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Legislative Scrutiny Committee  
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To whom it may concern,

**Submission to the Legislative Scrutiny Committee regarding the Domestic and Family Violence Legislation Amendment Bill 2025**

The proposed amendments to re-introduce mandatory sentencing for breaches of Domestic Violence Orders (DVOs) represent a regressive and punitive step in the Northern Territory's criminal legal system. These amendments fail to address the root causes of harm, particularly in the context of domestic and family violence and sexual violence, and instead continue to focus on punishment rather than care for victims-survivors and those that cause harm.

The amendments deepen systemic harm, ignore proven, community-based approaches to justice, and threaten to worsen the ongoing cycles of violence and disadvantage in marginalised communities, especially Aboriginal and Torres Strait Islander Peoples.

**Disregarding the Lived Experience of Victims-Survivors**

Mandatory sentencing disregards the perspectives and needs of victim-survivors. Research consistently shows that victims-survivors desire justice responses that focus on accountability, safety and healing, rather than punishment alone. This includes a focus on community-based responses, not incarceration. This is yet another mechanism which silences victim-survivor voices in the legal process, which is supposed to represent them.

Victim-survivors may have very practical reasons why they do not want the person harming them to be incarcerated, ranging from childcare and family responsibilities, financial impacts, because they are trying to resolve the means of harm through other means and supports. Mandatory incarceration may impact on a person's employment or other forms of income, which subsequently increases the risk of victim-survivors (including children) of becoming unhoused, and/or entrenched in further debt.

Mandatory sentences may also increase the risk of harm to victims-survivors. The coronial inquest into the murders of Miss Yunupingu, Ngeygo Ragurrk, Kumarn Rubuntja and Kumanjayi Haywood (Inquest into the deaths of Miss Yunupingu, Ngeygo Ragurrk, Kumarn Rubuntju and Kumanjayi Haywood [2024] NTLC 14) (the Coronial), highlighted a variety of reasons why victim-survivors may not report to the police, including fear of the police, fear of their children being removed, fear of being involved in the criminal justice system or otherwise being involved in court,

and still loving their partners. Mandatory sentencing does nothing to alleviate these valid and well-founded fears.

By disregarding the option of transformative and community based responses, victims-survivors are denied opportunities to express what they feel is needed for their future safety and healing.

Mandatory sentencing also negates the principles of the Northern Territory Charter of Victims Right regarding protection and being heard.

### **Strips judicial discretion and complexity**

Mandatory sentencing strips the ability of Judges to exercise discretion in deciding on sentencing. It also strips opportunities for deeper understandings of *how* to respond to domestic and family violence with regard to victims-survivors. It reduces complex human interactions to two dimensional black-and-white cases, as written by the police. It risks labelling victim-survivors as perpetrators where they may have engaged in survival responses. It disregards the complexities relating to family dynamics that influence and affect how relationships are navigated.

### **Over-Incarceration, Systemic Racism, and Human Rights Violations**

Mandatory sentencing laws disproportionately affect Aboriginal and Torres Strait Islander peoples, contributing to their over-incarceration and further entrenching systemic racism. As evidenced by the Royal Commission, punitive measures have historically failed to prevent harm and instead contribute to systemic violence against Aboriginal and Torres Strait Islander Peoples. And despite numerous inquiries relating to incarceration, forced removals, serious harm and deaths in the Northern Territory, there has never been true accountability of the systems for the irreparable harm they have committed.

Mandatory sentencing is a fundamental violation of human rights and a violation of numerous United Nations instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This is relevant given yet another complaint to the United Nations on the human rights violations perpetrated by Northern Territory Government policies.

Northern Territory prisons are already drastically overcrowded, resulting in 'emergency responses' being implemented to convert police cells and use demountables as interim "solutions" as a result of the CLP's carceral policies. The courts which were already struggling are now severely impacted, not helped by the intentional under-funding of legal services. All of these are human rights violations, and the CLP wants to continue adding to that.

If punishment by cages actually worked, the Northern Territory would be the safest place in Australia.

