

*North Australian  
Aboriginal Justice Agency*

**NAAJA**

Submission: Inquiry into community  
safety, support services and job  
opportunities in the Northern Territory

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## Glossary

<b>NAAJA</b>	North Australian Aboriginal Justice Agency
<b>NAALAS</b>	North Australian Aboriginal Legal Aid Service
<b>KRALAS</b>	Katherine Regional Aboriginal Legal Aid Service
<b>MALS</b>	Miwatj Aboriginal Legal Service
<b>CAALS</b>	Central Australian Aboriginal Legal Services
<b>RCIDIAC</b>	Royal Commission into Aboriginal Deaths in Custody
<b>DFSV</b>	Domestic, Family and Sexual Violence
<b>Aboriginal</b>	Aboriginal and Torres Strait Islander
<b>NT</b>	Northern Territory
<b>JSCATSIA</b>	Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs
<b>JR</b>	Justice Reinvestment
<b>AGD</b>	Department of the Attorney-General and Justice
<b>ICRO</b>	Inter-agency Co-ordination and Reform Office
<b>DFV</b>	Domestic and Family Violence
<b>NTER</b>	NT Emergency Response
<b>NT AJA</b>	Aboriginal Justice Agreement
<b>CtG</b>	Closing the Gap Agreement
<b>NTG</b>	Northern Territory Government
<b>CJGs</b>	Community Justice Groups
<b>KSVP</b>	Kunga Stopping Violence Project
<b>ACCO</b>	Aboriginal community control organisations
<b>KYJRG</b>	Katherine Youth Justice Reinvestment Group
<b>IDS</b>	Indigenous Data Sovereignty
<b>IDG</b>	Indigenous Data Governance

## Acknowledgement of Country

The Northern Australian Aboriginal Justice Agency and the Kunga Stopping Violence Project acknowledges and pay our respects to the traditional owners of the lands on which we live and work across the Northern Territory. We pay our respects to the Aboriginal and Torres Strait Islander Elders, leaders and respected persons, past, present and future and value the immense cultural knowledge of Aboriginal contributors to both the review and our submission.

## About NAAJA



### **North Australian Aboriginal Justice Agency**

The North Australian Aboriginal Justice Agency (NAAJA) provides high quality, culturally appropriate legal aid services to Aboriginal people across the Northern Territory (NT). NAAJA was established in February 2006, which initially amalgamated the three top end legal services which are the North Australian Aboriginal Legal Aid Service (NAALAS), the Katherine Regional Aboriginal Legal Aid Service (KRALAS) and the Miwatj Aboriginal Legal Service (MALS). In 2018, the Central Australian Aboriginal Legal Services (CAALAS), which covers the Barkly and Central Australian region of the NT, was amalgamated into NAAJA and NAAJA now services the whole of the NT. NAAJA and its earlier bodies have been advocating for the rights of Aboriginal people in the Northern Territory since their establishment. NAAJA serves a positive role contributing to policy and law reform in areas impacting on Aboriginal peoples' legal rights and access to justice. NAAJA travels to remote communities across the Top End, Central Australia and the Barkly region to provide legal advice and consult with relevant groups to inform submissions.

### Executive Summary

As one of the leading legal services representing Aboriginal and Torres Strait Islander (Aboriginal) people in the NT for the past 50 years, the North Australian Aboriginal Justice Agency (NAAJA) welcomes the Federal government's commitment to justice reinvestment (JR) in the 2022-23 Federal budget. Since the *Royal Commission into Aboriginal Deaths in Custody* (RCIDAIC) 30 years ago, the incarceration and deaths in custody of Aboriginal Australians have continued to grow at devastating rates. The recommendations of the RCIDAIC are yet to be addressed by subsequent governments.

If there is one fundamental truth that 50 years of community service, research and advocacy has taught NAAJA is that jailing people does not reduce crime, it does not increase community safety and it does not protect our most vulnerable people. What incarceration does do is perpetuate the cycles of disadvantage across all areas of life, from education > employment > social and emotional wellbeing > substance misuse > domestic, family and sexual violence (DFS) > right through to life expectancy<sup>1</sup>. A change in approach is very much needed and to quote NT Attorney-General and Minister for Justice

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<sup>1</sup> Change the record. (2021). *Open letter on Raising the Age of Criminal Responsibility*

Hon Chansey Paech MLA “[justice reinvestment] is the start of dismantling racial injustice and creating long lasting, generational change.”<sup>2</sup>

Outlined in this submission is evidence that supports NAAJA’s key asks for consideration of the JR earmarked for reducing the incarceration rates of Aboriginal people in the Northern Territory (NT). NAAJA requests the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) consider our following requests as part of their inquiry into community safety, support services and job opportunities in the Northern Territory addressing terms of reference (d) *justice reinvestment community services*.

### Summary of recommendations

**Domestic, Family and Sexual Violence:** NAAJA recommends JR is utilized to implement system reforms and sector strengthening to address key drivers of DFSV. This includes funding evidence based Aboriginal best practice resources and programs that embed Aboriginal language, conceptualisations and cultural authority within localised, self-determining and culturally strengthening models.

