



**North Australian Aboriginal Justice Agency**

**NAAJA Submission**

**Productivity Commission study on  
Expenditure on Children in the  
Northern Territory**

**July 2019**

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## **1. About NAAJA**

NAAJA provides high quality, culturally appropriate legal aid services to Aboriginal and Torres Strait Islander people throughout the Northern Territory. NAAJA was formed in February 2006, bringing together the Aboriginal Legal Services in Darwin (North Australian Aboriginal Legal Aid Service), Katherine (Katherine Regional Aboriginal Legal Aid Service) and Nhulunbuy (Miwatj Aboriginal Legal Service). From 1 January 2018 NAAJA has been providing legal services for the southern region of the Northern Territory formerly provided by CAALAS (Central Australian Aboriginal Legal Aid Service). NAAJA and its earlier bodies have been advocating for the rights of Aboriginal people in the Northern Territory since 1974.

NAAJA serves a positive role contributing to policy and law reform in areas affecting Aboriginal peoples' legal rights and access to justice. NAAJA's legal practice area is broad, encompassing criminal, civil, care and protection and family law. NAAJA has offices in Darwin, Alice Springs, Katherine and Tennant Creek and travels to remote communities across the Northern Territory to provide legal advice, representation, community legal education and consult with relevant groups to inform policy submissions.

NAAJA provides a number of services specific to youth, which are aimed to be holistic, trauma informed, and responsive to the different and often complex needs of young people in contact with the youth justice system. Our team of criminal lawyers includes youth lawyers who specialise in youth matters. We have Youth Justice Aboriginal Legal Support Officers who assist young clients at court. We also have a youth throughcare team in Darwin, who work closely with young people in detention pre and post release with a view to facilitating engagement with necessary services and reducing the risk of reoffending. At the time of writing, the expansion of the youth throughcare team to Alice Springs is imminent. Our civil law team provides advice and representation to families in relation to care and protection matters. Additionally, our Law and Justice teams regularly deliver youth specific community legal education sessions, often in the detention setting. Further detail about these services, along with other services provided more broadly to assist families, is contained in section 1 of our response.

This submission draws on the cultural authority of an Aboriginal Board which governs NAAJA as an Aboriginal Community Controlled Organisation. NAAJA staff are inspired by the strength and resilience of the Aboriginal people who are board members and come from across the Northern Territory including a strong focus and representation from regional and remote areas. We particularly acknowledge the Elders of our board and the contribution of Aboriginal and Torres Strait Islander people who developed and strengthened NAAJA and its earlier bodies over the years.

## **2. Background to our submission**

NAAJA welcomes the Productivity Commission's Study of Expenditure on Children in the Northern Territory ("the Study"), noting that this was a recommendation arising from the Royal Commission into the Protection and Detention of Children in the NT ("the Royal Commission"). CAALAS and NAAJA's contribution to the Royal Commission was multifaceted and included providing advice and representation to clients engaging with the Commission, participating in public hearings as a party with leave to appear, having various staff give evidence as witnesses, and making extensive written submissions in relation to systemic issues and reform. NAAJA continues to advocate for the implementation of Royal Commission recommendations through a range of forums.

We trust that the Productivity Commission has access to material from the Royal Commission that is relevant to this Study. Whilst there will be some similarities between themes arising in our current submission and themes included in our fulsome submissions to the Royal Commission, it is not our intention to canvas issues already addressed with the same level of detail provided in our previous submissions. This is especially so in relation to gaps in service delivery. In this regard, we have attached the written submissions made by NAAJA and CAALAS to the Royal Commission for your reference.

We thank you for the opportunity to contribute to this Study.

### **NAAJA's response to the question sets**

Noting the breadth of the areas included in the issues paper, we have not responded to each and every question included but have focussed on areas of strategic importance and those that we are best placed to answer given to our expertise. Due to the likelihood of repetition in answers to some questions, we have elected to structure our response along the lines of general topics from the issues paper, rather than individual questions.

When preparing this submission, feedback from was obtained from staff with insight into the particular challenges being experienced in different parts of the NT, including but not limited to our four office locations in Darwin, Katherine, Alice Springs and Tennant Creek. Please note that where we have linked an issue to a specific location in the NT, this should not be taken to suggest that the issue is isolated to that location. Rather, we have included geographic examples to provide context as to where the feedback originated.

