North Australian Aboriginal Justice Agency

4 April 2025

Secretary, Legislative Scrutiny Committee
Email: LA.Committees@nt.gov.au

Dear members of the Legislative Scrutiny Committee

Submission on the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*

The North Australian Aboriginal Justice Agency (NAAJA) provides high quality, culturally appropriate legal advice, representation and justice related services to Aboriginal people throughout the Northern Territory (NT). For over 50 years NAAJA has played a leading role in policy and law reform in areas affecting Aboriginal peoples' legal rights and access to justice.

We welcome the opportunity to make this submission to the Legislative Scrutiny Committee in relation to the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025* (the Bill).

NAAJA submit that the proposed amendments outlined in the Bill prioritise ineffective punitive measures over evidence-based reforms. There is no demonstrable social or other benefit to reintroducing mandatory sentencing for domestic violence order (DVO) breaches, appointing non-lawyers as crime victims services unit (CVSU) assessors, or significantly increasing the value of fines for those experiencing hardship.

Part 2—clause 5

Clause 5 of the Bill reimposes mandatory sentencing for DVO breaches, requiring the court to sentence an offender for a contravention of a DVO to a term of 'actual imprisonment' (as that term is defined in s. 78CB of the *Sentencing Act 1995*). This provision removes judicial discretion, preventing courts from considering the individual circumstances of each case and imposing sentences that are proportionate and appropriate. If enacted, the NT will have the most punitive approach to DVO breaches in Australia through mandated imprisonment.

1800 989 842
reception@naaja.org.au
www.naaja.org.au
ABN: 63 118 017 842

Darwin
61 Smith Street
Darwin NT 0801
Tel: 08 8982 5100
Fax: 08 8982 5190

Katherine
10 Third Street
Katherine NT 0851
Tel: 08 8972 5000
Fax: 08 8972 5050

Alice Springs
55 Bath Street
Alice Springs NT 0870
Tel: 08 8950 9300
Fax: 08 8953 0784

Tennant Creek
61 Paterson Street
Tennant Creek NT 0860
Tel: 08 8962 1332

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NAAJA has consistently opposed mandatory sentencing on the basis that it does not reduce offending.[1] The NT's experience with mandatory sentencing for property offences provides a clear precedent—property crime increased while mandatory sentencing was in place and decreased following its repeal.[2]

There is no evidence to suggest that mandatory sentencing will reduce domestic violence or make the NT safer for victim-survivors and their families, or the wider community. As put forward in the Stopping Family Violence (SFV) submission, 'while studies on the impact of imprisonment on family violence reoffending—as distinct from offending behaviour in general—are more limited, research by the NSW Bureau of Crime and Statistics Research,[3] and by the Griffith Criminology Institute,[4] have both found no evidence of imprisonment in itself reducing subsequent [domestic and family violence] (DFV) offending'.[5]

The *Inquest into the deaths of Miss Yunupiŋu, Ngeygo Ragurrk, Kumarn Rubuntja and Kumanjayi Haywood* [2024] NTLC 14 was a comprehensive inquiry into the domestic violence crisis in the Northern Territory. The inquest heard detailed evidence, including from leading experts, and set out a roadmap for preventing and addressing domestic violence in the particular context of the NT. The government's focus needs to be on implementing the recommendations of this inquest. Yet this Bill and other recent legislation including the Police Administration Legislation Amendment Bill 2025 ignore the recommendations in favour of punitive measures that have been demonstrably ineffective.

The legal sector, frontline services and the domestic family and sexual violence sector have been unequivocal: addressing domestic and family violence requires investment in prevention and support services, not further reliance on incarceration. Data shows that in the NT, 77 per cent of defendants found guilty of a DFV related offence have a prior violent offence, and 72 per cent have a prior DFV offence.[6]

There is no clear evidentiary basis for the proposition that mandatory sentencing reduces reoffending. Rather, this approach increases the number of people in custody without delivering better outcomes for victim-survivors or communities. Given that the NT's justice system is already operating beyond capacity, further increasing incarceration rates is neither sustainable nor justifiable without evidence to support its effectiveness, nor is it consistent with the government's commitments under the national agreement on closing the gap and the Northern Territory Aboriginal justice agreement to reducing Aboriginal incarceration rates.

The adult prison population has increased by 21% since September 2024. The NT Corrections infrastructure masterplan plans for 3,000 beds by 2028, but at the current rate of incarceration, this capacity will be needed by July 2025, three years ahead of schedule. The prisons are already full. It is simply not feasible to keep increasing the numbers of people in prison. This amendment will add to

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[1] Northern Australian Aboriginal Justice Agency, *Submission to the Australian Law Reform Commission Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (NAAJA, October 2017).

[2] Office of Crime Prevention, Northern Territory Government, 'Mandatory Sentencing for Adult Property Offenders: The Northern Territory Experience' (August 2003).

[3] J Travenza and S Poynton, *Does a Prison Sentence Affect Future Domestic Violence Reoffending?* (Contemporary Issues in Crime and Justice No 190, NSW Bureau of Crime Statistics and Research, 2016).