**Self-determination:** NAAJA recommends that JR initiatives must be self-determined by the communities that they are aimed at supporting.

**Community driven:** NAAJA recommends that JR programs are co-designed and led by Aboriginal communities.

**Partnerships:** NAAJA recommends that partnerships established under the Closing the Gap and NT Aboriginal Justice Agreement are resourced to advise on and deliver JR initiatives for their community. This includes resourcing and funding for NAAJA’s CJGs to address essential place-based justice needs.

**Programs:** NAAJA recommends that Aboriginal Community Controlled Organisations, programs and services are funded to expand on current programs and develop new initiatives to address key drivers of incarceration. NAAJA also recommends that non-Aboriginal organisations seeking to deliver JR initiatives are carefully assessed for their suitability.

**Interpretive services:** NAAJA recommends interpretive services are utilised in the development and implementation of JR initiatives.

**Justice Reinvestment in Katherine:** NAAJA recommends funding the next steps of Katherine Youth Justice Reinvestment project as outlined by the Red Cross report, including funding the expansion of

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<sup>2</sup> Attorney-General and Minister for Justice the Hon Chansey Paech MLA. (2022). *Keynote address at the AIJA Indigenous Youth Justice Conference*.

localised JR initiatives and an Aboriginal-led, place-based coordinating body or organisation to deliver the work.

**Funding and resources (Jobs):** NAAJA recommend that Aboriginal-led services, programs and partnerships are prioritized for JR funding allocation and that non-Aboriginal agencies and partners must meet prerequisites outlined in this submission when bidding for JR funding. Whilst NAAJA supports resourcing of the six NT AJA initiatives outlined by the Nous Group to be implemented in a self-determined way, NAAJA recommends avoiding application entirely to NTG or AJA initiatives

**Infrastructure:** NAAJA recommends that JR funding is utilised to accommodate the expansion of current Aboriginal run programs and build bail accommodation, transitional and safe housing for Aboriginal men, women and children.

**Data sovereignty:** NAAJA recommends the sovereignty of data is returned to the communities it is extracted from and that JR initiatives must be informed by Indigenous Data Sovereignty (IDS) and Indigenous Data Governance (IDG) principles.

### Cost of imprisonment

Aboriginal people of Australia are the most incarcerated people in the world<sup>3</sup>. NT prison populations have been steadily growing over the last 20 years, making the Territory the highest incarcerating jurisdiction in Australia. The NT rate of incarceration is ‘four times the national average and increasing faster than any other jurisdiction’.<sup>4</sup> Shamefully Aboriginal people make up 84%<sup>5</sup> of the prison population and between 96-100%<sup>6</sup> of the youth justice population. Imprisoning citizens comes at a massive economic cost to the community with a spending of \$1.23 billion per year to operate prisons and taking into account the broader economic and social costs associated with crime.<sup>7</sup> This cost is forecasted to grow to \$1.6 billion by 2031 when NT prison populations are predicted to reach 2,235. It is important to note that ‘the NT’s prisons have been operating at over 100 percent capacity since 2017’<sup>8</sup>.

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<sup>3</sup> Anthony, T. (2017). *FactCheck: are first Australians the most imprisoned people on Earth?* The Conversation. June 6 [FactCheck: are first Australians the most imprisoned people on Earth? \(theconversation.com\)](https://theconversation.com/factcheck-are-first-australians-the-most-imprisoned-people-on-earth-2017-06)

<sup>4</sup> Australian Bureau of Statistics. (September 2012). *Corrective Services in Australia*. P.4 as cited in Law Society. (2013). *Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*. April 4.

<sup>5</sup> Northern Territory Government. Department of the Attorney-General and Justice. (2019). *Pathways to the Northern Territory Aboriginal Justice Agreement*. [Northern Territory Aboriginal Justice Agreement 2021–2027 | Department of the Attorney-General and Justice](#)

<sup>6</sup> Northern Territory Government. Department of Territory Families, Housing and Communities. (2022). *Youth Detention Census*. <https://tfhc.nt.gov.au/youth-justice/youth-detention-centres/youth-detention-census>

<sup>7</sup> Nous Group. (2022). *Business case for investment in the Northern Territory Aboriginal Justice Agreement*. 14 October [Business case AJA -NOUS.pdf](#) P.1

<sup>8</sup>Ibid. P.1

Whilst the financial cost of incarceration in the NT alone is astounding, there are many other costs of imprisonment to our community, such as lifelong social, emotional and wellbeing impacts which create ongoing immeasurable disadvantage upon generations spanning the past, current and future. Entrenchment in the justice system leads to the perpetuation of cycles of disadvantage, including disengagement from education, decreased employment and housing opportunities, increased risk of mental ill-health and substance misuse, increase likelihood of experiencing or using DFSV and a shortened life expectancy. As Paech said in his keynote address at the AIJA Indigenous Youth Justice Conference “the system is stacked against those that have the least amount of power.”<sup>9</sup>