### **3. Children and family services – availability, access, cultural capability and gaps in service provision<sup>1</sup>**

NAAJA is a Territory-wide service, with offices in Darwin, Alice Springs, Tennant Creek and Katherine. We also provide a range of services in remote communities across the NT. Given NAAJA's large service delivery footprint, outlining the children and family services generally available in our service area would require a complex mapping exercise that is beyond our capacity. We can, however, provide an outline of the services NAAJA provides. We trust that the Productivity Commission will be able to gain a more complete picture of services available in the Northern Territory through collating information from the various submissions it receives in response to this Study.

#### **Services provided by NAAJA across the NT for children and families**

Numerous aspects of NAAJA's service provision falls within the definition of children and family services as implied in the Issues Paper. Within our general criminal law practice, we have specific youth justice lawyers located at both the Darwin and Alice Springs offices. In Alice Springs and Darwin we have a Youth Justice Aboriginal Legal Support Officer and an Indigenous Youth Justice Worker working alongside our youth lawyers to assist clients. We have a youth throughcare team in Darwin who provide assistance and support to young people in detention pre and post release. The youth throughcare team will shortly be expanding to Alice Springs. Our civil law practice provides care and protection and family law assistance, with lawyers based at the Darwin, Alice Springs and Katherine offices. We note that in addition, our civil section assists with a broad range of issues including housing, welfare and debt which could be seen as falling within the definition of a family service given the centrality of these issues to the challenges families face. In Darwin, our civil team includes a social worker who enables a holistic response to the needs of clients.

Our Law and Justice Section has community legal education (CLE) staff who provide education sessions to young people and community members on a range of topics including youth justice and care and protection. These sessions are provided across the NT, in urban areas such as Darwin, Katherine, Tennant Creek and Alice Springs and in numerous remote communities. CLE sessions are also regularly delivered to young people within the detention setting at both Don Dale and the Alice Springs Youth Detention Centres.

The remote outreach that NAAJA conducts, across all of its sections and offices, includes a greater number of communities than those included on the bush court circuit. However, the following is a list of bush courts at which NAAJA provided assistance in relation to a youth justice or care and protection matter in 2018. These courts are in addition to the assistance provided at courts in the urban settings of Darwin, Alice Springs, Tennant Creek and Katherine.

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<sup>1</sup> This section is relevant to Question Set 1 from the Issues Paper

### Bush Courts where NAAJA assisted with youth justice matters in 2018

- Ali Curung
- Alyangula
- Borroloola
- Daly River
- Elliott
- Hermannsburg
- Jabiru
- Kalkaringi
- Lajamanu
- Maningrida
- Ngukurr
- Nhulunbuy
- Numbulwar
- Papunya
- Port Keats
- Ramingining
- Ti Tree
- Timber Creek
- Yarralin
- Yuendumu

### Bush Courts where NAAJA assisted with child in need of care matters in 2018

- Ali Curung
- Alyangula
- Barunga
- Belyuen
- Binjari
- Borroloola
- Daly River
- Galiwinku
- Gapuwiyak
- Hermannsburg
- Kalkaringi
- Lajamanu
- Maningrida
- Mutitjulu
- Ngukurr
- Nhulunbuy
- Port Keats
- Timber Creek
- Yarralin
- Yuendumu

## **Cultural capability and accessibility of children and family services in the NT**

NAAJA clients face numerous barriers with respect to engaging with the children and family services that are available in a general sense across the NT. These barriers include language barriers, remoteness, and shortcomings regarding cultural capability of some programs and services.

Broad concerns were raised by NAAJA staff that there are limited services available for children and families who require interpreters. Specific feedback was provided from the Darwin office in relation to available parenting programs, which were largely described as being based on western child rearing practices and often not facilitated by Aboriginal people for Aboriginal people. There was concern that some parenting programs require a lot of reading and writing, which creates a further barrier for those who have limited literacy skills.

