ACCESS TO JUSTICE IN THE BARKLY

A Review of the Justice Too Far Away Report on Tennant Creek and Barkly Region's Access to Legal Services and Information

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Acronyms

ABS	Australian Bureau of Statistics
AIS	Aboriginal Impact Statement
ALC	Anindilyakwa Land Council
BRADAAG	Barkly Region Alcohol and Drug Abuse Advisory Group
BDR	Banned Drinkers Register
BRD	Barkly Regional Deal
CAAFLU	Central Australian Aboriginal Family Legal Unit
CAALAS	Central Australian Aboriginal Legal Aid Service
CAG	Cultural Authority Group
CAWLS	Central Australian Women's Legal Service
CLE	Community legal education
CO	Commissioner for Oaths
CSO	Client Service Officer
CVSU	Crimes Victims Services Unit
DVA	Domestic Violence Application
DVO	Domestic Violence Order
DLGHCD	Department of Local Government, Housing and Community Development
FWC	Financial Wellbeing and Capability
FIFO	Fly in fly out
HJP	Health Justice Partnership
JP	Justice of the Peace
LAG	Local Authority Groups
LDM	Local Decision Making (Framework)
LHC	Legal Health Check
NAAJA	North Australian Aboriginal Justice Agency
NDIS	National Disability Insurance Scheme
NTLAC	Northern Territory Legal Aid Commission
NTAJA	NT Aboriginal Justice Agreement
RECS	Remote Engagement and Coordination Strategy
VoC	Victims of Crime (NT)
YOREOs	Youth Outreach and Re-engagement Officers

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

1. Introduction

Fifteen years ago, legal services in the Barkly Region (NT) engaged a consultant to explore local issues of access to justice. These services were NT Legal Aid Commission (NTLAC), Central Australian Aboriginal Family Legal Unit (CAAFLU), Central Australian Aboriginal Legal Aid Service (CAALAS) and Central Australian Women's Legal service (CAWLS). This led to the publication in 2003 of the report *Justice Too Far Away.* Largely based on consultations conducted in Tennant Creek, the report sets out discussion and recommendations aimed at enhancing legal service delivery and increasing community legal education in the Barkly.

NTLAC, Northern Australian Aboriginal Justice Agency (NAAJA), CAAFLU and CAWLS have commissioned the current research, which again seeks to improve access to justice in the Barkly Region. The research revisits and reconsiders recommendations of the 2003 report, but with an expanded focus on 8 Barkly communities. These communities are Tennant Creek, Elliott, Ali Curung, Ampilatwatja, Arlparra, Canteen Creek, Epenarra, and Alpurrurulam. The research explores access to legal information and assistance and current legal needs in civil, family and criminal law areas for both Aboriginal and non-Aboriginal people.

A key element of the present research has involved engaging community members in the eight Barkly communities through focus groups. Community member participants have completed a questionnaire asking them to identify their more recent experiences of certain civil, family or criminal law issues, as well as legal and other responses to these issues. Participants have then discussed their experiences of legal problems, barriers to attaining positive justice outcomes in response to these problems and best ways to address these barriers. A total of 84 people participated in the focus groups (51% male, 49% female), all of whom have been Indigenous. Though the project is not Aboriginal-specific, this focus on Indigenous perspectives is due to the fact that Aboriginal people make up a significant proportion of Tennant Creek's population and 7 of the 8 focus communities are remote Aboriginal communities.

Interviews have also been conducted with representatives from stakeholder organisations working in or with the focus communities. These interviews were used to explore perspectives and understandings related to access to justice of those providing legal or related services in the focus communities and/or region.

2. The Barkly Region and focus communities

Barkly Regional Council is the largest regional council in the NT, and the second largest in Australia. The size of the Barkly Region and the small dispersed populations of communities

scattered across it have substantial impacts for service delivery, access to services and access to justice, discussed in detail in this report.

Additionally, as was the case in 2003, regional indicators of disadvantage point to a range of issues (income, education etc.) also likely to be of relevance to and/or impact on access to justice. For instance, levels of formal education in the Barkly are much lower than across the NT as a whole. The median weekly personal income is less than half that of the NT overall and the unemployment rate is three and half times higher than the NT average. Of note, indicators of disadvantage are often more pronounced outside of Tennant Creek. Unemployment is at 17.5% in Tennant Creek, compared to 88.9% in Ampilatwatja, as an example. The high levels of disadvantage in the Barkly have consequences for legal need (with particular types of legal issues arising) and on responses to legal issues (for e.g., there is a greater need for subsidised legal services).

3. Summary: *Justice too far away* report (2003)

The *Justice Too Far Away* Report was commissioned by Barkly legal services because of concerns related to lack of access to legal services in Tennant Creek.

The report primarily focused on changes to legal service delivery in Tennant Creek, not across the region as a whole. It set out issues pertaining to under-servicing of legal need: for instance, limited information about the law and legal services, the absence of any private or publicly funded lawyers based in Tennant Creek, the long distance for legal services (all based in Alice Springs) to travel to service Tennant Creek and the relative socio-economic disadvantage of Tennant Creek. At this time, two CAALAS lawyers travelled to Tennant Creek for court (once per month) and in two other weeks of each month. CAALAS had a Tennant Creek office staffed by a senior Client Service Officer (CSO) and administrative worker. No other legal service was permanently based in Tennant Creek. Legal services travelled up from Alice on a regular basis and provided advice by phone. Apart from limitations in face-to-face service delivery, other issues identified as impacting on access to justice included limited assistance provided for specific areas of law, for women and at the time of arrest; delays in finalising court matters; lack of a local agency to undertake community advocacy about local legal issues (for e.g., related to police relations); inadequate facilities at court; and insufficient use of interpreters.

The 2003 report contained various recommendations designed to respond to these issues, which included:

- improved community awareness of available legal services and the law through production and dissemination of information (through CLE, printed material, websites, etc.);
- establishment of a Tennant Creek Legal Resource Centre under the responsibility of the NTLAC but potentially co-funded. The Centre would employ a Legal Access and

Community Development Officer to provide legal information and education and a 'one-stop' shop for access to legal services;
- an increase in the presence and continuity of lawyers and prosecutors in Tennant Creek, including through a CAALAS lawyer (still based in Alice Springs) spending a significant proportion of their working time in Tennant Creek;
- installation of videoconferencing facilities at the Tennant Creek courthouse and use of videoconferencing by clients at the proposed Legal Resource Centre to link clients with legal services in Alice Springs and Darwin; and
- extension of domestic violence legal services in Tennant Creek.

4. Current legal service delivery in the Barkly

As part of the present research, the legal services have provided information on the type of legal matters they currently assist with. Alongside the data on legal need presented in Chapter 6, this is useful for ascertaining current levels of access to justice in the Barkly. Also detailed is legal services' presence in and/or travel to all 8 focus communities.

The information provided indicates that legal service delivery has substantially increased in Tennant Creek since 2003. There are now four legal services with a permanent presence there (CAAFLU, NTLAC, CAWLS and NAAJA), with additional lawyers/CLE workers attending from Alice Springs on a regular basis. There are still no private practitioners based in Tennant Creek, however.

Also considered is non-legal Tennant Creek-based services, some of whom have also been approached for detail of service provision. These services assist with the range of issues discussed in Chapter 6 (though not as legal practitioners: for instance, as financial counsellors assisting with debt). They may be connected with legal services through delivery of CLE and/or referrals of individual clients. In exploring access to justice, the report discusses (current and potential) collaboration of legal and other services in the Barkly likely to meet community needs.

The information provided by legal and non-legal services indicates that the more remote focus communities are significantly under-serviced, including because of limited resources available to legal services to travel outside of Tennant Creek. Under-servicing in general is an issue for these communities (not just legal service provision). Criminal law matters are better serviced than non-criminal legal issues, as lawyers (particularly NAAJA lawyers) will attend remote communities for criminal circuit court. More accessible communities (such as Ali Curung or Elliott) are also better serviced than further outlying communities.

5. The broader NT policy context

A number of policies are discussed as relevant to access to justice in the Barkly.

The first is the draft **Aboriginal Justice Agreement** (AJA) (2019), likely to have a significant impact on the criminal justice system. The AJA refers, for instance, to reducing the reoffending and imprisonment rates of Aboriginal people (Aim One) through use of community-based alternatives to custody, greater diversion of young people, increase in successful grants of bail and bail compliance, and reintroduction of Community Courts. It also aims to engage and support Aboriginal leadership: for instance, through local Law and Justice Groups (Aim Two). Through these groups, Aboriginal leaders might put 'in place local strategies to address offending behaviours.' The AJA also has some potential to impact on civil law access to justice. For instance, it seeks to increase accessibility and uptake of complaints processes (including to the NT Ombudsman and Anti-Discrimination Commission) and proposes appointment of an NT Aboriginal Social Justice Commissioner to provide independent oversight of the NT Aboriginal Justice Agreement.

The second is the draft **Everyone Together 2019-2029. NT Aboriginal Affairs Strategy,** which seeks to reshape NT Government engagement with Aboriginal people. It has 10 focus areas, all of which have potential to impact on legal need, service provision and access to justice. One focus area, Truth and Healing, seeks to support Aboriginal people to determine their own futures, for e.g. This will be achieved through a Local Decision-Making (LDM) Framework, which commits government to Aboriginal led community-based decision making through (for e.g.) transfer of government service delivery to Aboriginal organisations. To date, 7 agreements have been signed between the NT government and Aboriginal communities through the Framework, one of which (as an example of potential access to justice impacts) transitions service delivery to community control through establishment of a community justice group and Community Courts.

The third is the **Barkly Regional Deal** (BRD), which reflects a regional approach to the above LDM Framework. The ten year $78.4 million BRD was launched by all three levels of government in 2019. Through the BRD, a total of 28 economic, social and cultural initiatives are to be implemented across the Barkly region, many of which potentially impact on legal need, access to justice and demand for legal services. These include the building of a youth justice facility in Tennant Creek, upgrading of the Tennant Creek watch-house and installation of video-conferencing in remote communities, for e.g. The Barkly Governance Table oversees implementation of the BRD. It has five Working Groups to support implementation of the aforementioned initiatives.

Finally, **Local Authority Groups** (LAG) represent local communities and towns in the Barkly region (present in 7 of this project's focus communities (Canteen Creek is independent of the Barkly Regional Council). These groups alert Council to new and emerging issues in their respective communities and focus on local service delivery issues. The LAGs meet monthly, primarily to discuss local council issues.

6. Access to justice

Civil and family law need

The project has identified areas of legal need in, and legal responses to disputes or problems arising in the areas of **civil and family law**. The most prevalent areas in which legal issues arise, as identified by participants, were housing (tenancy) (67.9% of participants), discrimination (44.7%), education (37.5%), social security (34.2%) and credit and debt (31.0%). In the vast majority of cases, very few or no participants had resolved the issues in question; nor had they accessed legal assistance in order to do so.

The data gathered reveals that men are (often) substantially more likely than women to experience disputes over an estate or with neighbours, and in relation to social security, employment, discrimination, criminal law and financial institution/superannuation issues. Women are more likely than men to not have completed a will, and to have experienced problems in the areas of education, credit and debt, and consumer law (scams, other consumer matters).

Problems related to *tenancies* were most commonly about repairs and maintenance. Housing issues are a priority not just because they arise with some frequency. They also impact on or escalate a range of other problem areas (such as debt, child protection and family violence). It is noted that housing problems require a legal response but also resolution at a policy level, given that they often originate in government policy. *Race discrimination* was the second most common civil/family law issue identified by participants, most frequently in the context of policing, but with more systemic issues also identified. Discrimination was largely 'accepted', rather than challenged at law or otherwise. *Education* related problems or disputes primarily related to bullying or suspension. Attempts had been made to resolve these issues, but without recourse to legal help (for instance, talking with a school principal, accessing health services for medication for students).

The majority of participants were in receipt of *social security* benefits (88.1%). Most common issues arising in this area involved being cut off benefits and overpayments/debt (which participants had paid or were paying, for the most part, rather than challenging). In terms of *credit/debt* (which often crossed over with consumer issues), participants most commonly reported having problems paying housing debts or debts connected with phone bills and plans.

A further area of high legal need was *wills/estates*. Only 8.6% of participants had completed a will, but 44.7% wanted assistance to do so. One in six participants had experienced a dispute related to an estate, mostly about burial of a deceased person. These disputes were mostly resolved outside of mainstream law, using cultural approaches or protocol. At present legal services do not assist with the completion of wills. Wills and estates represent a significant gap in legal service delivery.

Other civil law issues considered included *neighbourhood disputes* and *employment.* The most common problems involving neighbours related to animals, fences and/or boundaries, with these issues often inter-linking (animals causing noise, as well as health issues (bites) and damage to housing (due to poor or absent fencing around houses)). Whole of community and intra-community disputes were also discussed in some communities, often causing significant distress and concern. Around one in ten participants identified a dispute or problem related to *employment* (11%), primarily concerning wages, followed by superannuation (missing super). Stakeholders noted that assistance with superannuation is a further gap in current legal service delivery. A major issue raised in relation to employment was the absence of jobs, particularly in remote communities.

Various types of *consumer law* issues were reported by participants. These included problems with accessing or finding superannuation (sometimes also raised as employment issues), disputes with a bank or other financial institution, and 'scams' or contractual issues (related to funeral funds, used cars, etc.). Participants also identified problems related to 'not getting what you paid for' (for e.g., the high cost of goods at the stores on remote communities). A relatively small proportion of participants responded affirmatively to a question asking if they had experienced other *non-criminal legal* issues. The issues raised primarily related to drinking restrictions and the Banned Drinkers Register (BDR). Stakeholders also highlighted problems concerning birth certificates and identification (poor access of the latter, and the implications of this).

In terms of *family law* issues, around one in ten participants identified experiencing a dispute or problem related to children's residence/contact and/or child support; with kids being taken into care, family taking children and not returning them; and/or problems relating to fostering, adoption or guardianship. Issues raised included that access to court for child protection matters is problematic on remote communities, as matters are only heard in Tennant Creek.

Criminal justice issues

The research has also looked at **criminal law** matters and criminal justice access to justice issues. One in five focus group participants identified experiencing a criminal law issue or having been charged with a crime (notably, 36.3% of male participants, compared with 2.5% of females). The most common of these criminal law issues related to driving offences, followed by the BDR.

Participants were more likely to have received legal assistance for criminal than non-criminal matters. They were asked if they thought the outcome attained in their criminal matter was 'fair', with just over half responding positively to this question. Issues impacting on outcomes ranged from not receiving paperwork related to a fine (which lead to further costs and licence suspension) to not being physically able to get to court (due to geographic distance, which leads to the issue of a warrant).

There were numerous and wide-ranging problems discussed with respect to the workings of the criminal justice system. Policing issues, for e.g., included an absence of community policing in Tennant Creek, slow police responses and an absence of police (and again, of community policing) on remote communities. Punitive approaches to breaches of bail by police and conditions in the Tennant Creek watch-house (young people and adults being in such close proximity, for e.g.) were also raised. Poor use of diversion for young people was discussed by stakeholders, encompassing both its under-utilisation by police and the absence of diversionary options outside of town.

Issues related to court processes encompassed access to information on charges prior to first court appearances, and on bail, DV and other orders, for instance; court delays and adjournments; court infrastructure (failure to respond to victim and offender needs); lack of staff training (eg, on trauma); and issues related to juveniles (including an absence of a Youth Court Liaison officer in Tennant Creek to help explain proceedings).

The high prevalence of DV was discussed during consultations too, along with current responses to its occurrence. Problems raised included safe houses not being able to accommodate intoxicated women and fees charged to stay in safe houses. Remoteness was also seen to impact. Communities are not always adequately serviced by police in relation to DV incidents. In some cases, this has meant that community organisations and members have to take direct action, placing themselves at risk. The problem of reciprocal orders (orders issued against female victims of DV by police) was also highlighted. Gaps in education and other preventative work with perpetrators of DV were identified.

7. Issues impacting on access to justice

This section considers issues currently impacting on access to justice: for the most part, with respect to civil and family law. Criminal law related access to justice issues are principally covered in Chapter 6.

Legal and other service delivery barriers to accessing justice

The legal service landscape in the Barkly, particularly in Tennant Creek, has come some way since 2003. As noted, there are now a number of legal services permanently situated in Tennant Creek (in place of a Legal Resource Centre), though service provision may still be impacted by staffing issues (retention, recruitment). Limited access to private practitioners remains a problem, and there is more work needed on addressing systemic issues. There are still major gaps in legal service delivery to remote communities. Some gaps in areas of law covered by legal services that existed in 2003 (eg, family violence) have been addressed, to a degree; whilst others remain (eg, wills and estates). These gaps largely relate to civil and family law issues (eg, due to a lack of resources, or of expertise). Some thought too that whilst men more frequently access lawyers as defendants in criminal law matters they have difficulties accessing legal help for civil/family law problems. More information and support aimed at or likely to prevent male-perpetrated family violence is also needed.

During interviews, the absence in Tennant Creek of a permanent NAAJA lawyer was seen to impact on other legal services and the community. NAAJA is now actively recruiting a permanent lawyer in Tennant Creek. However, the gap in NAAJA service provision identified during the research is an issue all legal (and non-legal) services face. It is difficult to recruit and retain lawyers in Tennant Creek, particularly lawyers with sufficient experience and expertise. Expertise required is not just legal: it involves having some experience of and understanding of remote work, as well as a good level of cultural competency.