### Justice reinvestment

JR is a chance to return balance of that power, by centering Aboriginal voices in determining their own political, economic, social and cultural development (Paech)<sup>10</sup>. A framework heralded from the USA two decades ago<sup>11</sup> JR is a chance to reduce rates of incarceration for communities dominantly impacted by the following four key principles:

- Place-based focused
- Evidence-based approaches
- Community-led development
- Economic rationale and improved expenditure

To summarise, “Justice Reinvestment is a holistic way of working that is informed by data and self-determined by community. It works to reduce contact with the criminal justice system by empowering local communities to design and implement their own strategies for addressing the underlying drivers of crime.”<sup>12</sup> Justice Reinvestment is a new and improved way to spend taxpayers’ dollars that is pre-emptive in its approach by addressing key drivers of crime and by means of early intervention “saves money in future on dealing with the outcomes of crime”.<sup>13</sup>

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<sup>9</sup> Attorney-General and Minister for Justice the Hon Chansey Paech MLA. (2022). *Keynote address at the AIJA Indigenous Youth Justice Conference*.

<sup>10</sup> Ibid

<sup>11</sup> Allisson, F and Cunneen, Chris. (2022). *Justice Reinvestment in Australia: A review of progress and key issues*. July. [national-report\\_jr.pdf](#)

<sup>12</sup> Justice Investment Network Australia. (2022). *What is Justice Reinvestment*. [Justice Reinvestment Network Australia – Justice Reinvestment is about returning power and resources to community to lead their own solutions](#)

<sup>13</sup> Law Society. (2013). *Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*. April 4.

Much like AG Paech, NAAJA wants to see “sound investment in innovative, evidence-based improved services and programs with self-determination at the heart of any reinvestment”<sup>14</sup>.

### Domestic, Family and Sexual Violence

It would be remiss to talk about JR without highlighting the DFSV crisis Australia is facing and the need for an Aboriginal community-led approach to addressing the unique experiences of victim-survivors of DFSV in an NT context. An often unacknowledged, dark reality underlying the experiences of the Aboriginal community in the NT is the historical and ongoing violent relationship they experience when interacting with the government and its agencies. The ongoing impacts of deaths in custody and child removals are not just pertained to past government policies but also recent events underpinned by racist ideologies and conduct embedded within the culture of government agencies, one example being the killing of Kumanjayi Walker by police officer Zachary Rolfe, and another, racist policies, such as the NT Intervention.

Given our recent past and current structures, is it any wonder that Aboriginal people are vastly over-represented in the numbers of both victim-survivors and perpetrators of DFSV. In the NT 63% of people in detention are held for DFV-related offences, of which 90% of DFSV related criminal matters are Aboriginal defendants<sup>15</sup>. NT Aboriginal women and girls are the most victimised people of intimate violence in the world and are 40 times more likely to be hospitalised for family-violence related assaults than non-Aboriginal women.<sup>16</sup> This high prevalence combined with fact that “First Nations women are the fastest-growing prison population, constituting 37% of the female prison population, despite making up only 2% of Australia’s total population”<sup>17</sup> means that any JR addressing DFSV must centre the rights and experiences of Aboriginal victim-survivors, in particular women and girls.

This year the NT Department of the Attorney-General and Justice (AGD) conducted a *Review of Legislation and the Justice Response to Domestic and Family violence* (the Review)<sup>18</sup> and set up a 12-month Domestic Family and Sexual Violence Inter-Agency Co-ordination and Reform Office (DFSV-ICRO) tasked with implementing the NT’s whole-of-government response to DFV. NAAJA submitted

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<sup>14</sup> Attorney-General and Minister for Justice the Hon Chansey Paech MLA. (2022). *Keynote address at the AIJA Indigenous Youth Justice Conference*.

<sup>15</sup> Northern Territory Government. (2018). *The Northern Territory’s Domestic, Family & Sexual Violence Reduction Framework 2018–2028: Safe, respected and free from violence*. P.19. [Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf \(nt.gov.au\)](https://www.nt.gov.au/justice/dfs-icro/framework-2018-2028)

<sup>16</sup> Ibid.

<sup>17</sup> Australian Bureau of Statistics. (2022, June). *Corrective Services, Australia*  
<https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release#data-download>

<sup>18</sup> Northern Territory Government. (2018). *The Northern Territory’s Domestic, Family & Sexual Violence Reduction Framework 2018–2028: Safe, respected and free from violence*. P.19. [Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf \(nt.gov.au\)](https://www.nt.gov.au/justice/dfs-icro/framework-2018-2028)



feedback on the Review, raising concerns around the significant absence of the Aboriginal lived experience voices and expertise of Aboriginal led DFSV and legal services and programs<sup>19</sup>. The Review, particularly aimed at addressing coercive control prematurely proposes a suite of legislative reform that will inevitably criminalise behaviours that community, police, courts and services don't yet comprehensively understand. In order to avoid the unintended outcomes of increased rates of Aboriginal incarceration, in particular of Aboriginal women, it is vital that JR is utilised to support systems reform and sector strengthening before such legislative reform comes into effect. This includes funding evidence based Aboriginal best practice resources and programs that embed Aboriginal language, conceptualisations and cultural authority within localised, self-determining and culturally strengthening models.