The difficulties accessing interpreters to enable engagement with services are particularly pronounced in remote communities across the NT. Specific positive feedback was provided about a men's behavioural change program in Wadeye that is soon to be delivered in Aboriginal language. However at the same time, concern was also raised about the limited number of interpreters available in that community, which can lead to issues such as parents not always being able to fully understand what is happening during appointments for their children at the health clinic.

NAAJA has observed that due to the shortage of interpreters in remote communities, sometimes bi-lingual family members may be relied upon to act as a communication bridge between families and agencies such as Territory Families. This has the potential to add a layer of trauma to the family member, especially when the communication concerns sensitive matters such as care and protection involvement in a child's life. We also note that the family members acting as interpreters in these circumstances do not have the benefit of the training that will have been provided to employees of the Aboriginal Interpreter Service.

Some of the gaps identified in the below section and in our submissions to the Royal Commission were identified as a result of shortcomings in the cultural competency of existing programs.

### **4. Gaps in service delivery<sup>2</sup>**

Consistent themes arose during consultation with staff across NAAJA's various offices.

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<sup>2</sup> These responses are relevant to Question 4, Question Set 1 of the Issues Paper

## Out of Home Care

For too long, Aboriginal children in the NT have been grossly overrepresented in the care and protection system and in out of home care. Compliance with the Aboriginal Child Placement Principle has been extremely poor. The extent of these issues, and their entrenched nature, was explored in detail during the Royal Commission. It is NAAJA's view that there will be no meaningful improvement to this legacy until Aboriginal-led decision making and solutions are embedded into the care and protection system. This includes appropriately resourcing Aboriginal-led kinship care initiatives, with an ideological commitment to utilizing and supporting those initiatives from the top down within Territory Families.

There is a compelling economic argument regarding the cost of residential care vs the cost of establishing and appropriately resourcing Aboriginal community led kinship care initiatives. The Northern Territory Government spent more than \$100 million on providing out of home care services in 2015-16.<sup>3</sup> A snapshot provided to the Royal Commission regarding the cost per child, per night was as follows:

### Average cost per child

Table 33.4: Average cost per child per annum and night by care type 2015–16

	<b>Expenditure per annum</b>	<b>Number of Children</b>	<b>Cost per Child per annum</b>	<b>Cost per Child per night</b>
<b>Kinship &amp; Foster</b>	\$10,987,000.00	491	\$22,376.78	\$61.31
<b>Purchased Home-Based</b>	\$27,656,000.00	324	\$85,358.02	\$233.86
<b>Residential</b>	\$29,709,000.00	111	\$267,648.65	\$733.28

Placing children away from family and culture (which are protective factors) can create a profound sense of disconnection with the community and Aboriginal identity. Children in out of home care have experienced comparatively poorer outcomes in health, education and homelessness and are more likely to experience chronic health and mental health conditions.<sup>4</sup> Due to these combined issues and the absence of protective factors, residential care can lead to poor outcomes and associated institutional costs for children including involvement the youth justice system.

NAAJA is of the view that sustained funding for Aboriginal community led initiatives is a better economic investment in the long term. Whilst the kinship care pilots that have commenced in both Central Australia and the Top End are positive developments, as it stands these amount to changes within the current system. In

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<sup>3</sup> Royal Commission into the Protection and Detention of Children in the NT, Final Report Volume 3A, Chapter 33, p369 – FN 10

<sup>4</sup> Ibid, p376



response to the Royal Commission recommendations, the NT Government committed to a complete paradigm shift that would see the out of home care system transferred to the Aboriginal Community Controlled sector. NAAJA welcomed this commitment. A complete paradigm shift of this nature is a prerequisite for meaningful change in the area of out of home care. We have observed more recent phrasing along the lines of ‘transforming’ out of home care, as opposed to ‘transferring’ out of home care, and hope that this does not indicate a departure from the paradigm shift that has previously been discussed. Despite the collaborative reform activities that are occurring between government and the community sector in relation to the child protection system, there is still uncertainty about the proportion of Territory Families’ budget that is actually allocated to Aboriginal led initiatives. Like many other Aboriginal organisations, we hope that clear information in this regard might be provided in the course of this Study.