Also identified are gaps in *non*-legal service delivery and programs in the Barkly, with various justice-related consequences. Poor availability of support programs for families or those with mental health issues, for instance, impacts on opportunity to reduce contact with child protection or criminal justice systems (or to assist those already caught up in these systems).

Discussed too was the importance of connecting Aboriginal people with *culturally safe* programs, persons and organisations, in particular. This is not always happening to the degree it should, including where mainstream services are not meeting the needs of Aboriginal clients sufficiently. Things that are working well in this regard include employment of Aboriginal CSOs or similar to work with clients, and Indigenous-developed and delivered programs.

Additionally, some stakeholders felt that Tennant Creek was relatively well serviced but that an improvement in *access* to existing services was required. As an example, the community may, in fact, be 'over-serviced'. This does not mean there are too many services, but that people are often engaging with multiple organisations simultaneously and for the same issue due to problems of service coordination and collaboration. Some good collaboration is occurring, however: for example, joint delivery of CLE by legal services through local non-legal organisations. Insufficiency and inconsistency of funding was also seen to impact on the effectiveness of service delivery (for example, leading to competitiveness for resources, rather than collaborative practices).

A further significant barrier to accessing justice is lack of knowledge of the law, particularly of civil and family law, and/or limited awareness of available services – by community, but also across services and agencies themselves. Things that are working well in this context include delivery of CLE to community and to service providers. CLE helps to uncover legal issues in the community, including where it upskills non-legal services to 'issue spot' and refer clients to a lawyer for assistance, and to build collaborations between services (when delivered as a partnership between legal and other services/agencies).

Barriers faced by community members

Along with lack of knowledge of the law/services, other barriers faced by community members include complexity of needs. The more complex these needs are, the more difficult

they are to address. Community members may feel the need to prioritise one issue over another, or feel resigned to or overwhelmed by multiple problems. Moreover, a key part of this complexity for Aboriginal people relates to disempowerment due to colonisation. Initiatives or strategies like to help or already helping to address this complexity include use of a collective voice (to address systemic issues) through strategic litigation or policy reform and/or groups such as the Cultural Authority Group in Tennant Creek; quality Indigenous-led programs and services; and Indigenous staffing.

For those interacting with the justice system there may be difficulties understanding processes and outcomes due to language, literacy and education. Stakeholders pointed to limited use of interpreters by police, lawyers, and by community members themselves (eg, because they fear a breach of confidentiality). Interpreters are also not always available (at all times, and for different language groups). Interpreters need to be used outside of a criminal justice setting, additionally. Most government agencies and services should be using them more than they presently are.

Remote communities

All barriers discussed in the report are multiplied in intensity for remote communities. There are often significant distances to be travelled to and from these communities to provide and access services. Access to legal services and, in fact, many aspects of the legal system (criminal and non-criminal, such as policing, courts) is very restricted in many Barkly communities. Legal services have been trying to do what they can for remote communities, within resource constraints. NTLAC's outreach initiative to Barkly communities that ran from 2007 – 2014 (with lawyers from other legal services also attending with NTLAC) provided regular legal assistance and information and delivered positive justice outcomes. It worked well for various reasons, including through the connections it built between NTLAC and permanent services located in the communities in question (health clinics, Council).

8. Access to justice in the Barkly: where to from here?

Suggestions for strategies and approaches most likely to meet legal needs in the focus communities include, but go beyond improvements to legal service delivery and other aspects of the legal system. Also required are community development and system reform approaches, and other more collective responses to resolve or reduce the incidence of legal issues.

Responding to barriers: knowledge, complex needs and culture

Access to information about the law and responses to legal issues, with some focus on civil and family law, should be further enhanced. Creative mechanisms for information sharing in this context could be utilised - those that do not rely so much on printed material or written word such as radio, visual art or story-telling. Increased CLE requires further resources: to develop and deliver it, and to respond to the increased demand that will inevitably emerge

from enhanced knowledge of rights. In addition, Government agencies need to take on more responsibility for ensuring community members have access to basic information on rights and responsibilities. Agencies should also know about and refer clients to legal services, as required.

Understanding of criminal justice processes and outcomes ought also to be increased, potentially through a court-based position set up for this purpose. Other initiatives likely to build knowledge of and help link people to legal assistance include something like a legal health check tool, to be used in and outside of health services or identification of legal issues by non-legal workers. Increased opportunity for employment of community members to work alongside legal services in both Tennant Creek and on remote communities, discussed further below, is an additional suggestion.

Holistic service delivery (within a single service or across services (discussed below)) may help address complex needs, as well as problems of 'over-servicing'. A further relevant strategy is recruitment by legal services of social workers to respond to the multiple legal and non-legal needs of community members - perhaps in a position shared across legal services in Tennant Creek. An increase in Aboriginal CSO-type positions (responding to a need for cultural safety and connection) and other strategies likely to build cultural responsiveness of mainstream services ought also to be prioritised. To increase use of interpreters, further education is required, including for lawyers, government and other services, but also community. The latter might also help increase numbers of interpreters by profiling the work in community.

Collaborative and coordinated service delivery

Without a significant injection of additional resources in the short term, current gaps in legal service delivery are not going to be immediately addressed. Given this, improvements to *the ways in which* legal services are working together, with some focus on increased collaboration, coordination and shared resources, should be considered.

As an example, warm referral processes between legal services should be continually monitored and improved. More broadly, a greater focus on strategic service delivery planning and other initiatives likely to help build structure within and across legal service relationships could be prioritised. Strategic planning, incorporating regular meetings of legal services, might identify and respond to duplications and gaps in legal service provision, for e.g., or consider how resources might be put to best use, including through shared activity (for e.g. through shared social worker or CSO positions). Establishment of MOUs between the legal services is also recommended to formalise improved ways of working.

Better collaboration across *all* services (not just legal services) is required, both to improve responses to the complex needs of individuals and families (as case work), but also at a broader systems level. This might include, potentially, developing further formal partnerships, with health justice partnerships highlighted in discussion. Other ideas

encompass improving referral processes (including through use of a legal health check tool) and removing current barriers to sharing of client information. Again, formalising collaboration in this context is important. MOUs between a range of services and agencies were recommended, at both a local and NT-wide level.

Remote service delivery

Sharing of resources might help to address gaps in remote service delivery. Joint legal service visits to communities or the creation of an Aboriginal liaison or CSO-type role, shared across legal services and situated in either Tennant Creek (with travel out to communities) or in remote communities, are two possibilities. This role might involve identifying and responding to legal issues on remote communities, and liaising with legal and/or other services on behalf of community members. Though not without challenges, this initiative will address some problems associated with FIFO service delivery (for e.g. difficulties in establishing connections with a community) and also builds capacity of community to raise and respond to legal issues.

Collaboration between legal and health, Council and/or other services (rather than just between legal services) might also be beneficial in a remote context. This might take a number of different forms. Council might offer, for example, a space in which legal services can assist community members during visits. Community members might access information about legal services and about potential responses to legal issues and/or connect with legal services through Council offices. Legal services could help develop a resource for Council offices that would assist Council staff to guide community members through more straightforward (non-legal) processes (such as accessing a birth certificate). Health justice partnerships might be established on remote communities. The community development/liaison position discussed above might be located in Council or in clinics, with external recruitment and employment (e.g. by the legal services). Alternatively, the person in question might operate out of and be employed by the local health clinic/Council.

More use could be made of audio-visual facilities on remote communities to improve access to legal advice and information (in combination with face-to-face contact with the community by legal services) and for court sittings. Some service providers thought use of A/V was inappropriate for Indigenous communities, and certainly, it would be not without challenges. The facilities in question would need to be in a neutral location, for e.g., where confidentiality would be assured. A local person or organisation would need to coordinate use of these facilities - setting up meetings and managing the technology, for instance.

Approaches to addressing systemic issues

Strategies that aim to address problems of or issues that impact on access to justice at a more **systemic level** are important. Some of these problems or issues sit within and arise from and therefore require reform to ‘systems’ (eg, systems underpinning service provision, government systems such as those of child protection, housing or social security).

Without taking away from the importance of legal advocacy, stakeholders have identified that legal services can only do so much to address housing issues. A broader (systemic) policy response is required to reduce problems in this area. Strategic litigation and policy reform by legal services can be a very effective response to more systemic issues, with potentially positive consequences for whole communities. The degree to which this work is presently happening is impacted by resources, but regular meetings between legal services could be a good first step to identifying issues requiring a more collective legal service response. At a broader level, appointment of an Aboriginal Social Justice Commissioner in the NT would also have significant positive impact as a representative voice on Indigenous access to justice issues. Existing structures and frameworks, including the BRD, also provide opportunity to develop collaborative policy-oriented responses to local issues relevant to or impacting on access to justice. Legal services should continue to provide input in this initiative, including around access to justice issues.

Additionally, enhancing justice outcomes requires a **community development** approach. This might lead to more collective responses to systemic legal and socio-economic issues (such as poverty, disempowerment and so on). The latter may both create legal issues and/or make it hard to for people to respond to them. Community members spoke about the importance of changes *within, by and to community* to reduce contact with the justice system and the occurrence of legal problems, more generally. This is required, alongside reform to the legal system (including in terms of legal service delivery). Residents in one community spoke about the importance to improving justice outcomes of empowering community (for example. through programs that support and build capacity of parents and increase local employment opportunities).

In an Indigenous-specific context, self-determination is also strengthened through community development approaches. Justice reinvestment (JR) is an example of this: a collaborative place-based framework, presently situated in and led by Aboriginal and Torres Strait Islander communities around Australia, for the most part, and focused on community driven solutions to incarceration. Other potential strategies include the above community development worker role on remote communities, night patrol and local responses to conflict within communities (through training and resourcing of community-based mediators). Programs that upskill community members as financial counsellors (to respond to debt) is a further suggestion.

Various frameworks and initiatives designed to establish and/or pointing to the importance of establishing representative governance structures to support local decision-making ought to be taken advantage of. The BRD is one example of this, but on a smaller scale, structures at an individual community level may provide a vehicle for provision of input into legal and justice issues. Community members want a workable structure through which to voice concerns about community-wide issues (such as lack of housing repairs and maintenance or housing debts). Legal services could also liaise with local leadership groups about legal service delivery and legal need. The Cultural Authority Group provides an opportunity for this to occur at a Tennant Creek level. Other relevant structures include the Local Authority Groups on remote Barkly communities. The AJA has also proposed establishment of Law

and Justice Groups through which local justice issues might be addressed, including through locally led initiatives. This also has potential. Further work is required to think through how existing governance structures might be used to improve justice outcomes.

9. Recommendations

Responding to barriers to accessing justice

There is a need to increase knowledge and awareness of the law, legal services and where to obtain help with legal issues.

1. We recommend expanding CLE that accords with the good practice identified in this Report. In implementing this recommendation, we note:

- the importance of further resources required to develop and deliver CLE and to respond to increased demand;
- that various forms of communication may be more useful than printed materials (e.g. radio).

2. We recommend that government agencies (at all levels) ensure that community members have access to basic information essential to ensuring effective interaction with government systems and about relevant rights and responsibilities. Further, we recommend that government agencies ensure that they are aware of relevant legal services and that they refer clients to legal services, where required.

3. In order to improve community understanding of processes and outcomes in the criminal justice system, we recommend that consideration be given to establishing a designated position situated within the justice system designed for this purpose.

There is a need to work holistically to address the complex needs which many people caught up with various legal and non-legal issues in the Barkly face.

4. We recommend that the legal services consider the feasibility of recruiting social worker/s for the region. Consideration may be given to collaboratively seeking funding for a social worker position that would be shared by legal services in Tennant Creek and/or of the employment within individual legal services of social workers.

Working with Aboriginal clients.

5. Aboriginal staff have capacity to work with complex legal and non-legal needs of Aboriginal clients, including their need for cultural safety and connection. We recommend that the legal services consider the feasibility of expanding Aboriginal CSO roles (or similar) in the Barkly. Consideration should be given, in this context, to collaborative solutions across the legal services.

6. We recommend various strategies for increasing the use of interpreters. These strategies include educating community members about the role of interpreters (including interpreter obligations with respect to confidentiality); and more training for lawyers about why, how and when to use interpreters when working with Aboriginal clients.

Collaborative and coordinated service delivery

A number of gaps in legal service delivery were identified in the Report. Without injection of major resources, many of these gaps are likely to best be addressed through improving legal services' collaboration and coordination, among themselves and with other relevant organisations.

7. We recommend that all legal services, including private practitioners, and government and community services (including complaints agencies) are aware of and use *appropriate* (warm) referral processes to service providers. Information about and processes of referral must be monitored and improved on an ongoing basis.

8. We recommend increased collaborative and strategic service delivery planning between the legal services. In this context we further recommend consideration of:

- the establishment of MOUs between the legal services to develop consensus and formalisation of processes (eg, referral processes; agreement over sharing of client information);
- regular meetings between the legal services;
- a shared calendar, accessible to all the legal services.

9. We recommend consideration of the potential for shared resources (both between legal services and other agencies) to fill existing gaps in service provision. For example, agencies in Tennant Creek might jointly fund a position to work therapeutically with male perpetrators of domestic and family violence.

10. We recommend consideration of establishing local level and/or NT-wide MOUs with government agencies, particularly those likely to be beneficial for addressing systemic legal/non-legal and service delivery issues (for eg, by improving existing referral processes).

11. We recommend consideration of establishing further *health justice partnerships* (HJPs) with the potential for HJPs in remote locations as a particular focus. In this context we recommend consideration of establishing a legal health check tool. We note the suggestion that the NTLAC helpline might be utilised to assist with 'triaging' of legal issues identified through the legal health check process.

Remote service delivery

There are major barriers associated with and gaps in current legal service delivery provided to remote communities in the Barkly.

12. We recommend consideration of establishing an Aboriginal liaison (CSO-type) position shared across legal services and situated in Tennant Creek, but available to travel to communities with the services. In addition, we recommend consideration of employing and upskilling individuals living on remote communities to identify and respond to legal issues, including by connecting community members with legal and/or other services. This strategy would require funding, significant levels of ongoing support (including regular face-to-face contact by the legal services) and capacity building.

13. We recommend consideration of the use of video-conferencing in remote communities to improve access to legal services. We are aware that there is not uniform support for the development of video-conferencing in a legal context. However, on balance most stakeholders believed there was a place for the use of A/V facilities for matters such as legal information sessions, and for provision of advice to individuals. Important caveats for consideration include:

- video-conferencing would have to be accompanied by and could never completely replace face-to-face contact.
- the facilities would need to be in a neutral location, where confidentiality would be assured (eg, not the police station).
- someone would need to coordinate its use locally: set up meetings, ensure people were able to attend appointments, and manage the technology.

14. We recommend consideration of 'justice partnerships' between legal and other services and NGOs in remote communities for the purpose of improving access to justice. There is already precedent identified in the Report for developing collaborative practices between legal services and health clinics, councils and NGOs in remote communities. For example, collaboration might include:

- the use of space and other facilities;
- the development of resources to guide and assist community members with processes (eg accessing a birth certificate, a death certificate, or superannuation queries);
- the use of A/V facilities; or
- more formalised arrangements (such as a HJP).

Issues of conflict of interest and lack of confidentiality need consideration.

Systemic approaches to addressing systemic issues

Strategic litigation and policy reform by legal services may have impacts for multiple individuals, as well as addressing the need for systemic change. As such, this can be a highly effective access to justice mechanism. We note that implementing Recommendation 8 also has the capacity to improve strategic and coordinated approaches to systemic issues by the legal services. In addition, the current policy environment, including the Barkly Regional Deal,

may contribute to better justice outcomes in the Barkly. The Barkly Regional Deal utilises a collaborative, place-based approach to deliver positive systems change through a collective impact framework.

15. It is recommended that legal services provide collective input into the Barkly Regional Deal decision-making processes, both on legal need and on issues impacting on access to justice. In this context it is also worth considering the role of justice reinvestment, often implemented through a collective impact framework, to progress community priorities and enhance justice outcomes.

16. It is recommended that where possible legal services support and engage with community capacity building and community-led and based solutions that might more directly work to improve access to justice. These might include:

- working with night patrols to enhance Aboriginal control over these services and improve outcomes;
- building local strategies to address conflict in communities through the use of community-based mediators,
- assisting with programs that upskill remote community members (for eg, to work as financial counsellors);
- work with representative governance structures and local leadership groups (for example, the Local Authority Groups) to support local decision-making and to improve justice outcomes.

1. PROJECT BACKGROUND

Sixteen years ago, NT Legal Aid Commission (NTLAC), in co-operation with the NT Law Society, Central Australian Aboriginal Legal Aid Service (CAALAS) and Central Australian Women's Legal Service (CAWLS), undertook a research project aimed at improving access to justice in Tennant Creek and the Barkly Region.

The project produced a research report, *Justice Too Far Away* (Renouf 2003). Based principally on consultations conducted in Tennant Creek, this report set out a number of recommendations aimed at improved service delivery and increased community legal education. As discussed in more detail below, the Report focused on issues such as service coordination, development of additional services/infrastructure to meet gaps in service delivery, and similar.

NTLAC, in collaboration with Northern Australian Aboriginal Justice Agency (NAAJA), Central Australian Aboriginal Family Legal Unit (CAAFLU) and CAWLS constitute the Project Steering Group for the current research. The Steering Group received a grant from the Law Society Public Purposes Trust to conduct new research to revisit and reconsider the recommendations made and other content in the 2003 report, given the time that has passed since its publication.