### Self-determination

The AGD DFV Review is a good example of what happens when government seek to address issues disproportionately impacting a particular community without being guided or informed by that community's autonomy to determine decisions about their own lives. In order for governments to understand the functionality of self-determination and what it means in a practical sense we must first recognise colonialism as a structure, not an event, that impacts Aboriginal Australians in every which way they experience life and their positionality in relation to power in a 'settler-colony'<sup>20</sup>. JR has the ability to shift that power from the uninformed old ways of doing things to empowered community-driven decision-making by providing "the tools and resources they need to self-determine their own futures."<sup>21</sup>

### Community Driven

The incredibly disempowering impacts of the 2007 NT Emergency Response (NTER), known as the NT Intervention, continues to reverberate across civil society with Aboriginal people wearing the most brutal and disenfranchising costs of this racist policy and its legacy of failure. The NTER saw the state's control over Aboriginal people's lives move from the public to the private domain, rendering people powerless even in their own homes. The intervention stripped community members of their pride and dignity, a disempowerment so powerful it has had huge social, emotional and wellbeing impacts across multiple generations and will continue to do so for generations to come.

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<sup>19</sup> North Australian Aboriginal Justice Agency. (2022). *Submission: Review of Legislation and the Justice Responses to Domestic and Family Violence in the Northern Territory*.

<sup>20</sup> Kehaulani Kauanui. J. (2016). "A Structure, Not an Event": *Settle Colonialism and Enduring Indigeneity*. May. CC BY.

<sup>21</sup> Justice Investment Network Australia. (2022). *What is Justice Reinvestment*. [Justice Reinvestment Network Australia – Justice Reinvestment is about returning power and resources to community to lead their own solutions](#)

Governments must recognize that this saviour, top-down approach has for centuries failed and continues to fail, Aboriginal Australians. A failure which is evident in the sky rocketing numbers of Aboriginal people in custody and experiencing DFSV.

## Partnerships

By laying bare the undeniable impacts the NTER has had on Aboriginal communities in the NT, such as increased rates of DFSV, increased rates of incarceration, increased rates of youth suicide, and increased rates of kids in out-of-home care, you can understand the helplessness Aboriginal people must feel when they hear politicians like Peter Dutton calling for yet another unilateral investigation of their homes and lives.

Whilst it might appear that the NT is barreling towards crisis point, the silver lining is the whole-of-government commitment to partnership and shared-decision making under the Closing the Gap (CtG) agreement and the NT Aboriginal Justice Agreement (NT AJA).

These partnership agreements are crucial to balance the power and rightfully return self-determination to Aboriginal communities. Under these history defining agreements, the NT Government (NTG) has begun building the ideal climate to implement JR in a meaningful and lasting way.

One example of meaningful implementation of JR is the establishment of NAAJA's Community Justice Groups (CJGs) at Gunbalanya, Lajamanu, Ngukurr and Wurrumiyanga. The CJGs are place-based, self-determined, cultural authorities that address issues foundational to contact with the justice system. By promoting and strengthening cultural authority of localised affairs the CJGs permit community-led innovation in addressing cycles of incarceration (directly and indirectly, proactively and reactively).

Likewise, the NT Justice Policy Partnership, established under the CtG *Priority Reform One: Formal Partnerships and Shared Decision-making*, to address Outcomes 10 and 11 of the agreement, which aims to decrease the incarceration rates of Aboriginal and Torres Islander adults and children by 2031<sup>22</sup>, sets a policy platform centered on shared decision-making and partnership.

However, the work set out for these important partnerships across the NT AJA and CtG have not been adequately reflected in the resourcing and funding of such vital initiatives. In particular, should the independent CJGs determine that interpretive or mediation services are essential to improve justice

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<sup>22</sup> Australian Commonwealth Government. (2020). *National Agreement on Closing the Gap*. Clause 32c [6. Priority Reform One - Formal partnerships and shared decision-making | Closing the Gap](#)

outcomes for their community, there are no funds to support the actual implementation of that determination in community on the ground. Nor if the CGJs were to determine that the Gladue style pre-sentencing reports for community courts (as referenced in the NT AJA), would benefit the specific needs of their community, the capacity building required to achieve such an action would need to be adequately resourced with additional funds. This could include resourcing a sitting fee and local community justice officer for each of the existing NAAJA co-designed CJGs, to ensure two-way listening with specialist law and justice support and mentoring to reduce contact with the justice system.

It is one thing to empower a community with cultural authority and self-determining decision-making and an entirely another to resource them to achieve the outcomes that empowerment affords them.

## Programs

As Law Council President Mr Tass Liveris says, “Justice reinvestment provides community-led, place-based, preventative, therapeutic and early intervention solutions that reduce criminal offending and prevent future incarceration.”<sup>23</sup> In a sense JR is an investment in the whole of community’s future. The tough on crime approach of past leaders in the NT has seen overcrowded prisons, an increase of self-harm incidences in youth detention and children as young as 10 spending extended periods of time in custody on remand. None of these out comes of the tough on crime approach have made the community any safer, if anything it has only amplified the underlying disparities and drivers, such as poverty, homelessness, mental ill-health, and substance misuse, that leads to offending behavior.