### **Systemic Failures and the Need for Transformative Approaches**

There has been multiple inquiries and media reports demonstrating how systems continue to fail, by design. Critical recommendations of the Royal Commission into Aboriginal Deaths in Custody (the Royal Commission) still have not been implemented. The current intentional prison overcrowding and return of extreme

punitive approaches, combined with no system accountability or external oversight mean that mandatory sentencing brings very real risks of an incarcerated person dying in custody.

The coronial highlighted, again, the ongoing issues with punitive justice systems, which focus on retribution rather than addressing the root causes of harm, such as poverty, housing, lack of access to support services, and systemic racism, discrimination and inequality.

If the NT Government was truly committed to victim-survivors, it would be addressing systemic issues such as external bodies to investigate police and correctional facilities, a Victims Commissioner to address systemic barriers, be committed to reducing the rates of incarceration and increasing safety in the community.

By continuing to expand mandatory sentencing instead of following these recommendations for systemic change, the NT government is overlooking the opportunity to provide genuine alternatives that could meaningfully reduce harm and increase safety.

### **The lack of consultation and disregard for solutions**

This legislative amendment is being rushed through, like all other carceral policies of the CLP without any consultation. The fact that NT Government representatives could not answer fundamental questions relating to this amendment at the last minute public hearing, relating to data and community based supports shows how little regard there is for victim-survivors and the NT community, overall.

Relevant legal services such as the Top End Womens Legal Service (TEWLS), Katherine Womens Information and Legal Service (KWILS) and Central Australian Womens Legal Services (CAWLS), along with the North Australian Aboriginal Family Legal Service (NAAFLS) and Central Australian Aboriginal Family Legal Unit (CAAFLU) have had to make public statements about how dangerous this proposed amendment is, and the lack of consultation. As Clara Mills from KWILS stated "jail is a blunt and ineffective instrument in addressing the complex drivers of domestic and family violence".

I do not support any further consultation regarding this Amendment, as this Amendment **should not proceed, and should be abolished**. As outlined above, there has already been inquiry after inquiry after inquiry. We already know what the solutions *could* be. We just lack any politicians with the actual spine and will to make the long-term commitment required.

### **The Case for Community-Based Solutions and Transformative Justice**

Instead of expanding mandatory sentencing, we must redirect resources to community-based solutions that address the root causes of violence and harm. Transformative justice processes, which prioritise repairing harm, healing, and accountability – including system accountability, have been shown to be more effective in reducing recidivism and promoting safety for victims-survivors.

Importantly, community accountability and transformative approaches must not rely on police or court involvement, as these are systems of harm.

We must also urgently expand funding to legal services and community-based services, including Aboriginal Community Controlled Organisations. We do not need to engage in any further consultation because the issue of over-incarceration, and the impacts of domestic and family violence and sexual violence are well known. What we lack is the political spine to actually do anything about it.

If we invest in care, we create safety. It's that simple.

### Recommendations

1. **Mandatory sentencing amendments to be rejected:** invest in community-based, transformative justice approaches that focus on accountability (not punishment), healing, support, and addressing the root causes of harm
2. **Allocate and expand funding for resources that promote safety:** increased funding for supports for victim-survivors, and those that have caused harm. Recognising that there should not be a 'one-size-fits-all' approach to resources, and instead should be led by communities as to what works for them
3. **Dedicate funding and resources to addressing root causes:** despite the CLP's assertions, alcohol is not a root cause of crime. That's a racist dog whistle. The root causes are extremely well documented and are beyond urgent in needing to be addressed, such as poverty, housing, education, and addressing system harms.
4. **Divert funding from police and prisons and end the expansion of carceral responses:** We are currently dedicating over half a billion dollars to the NT Police. The 'emergency response' to prisons is costing us millions. Imagine what we could do if we actually used that funding to focus on community safety and care. Invest in care, not cops.
5. **Government policies must be guided by survivor-centred evidence-informed research, not political ideology:** there is zero evidence that increasing incarceration and punishment are effective. There is, however, plenty of evidence that incarceration and punishment may actually *increase the risk of harm*.

I am more than happy to discuss my submission in further detail.

Sincerely,

  
Yolande Turnbull

  
submitted via email