[4] E Bond and C Nash, *Sentencing Domestic and Family Violence Offences: A Review of Research Evidence* (Griffith Criminology Institute, prepared for the Queensland Sentencing Advisory Council, 2023).

[5] *Stopping Family Violence*, Submission to the Legislative Scrutiny Committee's inquiry into the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*, (April 2025).

[6] Data from the 2019/20 financial year provided by the Department of the Attorney-General and Justice Research and Statistics Unit. Extracted from IJIS on 31 July 2020.

further overcrowding and deterioration of conditions in prisons without any benefit to the victim-survivors or community safety.

Additionally, the financial burden of incarceration is significant. As outlined in the SFV submission to this inquiry, it costs approximately $455 per prisoner, per day to incarcerate an adult in Australia. 'Fourteen days imprisonment is sufficient to pay for the costs of putting a DFV offender through the entire length of a men's behaviour change program, even allowing for the significantly greater cost of service provision in the NT.'[7] This comparison highlights the inefficiency of imprisonment when alternative interventions, such as prevention and support services, could provide more effective outcomes for both offenders and victim-survivors.

If the government proceeds with the amendment, it is essential that it does not operate retrospectively. NAAJA supports clause 6 of the Bill.

Part 3—clause 13

Clause 13 of the Bill enables the Director of the Crime Victims Services Unit to appoint assessors who are not legally qualified. Under the current framework, assessors must be lawyers and require ministerial appointment unless they are employees of the Solicitor for the Northern Territory.

NAAJA is concerned that this amendment undermines the integrity of the CVSU, which is already significantly impacted by delays and ineffective decision-making. Allowing assessors without legal qualifications risks inconsistent and legally unsound determinations, further eroding confidence in the system.

The *Victims of Crime Assistance Act 2006* (NT) (VOCA Act) is designed to assist the rehabilitation of victims of violent acts by implementing schemes to provide counselling and financial assistance for financial loss and compensable violent acts and injuries.[8] Consistent with its rehabilitative purpose, these applications are meant to be determined quickly, and are required to be determined within 60 days of the application.[9] Unfortunately, these applications often take many years to resolve, commonly 5-7 years. The Coroner heard that Kumanjayi Haywood submitted an application for financial assistance on 19 May 2017, which remained unresolved at the time of her death on 7 November 2021. In the 2022–2023 period alone, eighteen applicants passed away before their applications were finalised. This is consistent with NAAJA's experience assisting clients with applications for victims of crime assistance.

NAAJA supports the government's desire to streamline the CVSU process. However, the VOCA Act was recently amended by the *Victims of Crime Assistance Amendment Act 2023* (NT) to make anyone who is authorised to act in the name of the Solicitor for the Northern Territory an assessor. This has not resolved the backlogs and delays because increasing the numbers of assessors does not address the root cause of the delay. In our experience, the primary cause of delay is in obtaining records necessary to determine applications from NT Police (and to a lesser extent NT Health). Expanding the pool of assessors to include non-lawyers risks further diminishing the quality and consistency of decision-making within the CVSU without any concomitant benefit to speeding up applications.

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[7] *Stopping Family Violence*, Submission to the Legislative Scrutiny Committee's inquiry into the *Domestic and Family Violence and Victims Legislation Amendment Bill 2025*, (April 2025).

[8] *Victims of Crime Assistance Act 2006* (NT)

[9] *Northern Territory Civil and Administrative Tribunal Act 2014* (NT) s. 42.

If the government aims to streamline the CVSU process, it would be more effective to support and resource the NT Police Information Management Section to ensure the timely provision of information to CVSU.

Part 3—clause 14

Clause 14 replaces fixed monetary fines with revenue units, increasing the financial penalties imposed on offenders. For example, the levy for an adult offence on indictment will increase from $200 to 200 revenue units, which, at the current rate equates to $290.

NAAJA submits that this amendment will disproportionately impact Aboriginal Territorians, who already experience significant socio-economic disadvantage. The increased fines are particularly punitive for individuals with limited financial resources, as they are unlikely to afford these higher penalties. This could lead to a cycle of debt, with government resources directed towards enforcement actions that fail to promote compliance. Instead of deterring offending, the increased fines risks entrenching criminalisation by increasing interactions with the Fines Recovery Unit for those who are fundamentally unable to pay.

Conclusion

NAAJA reiterates that these amendments will not lead to better outcomes for Aboriginal Territorians, including victim-survivors of DFV and their families nor the wider community. NAAJA also agree with the Tangentyere Council submission that 'programs, services and interventions that are co-designed with Aboriginal people in the community will have the best chance of reducing DFSV'.

NAAJA urges the Legislative Scrutiny Committee to reconsider these provisions and strongly recommend that the NT Government prevent future serious harm or death by implementing fully the findings of the coronial inquests into the deaths of Miss Yunupiŋu, Ngeygo Ragurrk, Kumarn Rubuntja and Kumanjayi Haywood, which provide a clear and evidence-based path forward to a safer Northern Territory for all.

NAAJA is available to appear before the committee to expand on this submission.

Yours sincerely

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Anthony Beven
Acting chief executive officer