The NT Labor government has begun paving the way to better outcomes for some of our most vulnerable members of community with recent announcements to raise the age of criminal responsibility to 12, repealing some mandatory sentencing provisions and the introduction of the Anti-discrimination Amendment Bill 2022, however there is still much work to do.

“There is a chronic shortage of programs in the NT that reduce criminal behaviour, particularly in remote Aboriginal communities.”<sup>24</sup> This has not always been the way and over our fifty years of community service NAAJA has seen many good, effective programs come and go and now is not the time for reinventing the wheel. The vital role that JR has the potential to play in the NT is reinvigorating past initiatives, increase funding for Aboriginal controlled services, and expanding resources of current programs, such as NAAJA’s Kunga Stopping Violence Project (KSVP) and Throughcare program,

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<sup>23</sup> Law Society. (2013). *Inquiry into the value of a justice reinvestment approach to criminal justice in Australia*. April 4.

<sup>24</sup> Ibid

Tangentyere men's behavioral change program and community-led, therapeutic, culturally immersive programs for young people, such as the Katherine Youth Justice Reinvestment initiative.

The devastating disempowerment of a paternalistic approach, such as the NTER, is undeniable evidence that something must change. In particular, in central Australia, youth work has become an industry, with the mainstream community sector almost making a business out of the inequalities faced by remote Aboriginal communities. With pilot programs and workforce cycling in and out of such communities' families are becoming 'service fatigued'. An AIHW study of the 2022 data shows the ratio for people who are able to be carers and those that need care is highly disproportionate in the Aboriginal population, this deficiency is only reinforced when we replace parental care with youth work.<sup>25</sup> This disproportionality is only further exacerbated by the over-incarceration of Aboriginal people, creating parental/carer absence from their family/community and their family/community needs.

In *Wild Policy: Indigeneity and the Unruly Logics of Intervention*, Tess Lea highlights "the way policy in the Australian settler colony is designed is that it focusses on what is assumed to be 'the good' and thereby the underlying problems become reinforced rather than improved"<sup>26</sup>. We must move away from the paternalistic, saviour approach of early missionaries that is still entrenched within the settler-colony framework within which the NT operates. JR is an opportunity to achieve *Priority Reform Two: Building a Community Controlled Sector* of the CtG<sup>27</sup>, by strengthening the Aboriginal sector and investing in the valuable partnerships set up under the CtG and the NT AJA. One example where this can be achieved is to appropriately resource the CJGs to be able to act as the cultural authority of their community as well as action their determinations to enact lasting and meaningful change.

The shortage of Aboriginal community control organisations (ACCO) in the NT will mean some partnerships with government agencies and mainstream organisations will inevitably occur, however JR can establish mechanisms that ensure these partnerships are guided by a two-way listening opposed to the past top-down approach. One way this can be done is by ensuring service providers with actual or potential conflict are 'out of scope as partners', noting the conflict inherent in seeking a government entity to devolve power to ensure Aboriginal people can pursue and advance self-determination, and the need to locate JR programs within an independent service provider that can

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<sup>25</sup> Australian Institute of Health and Welfare. (2022). *Profile of Indigenous Australians*. Australian Government. 07 July. [Profile of Indigenous Australians - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au)

<sup>26</sup> Lea, T. (2020). *Wild Policy: Indigeneity and the Unruly Logics of Intervention*. Stanford University Press.

<sup>27</sup> Australian Commonwealth Government. (2020). *National Agreement on Closing the Gap*. [6. Priority Reform Two – Building the Community-controlled Sector | Closing the Gap](#)

facilitate and advance informed, engaged, and independent localised self-determining governance structures.

### Need for interpretative services

A significant barrier to the delivery of services and programs in the NT is the inadequate availability of Aboriginal and Torres Strait Islander interpretative services. The CJGs, NAAJAs solicitors and case workers and across the sector more broadly, consistently report significant numbers of people not being able to complete court orders, access counselling and vital therapeutic programs and are unable to engage meaningfully in partnerships established to amplify their voices, due to the low capacity of interpretive services. In an NT context, where we have more than a 100 different Aboriginal languages and dialects spoken and 54,000 people who speak an Aboriginal language at home, with English often being their 4<sup>th</sup> or 5<sup>th</sup> language<sup>28</sup>, it is critical the JR invests in boosting the interpretative service the NTG is failing to meet the needs of under their *Everyone Together Aboriginal Affairs Strategy 2019-2029*.

### Justice Reinvestment in Katherine

The cycles of poverty and disadvantage caused by the ongoing impacts of colonisation is often more acutely experienced by additional factors compounded in regional and remote areas. One example are the barriers Aboriginal families of Katherine face in accessing safe housing, education, employment and social and emotional wellbeing.

From 2015 to 2019 Katherine based services began working in-kind to thoroughly research the JR potential for the young people of their community. At the core of this research was extensive consultation with the local Aboriginal community and key stakeholders, in order to identify the need, appetite and support for a JR initiative in Katherine. It was from this work that the Katherine Youth Justice Reinvestment Group (KYJRG) was born in 2016. Established to progress a community vision with the aim to transform youth justice services and systems in Katherine to focus on prevention and early intervention with the intent of reducing incarceration<sup>29</sup>.