At the time of the previous research, issues raised as impacting on types and levels of legal need and access to justice included remoteness, language and socio-economic disadvantage. Whilst these issues are likely to still be relevant, the Project Steering Group believed that new research would provide an opportunity to consider these and any relevant additional access to justice issues within a changed policy, legal and service-delivery context. The earlier research has also been expanded to include additional Barkly communities.

1.1 Project Objectives

The aim of the current project is similar to that of the previous research: to improve access to justice in Tennant Creek and the Barkly Region through examination of access to legal information and assistance and current legal needs.

Access to justice within this project encompasses civil, family and criminal law, and for both Aboriginal and non-Aboriginal people. The project's eight focus communities include Tennant Creek, as well as Elliott, Ali Curung, Ampilatwatja, Arlparra, Canteen Creek, Epenarra, and Alpurrurulam.

The **project objectives** are:

(a) To conduct new research that draws on, expands and updates the access to justice research conducted in 2003

(b) More specifically, to identify current legal (and associated) service delivery and related strategies and approaches located in and/or servicing the focus communities

(c) To identify criminal, civil and family law need in the focus communities

(d) To assess whether current legal need is being met by current legal (and associated) service delivery and related strategies and approaches. This will include assessment of what is working well, not so well in this regard, and gaps in service provision/infrastructure.

(e) To set out recommendations in a written report related to effective service delivery, strategies and approaches: that which is most likely to meet current legal needs in the focus communities.

1.2 Project Plan

The Project Steering Group has guided the project work. Project activities are as follows.

1. The evaluators will conduct a short literature review on relevant access to justice issues, particularly in the Barkly Region and with some focus on analysis of the 2003 report.

2. The project will map service delivery related to legal need currently located in/servicing the eight focus communities. All initiatives, strategies and approaches designed to meet legal need and, as appropriate, associated service delivery (such as financial counselling services), will be included in this mapping exercise.

3. The project will also identify criminal, civil and family law need in the eight focus communities, including by gender and Aboriginality.

   Qualitative data related to legal needs and access to justice will be gathered from stakeholder organisations, which will include government and legal services and Aboriginal corporations. Qualitative data will also be collected from members of each of the focus communities.

   Stakeholders will be invited by the researchers to participate in semi-structured interviews. Community members will be invited to participate in focus groups by local focus group facilitators in each community. Community member s and facilitators will be reimbursed in cash for their time.

   Quantitative data related to legal need and access to justice will be gathered from community members by way of a questionnaire, to be completed during focus groups.

4. A final Report will be prepared.

1.3 Project Methodology

Focus Groups: Process

The focus groups were semi-structured to provide participants with an opportunity to raise issues they considered important to them and to allow open discussion to explore new themes as they emerged. This approach allowed people to answer questions on their own terms, but still provided structure for comparability across gender and community.

At each focus group a participant *Information Sheet* and *Consent Form* were provided to all participants. This material outlined the purpose of the research, the voluntary nature of participation and ability to withdraw from the consultation at any time, an assurance of the confidentiality and anonymity of individuals in participating in the research and the contact details of the researchers for any complaints or questions concerning the conduct of the research.

During each focus group, participants completed a structured questionnaire, asking them to identify whether they had experienced certain civil, family or criminal law issues over recent years and what legal or other action they had taken, if any, in response to those issues. The focus group questionnaire nominated specific areas of civil, family law and criminal and generally asked participants to identify:

- whether any legal issues or problems had presented themselves in these specified areas of law over the last couple of years, with a brief description of the nature of any issues or problems arising;
- whether legal or other advice or help was sought in response to such issues and if so, from whom; and
- how or whether they had resolved any issues that had arisen.

During the focus groups, the researcher and a focus group coordinator worked with participants through all the questions on the questionnaire as they were being completed. Focus group coordinators were community members paid to invite other community members to participate in and to help facilitate the groups. This helped to overcome any potential or actual barriers to completion. It was sometimes necessary to work more closely with individual participants or with participants in smaller groups to ensure that they had an opportunity to respond effectively to the questions posed. Language and literacy issues were evident in all communities, and at times, the written questionnaire was filled out on behalf of the participant by others assisting. Dependent on individual community preferences, men and women participated in this work separated by gender or together. In two communities only (Elliott and Ali Curung) men and women sat together.

Participants were also invited to take part in a group discussion after completion of the questionnaire. This discussion allowed participants to expand on the legal issues they had experienced, barriers to accessing legal services and proposed changes to overcome these barriers.

When legal issues arose during focus groups for which participants needed assistance, the researchers worked to ensure that focus group participants were linked with relevant legal advice and information.

The project had a total of 84 participants in the focus groups which were almost evenly spread between males (51%) and females (49%). All participants were Aboriginal. Though the project was not Indigenous-specific, the focus on Aboriginal people and their legal needs and perspectives was due, in part, to the significant proportion of the local Aboriginal population in Tennant Creek and as 7 of the 8 focus communities were remote Aboriginal communities (see Chapter 2). Differences in Indigenous and non-Indigenous access to justice issues were discussed in interviews, to some extent, but statistical data was only gathered from Aboriginal participants. There are likely to be specific differences in access to justice issues for cultural and ethnic groups other than Indigenous people (in Tennant Creek, in particular) that require attention, but that this project has not had a focus on.

The research conducted focus groups in the following locations, with reasonably comparable numbers in each location.

Table 1.1 Location and Gender of Focus Group Participants

Location	Male	Female	Total
	No	No	
Ali Curung	6	5	11
Alpurrurulam	5	6	11
Ampilatwatja	5	5	10
Arlparra	3	4	7
Canteen Creek	5	5	10
Elliott	8	6	14
Epenarra	5	5	10
Tennant Creek	6	5	11
Total	**43**	**41**	**84**

The age of participants is shown in Table 1.2. Overall 81% of those who participated were between the ages of 25-54 years. The female cohort of focus group participants was younger than the males: 44% of women were under the age of 35, compared to 26% of men. However, for those aged 55 years and over there was virtually no difference between men and women.

Table 1.2 Age and Gender of Focus Group Participants

Age	Focus Group Participants					
	Female		Male		Total	
	No	%	No	%	No	%
18-24	2	5	0	0	2	2
25-34	16	39	11	26	27	32
35-44	5	12	10	23	15	18
45-54	11	27	15	35	26	31
55+	7	17	7	16	14	17
Total	**41**	100	**43**	100	**84**	100

Stakeholder Interviews

Interviews were also conducted by the researchers with staff and representatives from stakeholder organisations servicing or working with the nominated communities or region. Stakeholder interviews were used to explore the experiences, perspectives and understandings of those providing legal or related services.

Stakeholders were selected on the basis of their direct role in criminal, civil and family law service provision (as legal services or related support services), provided either to a particular community or on a regional basis. The majority of stakeholders interviewed were those providing services in the focus sites.

Attempts were made to return to those interviewed for the 2003 report, with varying degrees of success. Some declined an interview, others were no longer contactable, and others were re-interviewed.

A total of 44 interviews were conducted with stakeholders in the eight Barkly sites, as well as Alice Springs and Darwin. A complete list of stakeholder interviews can be found in **Appendix A.** Input provided by participants by way of interview or otherwise are coded to deidentify them as 'Community member' and 'Stakeholder organisation.'

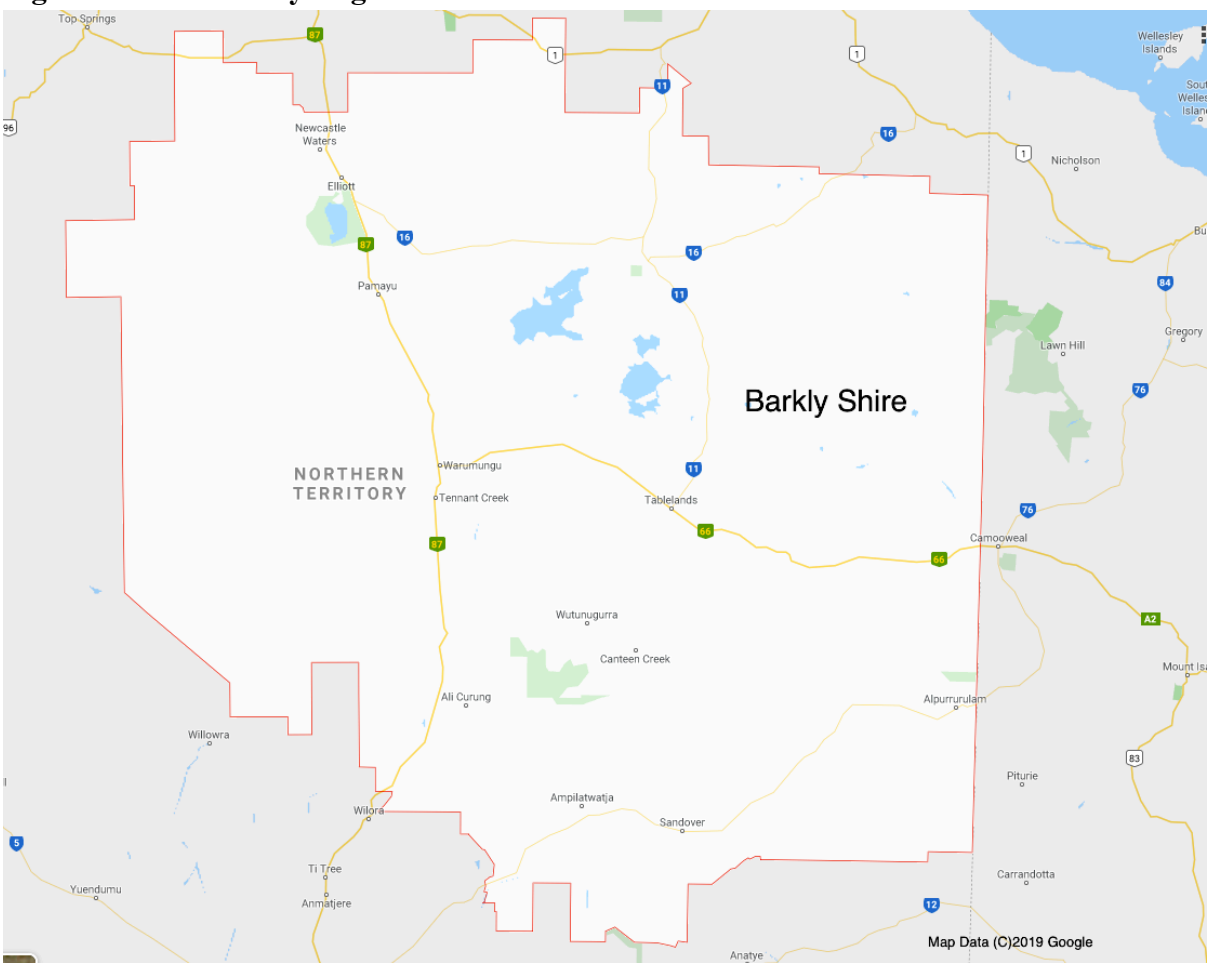
2. THE BARKLY REGION AND FOCUS COMMUNITIES

The Barkly Shire Council was established in July 2008 as one of eleven new super shires in the NT, and was renamed Barkly Regional Council in 2014. By area, it is the largest regional council in the NT, and the second largest in Australia. The Barkly covers an area about one and a half times the size of Victoria.

According to the 2016 Census[1], there are 6,655 people living in the Barkly Region of whom 4,531 (or 68%) are Aboriginal and/or Torres Strait Islander. Tennant Creek has the largest population in the region with 2,991 people of whom 1,538 (or 51%) are Aboriginal and/or Torres Strait Islander (the Indigenous population includes the town camps around Tennant Creek).

The geographic size of the Barkly region with small dispersed populations outside of Tennant Creek has substantial impacts for service delivery and access to services.

Figure 1.1 The Barkly Region



[1] 2016 Census QuickStats: Barkly. https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/LGA70420?opendocument

Education and Language

There are significantly lower levels of formal education in the Barkly region than the NT and Australia more generally. According to the 2016 Census some 21.3% of people reported attainment of Year 9 or below, compared to 8.6% in the NT and 8% across Australia. In the Barkly Region a further 4.8% reported no educational attainment, compared to 1% in the NT and 0.8% across Australia. In contrast, across Australia some 22% of people reported attaining a Batchelor's degree or higher, compared to 17.1% in the NT and 8.5% in the Barkly.

In regard to language spoken, some 39.9% of people in the Barkly reported speaking only English at home compared to 58% in the NT and 72.7% across Australia. The top five languages spoken in the Barkly other than English were all Aboriginal languages (Alyawarr, Warumungu, Warlpiri, Mudburra, Kaytetye).

Employment and Income

The proportion of people unemployed in the Barkly (24.9%) is three and half times higher than across the NT (7%) and nationally (6.9%). In contrast, the proportion of people working full-time in the Barkly (54.1%) is lower than across the NT (67.1%). As noted below, the percentage of people unemployed is much higher in some of the focus communities within the Barkly.

The median weekly personal income in the Barkly ($375) is less than half the NT median weekly personal income ($871). The median weekly personal income in some of the focus communities is significantly lower than the Barkly median.

Housing Tenure

Housing in the Barkly Region is more likely to be rented (68.8%) compared to the NT generally (50.3%), and much less likely to be owned (either outright or with a mortgage) (20.5%) than the NT generally (44.9%). The percentage of rented housing in some of the focus communities is significantly higher than the Barkly average.

Access to Internet

Access to an internet connection is much lower in the Barkly than the NT generally. Some 35.7% of dwellings in the Barkly did not have access to the internet compared to 16.9% across the NT.

2.1 Focus Communities

Ali Curung

The population of Ali Curung is 494 of whom 444 (or 90%) are Aboriginal. The unemployment rate for Aboriginal people is 37.9% (non-Aboriginal unemployment is 0%). Some 70% of Aboriginal people aged 15 years or older are not in the labour force. The

median Aboriginal weekly personal income is $237; the median non-Aboriginal weekly personal income is $1,149.

Some 95.5% of Aboriginal housing is rented. Some 63% of Aboriginal households were unable to access the internet from their dwelling.

Nearly half (46.6%) of Aboriginal people in Ali Curung reported attainment of Year 9 education or below, or no educational attainment at all. Some 22% of the Aboriginal population reported speaking English as the only language at home.[2]

Services: Barkly Regional Council service centre, Warrabri Bakery, Minnirri Store, police station, safe house, Homemakers, Aged Care Service, Arlpwe Art Centre and Gallery, Baptist Church, health centre and a mechanical workshop.[3]

Alpurrurulam

The population of Alpurrurulam is 420 of whom 394 (or 94%) are Aboriginal. The unemployment rate for Aboriginal people is 32.4% (non-Aboriginal unemployment is 0%). Some 66.9% of Aboriginal people aged 15 years or older are not in the labour force. The median Aboriginal weekly personal income is $236; the median non-Aboriginal weekly personal income is $1,187.

Some 100% of Aboriginal housing is rented. Nearly four in five (78%) of Aboriginal households were unable to access the internet from their dwelling.

More than half (55.5%) of Aboriginal people in Alpurrurulam reported attainment of Year 9 education or below, or no educational attainment at all. Only 8% of the Aboriginal population reported speaking English as the only language at home.[4]

Services: Barkly Regional Council Alpurrurulam Service Centre and municipal yards, Aged Care, Night Patrol, Sport and Recreation, Centrelink, Post Office, Warte Alparayetye community owned store, Alpurrurulam Community School (until Year 9), Rainbow Gateway (community development program).[5]

Ampilatwatja

The population of Ampilatwatja is 418 of whom 382 (or 91%) are Aboriginal. If the outstations are included the Aboriginal population of Ampilatwatja and outstations is 462. The unemployment rate for Aboriginal people is 88.9% (non-Aboriginal unemployment is 0%). Some 32.8% of Aboriginal people aged 15 years or older are not in the labour force.

[2] Sources: ABS 2016 Census QuickStats: Ali Curung; ABS 2016 Census Community Profiles: Ali Curung.
[3] Source: https://www.barkly.nt.gov.au/communities/ali-curung
[4] Sources: ABS 2016 Census QuickStats: Alpurrurulam; ABS 2016 Census Community Profiles: Alpurrurulam
[5] Source: https://www.barkly.nt.gov.au/communities/alpurrurulam

The median Aboriginal weekly personal income is $225; the median non-Aboriginal weekly personal income is $1,399.

Some 73.8% of Aboriginal housing is rented, and a further 19.7% of housing was reported as 'other tenure type'. No housing was reported as owned (either with, or without a mortgage). Nearly half (49%) of Aboriginal households were unable to access the internet from their dwelling.

Some 42.9% of Aboriginal people in Ampilatwatja reported attainment of Year 9 education or below, or no educational attainment at all. Only 3% of the Aboriginal population reported speaking English as the only language at home.[6]

Services: Barkly Regional Council service centre and municipal workshops, Aherrenge community store, Aged Care Service, Night Patrol, Ampilatwatja Health Centre Aboriginal Corporation, Ampilatwatja Health Centre, police station.[7]

Arlparra

The population of Arlparra is 452 of whom 401 (or 89%) are Aboriginal. The unemployment rate for Aboriginal people is 72.4% (non-Aboriginal unemployment is 0%). Some 28.6% of Aboriginal people aged 15 years or older are not in the labour force. The median Aboriginal weekly personal income is $230; the median non-Aboriginal weekly personal income is $1,333.

