. Police discretion not to arrest or charge an Aboriginal person plays an important role in determining criminal justice responses for that person. Previous reviews and inquiries have raised concerns about police using their discretionary powers inappropriately against Aboriginal people, and considered the failure by police to use arrest as a last resort. NT Police have been found to over-charge young people and contribute to high Aboriginal youth detention rates. Aboriginal people are less likely to be granted bail and bail conditions are disproportionately onerous. The difficulty in meeting bail conditions means Aboriginal people spend unnecessarily long periods on remand. About 85 per cent of Aboriginal people who are granted bail are found in breach by police.

MYTH: This is just another report that describes Aboriginal people as a grim list of statistics with little understanding of Aboriginal Territorians as individual people with their own dreams, ambitions and plans for a successful and prosperous future.

FACT: The Aboriginal Justice Agreement has used a rock-solid statistical evidence-base to identify the disparities between Aboriginal Territorians and non-Aboriginal Territorians. Statistics are necessary to demonstrate the evidence on which we are building solutions in partnership with communities. The Pathways document has stories from hundreds of people who have shared their experience about the NT justice system. Our consultations were culturally safe and whenever possible, we used Elders, leaders, interpreters and cultural brokers to facilitate our meetings. This was to ensure our work reflects a shared vision and that our report is built on a deep understanding and abiding respect for the cultural values and the expertise of Aboriginal Territorians. Our research and data analysis is founded on credible evidence that aims to highlight the challenges facing Aboriginal people in the NT justice system.

MYTH: The Aboriginal Justice Agreement is creating a separate justice system for Aboriginal people with their own laws, which creates an ‘us and them’ division in our society.

FACT: The AJA is about improving the NT justice system for Aboriginal people. It is not about creating a new system or a separate system. The draft Agreement has put forward 23 solution-based strategies that will help to meet the needs of Aboriginal people and communities in the NT. This will help restore leadership and authority, and hold people accountable for conduct before it becomes criminal behaviour. The AJA will benefit everyone in the NT because fewer people in jail means reduced spending on correctional services, courts and policing. More taxpayer funds could then be directed to other important government services such as health, education, housing and protecting the environment. Less crime equates to fewer victims and safer communities.

MYTH: Most Aboriginal people in the NT are in jail for non-payment of fines so we can reduce the number of Aboriginal people in jail simply by having a better way on dealing with outstanding fines.

FACT: Less than one per cent of the NT prison population where the principal offence is an unpaid fine, is Aboriginal. The most common offence for Aboriginal people are ‘acts intended to cause injury’, which are violent assaults. This is the principal offence recorded for 43 per cent of Aboriginal defendants. None of 10 victims of family violence are Aboriginal and nine out of 10 victims of assault are Aboriginal. For non-payment of fines, the AJA has suggested the NT Courts should consider converting fines into community service orders so that Aboriginal and non-Aboriginal people who have accrued debts through fines can work in the community to repay their debt.
Common myths about the Aboriginal Justice Agreement

**MYTH:** People who commit crimes get plenty of help in prison. We spend millions of dollars on prison programs to stop people offending when they are released from prison but they choose to go back to a life of crime.

**FACT:** A consistent issue raised during the consultations on the AJA is that the prison system does not do enough to rehabilitate Aboriginal offenders. While programs are provided in NT correctional centres, views were expressed that the programs are not culturally appropriate and do not adequately overcome communication barriers. Many prisoners have explained that interpreters are rarely used in prison programs leading to limited comprehension and engagement, and an over-reliance on prisoners with stronger literacy skills. These barriers make it difficult to clearly identify the factors that have led to offending and reoffending, and leave the complex needs of Aboriginal offenders unaddressed.

Limited access to programs while on remand or serving short sentences, and a lack of tailored programs for Aboriginal women was raised repeatedly. The AJU heard that vocational training programs could be better tailored to the type of employment opportunities that are available on release.

The number of all prisoners from all cultural groups has been steadily increasing in the NT. About 84 per cent of prisoners in the NT are Aboriginal. Aboriginal people are more likely to return to prison after their release than non-Aboriginal people. Between 2013 and 2019 about 60 per cent of Aboriginal people returned to prison within two years of their release. For non-Aboriginal people, the return rate was about 25 per cent over the same period.

Reducing recidivism by Aboriginal people requires effective, culturally safe programs that are tailored to the needs of Aboriginal people, and that prioritise the use of interpreters. The AJU has recommended that future correctional programs be based on best-practice approaches and delivered by professionals and organisations with high cultural competence and demonstrated experience working with Aboriginal Territorians.

**MYTH:** There are plenty of services for Aboriginal Territorians to help them with health, education, housing and employment, which will help them to be law abiding citizens. They just don't use them.