In mid-2018 the following strategic objectives were identified by the KYJRG during a community-driven strategic planning process:

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<sup>28</sup> Northern Territory Government. (2020). *Everyone Together: Aboriginal Affairs Strategy 2019-2029*. P.10 [Everyone Together - Aboriginal Affairs Strategy - 2019-2029 \(nt.gov.au\)](#)

<sup>29</sup> Smith. J, Allison. F, Christie. B, Clifford. S, Robertson. K, Ireland. S, Wallace. T. (2019). *Katherine Youth Justice Reinvestment: Final Report*. Prepared for the Australian Red Cross on behalf of the Katherine Youth Justice Reinvestment Group. P.5 [309747 Katherine Youth Justice Reinvestment Final Report.pdf \(menzies.edu.au\)](#)

- To facilitate a safe and happy community environment for the families, children and youth of Katherine
- To reduce offending and incarceration of Katherine youth
- To value and celebrate the contribution of youth in the development and implementation of youth justice reinvestment strategies in Katherine
- To strengthen leadership, governance and community ownership for youth justice reinvestment in Katherine
- To strengthen and sustain partnership approaches in the planning, implementation and evaluation of the youth justice reinvestment in Katherine<sup>30</sup>

Proposed outcomes included:

- Reducing suspension rates among high school students in Katherine
- Increasing educational retention and attainment rates across all school years, including year 12 completions
- Increasing positive social media commentary relating to Katherine youth
- Increasing employment opportunities for local youth, particularly Aboriginal and Torres Strait Islander youth, through enhanced industry engagement
- Strengthening cultural identity among Aboriginal and Torres Strait Islander youth
- Expanding the suite of JR activities offered throughout Katherine
- Increasing intersectoral collaboration among service providers engaging youth
- Enhancing complex case-management for 'at-risk' youth
- Building a more robust evidence-base to inform future JR approaches at local and national levels<sup>31</sup>

Actions under the strategic objectives aim to engage young people through a person-centred, strength-based approach, including individually tailored opportunities.

There is strong support for this evidence-based approach across all areas of the Katherine community with a particular sense of urgency in addressing concerns related to youth justice matters. However, to progress the work funding is required to resource a local Aboriginal-led co-ordinating body or organisation. Recently, Legal Services along with the NT Police and the Director of Public Prosecutions

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<sup>30</sup> Smith, J, Allison, F, Christie, B, Clifford, S, Robertson, K, Ireland, S, Wallace, T. (2019). *Katherine Youth Justice Reinvestment: Final Report*. Prepared for the Australian Red Cross on behalf of the Katherine Youth Justice Reinvestment Group. P.27 [309747 Katherine Youth Justice Reinvestment Final Report.pdf \(menzies.edu.au\)](#)

<sup>31</sup> Ibid. P.26

co-signed a letter to the Commonwealth Government, flagging that Katherine as a community perfectly suited to be funded as a JR trial site location. This follows significant work done previously to establish a JR program in Katherine, including a 2019 [Katherine Youth Justice Reinvestment: Final Report](#) prepared by Red Cross, intended to provide preliminary information to invest in a more comprehensive four-stage youth JR process in Katherine<sup>32</sup>.

### Funding and resourcing (Jobs)

By following the place-based, community-led and self-determined approach of JR the positive flow on affect is more jobs in community, for community, which in turn leads to decreased rates of offending and parental/carer absence from communities. Out of the \$81.5 million earmarked for JR in the 2022-23 budget NAAJA strongly urges the Albanese government to prioritise funding Aboriginal-led services, programs and partnerships first, this should include expansion of current services and capacity building of partner groups such as the CJGs.

As mentioned previously there will be an immediate need to fund existing or new partnerships between Aboriginal and non-Aboriginal agencies and communities, however this must be done with a memorandum of understanding that a framework to transition full control to the Aboriginal partner will occur over an established time frame. NAAJA recommends allocation of JR funding earmarked for the NT adheres to a set of prerequisites, such as:

- Applies to AIATSIS and APO NT engagement principles
- Where an advisory board or committee is required, the membership consists of a majority of Aboriginal and/or Torres Strait Islander members
- Follows the place-based, needs-based, community-led and self-determination principles
- Applies Aboriginal Data Sovereignty principles
- Applies evidence based Aboriginal best practise models and programs
- Seeks interpreters for all significant meetings
- Engages APO NT to provide relevant governance training
- Requires on community employment and a plan to transition the program to community prior to project completion
- Ensure funding for 3 or more years to allow data to reflect impacts

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<sup>32</sup> Smith. J, Allison. F, Christie. B, Clifford. S, Robertson. K, Ireland. S, Wallace. T. (2019). *Katherine Youth Justice Reinvestment: Final Report*. Prepared for the Australian Red Cross on behalf of the Katherine Youth Justice Reinvestment Group. P.5 [309747 Katherine Youth Justice Reinvestment Final Report.pdf \(menzies.edu.au\)](#)

JR funding cannot be outcome driven as we have seen with the previous turnover of pilot or short-term initiatives. To see long-lasting results JR funding must allow services and initiatives to have the time to evaluate, learn from and continue to build upon existing structures that are foundational or showing potential for effectiveness. The importance of long-term funding is highlighted by Nous Group’s cost benefit analysis of the NT AJA, which predicts by implementing six key AJA initiatives simultaneously across a seven-year period will have a greater impact and lower risk, than implemented independently, achieving a projected benefit of \$202 million over the 10-year horizon\*<sup>33</sup>.