Some 63.5% of Aboriginal housing is rented, and a further 32.4% of housing was reported as 'other tenure type'. No housing was reported as owned (either with, or without a mortgage). Nearly two in every three (63%) Aboriginal households were unable to access the internet from their dwelling.

More than half (58.8%) of Aboriginal people in Arlparra reported attainment of Year 9 education or below, or no educational attainment at all. Only 4% of the Aboriginal population reported speaking English as the only language at home.[8]

Services: Barkly Regional Council Arlparra Service Centre, Arlparra General Store, Primary School, High School, Urapuntja Aboriginal Corporation and Urapuntja Health Clinic (10km north of Arlparra).[9]

Canteen Creek

[6] Sources: ABS 2016 Census QuickStats: Ampilatwatja; ABS 2016 Census Community Profiles: Ampilatwatja
[7] Source: https://www.barkly.nt.gov.au/communities/ampilatwatja
[8] Sources: ABS 2016 Census QuickStats: Arlparra; ABS 2016 Census Community Profiles: Arlparra
[9] Source: https://www.barkly.nt.gov.au/communities/arlparra

The population of Canteen Creek is 185 of whom 175 (or 94%) are Aboriginal. The unemployment rate for Aboriginal people is 57.5% (non-Aboriginal unemployment is 0%). The median weekly personal income for Aboriginal people is $261; the median non-Aboriginal weekly personal income is $1,208.

100% of housing is rented. Some 85% of Aboriginal households were unable to access the internet from their dwelling.

Slightly more than half (56.5%) of Aboriginal people in Canteen Creek reported attainment of Year 9 education or below, or no educational attainment at all. Some 21% of the Aboriginal population reported speaking English as the only language at home.[10]

Services: health clinic, Owairtilla school (pre-school to senior secondary), community store, women's centre.[11]

Elliott

The population of Elliott is 339 of whom 302 (or 89%) are Aboriginal. The unemployment rate for Aboriginal people is 42.7% (non-Aboriginal unemployment is 0%). Some 42.9% of Aboriginal people aged 15 years or older are not in the labour force. The median Aboriginal weekly personal income is $450; the median non-Aboriginal weekly personal income is $949.

Some 94.8% of Aboriginal housing is rented.

Nearly one in five (18.7%) Aboriginal people reported attainment of Year 9 education or below, or no educational attainment at all. Some 60.9% of the Aboriginal population reported speaking English as the only language at home.

Less than one in five (18%) Aboriginal households were unable to access the internet from their dwelling.[12]

Services: Barkly Regional Council service centre and workshop yards to service the communities of Wilyuku, Gurungu and Marlinja outstation, sport and recreation centre, aged care services, safe house, police station, BP petrol station, art centre, play group, library, post office, Elliott School, caravan park and community store.[13]

Epenarra (Wutunugurra)

[10] Sources: ABS 2016 Census QuickStats: Canteen Creek; ABS 2016 Census Community Profiles: Canteen Creek

[11] Source: http://www.remoterecruitment.nt.gov.au/communities/Community%20Profile%20%20CANTEEN%20CREEK.pdf

[12] Sources: ABS 2016 Census QuickStats: Elliott; ABS 2016 Census Community Profiles: Elliott

[13] Source: https://www.barkly.nt.gov.au/communities/elliott

The population of Epenarra is 166 of whom 154 (or 93%) are Aboriginal. The unemployment rate for Aboriginal people is 44.4% (non-Aboriginal unemployment is 0%). Some 63 % of Aboriginal people aged 15 years or older are not in the labour force. The median Aboriginal weekly personal income is $244; the median non-Aboriginal weekly personal income is $1124.

All Aboriginal housing is rented. No Aboriginal households were able to access the internet from their dwelling.

More than two thirds (69.6%) of Aboriginal people reported attainment of Year 9 education or below, or no educational attainment at all. Only 5.5% of the Aboriginal population reported speaking English as the only language at home.[14]

Services: Barkly Regional Council Elliott service centre and municipal work yards, Epenarra School, health clinic, Aged Care Service, Night Patrol, Outback community store.[15]

Tennant Creek

The population of Tennant Creek is 2,991 people of whom 1,538 (or 51%) are Aboriginal and/or Torres Strait Islander (the Indigenous population includes the town camps around Tennant Creek).

The percentage of all people unemployed is 7.1%. The unemployment rate for Aboriginal people is 17.5%. The median weekly personal income for Aboriginal people is $293. The median weekly personal income for non-Aboriginal people is $1,080.

Some 63.7% of all housing is rented, and 29.7% of all housing is owned (either with or without a mortgage). For Aboriginal people, 70.2% of housing is rented and 20.8% of housing is owned (either with or without a mortgage). Less than half (43%) Aboriginal households were unable to access the internet from their dwelling.

Some 16.3% of all people in Tennant Creek reported attainment of Year 9 education or below, or no educational attainment at all. The percentage of Aboriginal people in the same category was 29.3%.

Some 48% of the Aboriginal population reported speaking English as the only language at home.[16]

[14] Sources: ABS 2016 Census QuickStats: Wutunugurra; ABS 2016 Census Community Profiles: Wutunugurra
[15] Source: https://www.barkly.nt.gov.au/communities/wutunugurra
[16] Sources: ABS 2016 Census QuickStats: Tennant Creek; ABS 2016 Census Community Profiles: Tennant Creek

2.2 Summary

In summary, nearly seven in every ten people in the Barkly Region are Aboriginal and/or Torres Strait Islander. Levels of formal education in the Barkly are much lower than across the NT as a whole, and the use of Aboriginal languages is higher. The unemployment rate is three and half times higher than the NT average and the median weekly personal income is less than half that of the NT as a whole. People are more likely to be renting their house than is the case for the NT generally. Access to the internet from the home is much lower in the Barkly, with twice the proportion of people in the region unable to access the internet compared to the NT as a whole.

These statistics are of significance when exploring issues of access to justice – both in terms of legal need and responses to legal problems or disputes. Renouf (2003, p. 18) had noted in the *Justice Too Far Away* Report that the socio-economic disadvantage in Tennant Creek meant 'that there is a higher proportion of people eligible for legal aid… [and] it is likely that more people have needs for poverty related legal services such as consumer, housing and welfare law than in most other parts of the Northern Territory'.

Current indicators of disadvantage show little improvement in Tennant Creek and indeed some figures such as unemployment rates have worsened. Further, the indicators of disadvantage are far more pronounced in many of the remote communities of the Barkly, particularly Canteen Creek, Ali Curung, Arlparra, Ampilatwatja, Epenarra, and Alpurrurulam.

3. SUMMARY AND RECOMMENDATIONS FROM THE *JUSTICE TOO FAR AWAY* REPORT (2003)

The *Justice Too Far Away* Report arose from concern about lack of access to legal services in Tennant Creek. It is important to note at the outset that the project focussed on Tennant Creek, compared to the current project which covers all of the Barkly Region. This narrower focus was also reflected in the Report's recommendations, which in the main deal with changes to legal service delivery in Tennant Creek and not the broader region.

The Report identified a number of significant causes for the lack of access to legal services including:

- the absence of any private or publicly funded lawyers based in Tennant Creek,
- the long distance from the office of legal and other services based in Alice Springs,
- a lack of readily available information about the law and the availability of legal services,
- the lack of continuity in visiting legal personnel, and
- the relative socio-economic disadvantage of Tennant Creek compared to many other parts of the Northern Territory (Renouf, 2003, p. 5).

The primary task of the project was to identify the main areas in which there were problems with access to appropriate legal services (including unmet legal need and existing service provision) and to identify and evaluate proposals to overcome those problems (including through developing service delivery models and promoting partnerships between legal service providers). The report made 30 recommendations under seven broad headings as follows.

1. Improved community awareness of available legal services

Recommendations 1-9 were designed to improve community information about legal services and sources of assistance. These recommendations encompassed such things as the production and dissemination of information (including through printed material, joint listings in the Yellow Pages and the use of websites), and were aimed at legal service providers and other relevant agencies including Consumer Affairs, the Ombudsman and the Anti-Discrimination Commissioner. Specific recommendations related to the Aboriginal legal service (CAALAS at this time) and promotion of its after-hours phone number.

2. Establishment of a Legal Resource Centre

A major recommendation was the establishment of Tennant Creek Legal Resource Centre under the responsibility of the NTLAC but potentially co-funded. The Centre would employ a Legal Access and Community Development Officer to provide legal information and education and a 'one-stop' shop for access to legal services (Recommendations 10-13).

3. Increasing the Presence and Continuity of Lawyers and Prosecutors in Tennant Creek

In recognition that CAALAS undertook the 'bulk' of the legal work in Tennant Creek, a major recommendation (14) was that a CAALAS lawyer based in Alice Springs should be assigned to spend a significant proportion of their working time in Tennant Creek on an ongoing and regular basis (a minimum of 10 working days per month). The role would include undertaking criminal matters, providing case work and advice, and providing community legal education (CLE).

Other recommendations (16, 17) in this section of the Report were aimed at ensuring the continuity of NTLAC lawyers and police prosecutors attending Tennant Creek Court; and at devising ways to reduce the need for adjournments of criminal matters (17, 18). Recommendation 19 addressed the Registrar of Aboriginal Corporations, the NT Law Society and the National Pro Bono Resource Centre investigating the feasibility of providing pro bono services to remote community organisations.

4. Increased use of Videoconferencing

The Report recommended that the NT Department of Justice should install videoconferencing facilities at the Tennant Creek courthouse as a priority (Recommendation 20), and that Office of Courts Administration should allow videoconferencing equipment in Tennant Creek Courthouse to be made available for other legal and non-legal purposes to promote client take up of videoconferencing as a means of service delivery generally (Recommendation 23).

It was also recommended that NTLAC should enable Tennant Creek clients use of videoconferencing to participate in legal advice clinics operated by staff in the Alice Springs or Darwin offices (Recommendation 21), and that the proposed Tennant Creek Legal Resource Centre assist clients to use videoconferencing to contact legal services (both public and private) (Recommendation 22).

5. Improved Coordination of Government Service Delivery

A further recommendation (24) related to coordination of service delivery, advocating for the Tennant Creek Court officer to be offered training and support to act as a first point of contact for the Office of Consumer Affairs, the Anti-Discrimination Commissioner and the Ombudsman.

6. A Program of Community Legal Education

Four recommendations related to the improvement of CLE. These included the development of a strategy for the coordinated provision of CLE and training to staff of community organisations and government agencies (Recommendation 25) and consultation with community and government agencies about the areas of law relevant to client needs, and provision of relevant training to these organisations (28). There was also a recommendation

(26) to specifically address CLE for young people, and to include CLE at 'appropriate events' in Tennant Creek (27).

7. Extension of Domestic Violence Legal Services

A key recommendation (29) was to extend funding for domestic violence legal services in Tennant Creek, either through increased funding to CAWLS, or to fund CAAFLU to offer services to non-Indigenous clients when they visited Tennant Creek. A second recommendation (30) in this area was to fund CAAFLU to operate a 'community-based' domestic violence legal service which would include the employment of an Aboriginal worker on a part time basis and training of Aboriginal women who are members and language speakers of key local communities.

3.1 Legal Services in Tennant Creek in 2003

The *Justice Too Far Away* Report identified the then current legal services available in Tennant Creek at this time (Renouf, 2003, pp. 20-23). As can be seen from the list below, CAALAS was the main legal service provider 'on the ground' in Tennant Creek.

Magistrates Court
The magistrates court sat once a month for several days.

CAALAS
The CAALAS office in Tennant Creek was staffed by a senior client service officer and administrative worker. CAALAS lawyers from Alice Springs were available in the Tennant Creek office during three weeks of each month. Two lawyers attended Tennant Creek during court week. In two other weeks of the month a lawyer attended for a minimum of two days.

CAAFLU
A lawyer and client service officer from CAAFLU (based in Alice Springs) attended Tennant Creek once each month during court sittings. Additional visits were also made between court sittings.

NTLAC
A lawyer from NT Legal Aid in Alice Springs attended Tennant Creek once each month when the court was sitting. Other legal advice and information was available by phone.

CAWLS
Free legal advice sessions in Tennant Creek were provided by CAWLS (based in Alice Springs) on a bi-monthly basis. Other legal advice and information was available by phone one day a week.

Private Solicitors
Private solicitors from law firms in Alice Springs and Katherine visited Tennant Creek 'from time to time'.

Other Services

There was a Domestic Violence Counselling Service (BRADAAG) based in Tennant Creek.

The family court counselling service in Alice Springs visited Tennant Creek and other centres (unspecified) in the Barkly region once each month.

There were two financial counselling services based in Alice Springs who could provide advice over the phone.

The Darwin Community Legal Service could provide advice and information by phone in the areas of welfare rights and disability rights.

The *Justice Too Far Away* Report also notes other sources of legal information including various websites, the Tennant Creek library and courthouse, and industry-based dispute resolution schemes.

3.2 The Gaps in Legal Services in 2003

The *Justice Too Far Away* Report identified 13 areas where there were missing or inadequate services (Renouf, 2003, pp.23-27). These included:

- The lack of information about services that are available in Tennant Creek and how to make use of them.
- An inadequate general knowledge about the law and the few community legal education programs or projects that were accessible to people in Tennant Creek.
- The limited services in specific areas of law: in particular, for consumer, discrimination and family law issues. Other areas of legal need that were noted were making wills and dealing with estates and funerals; worker's compensation; employment matters; and legal assistance for community organisations.
- The lack of face to face services: particularly in emergency situations, where there were delays in getting access to advice or assistance, where there was a conflict of interest with the service, or where the facilities used by the visiting service were not confidential.
- The delays in finalising court matters and the need for repeated court appearances, particularly in criminal matters.
- The difficulty in accessing services where Legal Aid is not available because of the absence of private legal practitioners with offices in Tennant Creek.

- The inadequate services for women, including the absence of a comprehensive service in Tennant Creek able to respond to a range of matters affecting women, including family law, child welfare and financial matters.
- The lack of an agency to undertake community advocacy about local legal issues, including for example, the taxi service, discrimination, consumer issues and police relations.
- The inadequate support for victims of crime.
- Advice and assistance at the time of arrest which was not readily available, and this particularly impacted on young people and Aboriginal people in relation to street offences.
- The inadequate facilities at court which included the absence of adequate waiting facilities for court users; court users having problems hearing the Magistrate; the absence of facilities for vulnerable witnesses, and inadequate interview rooms for legal practitioners to interview clients.
- The insufficient use of interpreters (although usage has improved since the 1999 Dalrymple Report).
- The absence of some other government and community services, notably Consumer Affairs, the Ombudsman and the Anti-Discrimination Commissioner, who did not have offices in Tennant Creek.

The *Justice Too Far Away* Report noted that many of these gaps had been previously identified in the *Barkly Region Aboriginal Legal Aid Service (BRALAS)* Report of 1999 (Dalrymple 1999). The *BRALAS* Report had also considered the broader region of the Barkly and undertaken consultations on legal needs not only in Tennant Creek, but also in Elliott, Ali Curung, Epenarra, Canteen Creek and Alpurrurulam. Given the broader geographic scope of the *BRALAS* study and its overlap with communities covered in our study, it is worthwhile considering some of the findings of this earlier Report on unmet legal need.

In relation to Elliott, the *BRALAS* Report noted that, particularly in relation to policing, consumer issues and discrimination, 'Aboriginal dissatisfaction with poverty, disadvantage, and perceived discrimination had in the past spilled over into violent riots… Particular dissatisfaction was expressed in relation to the situation faced by young Aboriginal people arrested in Elliott' (Dalrymple, 1999, p. 18). The Report goes on to note that the views expressed in Elliott 'were even more vehement than in Tennant Creek, reflecting fewer options available… There continues [to be] a long simmering resentment in relation to the attitude towards Aboriginal people of the management of the Elliott Hotel, and a number of people said that they wanted legal advice in relation to discrimination complaints' (Dalrymple, 1999, p. 18).

More specifically in relation to **criminal justice issues**, problems were raised with legal representation and the court circuit to Elliot and Ali Curung. At the time, Ali Curung alternated with Elliott as the Court venue on the Monday of the Barkly court sittings. The complaint from both communities was that CAALAS visited the day before Court for the purpose of getting instructions for the following day. It was noted that having a lawyer based

in Tennant Creek would not be sufficient to improve the situation if that lawyer did not visit the community. 'The perceived need was for a lawyer and a Field Officer (CSO) with some language skills to visit the community not just when Court was sitting but at other times, for the purpose of explaining to people what their legal rights are in relation to both criminal and civil law issues' (Dalrymple, 1999, p. 19).

In the other more remote communities, people had experience of the criminal justice system, but 'few had understood the process in which they felt themselves to be silent and powerless observers… Many people were confused as to why some matters ended up in Tennant Creek and others in Alice Springs… Another concern was that people taken in custody from their communities tended to get stranded in Tennant Creek or Alice Springs' (Dalrymple, 1999, pp. 19-20).

The *BRALAS* Report noted that in Tennant Creek, there was 'some confusion as to the respective rights and obligations of Police officers and citizens, with a large number of informants complaining to us about what was perceived as physically oppressive and unlawful policing' (Dalrymple, 1999, p. 22). However, this lack of knowledge of rights and obligations under the criminal law increased 'in direct proportion to the remoteness of where they live. So people living at Lake Nash [Alpurrurulam] tend to be less well informed than long term residents of Tennant Creek' (Dalrymple, 1999, p. 22).