### **Appropriate, therapeutic and educational detention settings**

We note that the Issues Paper indicates that due to the desire to focus on services and programs most relevant to preventing harm to children, expenditure on core youth justice services such as detention centres is not likely to be in scope of the Study.<sup>5</sup> However, given the vulnerability of children in the detention setting and the albeit unfortunate opportunity that environment provides to connect children with the services they need, we ask that consideration be given to the programs available in youth detention and the importance of the physical detention setting being conducive to therapeutic objectives.

Detention should of course be a last resort, but where it is unavoidable children should be placed in a therapeutic, educational environment that is safe and culturally appropriate. Poor conditions in detention are traumatising and counterproductive in relation to addressing the underlying causes of a young person’s offending or contact with police. It is essential that children have access to mental health services and therapeutic supports to address trauma, and drug and alcohol counselling. These positions are logical and should be uncontroversial, however in our observation there is sometimes little application of them in practice.

This is especially so at the Alice Springs Youth Detention Centre (ASYDC). NAAJA’s concerns with the facility are numerous. The environment is very noisy and has a punitive and austere feel. It is located in a premises designed for adults, next to the adult Correctional Centre. We are concerned about staffing issues and the impact this continues to have on young people; including ongoing concerns regarding children being transferred to Don Dale because of behavioural issues (often described as security issues), with limited to no therapeutic interventions attempted prior. There has been a dearth of programs at the facility, which was confirmed in the monitoring report of the centre that was prepared by the Office of the Children’s

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<sup>5</sup> Productivity Commission Issues Paper, Expenditure on Children in the NT, p6

Commissioner and tabled in Parliament on 20 June 2019.<sup>6</sup> The report also found that almost half of the education sessions were unavailable during the monitoring period.<sup>7</sup>

At both ASYDC and Don Dale, our Throughcare section has observed a lack of accessible case management, a lack of social and emotional support, and a lack of structure in terms of drug and alcohol rehabilitation. As part of social and emotional support, it is important that youth are supported to develop self regulation and problem solving skills. Robust case management that maps out progress in different areas would be ideal, and this should be available for remanded and sentenced youth. Supported bail accommodation should be the model for detention, promoting therapeutic relationships and continuity of service where possible.

For the benefits of available programs to be fully availed, it is essential that detention centre staff are willing to work alongside providers such as NAAJA Throughcare, and make referrals where needed. In this regard, a memorandum of understanding is being developed between NAAJA and Territory Families to cement this partnership and to ensure that frontline staff embrace the program with the enthusiasm that has been expressed at an executive level.

Given that the overwhelming majority of children in detention are Aboriginal, Aboriginal people must be genuinely engaged as co-designers of these environments. This includes not only the design of physical premises, but also program design. This would help ensure that cultural plans are integrated into the system, and that community elders and mediators are appropriately involved in conflict resolution strategies as needed to de-escalate tension that may be building between individual young people or young people and staff.

### **More services to support NAAJA and children, and strengthen families**

Gaps identified by NAAJA staff across our offices touched on a number of common themes that could collectively be grouped as services that are relevant to the challenges faced by Aboriginal families we assist.

We have observed a need for greater resourcing of culturally appropriate intensive family preservation, which must be available for families at all stages of care and protection involvement including once a child goes into care. It is our experience that once a child is removed, parents have very little access to the child, which impacts negatively on the reunification process. As part of the reunification plan, a cultural plan must be provided however there are often shortcomings in this regard. In remote communities especially, we have also observed that once a child is taken into care there will be limited supports for families, unless there is a specific referral

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<sup>6</sup> Office of the Children's Commissioner, Monitoring report of Alice Springs Youth Detention Centre, 6 June 2019 (accessed at [https://occ.nt.gov.au/\\_\\_data/assets/pdf\\_file/0008/709046/2019-06-06-ASYDC-Monitoring-Report-FINAL.pdf](https://occ.nt.gov.au/__data/assets/pdf_file/0008/709046/2019-06-06-ASYDC-Monitoring-Report-FINAL.pdf))

<sup>7</sup> Ibid, at [46]

by Territory Families which does not always occur. Specific feedback was also received from our Katherine office that there are a lack of appropriate options for supervised contact between children and families to take place.

