

Dear Scrutiny Committee members,

Thank you for the opportunity to present my views to you on this issue.

I make this submission both from my professional and personal involvement in the protection of women and children in the NT.

Over the years I have been professionally involved in many Family Law matters, both at the Bar and more recently as a Mediator in Family Law matters. I have visited many communities also in my pro bono work relating to Domestic Violence and the safety issues of women and children living in the bush communities, I also have formed my views on these issues as a mother and grandmother. My daughter in law is Maori and I have lived and practiced as a lawyer in Darwin for 40 years.

It is almost Kafkaesque to have argue that safety should be the primary basis of decision making when deciding whether children should be protected by being taken away from their family. I have heard no argument as to why it would not be. Rather, the objections I have seen are that the safety criteria was rushed, not thought through, culturally insensitive and or because of the conditions aboriginal people are living in. These objections simply do not address the reason why safety should not be the primary criteria. It is, for the reasons set out below a question of what should be prioritised now, in May 2026.

I have not heard any argument that says when it is okay to leave a child in an unsafe enviroment or for how long it is okay to do so. Legally, The Minister for Department of Children and Families is in the position of loco parentis when they become aware that there may be an unsafe situation that a NT child is in. This means that if after an investigation C and F determine to not take children away when they determine they are unsafe, then that child, when becoming an adult, had been damaged as a result of leaving them in an unsafe environment, has every right to sue the Department for their failure to protect them when they were a child. As they should..

I will forward a media release regarding a recent decision of the West Australian District Court in 2025. I have been so far unable to locate the actual decision and when I do so I will forward to you.

I have not heard any argument that says when it is okay to leave a child in an unsafe situation. I believe this is because there simply is no argument to say so.

When one looks at the tragedy of Kummanjai Walker from Larjamanu, who was 19 years of age when he was killed by a police officer, the pattern is obvious.

As I understand the facts of that situation, KW was born to an alcoholic mother and had foetal alcohol syndrome. He was left as a young child in his community where he was neglected and abused. He was not taken into care but rather passed from one dysfunctional relative to another dysfunctional relative in his community and he

received no assistance, diagnosis of either his circumstances or any treatment. He progressed from that environment essentially illiterate and began to commit crimes as a young person and was eventually taken into a Juvenile Justice facility.

It was inevitable that he would end up where he did either because of crime or lack of control because of his FASD. He had a stamp on his forehead from the moment he was born.

He was not alone as a Territory child who was not cared for but left to fend for himself as a little bloke in those unsafe circumstances.

If safety was the criteria for removal of a child back then Kummanjai Walker may well have had a different life and become a spokesperson for his people.

It is also ironic that many “wealthy” aboriginal parents do not choose to live on country and do not raise their children there. Our Aboriginal politicians and spokespersons are a good example of this. I do not mean this as a criticism of them, but an indicator of their reluctance to expose their children to an unsafe life.

Their children are raised in privately owned dwellings in the cities and towns of the NT or are sent at a very early age away to east coast to boarding schools. They are not raised on country. Groote Island is a very good example. As a wealthy community, the elders there decided many years ago that all primary aged children should be sent away to boarding schools in Queensland.

It should also be considered that these amendments reinforce and implement the International Convention on the Rights of the Child, and are not inconsistent with the International Convention on the Rights of Indigenous People.

I am happy to address the Committee on these matters in person should you consider that would be of assistance.

Survivor Dion Barber wins \$2.85m landmark case against the state of Western Australia over abuse he experienced while a ward of the state

<https://www.mauriceblackburn.com.au/media-centre/media-statements/2025/abuse-survivor-wins-landmark-case-against-state-of-wa/>

[2025] WADC 60 (DB (a pseudonym) v The State of Western Australia)

<https://ecourts.justice.wa.gov.au/eCourtsPortal/Decisions/DownloadDecision?id=77b7251a-88ca-40e2-bfb3-322a7c8166da>