In relation to **civil justice issues,** the *BRALAS* Report noted the difficulty of assessing the extent of legal need is this area given the scope its inquiry. However, it noted that 'we were told many stories about unscrupulous second-hand motor vehicle dealers and other traders. Other complaints were in relation to discriminatory treatment suffered at the hands of a range of businesses and agencies' (Dalrymple, 1999, p. 24). The Report found that 'there can be little doubt that even in relation to obvious claims arising from serious injuries suffered at work or in a motor vehicle accident, many potential claimants are not seeking legal assistance, or not seeking it quickly enough, due to ignorance and lack of access to legal advice' (Dalrymple, 1999, p. 23). Nevertheless, the Report found that it was unlikely that there was enough civil work for a fulltime specialist civil lawyer to be placed in Tennant Creek.

In relation to **family law issues,** the Report noted that similar to civil law need, it was difficult to assess the extent of unmet need in the Barkly for family law advice and assistance (Dalrymple, 1999, p. 24). However, it considered that 'the primary need is not for family law assistance in the conventional sense, but rather for liaison assistance in dealings with FYCS [now Territory Families], Centrelink, and other agencies concerned with safeguarding the welfare and safety of children of dysfunctional families'(Dalrymple, 1999, p. 24).

4. CURRENT LEGAL SERVICE DELIVERY IN THE BARKLY

The project has sought to map service delivery related to legal need currently located in, and/or servicing the eight focus communities.

The information gathered and set out below and as Tables at **Appendices B and C** was provided by legal services and non-legal services and organisations (including those who assist with legal issues, though not as legal practitioners) operating in the Barkly region.

4.1 Legal services: Tennant Creek

Legal services in the Barkly have been asked to identify:

- primary legal issues responded to
- other legal issues services have the capacity to respond to
- legal issues they are not able to respond to
- their presence in Tennant Creek (staffing, permanent or FIFO (fly-in, fly-out))
- non-legal services they are connected with for referrals and CLE

This information is presented as Tables at **Appendix B**.

Permanent legal services in Tennant Creek

The information gathered from legal services indicates that legal service delivery has increased in Tennant Creek, compared with 2003.

The town now has four legal services with a permanent presence, with additional lawyers/CLE workers attending from Alice Springs, as follows.

- CAAFLU currently employs a F/T lawyer and an Aboriginal CSO.[17] The service works with Aboriginal victims of family violence (FV) and domestic violence (DV), and the work it takes on would ordinarily be connected with FV and DV.

- CAWLS provides information/referral, legal advice, legal tasks, dispute resolution, court litigation and other representation to all women, though 80% of its clients in Tennant Creek are Aboriginal. CAWLS is funded to provide a specialist DFV unit in Tennant Creek. CAWLS also assists with family law, property & children's matters, including child protection. It is permanently co-located within Anyinginyi Stronger Families in Tennant Creek. It currently has a F/T solicitor and F/T administrative staff member, with visiting practitioners from Alice Springs supplementing the work of Tennant Creek staff.

[17] CAAFLU has capacity to fill up to five positions in Tennant Creek.

- NAAJA has a F/T CSO/administrative staff member, and is in the process of actively recruiting for and has committed to a permanent managing criminal solicitor position in Tennant Creek. In the meantime, criminal lawyers from Alice Springs are and have been attending the town for court sittings on a regular basis (with the court circuit). Civil lawyers and CLE workers visit Tennant Creek on a regular basis too.

- NTLAC has a F/T administrative staff member and F/T lawyer, predominately working on criminal law and family matters files.[18] A civil lawyer also visits on a regular basis from Alice Springs.

These legal services are providing assistance with a broad range of legal matters and issues connected with legal problems, as well as conducting CLE. In discussions with legal services, it is also clear that they are engaging with issues on a systemic basis (through involvement in initiatives such as the Barkly Regional Deal, through law and policy reform), though this is not captured in the Tables in Appendix B.

Other legal service delivery in Tennant Creek

Other lawyers visit Tennant Creek to provide services or otherwise service the town. For instance, Arts Law 'Living Black' project has a lawyer who on occasion has visited the Barkly with their wills project. Private practitioners work in Tennant Creek and the Barkly (but only visit Tennant Creek, not the 8 focus communities) and are based in Alice Springs. No private lawyers work in Tennant Creek on a permanent basis. Some private lawyers report less frequent visits to the town in more recent times due to a reduction in outsourcing of child protection matters by Territory Families. Private lawyers that have indicated that they work in the Barkly are as follows.

- Simon Caldwell covers child protection, DV, family, wills, and undertakes legal aid and private practice work
- Greg Betts works with criminal law only
- John McBride works with criminal law only
- Povey Stirk covers mostly child protection and personal injury matters. The firm receives referrals principally from NAAJA and NTLAC and travels to Tennant Creek every 1-2 years.

4.2 Other services: Tennant Creek

There are a number of non-legal services based in Tennant Creek addressing or responding to legal issues (other than as legal practitioners). These services are explored in more detail in Chapters 6 and 8, including in the context of (potential or further) collaboration with legal services. Some of these services are connected with legal services by way of delivery of CLE

[18] The lawyer in question holds mostly criminal law files but also has family matters, child protection files and deals with numerous minor-task matters across a broad range of law.

and/or referrals to and from legal services. This is captured in **Appendix B**. The extent to which these services visit the 7 more remote focus communities is set out in **Appendix C**. Details of the work some of these services undertake is as follows.

- CatholicCare works in the areas of youth diversion, counselling for victims of crime, financial wellbeing and capability (FWC – the Financial Wellbeing and Capability program), housing support and men's counselling (related to DV). Other areas of work cover mental health (including for young people), NDIS, aged care advocacy and youth outreach. The areas of law discussed in Chapter 6 and covered by CatholicCare are housing, victim's compensation, family (including child protection), wills/estates, consumer, credit/debt, social security, and criminal (youth justice and DV).

- Relationships Australia visit Tennant Creek approximately 5 to 6 times a year, travelling up to Tennant Creek on a Monday and returning on a Friday. Coverage includes family and parenting and relationships education programs. The organisation provides information and referrals, counselling, conflict coaching, and family dispute resolution (mediation).

- Saltbush provide assistance with housing and tenancy, family, consumer, credit and debt and social security issues. For instance, they assist clients to put payment plans in place for a debt or with reinstatement of benefits. They also help resolve family disputes. The organisation also helps with court matters (providing court support, for instance).

- BRADAAG provides a broad range of services, including in relation to the legal issues highlighted in this report. These services include assistance with reporting (Corrections, police) and court appearances, and with social security, housing and child protection issues.

4.3 Remote service delivery

The four legal services based in Tennant Creek were asked to identify services provided to the 7 focus communities situated outside of Tennant Creek. The information provided is set out in **Appendix C.**

Though legal service delivery in Tennant Creek has clearly increased since 2003, remote communities in the Barkly are significantly under-serviced. The legal services are aware of the level of need in remote communities but have restricted capacity to meet this need, given current resourcing. Of note, for a period of time after 2003 NTLAC provided an outreach legal service to Barkly communities (sometimes accompanied by other legal services). As discussed later in the report, this service is no longer operating.

The more geographically remote the community, the less likely it is to be visited by a legal service, given the resources required. Criminal law issues (including, to a degree, DV and FV matters) are more regularly serviced in remote communities than other areas of law. Criminal lawyers travel with the court circuit, representing and advising community members from and on three of the 7 focus communities (Elliott, Arlparra and Ali Curung). Otherwise, visits to communities are undertaken on an 'as needs' basis (for instance, for CLE upon request by the community). However, these visits are dependent on resources available to legal services at the time.[19]

Staff from organisations either situated in or visiting these 7 focus communities (including Shire Council Area Managers) were asked to provide information on service provision. This is also set out in **Appendix C**, and again points to substantial under-servicing of communities (but also potential for collaboration (discussed in Chapter 8)).[20]

As an example of services provided, CatholicCare indicates that it provides services/programs for the whole Barkly, including as FWC, parent education, youth diversion, child and family counselling, and work related to anti-DV campaigning. According to CatholicCare FWC program has a remote travel plan which sees staff out in communities throughout the year (2 or 3 visits each per year). The No More Campaign also travels remotely on a regular basis, especially during AFL carnival times. Other CatholicCare programs travel when required, dependent on referrals received. As a further example, Saltbush has a mentor (education/training) permanently based at Elliott who can assist with a range of matters.

[19] We are of the view that describing visits on an 'as needs' basis is not completely accurate if they are resource dependent. Further, it may have the result of downplaying the actual level of unmet legal need.
[20] We also note that there were occasionally differences between the information provided to us by organisations and what community members told us about the (in)frequency of visits, indicating perhaps even greater levels of under-servicing.

5. THE BROADER NT POLICY CONTEXT

5.1 The Aboriginal Justice Agreement

The Aboriginal Justice Agreement (Department of Attorney-General and Justice, 2019a), if introduced and implemented as outlined in the draft Agreement, is likely to have a significant impact on **criminal law**, legal need and access to justice issues at least in the medium to longer term. These impacts will be in both criminal justice process and in enhancing local governance of (criminal) justice. It is worth noting at the outset that the draft Aboriginal Justice Agreement is overwhelmingly focussed on criminal rather than civil or family law. Indeed, the notion of 'justice' is seen in the Agreement as essentially criminal justice. The companion document to the draft Aboriginal Justice Agreement, *Pathways to the Northern Territory Aboriginal Justice Agreement* (Department of Attorney-General and Justice, 2019b) does recognise 'the importance of family and civil law outcomes, and their interconnectedness with criminal justice outcomes' (p. 15). The *Pathways* Report also identifies the link between problematic outcomes relating to education, child protection, housing and homelessness, employment, health and disability, discrimination and racism and their direct link to contact with the criminal justice system (pp. 26-27). However, how these issues give rise to legal needs in their own right is not directly considered within the strategies proposed by the draft Agreement.

Aim One of the Agreement is to reduce the reoffending and imprisonment rates of Aboriginal Territorians.

There are a range of strategies to increase the use of community-based alternatives to custody including expanding their availability in remote locations (Strategies 1 and 7), to provide for greater diversion of young people (Strategy 2), to provide for an increase in successful grants of bail and successful bail compliance (Strategy 3) and to reform sentencing legislation (Strategy 4). There is a proposal to reintroduce Community Courts (Strategy 6) and to continue to implement a specialist court response to domestic and family violence (Strategy 15). There is also a strategy to expand prison and diversion programs for Aboriginal women (Strategy 11).

Some of the proposed changes might increase the work of legal services, either directly or indirectly. For example, implementing a model to provide relevant background and cultural information for judges to consider in bail applications for Aboriginal defendants (Action 3.4); and implementing a model to facilitate the preparation of Aboriginal Experience Reports for Aboriginal offenders, whether provided in writing or by less formal means [for sentencing purposes] (Action 4.2) are likely to involve key legal services in the process.

The development and implementation of non-financial options for the payment of fines will also require the identification and referral to appropriate work available in communities to pay off fines (Action 8.1 and 8.2). Similar 'work and development orders' in NSW have

required significant support from the Aboriginal Legal Service and the Legal Aid Commission to ensure their utilisation by Aboriginal clients.

Aim Two of the Agreement is to engage and support Aboriginal leadership

A significant strategy (Strategy 12) is to establish and support Law and Justice Groups (initially in five communities) as 'a platform for Aboriginal leaders and community members to address local justice issues'. It is envisaged that the Law and Justice Groups will enable 'Aboriginal leaders to put in place local strategies to address offending behaviours and support positive values and role models' and 'will provide critical input to reform the justice system'. A further Strategy (13) is to increase the number of Aboriginal Justices of the Peace (JP) and Commissioners for Oaths (CO) in the NT. The overarching aim of the Strategy is to assist Aboriginal people in navigating and accessing key services that impact on a person's interaction with the criminal justice system. However, the introduction of the Strategy could also have a positive benefit on access to justice in the area of civil and family law. As at November 2018, only 5% of JPs and 2% of COs were Aboriginal (Department of Attorney-General and Justice, 2019b, p. 79).

Aim Three of the Agreement is to improve justice responses and services to Aboriginal Territorians

One area in the draft Agreement where access to both **criminal** and **civil** law access to justice may be considered is in the Strategy to increase accessibility and uptake of complaints processes (Strategy 19). It is noted that 'complaint mechanisms will be reviewed, and communication plans developed and implemented, to ensure Aboriginal Territorians who are treated unfairly are able to access existing complaint mechanisms.' The specific complaints processes referred to in the *Pathways to the Northern Territory Aboriginal Justice Agreement* Report include the Ombudsman NT, the Children's Commissioner, the Health and Community Services Complaints Commission, the Anti-Discrimination Commission, and the Independent Commissioner Against Corruption (Department of Attorney-General and Justice, 2019b, p. 94-95).

Another Strategy in the draft Agreement that has the potential to cover criminal, civil and family law is the introduction of Aboriginal Impact Statements for all Cabinet submissions (AIS) (Strategy 20). The introduction of AIS could also increase the workload of legal services if the responsible agency preparing the AIS calls for input from non-government organisations.

Two other Strategies which can have a positive impact on access to justice are 'Redesign key service delivery models' (Strategy 16) and 'Improve cultural competence in service delivery' (Strategy 17). Finally, it is proposed that in Stage Two of the Agreement, that a NT Aboriginal Social Justice Commissioner will be appointed to provide independent oversight of the NT Aboriginal Justice Agreement (Action 21.7). The appointment of the

Commissioner could enhance Aboriginal access to justice across **civil, family and criminal** law. The proposed Commissioner will be responsible for:

- reviewing the impact of policies and measures introduced under NTAJA Stage 1
- monitoring and reporting on the wellbeing (and human rights) of Aboriginal Territorians
- advocating for the rights and interests of Aboriginal Territorians
- providing advice and making recommendations about cultural competency in the formation of policy and delivery of services
- providing support and guidance to the NTAJA Governance Committee
- collaborating with the Aboriginal Justice Unit (within Department of Attorney-General and Justice) to produce an Annual Progress Report
- receiving complaints, including making recommendations relevant to government agencies
- liaising with other relevant commissions, such as the Northern Territory's Anti-Discrimination Commission, the Independent Commissioner Against Corruption, the Treaty Commissioner and the Office of the Children's Commissioner (Department of Attorney-General and Justice, 2019b, p. 110).

If the draft Aboriginal Justice Agreement is implemented it will have a significant impact on the criminal justice system in the Barkly, and also potentially impact on access to justice in areas of civil and family law.

5.2 Everyone Together 2019-2029. NT Aboriginal Affairs Strategy

The draft *Everyone Together* Aboriginal Affairs Strategy is designed to provide a way for the NT Government to reshape how it engages with Aboriginal Territorians to support community aspirations (NT Government, 2019). The Strategy has 10 Focus Areas of:

- Truth and Healing
- Languages and Culture
- Land and Sea
- Housing and Essential Infrastructure
- Education
- Health
- Justice
- Jobs and Economy
- Safety
- Children and Families (NT Government, 2019, pp.16-17)

While all of these areas have a potential impact on legal need, service provision and access to justice, we highlight the first focus area of Truth and Healing which has the objective of supporting Aboriginal people to determine their own futures and ensuring they are empowered to make decisions that impact their lives. The primary initiatives here are the

development of a framework for Treaty negotiations, the Remote Engagement and Coordination Strategy and a Local Decision Making Policy Framework. We discuss the latter two initiatives in more detail below.

5.3 Remote Engagement and Coordination Strategy

The NT Government's Remote Engagement and Coordination Strategy (RECS) aims to enhance and improve coordination of services and engagement with remote Aboriginal communities. RECS is 'underpinned by the NT Government's commitment towards self-determination and local decision making' (NT Government, 2019, p. 10). The purpose of the RECS is to enable the NT Government to achieve better outcomes for remote communities, including through:

- consistent and accountable remote engagement and coordination practice across the NT Government
- coordination and collaboration within and between NT Government agencies, communities, regions and head office in recording, tracking and responding to ideas and issues raised
- confidence that NT Government agencies are aware of and responding to local issues
- informed, responsive and aligned policy, program and service delivery decisions
- improved job satisfaction and workload management for NT Government staff
- cost-effective use of resources including visits by NT Government staff to remote communities
- improved community experience of government service delivery
- greater transparency of decision making processes
- relevant and culturally appropriate communication, engagement and feedback
- a reduced burden of engagement on remote community members by avoiding duplication and unnecessary consultation.[21]

5.4 Local Decision-Making Framework 2018-2028

The Local Decision Making (LDM) framework commits the NT Government to Aboriginal led community based decision making. It is a ten year commitment to transfer, where possible, government service delivery to Aboriginal organisations based on the particular community's aspirations' (NT Government, 2019, p. 10). The NT Government has described a 'community control continuum' whereby Aboriginal communities can choose from a range of government services, and how much control they want for their communities. Areas of responsibility which have been identified include housing, health, education, training and jobs, families and children, local government, law and justice, land and sea management, economic development, men's programs, women's programs, youth programs, and sport and recreation. According to the NT Government:

[21] Source: https://dlghcd.nt.gov.au/__data/assets/pdf_file/0009/188523/REC-Strategy-160926.pdf

> LDM will provide a pathway for communities and Aboriginal organisations so they can take control of government services themselves. If Aboriginal Territorians want to have a greater say on how things are done in their communities, then they can work with government to develop a plan that suits them… We will work together to help communities to fulfil their aspirations to move from 'government led' service delivery to 'Aboriginal-controlled' service delivery wherever possible.[22]

To date, seven agreements have been signed between the NT government and Aboriginal communities. For example, through LDM, the NT Government has entered into a ten-year agreement with the Anindilyakwa Land Council (ALC). The Agreement was initiated by the ALC. The Agreement provides that the NT Government and the ALC will work together on the basis of the overarching Local Decision Making guiding principles, which are self-determination; flexible place based approaches; co-design; and community control. [23] The Groote Archipelago LDM Agreement outlines Anindilyakwa people's priorities to transition service delivery to community control, with respect to housing, economic development, law, justice and rehabilitation, education, health services and local government. The first three Implementation Plans were signed by the Chairman and CEO of the ALC and the Chief Minister on 19 June 2019. The Implementation Plans set out steps to transition control of decision making and service delivery from the Northern Territory Government to the Anindilyakwa people in the areas of housing,[24] economic development,[25] and law, justice and rehabilitation.[26] For example, the agreed outcome for Housing, as stated in the Agreement, is a single, sustainable, diverse and culturally appropriate community housing system across all towns and satellite communities in the Groote Archipelago that the Anindilyakwa people control and take responsibility for. The agreed outcome for Law, Justice and Rehabilitation is to increase the involvement and leadership of the Anindilyakwa people in the justice system, including access to rehabilitative services. This includes the establishment of a cultural rehabilitation centre, a community justice group and community courts.