In remote communities, whilst there may be some programs for children aged 0-5 we have observed that service availability can drop off from that age. Particular comment was made about the lack of mental health supports for young people in the Katherine region. In relation to parenting, whilst there are some programs for fathers in urban areas such as Darwin, this is very limited in remote communities. Of the programs available, we have noted the issues in relation to cultural competency, language and literacy barriers earlier in our response.

Staff expressed concern that there are generally no services that educate parents about child developmental delays, disabilities, and cognitive or behavioural needs such as FASD. To our knowledge, health services will give a brief summary of a child's diagnosis - however until parents can confidently articulate their child's diagnosis and the needs arising from this, they will require access to frequent education sessions in this regard, delivered in a way that parents can understand.

Stable, healthy, safe housing is a foundational requirement for a child's wellbeing. A lack of housing and overcrowding can adversely affect a child's health and wellbeing, make participation in education difficult, and lead to statutory intervention by Territory Families. More housing, and more transitional accommodation is needed to prevent these flow on effects. Particular concern has been raised about wait lists for transitional accommodation and homelessness services in the Katherine region. NAAJA staff have observed that emergency accommodation and affordable hostels are very limited, and that many hostels will require families to make an up front payment rather than accepting Centrepay. This is a serious barrier for families seeking to access safe, temporary accommodation.

Overcrowding is a barrier to finding kinship placements throughout all of our service regions. Part of this difficulty relates to the requirement that all adults in the home of the proposed kinship carer are required to undergo a criminal history check. In the context of highly disproportionate contact and systemic issues concerning Aboriginal people and police, it is sometimes not possible for everyone in the house to pass these checks. We believe there should be greater collaboration between the Department of Housing and Territory Families, whereby proposed kinship carers could receive priority status on housing wait lists. The possibility of approving someone as a kinship carer subject to appropriate housing is also something we would like to see explored.

In relation to clients experiencing domestic and family violence, we are concerned about limited access to safe houses which may be due to the safe house being full or due to the age of the woman's male children which can lead to ineligibility. We appreciate that this a complex issue, however would like to see more safe accommodation available to women with adolescent male children in these

circumstances. Feedback was also provided from our Darwin office relating to the limited capacity amongst services to actually provide transport for women and children to get to the safe house with their belongings.

### **Supported bail accommodation for children**

NAAJA has welcomed the expansion of supported bail accommodation options in Alice Springs and the Top End. However we have concerns, especially in Alice Springs, about the lack of inclination by local police to actually bail young people into supported accommodation. This is another example of the disconnect between sentiments being expressed at an executive Territory Families level, and the frontline practices of local police. We are concerned about reports of a specific blockage regarding access to the supported bail accommodation provided by Saltbush, whereby as a pre-condition to releasing a child into supported bail accommodation police have required the provider to accept liability for the loss or damage of an electronic monitoring device which would cost in the vicinity of \$3000 to replace. Given that children from Central Australia often make up the majority of young people in detention, it is extremely frustrating that the potential of this alternative to detention is not being fully availed.

There have been calls for supported bail accommodation in Katherine and the Barkly regions for a number of years. NAAJA welcomes the development of an alternative detention setting in the Barkly and hopes that this can be designed in a collaborative manner that places local community insight and aspirations at the centre of the process. There is still a lack of supported bail accommodation in Katherine, with high numbers of youth from that region accessing supported bail accommodation options in Darwin. Given the high level of need, we would like to see a local facility established in Katherine so that those young people can remain close to their community, family and country.

Nationally, in 2015-16, the average cost per day, per young person subject to detention-based supervision was \$1428.<sup>8</sup> The uncalculated further cost of potential reoffending due to that period in detention failing to serve a meaningful purpose in terms of addressing the underlying causes of offending must also be considered. Economically, it makes sense to invest in supported bail accommodation as a viable way of reducing the number of children in detention.