The six initiatives outlined in Nous Groups analysis lend themselves to a JR approach, which is laid out in the table below<sup>34</sup>:

<b>Nous recommended NT AJA initiatives:</b>	<b>NAAJA recommendations for a JR approach</b>
Legislative reform	Legislative reforms are advised by Aboriginal-run services and community partnership groups, such as the NT JPP
Community Courts and Law and Justice Groups	Resourcing Community Justice Groups to engage with Community Courts appropriately
Alternatives to Custody (Adults)	Must be co-designed and decision-making community-led
Community based sentencing and non-financial options for the payment of fines	Decision-making must be community-led
Therapeutic responses in detention centres	Implemented by Aboriginal-led services and resourced for pre- and post-release engagement
Alternatives to Custody (Youth Camps)	Must be implemented by cultural authority groups/partners and/or Aboriginal services

<sup>33</sup> Nous Group. (2022). *Business case for investment in the Northern Territory Aboriginal Justice Agreement*. 14 October. P.1-3 [Business case AJA -NOUS.pdf](#)

\*this has been compared against a” ‘do nothing’ scenario, which looks at the current trajectory of the NT’s criminal justice system and excludes the investment that has been made in the 2022-23 Budget

<sup>34</sup> Ibid. P2-3.



## Infrastructure

Since the *Royal Commission into the Protection and Detention of Children in the Northern Territory* final report came out in 2017, we have seen significant investment in replacing and improving infrastructure of places of detention in the NT, which is necessary in addressing some of the concerning human rights breaches currently occurring in our youth justice and correction facilities. However, more or new prisons is not the pathway to reducing the over incarceration rates of Aboriginal people as committed to in Outcomes 10 and 11 of the CtG agreement.

What is needed is investment in Aboriginal run organisations and programs to expand their current activities and develop new initiatives. For instance, whilst being co-located with the prisons can provide a captive audience for NAAJA's KSVP and behavioral change components of the Throughcare program, the therapeutic benefits are cut short when the client is released. Expanding such programs to continue the work post-release would provide scope for increased success rates with potential therapeutic benefits for the whole family.

Scantily resourced infrastructure and location for behavioral change and crisis services vastly narrows the scope of participants who can access rehabilitative pathways in the NT. For instance, there are no men's behaviour change programs existing outside of prison for people living in Darwin or top-end remote and regional areas. Further remote and regional victim-survivors have very limited access to crisis support when experiencing DFSV, as very few facilities exist in remote and regional communities. Given the large geographical and remote regions the NT population inhabit, all therapeutic DFSV programs that currently exist or might emerge must be properly resourced to support the attendance of all eligible clients, who are likely to require access to accommodation, transport, childcare services and flexibility in attendance to maintain employment.

Additionally, no program, no matter how sophisticated it is, will have successful engagement whilst the people in need of it are struggling to keep a roof over their head. The ANROWS report on the KSVP, found clients experienced high levels of homelessness. "The majority of the women and their children were living in overcrowded homes of extended family. This is a problem experienced prior to incarceration that continues post release and is due to a lack of public housing stock, supported accommodation and transitional housing."<sup>35</sup> The lack of safe housing in Central Australia meant the

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<sup>35</sup> Bevis, M., Atkinson, J., McCarthy, L., & Sweet, M. (2020). *Kungas' trauma experiences and effects on behaviour in Central Australia* (Research report, 03/2020). Sydney, NSW: ANROWS. P.12.

women engaged in KSVP often faced barriers to accessing a range of services, in combination of experiencing poverty, complex trauma and DFSV which leads to “a cohort of women who are financially stressed and lacking stable and safe accommodation, dealing with addictions to alcohol, frequently negotiating family violence, and who have high physical and mental health needs. For many of the women, time away in prison and residential rehabilitation does not change the difficult circumstances they faced prior to incarceration.”<sup>36</sup>

Likewise, safe accommodation for young people in Katherine is often at capacity and fails to meet the increasing needs of the community. Through research conducted by the Red Cross KYJR Report community highlighted a significant gap in emergency and crisis accommodation for people experiencing DFSV. “The concerns regarding acute domestic safety, and a lack of safe accommodation, have a subsequent impact on the amount of young people on the streets late at night. This was raised numerous times as a factor in opportunistic crime (such a property damage, theft and trespassing).”<sup>37</sup>

The NT, especially Central Australia and the Barkly region, is in dire need of supportive and safe accommodation options for vulnerable people who are currently being cycled through the justice system as a remedy for homelessness. It has been said, more than once, by government representatives, that detention can be a useful circuit breaker for a child experiencing hardships, such as homelessness. It is a dark day when a detention centre is the best option the government can offer our most vulnerable kids in crisis. In order to decrease our numbers of vulnerable children and NT citizens in prison and detention centres we need bail accommodation, transitional housing and culturally safe crisis accommodation for both victim-survivors and their children as well as separate accommodation for perpetrators of DFSV whilst they focus on their rehabilitation, both in urban and remote communities of the NT.