5.5 Local Decision Making and the Barkly Regional Deal

The Barkly Regional Deal (BRD) reflects a regional approach to the LDM Framework. In August 2018 LDM workshops were held in Tennant Creek with the Department of the Chief Minister (DCM), the Barkly Regional Council and the Barkly Regional Coordination Committee. It was agreed that Barkly Regional Council would partner with DCM to progress planning towards a regional approach to LDM.

Also listed under the Barkly LDC initiatives are:

[22] Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0010/494893/ldm-community-control-continuum.pdf
[23] Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0005/595796/groote-archipelago-ldm-agreement.pdf
[24] Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0006/708585/galdm-agreement-hip.pdf
[25] Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0005/708584/galdm-agreement-edip.pdf
[26] Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0004/708583/galdm-agreement-ljrip.pdf

- the Department of Education's three-year plan which includes the establishment of Local Engagement and Decision Making (LEaD) committees in 34 remote community schools in 2019 with a further 20 to be established in 2020, and
- the NT Police trial of Service Level Agreements with communities to ensure police services are based on the specifics needs of the community. These include Tennant Creek and Alpurrurulam.

However, neither of these initiatives is specific to the Barkly. It is also difficult to see how Service Level Agreements related to the needs of the community will operate in Alpurrurulam when there have been no police stationed there since January 2019.

Separate but connected to the NT LDM process, there is the Federal Government's commitment to Regional Deals. These are described as bringing 'together all levels of government around a clear set of objectives. Deals are tailored to each region's comparative advantages, assets and challenges and reflect the unique needs of regional Australia. Regional Deals support a place-based approach by putting community-identified priorities at the centre'.[27]

The ten year $78.4 million BRD was launched by all three levels of Government on 13 April 2019.[28] It is the first of the Federal Government's planned Regional Deals. As background, in December 2018, the Federal Minister for Regional Services, Sport, Local Government and Decentralisation, the NT Chief Minister and the Barkly Regional Council Mayor signed the BRD Statement of Intent[29], and made a joint commitment of $60 million to support the Deal. According to the Statement, the $60 million investment was planned to address local priorities and was negotiated between the Commonwealth and NT Governments, the Barkly Regional Council and the broader community, including Aboriginal leaders and communities.[30] Prior to the announcement of the Statement of Intent, a consultation report was released in October 2018 based on community consultations in Tennant Creek, Ali Curung and Mungkarta outstation to discuss the proposed priorities for the BRD.[31] A further round of consultations including in Epenarra, Canteen Creek and Alpurrurulam took place in December 2018.[32]

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[27] Source: https://www.regional.gov.au/regional/deals/
[28] Source: https://dcm.nt.gov.au/__data/assets/pdf_file/0007/682981/barkly-regional-deal.pdf
[29] The Statement of Intent identified priority areas for the Barkly Regional Deal and include: **economic development** (investing in local job creation; promoting business growth and attraction in tourism, agribusiness and mining; attracting industry investment; and developing a local workforce strategy); **social development** (addressing overcrowding and increasing the supply of housing; strengthening family functioning and wellbeing; improving education and training outcomes; strengthening community safety; and improving the collaboration, coordination and accountability of services across the region); **cultural and place-making** (strengthening community governance and Aboriginal cultural leadership; revitalising towns and communities by improving local amenity and investing in community infrastructure; and promoting and marketing local events). Source: https://ldm.nt.gov.au/__data/assets/pdf_file/0005/667310/barkly-deal-statement-intent.pdf
[30] Source: https://ldm.nt.gov.au/about-ldm/barkly
[31] Source: https://www.regional.gov.au/regional/deals/files/BARKLY_PUBLIC_REPORT.pdf
[32] Source: https://www.regional.gov.au/regional/deals/files/BARKLY_PUBLIC_REPORT_December.pdf

The $78.4 million funding for the BRD includes: $45.4 million from the Australian Government; $30 million from the NT Government and $3 million from the Barkly Regional Council. A total of 28 economic, social and cultural initiatives are to be implemented across the Barkly region as a result of the BRD.[33] Of the total amount earmarked for the BRD, $37.97 million is for economic development, $31.75 million for social development and $8.65 million for culture and place-making.[34]

Many of these initiatives potentially impact, either directly or indirectly, on legal need, access to justice and demand for legal services. For example, some of the key initiatives in relation to young people relate to the building of youth facilities in Tennant Creek, Ali Curung, and Alpurrurulam, crisis youth support and accommodation and the building of a youth justice facility in Tennant Creek. These initiatives may decrease demand in the criminal justice sphere.

Housing is also recognised as a key potential contributor to a range of more positive social outcomes. Reducing housing overcrowding is an important component of the BRD. The BRD notes that 'a "housing first" approach has been adopted for the Barkly Regional Deal because without attempting to reduce chronic overcrowding, other long-standing social and economic challenges in the Barkly region are unlikely to improve'. [35] The Visitor Park in Tennant Creek, the Aboriginal Hostels multi-purpose accommodation facility, the expansion of social housing and affordability trial, the expansion of aged care support services, and crisis youth support and accommodation are all part of the economic and social development programs.

Some initiatives including the justice infrastructure investments to upgrade the Tennant Creek watch-house facilities to support families and legal staff to visit prisoners, an Elders in court program, the installation of video-conferencing in Alpurrurulam and other locations,[36] and the investment in community mediation are likely to directly impact on the criminal justice system. The establishment of crisis youth support and accommodation may increase access to bail.

Other impacts on legal need are potentially more speculative, including proposals to increase Aboriginal employment. Another example is the establishment of an Arts Centre in Elliott which may impact on the need for legal advice around intellectual property.

The Barkly Governance Table (also referred to as the Barkly Leadership Table) will oversee the implementation of the Barkly Regional Deal. Funding committed under the Barkly Regional Deal will be used to establish a 'backbone team' to provide secretariat, advisory and support services to the Governance Table. The interim Barkly Governance Table includes two nominees (one of the two is an alternate member) from the Patta Aboriginal Corporation, the Cultural Authority Group, Combined Aboriginal Organisations Group, the Barkly

[33] For a summary see: https://www.regional.gov.au/regional/deals/files/Barkly_Regional_Deal_Fact_Sheet.pdf
[34] Source: https://www.regional.gov.au/regional/deals/files/Barkly_Regional_Deal_Fact_Sheet.pdf
[35] Source: https://www.regional.gov.au/regional/deals/files/Barkly_Regional_Deal_20190413.pdf, p. 21
[36] Source: https://www.regional.gov.au/regional/deals/files/Barkly_Regional_Deal_20190413.pdf, p.19

business community, the non-government sector, youth, and two members from each of the Barkly Regional Council, Northern Territory Government and Commonwealth Government.[37] Meetings of the interim Barkly Governance Table were held in February, May and August 2019. The latter meetings held after the release of the BRD have been to 'oversee implementation progress and refine working arrangements to ensure genuine community engagement'.[38] The final structure for the Barkly Governance Table is still being developed and is expected to include improved representation from the broader Barkly region. The interim Barkly Governance Table has established (or is in the process of establishing) five Working Groups to support the practical implementation of the 28 initiatives from the BRD, as follows:

Group 1. Regional Workforce Strategy

1.1 Regional Workforce Strategy
1.2 Maximising Aboriginal employment

Group 2. Youth Infrastructure and Services

2.1 Justice infrastructure investments
2.2 Crisis youth support
2.3 Safe places and accommodation
2.4 Trauma informed care

Group 3. Economic Growth and Support

3.1 Barkly Business Hub Economic growth strategy
3.2 Barkly Mining and Energy Services Hub

Group 4. Construction and Service design of a Youth Justice Accommodation Facility and Service Model (stand-alone project)

Group 5. Tennant Creek Visitor Park (stand-alone project)

5.6 Local Authority Groups

Local Authority Groups (LAG) represent local communities and towns in the Barkly region. They advise Council on service delivery plans and provide specific advice on Council community and social projects that can improve the life of residents. Local Authorities Groups also alert Council to new and emerging issues in the community. The LAGs meet monthly with the mayor (ex-officio member), the local area manager and others in attendance. The agenda for the meetings largely focusses on local council issues, but also

[37] Source: https://www.regional.gov.au/regional/deals/files/Communique-Barkly_Regional_Deal_FINAL.pdf
[38] Source: https://www.regional.gov.au/regional/deals/Barkly.aspx

includes updates on the BRD and other matters.[39] The Tennant Creek Local Authority Group is also represented on the Barkly Governance Table. LAGs exist in all the focus communities visited for this Report, with the exception of Canteen Creek.[40] Canteen Creek is independent of Barkly Regional Council.[41]

[39] For example, when we attended the Local Authority meeting in Alpurrurulam the police superintendent from Tennant Creek was in attendance (as requested by the LAG) to discuss policing issues. Minutes from the Local Authority Group meetings are available at https://www.barkly.nt.gov.au/communities/ali-curung
[40] Source: https://www.barkly.nt.gov.au/communities/ali-curung
[41] Canteen Creek has its own Aboriginal governance, Canteen Creek Owairtilla Association.

6. CIVIL AND FAMILY LAW ACCESS TO JUSTICE: FOCUS GROUP AND INTERVIEW DATA

In this section of the report we discuss the results from the Focus Group questionnaire and our interviews with stakeholders in the eight primary locations identified in the Barkly, as well as additional stakeholder interviews in Darwin and Alice Springs.[42] Data gathered during focus groups is set out in **Appendix D**.

The prevalence with which legal areas were identified as an issue by participants is shown below in Table 6.1 and Figure 6.1.

Table 6.1 Legal Needs of Focus Group Participants

Legal Area	All Participants		Females		Males	
	No	%	No	%	No	%
Housing/Tenancy	57	67.9	28	68.3	29	67.4
Neighbours	31	36.9	12	29.3	19	44.2
Wills (need assistance)*	34	44.7	17	45.9	17	43.6
Victim of Violence (Compensation)	2	2.4	0	0	2	4.7
Stolen Wages/Gens	2	2.4	0	0	2	4.7
Employment	9	11.0	2	5.0	7	17.7
Social Security**	25	34.2	8	22.2	17	45.9
Family Law: Child Residence /Contact/Support	9	10.7	4	12.2	5	9.3
Child Protection	7	8.3	3	7.3	4	9.3
Discrimination	33	39.8	7	17.1	26	61.9
Accident and Injury	7	8.3	0	0	7	16.3
Education***	12	37.5	8	44.4	4	28.6
Credit and Debt	26	31.0	17	41.5	9	20.9
Credit Reference, Loan Guarantor, Bankruptcy	3	3.6	3	7.5	0	0
Financial Institution/ Super	14	16.7	4	9.8	10	23.3
Insurance	4	4.8	1	2.4	3	7.0
Scams	10	11.9	8	19.5	2	4.7
Other consumer problems	7	8.3	6	14.6	1	2.3
Other non-criminal problems	5	6.0	3	7.3	2	4.7
Criminal law matters	16	19.8	1	2.5	15	36.3

N=84 participants with the exceptions of wills, social security benefits and education noted below.

* The number and percentage identifying the need for assistance in completing a will is drawn from the number who had not completed a will (72) with 2 exceptions.

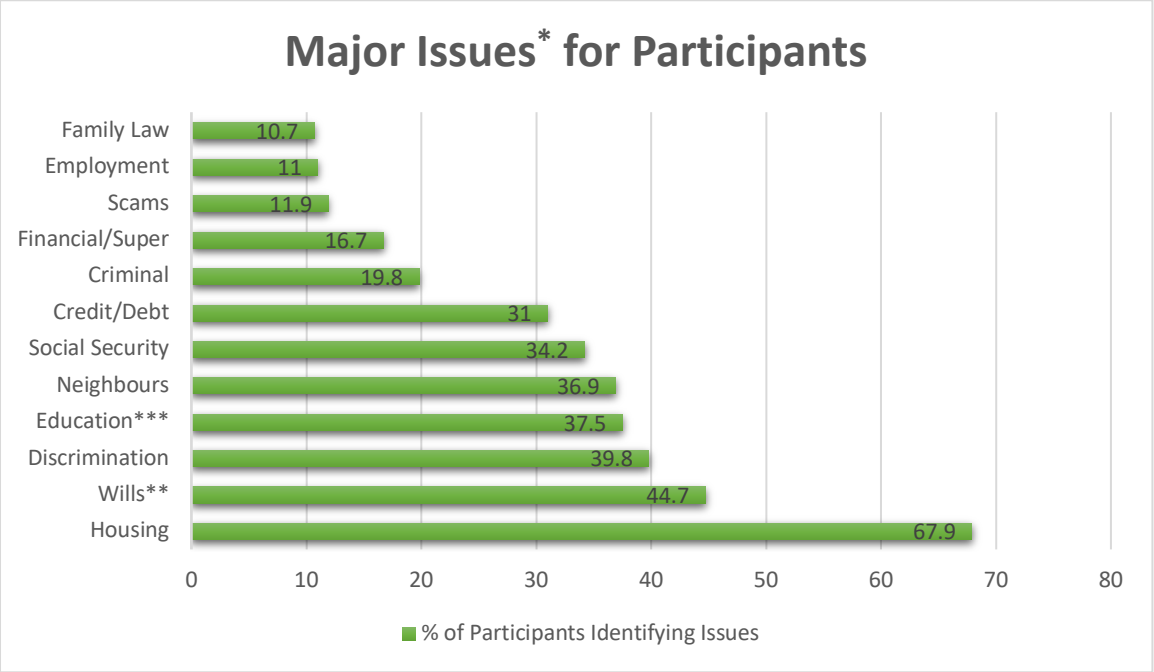
** The number and percentage identifying a social security issue is drawn from the number who identified being in receipt of social security benefits.

*** The number and percentage identifying an education related issue is drawn from the number who were responsible for a child in education (32).

The major legal issues for participants in order of frequency of identification were: housing, wills, discrimination, education, neighbours, social security, credit/debt, criminal, financial/superannuation, scams, employment and family law.

[42] See Appendix A for list of interviews.

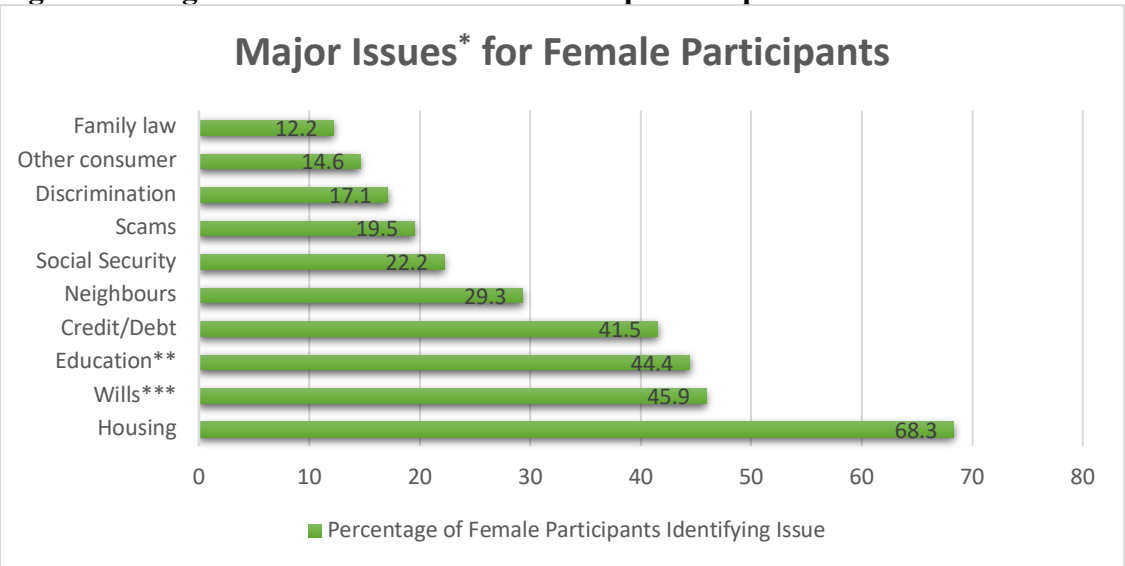
Figure 6.1 Legal Needs of Focus Group Participants



* Identified by 10% or more of relevant participants.
** Note this % is of participants who had not completed a will (rather than % of all participants) and identified the need for assistance in completing a will.
*** Note this % is of the total number of participants who were responsible for a child in education (32) (rather than % of all participants) and identified an education related issue.