### **Residential rehabilitation – youth specific, and family inclusive**

It is NAAJA's understanding that the Council for Aboriginal Alcohol Program Services (CAAPS) in Darwin is the only drug and alcohol residential rehabilitation facility in the NT where there is scope for women to stay at the facility with their children. Staff have

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<sup>8</sup> Youth Justice Services – Report on Government Services 2017, at 17.22 ( accessed at <https://www.pc.gov.au/research/ongoing/report-on-government-services/2017/community-services/youth-justice/rogs-2017-volume-f-chapter17.pdf>)

observed that demand for this service is high, and that the waiting list can be lengthy. Clients from across the NT seek access to this service so that they do not have to find alternative arrangements or undergo separation from their children when engaging in rehabilitation. There is a high need for services like this that cater for families. Given the fluctuating circumstances of our clients, it is also important that rehabilitation is available at the time that a person is ready and willing to engage, otherwise the opportunity can be lost. NAAJA is concerned that the lack of options in this regard is a barrier to parents addressing drug and alcohol issues. If these issues remain unaddressed, the consequences that can flow are obvious and include intervention from Territory Families and the removal of children. It is crucial that these services have a strong focus on culture.

Feedback from our Darwin office touched on the need for a specialist approach to residential rehabilitation for pregnant women. Generally, the need for improved transition and aftercare planning for clients exiting drug and alcohol rehabilitation was also highlighted.

There is a high need for residential drug and alcohol rehabilitation for youth. We note that Bushmob in Alice Springs often accommodates children from Katherine and the Top End. NAAJA staff from areas outside Alice Springs have commented that children from other parts of the NT can sometimes be uncomfortable in that setting due to the cultural differences of Central Australia and the distance from family. This is not a criticism of Bushmob, whose excellent work has assisted our clients over a number of years – it is rather a comment on the lack of equivalent services in other parts of the NT.

## **5. Consultation, maximizing the potential of services, and the importance of strengths-based approaches<sup>9</sup>**

During the Royal Commission and in its aftermath, there has been extensive consultation in the Northern Territory about the challenges faced by children and families and the suggested ways of addressing these. Over a number of years, NAAJA has observed a level of frustration within communities and the youth service sector in relation to the lack of follow up as a result of consultations that have been conducted. The ‘consultation fatigue’ that came up repeatedly throughout the Royal Commission continues to be an issue and the lack of meaningful progress in some reform areas is a cause of cynicism. The process could be improved if there was more action based on the feedback received, and a better way of reporting back to agencies and communities on the outcomes of consultation.

NAAJA has observed that there are gaps in agency knowledge about services and programs available to families. This can mean that the full potential of available services is sometimes not being realized. An updated and regularly monitored and reviewed community service directory would go some way towards alleviating this. More broadly, and specifically in the aftermath of the Royal Commission it would be

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<sup>9</sup> This section is relevant to questions 5, 6 and 7 of Question Set 1 in the Issues Paper

useful to have a map of reform activities provided by Government outlining progress against the various recommendations made.

NAAJA advocates for a community development, strengths based approach in relation to the delivery of services to children and families. Services for Aboriginal families must be available in language, and delivered with the assistance of interpreters by Aboriginal people. Programs should focus on building capacity and strength in families, realizing that some families need more support than others. A public health model should be adopted, in which priority is placed on having universal supports available for all families in a range of areas including health and education. More intensive, secondary prevention interventions should be provided to those families that need additional assistance. These preventative programs should be delivered by the NGO sector, with child protection services being the last resort. A public health model places greater emphasis on assisting families early enough to prevent abuse and neglect occurring, through involving other professionals, families and the wider community and enhancing the variety of systems that can be used to protect children.

NAAJA also advocates for restorative justice models to be adopted as a way of empowering communities. The following student court proposal is one example of how this could work in practice in relation to the issues facing young people:

#### **STUDENT COURT PROPOSAL**

NAAJA has developed a Student Court proposal building on the success of its Peer Panel initiative in 2016 and based on the successful Youth Court model across thousands of sites in the USA. It also draws on concepts from New Zealand's Circle Sentencing methods and the Northern Territory's Community Courts.

The Student Court empowers young people to serve a role in a restorative justice process focusing on youth at schools whose behaviour constitutes low level offending or breaches of school rules. This offending on school grounds would ordinarily result in some form of sanction, usually suspension or exclusion. The purpose of the program is to provide an alternative to current responses which have often also included involvement in the criminal justice system, and to improve community safety. There are alarming rates of students, including children as young as five, getting suspended as well as a number of prolonged school suspensions. Further, poor school attendance is a significant issue. The program recognises the need for early intervention and diverts young people from suspension in order to keep them engaged in education and supported at school.