One example of why safe housing for defendants of DFSV is vital in protecting the safety of victim-survivors is the AGD recent proposal to legislate the removal of perpetrators of DFSV from the primary residence, with the good intention of keeping women and children together in their home. However, without the infrastructure available to house defendants they will be rendered homeless, which would greatly impact their ability to engage in therapeutic and rehabilitative programs, maintain employment and therefore income for the family, and inevitably put pressure on the victim-survivor

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<sup>36</sup> Bevis, M., Atkinson, J., McCarthy, L., & Sweet, M. (2020). Kungas’ trauma experiences and effects on behaviour in Central Australia (Research report, 03/2020). Sydney, NSW: ANROWS.

<sup>37</sup> Smith, J., Allison, F., Christie, B., Clifford, S., Robertson, K., Ireland, S., Wallace, T. (2019). *Katherine Youth Justice Reinvestment: Final Report*. Prepared for the Australian Red Cross on behalf of the Katherine Youth Justice Reinvestment Group. P.5 [309747 Katherine Youth Justice Reinvestment Final Report.pdf \(menzies.edu.au\)](#)

to take them back in the home for fear of further breakdown of the family unit by separating parents from children, all of which, in turn, could lead to further acts of DFSV.

Without sound investment in infrastructure the cycles of disadvantage that leads to engagement with the justice system and inevitably incarceration is infinitely perpetuated, leaving JR initiatives to continuously fight an uphill battle.

### Data sovereignty

JR is an evidence-based approach that relies on statistical and other data to identify drivers of incarceration and to measure the progress of JR projects.<sup>38</sup> This is an important factor to enhance sustainability and achieve lasting, long-term outcomes. However, the current operating structure in which we work places the custodians of any data retrieved from and about Aboriginal people within the agencies whose authority originates in the dominant settler colonial power structures. An example of this, is the custodianship of information about Aboriginal people by the Government departments who design programs and structures to address offending through punitive measures, such as incarceration. “Data has consistently been extracted from Aboriginal and Torres Strait Islander communities, to be used in decision-making impacting on these communities but from which they are generally excluded”<sup>39</sup>. In order to legitimise JR as a framework for reducing the rates of incarceration we must first return the ownership of data to the communities it pertains to.

Aboriginal data sovereignty is essential in implementing JR initiatives as it provides necessary evidence for community to identify priority areas for change; it is used to measure progress over time; it holds non-Aboriginal and government partners to account and can be used for continued improvement of programs and service provision<sup>40</sup>. Lastly, “it can also serve as a further mechanism for supporting and reinforcing self-determination and culture”<sup>41</sup>. NAAJA recommends that JR initiatives must be informed by Indigenous Data Sovereignty (IDS) and Indigenous Data Governance (IDG) principles, which include:

- A right to control of the data ecosystem (including data creation, development, stewardship, analysis and dissemination).
- Data that empowers sustainable self-determination and effective self-governance.
- Data structures that are accountable to First Nations people.

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<sup>38</sup> Allisson, F and Cunneen, Chris. (2022). *Justice Reinvestment in Australia: A review of progress and key issues*. July. [national-report\\_jr.pdf](#)

<sup>39</sup> Ibid. P.21

<sup>40</sup> Allisson, F and Cunneen, Chris. (2022). *Justice Reinvestment in Australia: A review of progress and key issues*. July. [national-report\\_jr.pdf](#)

<sup>41</sup> Ibid

- Data that is protective of and respects individual and collective interests of First Nations peoples.<sup>42</sup>

### Concluding statement

The façade that fronts conversations around community safety is that it is a whole-of-community concern and yet the reality for Aboriginal Australians, who are enfolded in a settler colonial structure that has not only disempowered them on their own land but embedded a real fear for their lives, community safety has become a conversation of us and them.

A balance of power must be returned to the communities, and this can be done by reinvesting in the attributes that have enabled Aboriginal communities to remain strong against all odds and that's cultural authority, community-led and localized decision-making, self-determined governance and leadership and sovereignty of their data.

NAAJA calls on the Albanese government to adequately invest in strengthening Aboriginal communities, partnerships and ACCOs to lead long-term solutions that address drivers of incarceration in ways that genuinely impact the lives of Aboriginal people who are most affected by them. To honor the two-way learning, shared decision-making and partnership commitments made by the whole-of-government through the NT AJA and CtG, on a local and federal level, JR in the NT must be community-led and self-determined.

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<sup>42</sup> See Maiam nayri Wingara website: [KEY PRINCIPLES — Maiam Nayri Wingara](#)