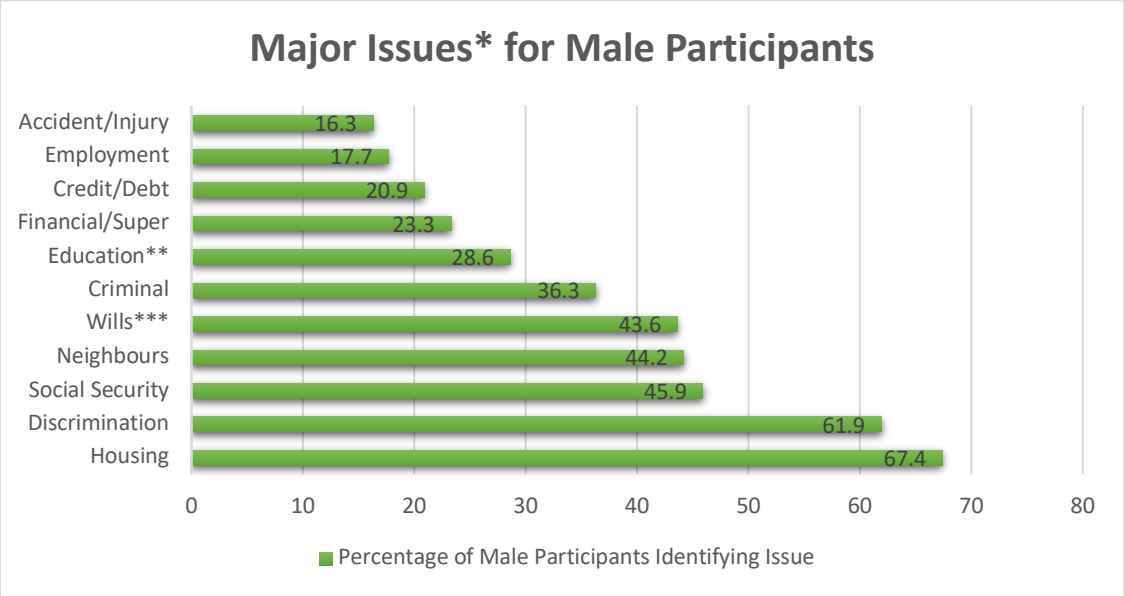
Figures 6.2 and 6.3 show the major areas of legal need by the gender of the focus group participants. We have shown legal need in areas where they were identified by more than 10% of male and female participants respectively.

Figure 6.2 Legal Needs of Female Focus Group Participants



* Identified by 10% or more of relevant participants
**Note this % is of the total number of women who were responsible for a child in education (18) and identified an education related issue.
*** Note this % is of female participants who had not completed a will and identified the need for assistance in completing a will.

Figure 6.2 Legal Needs of Male Focus Group Participants



* Identified by 10% or more of relevant participants
**Note this % is of the total number of men who were responsible for a child in education (14) and identified an education related issue.
*** Note this % is of male participants who had not completed a will and identified the need for assistance in completing a will.

There were some similarities across gender with housing being the most frequently identified area of need for both groups (68.3% men, 67.4% women). The requirement for assistance to complete a will was also similar for both groups (43.6% men, 45.9% women).

While neighbour issues (noise, animals, fences, etc) were identified by more than a third of all participants, the issue was of more concern to men (44.2%) compared to women (29.3%). Similarly, social security issues were of more concern to men (45.9%) than women (22.2%). For women and men who were responsible for children or young people in education, a significant proportion of both groups (44.4% women, 28.6% men) had encountered issues at school such as bullying. However, this issue was rated more highly by women.

There were several major differences in legal issues for women and men. Discrimination was seen as much more of an issue for men who rated it as the second most prevalent problem after housing (61.9%). Discrimination was still an issue for women (17.1%) but relatively well down the list of problems. Women identified credit/debt as a problem (41.5%) at twice the prevalence of men (20.9%). Scams were also more frequently identified by women (19.5%) compared to men (<10%). Other areas which rated relatively highly for women included other consumer issues (14.6%) and family law (12.2%). Both these were identified by <10% of men.

Areas of legal problems which were more prevalent for men but which rated less than 10% for women were financial/superannuation (23.3%), employment (17.7%), and accident/injury (16.3%).

6.1 Housing

Consistent with other research on Aboriginal and Torres Strait Islander legal need, housing emerged as *the* major issue confronting Aboriginal people in the Barkly. [43] The impact of housing issues on other civil and criminal legal problems was clearly articulated. 'Well, most civil legal issues and definitely a lot of criminal legal issues flow from housing. So it's the first one to sort out if we've got any hope of resolving the other issues' (stakeholder organisation).

The problems associated with housing are primarily tenancy related and generally about public tenancies rather than the private rental market. As shown in Table 1.1 (Appendix D) over two thirds of focus group participants identified experiencing a housing (tenancy) related issue (67.9%,), with male and female participants identifying problems or disputes in this area at almost the same rate (67.4% of men and 68.3% of women).

Participants were asked to identify the type of tenancy problem encountered. The most common issue identified was repairs and maintenance (33/80 responses, Table 1.2). The prevalence of these problems was confirmed in stakeholder interviews.

> Damage to property: that's a big one. Families come in, drink, damage the leaseholder's property and then they're copping a massive debt which can preclude them from getting future housing. Community member

> Had aircon problems, not getting fixed. Going to bed with wet clothes on and fan, then got pneumonia. Another issue - ran over water meter or pipe. Tenant didn't feel comfortable contacting power and water to get it fixed. They've had no water for a long time. Community member

> The repairs and maintenance done by non-Indigenous people is below standard. For instance, if they take louvres out to fix a window they just use perspex. So you can't get any breeze going. They don't care. They just use the plastic. They fix up showers and straight away, next week, it's broken again. Air-cons. You have to wait so long to get it fixed. There should be somewhere for people to go, to make people accountable. Community member

> We had a patient who got a very, very bad case of gastro to the point where the clinic flew them out. And that patient's toilet doesn't work. The nurses happened to pick the patient up from their house and the toilet was not of a state where anyone would want to be going. So, the patient was sent out on the airplane. We made urgent contact with Housing and they said they would send someone around. We've brought the patient back from Alice Springs and we've deposited them back into the same housing. And, as far as

[43] Cunneen and Schwartz (2008); Allison, Cunneen, Schwartz and Behrendt (2012); Schwartz, Cunneen and Allison (2013); Cunneen, Allison and Schwartz (2014a); Allison, Cunneen and Schwartz (2014).

> we're aware, nothing has changed. And that impacts on what we're trying to do because we can't be sending out a message, "Wash your hands. Wash your faces. Have a shower every day," if those facilities aren't working. And now that we know who to contact we can contact them but we're not getting feedback back as well. Stakeholder organisation

> There are houses without working cookers, there are houses without working bathrooms … There's water leaking from the hot water system. Continuous … The community don't pay for water … I think the water is supplied to the houses. It's leaking from the roof … through the house. And even if this guy doesn't have to pay for the water he has to pay for the electricity. And so, if there's water leaking from the hot water cylinder, you're putting more in so you've got to be constantly heating it. And everyone's on pre-paid power out here … So there's none of the, like we might have, in the coastal communities where the power bill comes at the end of the month and you pay for it. It's, if you don't have the money to put into the meter, you don't have it. The power cuts out! Stakeholder organisation

> I also am not entirely sure it's appropriate that we're waiting for plumbers or sparkies to come out from Tennant Creek. Anecdotally, I've heard that the service in Tennant will wait until there's two or three jobs to do out here [to come]. Stakeholder organisation

Other common issues identified were overcrowding and rental arrears (or other rent related issues) (16/80 and 14/80 responses, respectively, Table 1.2).

> Overcrowding is a big problem. We have 3 bedrooms and have a daughter in one room, one in other room, their partners, still got my granddaughters sleeping in the kitchen. 12 in one house. This is a common thing. They said room to breathe, they told us it was happening in July June. Nothing yet. Community member

> There's always a wait list for housing - but we're dealing with thirty people in a three-bedroom house with one toilet. Now our community members on staff have said that there's been some talk about - what was it? Room to Breathe?[44] They did something but not really - it's not enough. They put in an extra toilet and shower. And another room. Just one more room... Two or three houses they did; that's all. Stakeholder organisation

> The patients that we're talking about aren't even registered on their lists of people waiting. So part of that is: How do I get on a list to wait? I don't know how. I didn't know that that needed to be done. I don't know who I would access as a community member to say, "Look, actually, I'd kind of like a house." Stakeholder organisation

> Someone passes away [and the tenancy is lost], [the family] have got nowhere else to go. They go into tin sheds. Housing is not helping to relocate them to another house,

[44] See https://ourfuture.nt.gov.au/about-the-program/room-to-breathe

temporary housing. I think it's about how housing is working. It looks like there are plenty of empty houses in town. But a 10 year wait list for housing! Community member

This old lady is still waiting for a house, 9 years. I have to pay rent arrears for two houses too. It's $4000. I have been paying that but after all that, I still don't have a house. [Comes from damage, maintenance or repair]. Housing just writes them a letter. They don't sit down face to face and explain it to them. Community member

You would have heard about ... the housing crisis in Tennant Creek. Constantly assisting clients to get on the priority housing waitlist but I was told by Housing the other day that even on the priority list they're looking at four to six years. [It has got much worse] ... I don't know if it's that there are more people [needing houses] necessarily but they haven't built new houses or made new houses available in years. And so, the existing public houses have fallen into disrepair. So dealing a lot with housing applications, housing debt; like a lot of investigating housing debt and then appealing or challenging that debt. Stakeholder organisation

Overcrowding… 14-20 in house. Some paying debt for housing damage not caused by them. If you are the tenant you take responsibility. That's just the way it is. Lots of fighting around alcohol, damage does get done. Lots of issues with family visiting from out of town, adds to burden of overcrowding and property damage. Stakeholder organisation

[It's also about the] existence of housing. That's probably the primary one. Also, housing for remote Indigenous people who come in to access this service town (Tennant Creek). There's so [many problems that occur] as a result of family coming in and the absence of any transitional accommodation for them - and them, in turn, over-burdening their family links within town. A lot of violence happens from that, a lot of debt. Stakeholder organisation

One community member spoke of major debts incurred, which was attributable to the way the Department managed tenancies. They also detailed how multiple people paying rent means community members are paying a lot for each (dilapidated) house.

If you've got four adults in the house, all paying $250 a fortnight. That is true. They don't tell them how much to rent the whole house for 2 weeks or the month or whatever. All these people paying $100 or something. All the money adds up. That house I'm in, water leaking for 2 weeks 3 weeks…! They take $238 from my wages and $166 from my Centrelink and then my daughter's paying an extra $120. When those government people came out I was talking to them about that. Community member

Nobody never got any letters saying how much they may owe. Everybody got a big debt out of nowhere. Fell out of the sky. My daughter's is $37,000. Mine is $7000. I

> made her see a lawyer. They cut it right back to $600. I told another one here to see the lawyer. Her's was $17,000. All that time my partner was just getting $31 [taking out a debt for housing and another issue] … They went right back to 2012 and everybody only got notice this or last year. Lots into the $20,000s, everybody just got letters, or they just got told when they're doing inspection - they just had this sheet of paper. You can read it, here a debt… and how much. We talked to the government mob. I asked them to send a letter so people knew what they owed. You'll see it goes back to 2012. They should have told them straight away your rent is getting higher. We got a letter now! They want people to pay money. Nobody's got any money. That's why those debts are building up. Community member

Many interviewees drew attention to the intersection between poor housing and other negative outcomes including debt, health issues, family violence and education. 'Overcrowding causes problems: tired, kids not getting to school, fighting'. Community member

> If there's damage as a result of family violence… [if you can] give them a PROMIS number[45], they will rectify it for free. If we have no report to police, then it's client responsibility or tenant responsibility. Stakeholder organisation

> Not enough housing when women come in accessing our service related to safety. We are limited in what we can offer her. Short term accommodation in refuge, but not a solution. No transitional housing in Tennant Creek short term or back with family. We need transitional housing, a safe place they can go on permanent basis to stay safe. Including for remote community members. Hostel type set up. Stakeholder organisation

> And, on the housing side ... it is really bad in the Territory… there's minimal options for housing… Not all victims of violence want to go to the women's shelter where there could be the in-law of the offender, as well. But there's limited options in the Barkly for housing. You've got really minimal choices, and that waiting list for public housing. And pretty much our clients are sort of living and staying in violent situations, overcrowded housing and all of that ... There could be twenty people in the house and it only takes one person to go off. It's either him or her that gets legal assistance and help but who else is looking after the other 18 people? And there could be children involved as well - witnessing, hearing, seeing violence. The housing situation is absolutely wrong! Stakeholder organisation

Racial discrimination was also raised as an issue in relation to accessing and retention of housing and within interactions between tenants and landlords of both private and social housing tenancies.

[45] PROMIS is an operational system that contains data relating to reported incidents and offences recorded by the Northern Territory Police. PROMIS is used to record incidents that come to the attention of Northern Territory Police and to flag incidents involving Family Violence.

> They put all the Aboriginal people in one area. They don't spread them out at all. And then you see all that tension in that same street, putting all those people together – one house after another. Community member

> [To try and negotiate for] people who are behind in their rent has consistently been unsuccessful. Like they're just, "This is the way it is," and there's no negotiating. So that's a hard one… Aboriginal people cannot get into housing here, private housing, generally, [apparently] because of the conditions the houses get left in … [It's] a tricky one because it's like they tar everybody with the same brush but you can go to so many homes here and they're in great condition. Not everybody runs amuck in their house, you know. Stakeholder organisation

6.1.1 Responses to housing issues

Participants responded to a question asking if their housing-related issue was 'resolved'. A total of 57 responses were provided to this question. In the responses provided, 40 had not resolved their issue, 16 had resolved it, and one had resolved it 'in part'. Reasons provided for non-resolution of housing disputes or problems on completed questionnaires identified lack of knowledge, lack of available housing, and poor or inadequate responses by the Department of Local Government, Housing and Community Development (DLGHCD) and/or their contractors. Comments provided by community members on responses to housing issues are as follows.

- Don't know what to do to apply for a house
- Don't know who to speak with
- Not enough houses
- Talked to NT Housing, they said someone coming but it's been so long
- Said would send repair man but nobody came
- Don't even understand why I have this big debt. It's been coming out of Centrelink money for a long time
- Spoke to Government mob June last year, nothing happened, no room to breathe set up yet

Participants were asked if they had accessed legal help or advice in response to their housing issue. Significantly, only one participant (male) who had experienced a problem or dispute in this area had accessed legal help or advice in response (see Table 1.3).

The bulk of 'help or advice' sought was non-legal, and from DLGHCD and/or the Shire Council and repair contractors. Only one participant had spoken to their local Remote Public Housing Reference Group. These groups were established by the Department 'in remote communities, town camps and community living areas to make sure community and cultural issues are considered in housing decisions.' They give 'government advice' on 'community

feedback' related to 'local community concerns and needs for housing', access to jobs and training in housing construction and maintenance' and 'ideas for planning future housing needs'.[46] Of 30 responses provided to a question asking what other (non-legal) advice or assistance had been sought by participants for their housing issues 24 responses fell within these categories (see Table 1.5). However, seeking help from the Council can be of little assistance.

> At the moment, there's a disjointed effort because the housing is done by NT Housing and out here we've got the Barkly Council but they don't take care of the housing and they don't have anything to do with it. So, it's not even as though we can go to the people that we do know here and say, "This is a problem," because they have to say to us, "You need to direct it back to somebody else." Stakeholder organisation

In some cases, both non-legal and legal service providers may see their role as undertaking advocacy, broadly defined, in this area – particularly in the case of a health clinic when there is such a direct relationship between substandard housing and ill-health.

> So, no advocacy service and no feedback about what's happening. I think the clinic are key stakeholders in this community. If we're trying to shake the tree about the state of these things, I would expect just an email back that goes, "You know what? We haven't been able to send out the, the team but this is what we're doing." Stakeholder organisation

> They stopped the pre-paid power meters here. And so, family come in and just run the power, don't contribute to the bills whatsoever. Power gets disconnected. I've got clients with debts of $10,000 that they're never going be able to pay off. And with no power in the house and sick family members that need to connect oxygen, whatever, that house is completely abandoned, which further contributes to the housing crisis here. There are so few houses and then we have three-bedroom houses that are empty because they can't reconnect the power. So that's another non-legal thing I've been doing, is advocating with power and water for them to reintroduce pre-paid power meters. Stakeholder organisation

Non-legal community-based organisations may provide direct assistance and capacity-building for community members, including so as to avert legal problems.

> So, our Housing Support program is, is to support people to retain their, their housing so they don't become homeless. That's one side. And the other side is trying to get people who are homeless into accommodation, which is so hard here, and negotiate housing debt. Stakeholder organisation

[46] https://nt.gov.au/property/public-housing/housing-in-remote-communities/remote-housing-reference-group. See also https://dlghcd.nt.gov.au/__data/assets/pdf_file/0006/266073/Housing-Reference-Groups-policy-RELEASED-31-01-2017.pdf

Legal assistance is also clearly important and shows how debts attributed to tenants may be questionable.[47] 'Generally, with debt, we're not having to go to court. As soon as we lawyer-up, we're getting a great outcome.' Stakeholder organisation

There is clearly a deep problem of accessing housing in the Barkly and this has been recognised in the Barkly Regional Deal. This is one of a range of issues that really requires a policy response and there is only a limited effect that a reactive legal response can achieve in terms of addressing what is a systemic problem. This point was not lost on legal service providers.