The program serves as an example of a community-led, proven model engaging with at risk youth and empowering youth across Darwin and Palmerston to be change agents themselves and as part of a restorative justice process. In an environment where there is significant need for these types of programs and attention to the Northern Territory's approach to engaging with youth we continue to lobby various government agencies with a view to support and resource this program and make it a reality.

## **6. Funding arrangements for the delivery of children and family services – the roles of Government, NGO’s and Aboriginal Community Controlled Organisations<sup>10</sup>**

Frontline services for children and families are currently being provided by Government, NGO’s, Aboriginal organisations and to a lesser extent, the private sector. It is NAAJA’s experience that the nature of services being delivered are not always appropriately matched to the provider.

One example of this is the services being provided by the NT Government’s Youth Outreach and Re-engagement Teams (YORET). We are concerned that Government is not best placed to provide therapeutic, diversionary services to youth engaging on a voluntary basis, due to a lack of experience in this area, the lack of existing relationships with young people, and distrust that many young people experience in relation to government agencies. It is NAAJA’s position that Government should limit service provision in this area to statutory intervention, and that NGO’s and Aboriginal community organisations are better placed to voluntarily engage youth in a therapeutic manner. We also have some concerns about the appropriateness of the NT Government’s employment of private security staff in Alice Springs to assist police with their patrolling in the CBD, with a specific focus on vulnerable youth. Given the lack of specialist approach and proven experience in this challenging area, we question whether a private security firm is best placed to conduct this work.

### **Aboriginal services for Aboriginal people**

It is also NAAJA’s view that if the primary users of a service are going to be Aboriginal people, Aboriginal organisations are better placed to deliver the services. Unfortunately, there have been significant barriers to achieving this in practice, including barriers that are sometimes embedded in tender and grant application processes.

The Aboriginal Peak Organisations of the NT (APO NT), of which NAAJA was formerly a member, has detailed the range of barriers experienced by Aboriginal organisations when seeking funding through the complex and competitive funding arrangement of the Indigenous Advancement Strategy.<sup>11</sup> Specific challenges included short time frames, the poor design of application forms which were often vague and ambiguous, and a lack of clarification from Government which amounted to a process that was stressful and frustrating for Aboriginal organisations.<sup>12</sup>

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<sup>10</sup> This section is relevant to Question Sets 3 and 6 of the Issues Paper

<sup>11</sup> APO NT Submission to the review of the Indigenous Advancement Strategy, May 2015, accessed at <http://www.amsant.org.au/apont/publications/submissions/>

<sup>12</sup> APO NT Submission, p 3

APO NT raised concerns about the disparity of resourcing whereby mainstream NGO's were advantaged due to having the resources and capacity to draw up complex tender documents at short notice, and offer economies of scale which may appear superficially attractive in terms of cost.<sup>13</sup> However, being better placed to write the actual funding application does not extend to being better placed to deliver the service, and concerns have been raised as to the appropriateness of mainstream NGO's delivering services to Aboriginal people where there might be a lack of community relationships, cultural knowledge, long term commitment, capacity to deliver programs to Aboriginal people and the ability to develop and retain an effective Aboriginal workforce.<sup>14</sup> These factors are significant barriers to implementing a place-based and public health approach.

NAAJA continues to support APO NT's position that grass roots Aboriginal organisations should always be regarded as the first priority for delivering services to Aboriginal communities, ahead of competitive tendering.<sup>15</sup> However, if there are insufficient Aboriginal Organisations in a particular area, or a lack of capacity to deliver a particular service, a partnership funding approach should be taken. APO NT has developed the APO NT Partnership Principles to provide guidance on this.<sup>16</sup>

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<sup>13</sup> APO NT Submission, p 7

<sup>14</sup> APO NT Submission May 2015, p 7

<sup>15</sup> APO NT Submission May 2015, p 8

<sup>16</sup> Accessed at <http://www.amsant.org.au/apont/our-work/non-government-organisations/apo-nt-ngo-principles/>



## APO NT Partnership Principles

In supporting the APO NT Partnership Principles, non-Aboriginal NGOs agree to undertake to:

1. **Consider their own capacity:** Non-Aboriginal organisations shall objectively assess whether they have the capacity (either in service delivery or development practice) to deliver effective and sustainable outcomes in the NT context.
2. **Recognise existing capacity:** Non-Aboriginal organisations will recognise the existing capacity and particular strengths of Aboriginal NGOs and identify how they can contribute to further developing this capacity.
3. **Research existing options:** Non-Aboriginal organisations shall thoroughly research existing Aboriginal service providers and development agencies before applying for service delivery contracts or prior to considering community development projects.
4. **Seek partnerships:** Where there is an Aboriginal NGO willing and able to provide a service or development activity, non-Aboriginal organisations shall not directly compete with the Aboriginal service provider, but will seek, where appropriate, to develop a partnership in accord with these principles.
5. **Approach to partnership:** Non-Aboriginal organisations will be guided by the priorities of the Aboriginal NGO in developing a partnership. Partnerships will be based on building and strengthening, rather than displacing, Aboriginal organisational capacity and control. Processes for developing partnerships will need to recognise the inherent power imbalance between large non-Aboriginal organisations and small Aboriginal organisations, and will need to allow sufficient time for partnership development.
6. **Recognise, support and promote existing development practice:** Non-Aboriginal organisations acknowledge that many Aboriginal organisations already have robust and effective development practices embedded in a cultural framework, although some of this may be implicit and undocumented. Non-Aboriginal organisations agree to recognise and support these practices, including through partnership arrangements.
7. **Work together with Aboriginal people to create strong and viable Aboriginal organisations:** Non-Aboriginal organisations recognise Aboriginal organisations and communities as lead agents in creating sustainable governance and leadership in Aboriginal communities in the NT, and agree to work within structures and processes that provide Aboriginal decision-making control. This may require formal delegation of power and the dedication of self-generated resources to assist with this process.
8. **Ensure Aboriginal control, not just consultation:** Non-Aboriginal organisations agree that Aboriginal organisations need to be in the 'driver's seat' and have control of development initiatives, services and programs delivered to their communities. This should include having input to decisions regarding resource allocations and staffing.
9. **Develop a clear exit strategy:** Where the desired outcome is for local Aboriginal organisations to deliver services or provide a development role, non-Aboriginal organisations will develop a mutually agreed, transparent exit strategy in consultation with their partners. Contracts with government should incorporate a succession plan and long term planning for local Aboriginal organisations to deliver services, with appropriate resourcing included.
10. **Ensure robust evaluation and accountability:** Non-Aboriginal organisations will develop a robust accountability framework and evaluation process together with partner Aboriginal organisations and communities.
11. **Cultural competency and appropriate development practice:** Aboriginal organisations and non-Aboriginal organisations will seek to work together to share learnings and establish effective development practice and cultural competency standards for development projects and service delivery initiatives.

It is our position that when assessing funding applications, if applications are received from mainstream NGO's Government should give preference to applications that are developed in accordance with the Principles. To increase the capacity of Aboriginal organisations to tender in the future, funding bodies should provide transparent information on organisations that are successful and unsuccessful and respond to the requests of unsuccessful applicants for feedback.<sup>17</sup>

### **Coordination for funding children and family services<sup>18</sup>**

It is very difficult to comment on how well funding is coordinated between and within governments and other service providers, due to the lack of clarity that exists in relation to the implementation of Royal Commission recommendations and the progress of the NT Government in this regard. Earlier in our submission we raised the confusion that exists in relation to which recommendations are being progressed by what Government department. Certainly, the way in which frontline practices of some areas of Government seem to undermine the sentiments being expressed by other Government departments (for example, the approach to police bail in Alice Springs) would also suggest that cohesion and coordination is lacking.

For programs to be effective, it is essential that there is a clear understanding within the relevant Government department and amongst community services about the assistance that can be provided and who can be referred to the service. It is also essential that there is cohesion between sentiments and commitment expressed at an executive level of Government and the practices of frontline staff.

## **7. Conclusion**

We thank you for considering our submission. If needed, we would be happy to assist the Productivity Commission by providing further information about any of the matters raised. We look forward to the outcome of this Review.

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<sup>17</sup> APO NT Submission May 2015, Recommendation 11 and 12

<sup>18</sup> Relevant to Question set 5