**FACT:** Many of these services are based in regional centres and it's difficult if not impossible for people in remote communities to access these services. We found that many services are not provided in language and there are often no interpreters to help Aboriginal people understand their rights and responsibilities. Some programs are not culturally appropriate and therefore fail to engage Aboriginal people.

**MYTH:** New legislation and policy reform is what's needed to improve justice for Aboriginal people.

**FACT:** Changing laws and policies won't be enough on its own to improve justice outcomes for Aboriginal people. Aboriginal people want to be supported and empowered in leadership roles. Leadership is critical to achieve the aims of the AJA. Aboriginal leadership has been eroded over many decades and the NT needs to build capacitors in communities to restore traditional authority. This is what Aboriginal Territorians have said in all the consultations for this Agreement.

**MYTH:** There is no leadership in Aboriginal communities. Aboriginal people sit around and complain without taking responsibility for their families and communities.

**FACT:** Leadership is central to Aboriginal culture and the voices of leaders have come through loud and clear in the consultations for the AJA. Aboriginal leaders at all levels across the NT, young and old, have spoken about how to make the Agreement work for the benefit of all Territorians. The ideas of Aboriginal people are the basis of the 23 AJA strategies and will shape how we deliver the Agreement. We have captured many voices in the Pathways document.

**MYTH:** The easiest way for Aboriginal people to stay out of prison is to stop committing crimes.

**FACT:** Many issues that lead Aboriginal people to breaching the law are factors that sit outside the justice system and many Aboriginal people have never had help to deal with these problems.

The social and economic circumstances of many Aboriginal Territorians are inextricably linked to a history of colonisation, dispossession and dislocation from land, family, language, culture, knowledge systems, authority and values. Government policies and practices throughout the history of Australia, including the removal of children from families, continues to disrupt the lives of Aboriginal families and have far-reaching consequences including inter-generational loss, trauma and grief. People may have conditions that have never been diagnosed or treated, such as a mental illness or addiction.

Aboriginal Territorians experience disproportionately high rates of poor mental health and wellbeing, and domestic and family violence. Across Australia, Aboriginal people are less likely to drink alcohol, but those who consume alcohol are more likely to drink at harmful levels. Alcohol misuse is associated with the prevalence and the severity of assaults and domestic violence in the NT. Alcohol misuse contributes to family problems including child abuse and neglect, work and financial problems, and family breakdown.

Aboriginal Territorians experience poorer health outcomes and higher rates of physical and cognitive disabilities that non-Aboriginal Territorians. Aboriginal people with cognitive disabilities such as Foetal Alcohol Spectrum Disorder are at an increased risk of contact with the justice system.

Racism can be a key source of distress and socioeconomic disadvantage for Aboriginal people. Discrimination has an impact on employment prospects, access to services and contributes to poor social and emotional wellbeing. Research in the NT found a significant association between interpersonal racism and depression among Aboriginal Territorians.

Childhood experiences of violence and abuse are high risk factors for violent offending and re-victimisation later in life. If you have been abused as a child and never been able to get help to deal with the trauma, this will impact on your behaviour and physical and mental health. Across Australia, most Aboriginal women in prison have experienced disadvantage, and physical or sexual abuse.

**MYTH:** The NT Courts treat all people the same no matter what their race.

**FACT:** Outcomes in NT Courts are quite different for Aboriginal people. There are significant disparities between Aboriginal and non-Aboriginal offenders when it comes to sentencing. Factors such as not having housing and lack of employment impact on court decisions. A homeless and unemployed Aboriginal person is more likely to be remanded in custody and sentenced to jail than a non-Aboriginal person who has committed the same offence with the same history but who has a stable home and a job.

- Aboriginal offenders are more likely to be sentenced to a term of imprisonment than non-Aboriginal offenders. This is more apparent when considering the imprisonment rate for a single offence such as ‘acts intended to cause injury’, which are violent assaults.
- Aboriginal offenders are sentenced to shorter terms of imprisonment than non-Aboriginal offenders. Prisoners on short sentences don’t get access to programs or services to address offending behaviour.
- Aboriginal offenders tend to experience a cycle of repeated short terms of imprisonment which does not allow effective rehabilitation.
- There is a lack of programs in the Northern Territory to assist offenders to change behaviours and a lack of access to medical services to identify medical conditions that may significantly impact on a person’s offending and reoffending.

Aboriginal people have said they find it difficult to access programs when they are delivered in Darwin or a regional centre, and when their support is in their remote community. Aboriginal people have said there is often no interpreter which means it’s often impossible understand parole and bail conditions.

One of the strategies in the AJA is to re-introduce Community Courts and for community service orders to make the community a part of the sentencing process.