> It's one of those really systemic issues that I can only help with in a really limited way, unfortunately. … [So, with] overcrowding and trying to get people access to housing [it's a policy related issue]. Stakeholder organisation

> With housing, we'll help them fill in the application but what we've found is, because of the waiting lists - so like 8 years, 7-8 years or 8-10- we can't leave the file open. And the expectation is on the applicant to keep contacting housing otherwise their application will lapse. There's a lot of pressure but then, at the same time, we can't hold them open for that amount of time. Stakeholder organisation

6.2 Neighbours

6.2.1 Neighbour issues identified

Disputes or problems concerning neighbours were proportionately significant. Over a third of participants reported experiencing a dispute or problem in this area (36.9%, Table 2.1). Relevant issues were identified more frequently by male participants than female participants (44.2% of men, compared with 29.3% of women).

Participants were asked to identify the type problems or disputes experienced in this area. The most common issues recorded related to animals, fences and/or boundaries (31/44 responses), followed by noise (10 responses) (Table 2.2). Animals referred to included cattle, donkeys, cats and dogs. These three issues often inter-connected – animals, noise and boundaries or fences. 'I can't keep my dogs in or keep dogs out because there's no fences'. Participants in Canteen Creek, as a further example of this connection, complained that, due to an absence of fencing, donkeys were coming into the community and digging up pipes, causing damages to houses and other havoc.

> We've got a number of dogs in the community. We've spoken with the Council and they've said, "Well, actually, there are no by-laws about dogs out here. So we can't do anything until someone gets nastily bitten, and someone's willing to make a complaint." We've had the police come out and all they can do is have a conversation

[47] See also the Santa Teresa class action discussed under discussed later in report under Strategic Litigation.

with someone else. This community doesn't have by-laws on dog control, on stock control, on other things. It creates an environment that is difficult. …
And a health problem…
We had one week where we had three dog bites. Stakeholder organisation

Whole of community and intra-community disputes may also be more prevalent in some communities at particular times. During the time of the research, Ali Curung, Tennant Creek, Ampilatwatja and Alpurrurulam had experienced recent community disturbances. It causes significant concern to community members. As one community member in Tennant Creek stated 'There's big feuds, there's going to be fatality here soon.' There is recognition of this issue as problematic within the Barkly Regional Deal and $1.65 million has been allocated to developing community mediation, with an initial focus on Ali Curung.

6.2.2 Responses to neighbour issues

Participants were asked if they had sought legal advice or help for the dispute or problem experienced in relation to neighbours. Only four participants had sought legal assistance (three males and one female participant, of the 28 participants responding, Table 2.3).

Participants were also asked if the issue in question had been resolved. Only four of 28 participants responded positively. Those participants called the police, on occasion, and/or talked directly with their neighbours to try to address the issues in question. Those affected by problems or disputes who had not been resolved the problem attributed non-resolution to not knowing where to get help, no help from the Shire, and no proper housing.

6.3 Wills and Estates

6.3.1 *Completion of wills*

Less than one in ten participants had completed a will (8.6%, Table 3.1). Although the numbers are small, male participants were substantially more likely to have completed a will than female participants (14.6% of men, compared with 2.6% of women). Two participants said they were 'not sure' if they had completed a will.

Participants were asked if they had received advice to complete a will (Table 3.2). Five participants responded 'yes' to this question and two responded 'no'. Participants were also asked to indicate who had advised them about completion of their will. Three participants indicated that they had received legal help to complete a will, one had had help from a friend and one from CatholicCare (from a total of five responses).

Nearly half of all participants would like help to complete a will (44.7%, Table 3.3), with a similar proportion of female and male participants wanting help (45.9% of women and 43.6% of men).

6.3.2 Disputes after death

One in six participants identified having been involved in a dispute about an estate after someone had died (15%, Table 3.4). Male participants were twice as likely as female participants to have experienced a dispute related to an estate (19% of men, compared with 10.5% of women).

The bulk of the disputes in question were concerned with burial (6/11 responses). Resolution of the disputes in question was largely sought outside of mainstream law: in accordance with cultural approaches or protocol. Participants spoke of 'needing to listen to the old people', 'listening to Elders', 'listening to old people to direct proper way, according to Aboriginal law'. However, one participant referred to 'not knowing if people have wills when they die or who to see about estates' as underpinning disputes. One issue leading to a dispute was that 'Uncle was buried in wrong area because there was no money to take him back to proper country for burial'. Stakeholders also raised similar issues related to burial.

> But the other big thing here is burials and funerals. It costs a lot of money to get the body out to community. You've probably heard about morgues that aren't effective when the body's sitting there, sometimes for six months. I had a client who passed away and six months later the morgue rang up and said, 'her body's still here.'[48] Stakeholder organisation

Wills and estates represent a significant gap in legal service delivery. At present legal services do not assist with the completion of wills. 'Wills go to a private firm or to the public trustee if it's intestate. A lot of people don't have wills' (stakeholder organisation).[49]

In addition, it was noted by stakeholders that there was a demand for assistance with estates which was not being met.

> Estates are often very small and consist of a personal bank account and potentially a very small amount of superannuation. Because banks have arduous processes to closing bank accounts requiring written forms and photo ID, death certificates etc. clients frequently would come to NAAJA for assistance. NAAJA is not funded to do this work. While Anglicare used to do this work it no longer does. Catholic Care does to a limited extent in Tennant. So there's a real gap in service delivery. Stakeholder organisation

[48] See https://www.abc.net.au/news/2019-06-13/remote-morgues-biohazard-risks-costs-high-territory-government/11203122; https://www.theguardian.com/australia-news/2018/sep/12/six-babies-left-unclaimed-in-katherine-hospital-morgue-inquiry-hears

[49] As noted above, Arts Law 'Living Black' have visited the Barkly on occasion to assist with wills.

6.4 Victims Compensation

Two participants identified being the victim of a violent crime (2.4% of participants). Both participants were male and neither knew of the victim's compensation scheme. This appears to be a very low number and particularly noteworthy because it does not involve any affirmative responses from women. All of the focus groups involved separate groups for men and women, as noted earlier, with the exception of Elliott and Ali Curung. In the separate focus groups the women were interviewed by a female researcher. Overall, we find this an anomalous result given the issue of family and domestic violence which was frequently raised by stakeholders and which we discuss in a separate section of this report. The result is also inconsistent with the findings of the previous research into civil and family legal needs in the NT which noted that 15% of respondents identified being a victim of a violence offence, and the frequency was greater for women than it was for men (Allison, et al., 2012, p.75).

A number of stakeholders commented on the amount of time it takes for compensation claims to be resolved.

> The time waiting [for processing of applications] is still a big issue. We've got one case only this week - because there has been so much staff turnover, they've got new case workers. The previous case worker said, 'it's ready to go to the assessor.' It's an eight-year-old claim, mind you. And then this worker has said, 'we're actually going to give it to the new case worker because I can't manage it anymore. I'm busy' or whatever. So, the new case worker reads it all and says, 'oh, we need X, Y and Z,' so you need to go back to the client and ask them questions. This woman is so traumatised … and she has to answer all these questions?! We've actually declined and said, 'if you guys can't work it out now after eight years, we'll take it to the Director and, if it doesn't go to the Director, it's going to the Ombudsman' because we're so sick of the waiting. Eight years! If we even ask this woman questions again – do you think she can remember back to such and such a year, let alone the day and the event [which involved a death]? So, what are we doing here people? Let's be real. And this is a constant, constant issue ... [It] is not uncommon. Stakeholder organisation

> Legal service providers constantly informally talk about the volume of Victims of Crime matters, and there is such a huge backlog of VoC files being processed by the Department that there's a three year wait on files. Staff have been directed to look only at backlogged matters pre-2016 so we are talking years and years for people to wait before receiving any compensation. This makes it difficult because (like with the housing applications) you can't keep files sitting dormant for that long, so it becomes incumbent on clients to chase these matters up with VoC over years. Stakeholder organisation

6.5 Stolen Wages/Stolen Generations

Only a small percentage of participants identified as being members of the Stolen Generations: 2.4% of all participants, or two individuals, both of whom were male (4.7% of men, Table 5.1). No female participants identified as members of the Stolen Generations. The small percentage was also influenced by the age of the participants in the focus groups. As noted previously in the project methodology, some 83% of participants were under the age of 55 years.

A somewhat larger proportion of participants identified an entitlement to compensation for Stolen Wages/Aboriginal Trust Fund money (6.0% of participants, Table 5.2). Male participants were a little more likely than female participants to identify themselves as having this entitlement (7% of men, compared with 4.9% of women).

Participants were asked whether they had received advice about making a Stolen Wages or Stolen Generations claim. No participants reported pursuing any claims (of five responses to this question).

6.6 Employment

Around one in ten participants identified a dispute or problem related to employment (11%, Table 6.1). Although the overall numbers were relatively small, male participants were over three times more likely to identify an issue in this area than female participants (16.7% of men, compared with 5% of women).

Reasons for employment disputes or problems were primarily about payment of wages, followed by superannuation (Table 6.2). Participants indicated that they had not been paid 'properly at night patrol, aged care and the shop', for instance. Superannuation issues raised related to disputes over missing superannuation, or changing super from one provider to another without the participant's consent. Superannuation is also identified in responses to questions related to consumer law, under disputes related to financial institutions [see below].

A stakeholder noted that, 'another really big thing that comes up is employment …. Unfair dismissals and so on. We do a lot of employment [matters,] unpaid wages' (stakeholder organisation). Also noted in relation to employment was the problem with obtaining working with children clearances (Ochre cards).

> Employment. Access to employment, obtaining clearance through the NT screening authority to work with children, is a requirement for many jobs, even if you don't work with children. Most employees want you to have an Ochre card so that, in the course of your employment, when you do interact with children, you have the appropriate clearance. A lot of male clients have made applications for Ochre cards - females as well. Their applications don't go straight through and the screening authority want to see some further material in relation to past offences and safety concerns. If there is a safety

> concern, the screening authority will want to see what the person has done to address the issues. That's something that can be quite difficult because there a very few programs available in Tennant Creek to address NT screening authority concerns. Stakeholder organisation

The bigger issue in many communities (and one which impacts on the extent to which participants identified employment-related legal problems) is access to employment – the fact that there are few opportunities for employment.

> We got CDP, Shire only got certain people working there. People are just working for top up. I want them to have a job so they can pay taxes, working for superannuation. They've got a future. Community member

This problem is reflected in the community profiles presented in Section 2 of this report. For example, the unemployment rate for Aboriginal people in Arlparra is 72%. It is also reflected in the number of people on Centrelink payments [see below]. As some stakeholders noted, the issue of employment is not a legal issue per se but rather one related to community development and economic development.

6.6.1 Responses to employment issues

No participants identified that they had resolved their employment dispute or problem, or that they had received legal or other advice or help to resolve an issue in this area.

Stakeholders have noted that assistance with superannuation is a gap in legal service delivery, although it was also noted that a lawyer was not actually required to deal with many of the problems arising. 'A big problem everywhere is superannuation enquiries that we don't do, that there's a pretty huge need… a huge need, actually' (stakeholder organisation).

> Super has not been very clear because nobody's funded here to do it. It's always a bit of a grey area. But we've had some people respond to our cries and respond to Lutheran Community Care and CatholicCare's cries for help, because they also can deal easily with the financial services. They should actually be the ones dealing with these matters. *You do not need a lawyer for this*. We have Maurice Blackburn we can refer to. We're trying to [have them] come here and have a super period in each year. Maurice Blackburn will locate your un-claimed super for free, but they won't necessarily progress it the full way through to recovery. We can get our clients that initial assistance and they can decide whether it's worth pursuing further. Some private lawyers who came here, just ad hoc, said, 'I'm working with Lutheran Care to help get peoples' super, because they've sniffed around and they thought they could, because of income protection insurance, there can be some money in it for them, quite frankly. They're interested to help from that respect. I'm referring them [inquiries] to Lutheran Care at the moment… I've spoken to that private lawyer and I know that they're going to get a referral to them. And they'll go the whole way because we end up – for example, one of my clients

> wanted to get her $6,500 and it's like, if I referred that to Maurice Blackburn… there's no way it would have been done before she passed away. So… we end up doing stuff there. But we're not funded to. So that need we're looking at to be met by private lawyers who can come here periodically and do like super trips… and just see everybody. Stakeholder organisation

6.7 Social Security

The vast majority of participants identified being in receipt of social security benefits (88.1%, Table 7.1). Female participants were four percentage points more likely than male participants to be in receipt of benefits (90.2% of women, compared with 86.0% of men). Nearly three quarters of those in receipt of benefits reported being subject to income management (Table 7.2) and female participants were slightly more likely than males to fall into this group.

Slightly more than one third of those participants in receipt of benefits identified a dispute or problem related to Centrelink payments (34.2%, Table 7.3). Male participants were more than twice as likely to experience issues in this area than female participants – 45.9% compared to 22.2%, respectively (Table 7.3).

Participants were asked to describe the problems encountered. The most common issues identified related to being cut off benefits and overpayments/debt (9/21 and 7/21 respectively, Table 7.4). Women were more likely to identify overpayment/debt as the problem and men were more likely to identify being cut-off benefits. Questionnaires recorded comments on Centrelink issues, including the following:

- Owe money so they won't give me an emergency loan
- No computer, waiting long time on the phone
- Can't access computer. Have to go to office and wait for hours
- Debt incurred because husband working
- Cut off payment, aged over 50, but still required to satisfy work for the dole requirements
- Cut off payment for missed day's work

Stakeholders linked issues with Centrelink including emergency payments as negatively impacting on the ability to leave violent partners.

> And, if you go to Centrelink and ask for an emergency payment, it is only the equivalent to one fortnightly payment. They actually say that's to set up a new home. So - $400 to move, pay for your bus fares, get somewhere else to live, with three kids in toe and food. It's completely nonsense. It's an absolute nonsense. Stakeholder organisation

Similarly, income management was discussed in the following terms.

> [Income management is] just lateral violence happening again from our government, pretty much. Living remotely and on income management, how can you have full control of your finances to escape any violence [or to address medical issues] - if you needed to go to a main hospital area? So, it's just fuel costs, all of that. It's just wrong. Stakeholder organisation

Other issues discussed include the lack of face-to-face contact with Centrelink on remote communities (see Chapter 4), being cut off and not accessing benefits.

> Some are looking after their grandchild and not getting money. One lady she's had a child since she's a little one. She brings her to school every day. She doesn't get money for that child. Community member

> Mostly people are calling participation mob. Sometimes they won't answer all day. When money cut off. Tell them what's wrong. Why didn't go to work. Some people don't read and write, hard for them they have to wait for 8 weeks sometimes they just give up and leave it. Nobody got $ to buy food for kids. Community member

> Most people just using the phone. It's a long time you have to wait and when lunch comes Council tells everybody to get out. It's a little area with 2 computers there and phones. Community member

6.7.1 Responses to social security issues

No participant indicated that they had received legal advice or help for issues experienced in relation to social security. Participants were also asked if they had resolved their Centrelink dispute or problem. A majority had not (10 of 17 participants responded to this question). Participants were also asked to describe how the dispute or problem had been resolved or why it had not been resolved. Participants indicated they had paid or were paying a debt off, rather than challenging it. Some participants however, wanted to dispute the debt allegedly incurred: 'Paying it off but want to dispute it', 'Centrelink taking so much money, only have $100 a week left'.

CAWLS, NAAJA, CAAFLU and NTLAC all note Centrelink in their list of matters they can respond to (See **Appendix B**). CAAFLU has noted the non-legal support they offer to clients in relation to Centrelink issues, as follows.

> A Client Service officer will be given certain instructions from our lawyer to then visit our client, to be that support to go to Centrelink – whether to fill out forms, seeing if she is on the right sort of payment - single parent or Youth Start Allowance, or whatever it is…

> We have got a fast-track system now with Centrelink that we've developed which is

specific for our clients. And, if we contact a certain number or ring, or email a certain email, they will let us take our clients in and be directed to the social-worker office so they don't have to wait in line and in public view.

6.8 Child Protection and Family Law Issues

Around one in ten participants identified experiencing a dispute or problem related to children's residence/contact and/or child support (10.7%, Table 8.1). Female participants were slightly more likely than male participants to have experienced an issue of this nature.

Participants were also asked if whether as a result of a separation or divorce they had experienced a problem or dispute about property, money or superannuation. Only one individual (male) answered 'yes' to this question.

The proportion of participants identifying children being taken into care; family taking children and not returning them; and/or problems relating to fostering, adoption or guardianship was 8.3% (Table 8.2). Although the overall numbers were small, male and female participants identified issues of this type at a similar rate (9.3% of men, compared with 7.3% of women).

Participants were asked to identify the nature of the issues experienced. Half of the responses to this question referred to children being taken into care (6/12 responses, Table 8.3). Also identified were residence/contact, including issues involving other family members taking kids away (3 responses), child support (2) and foster or kinship care (1).

Completed participant questionnaires referred to the following types of issues.

- 5 kids taken last year, grandkids: from baby to 10 years, want them back
- Territory Families taken 2 boys into care in Alice Springs, want to see children for regular visits
- A child taken away by family but returned to community now
- Partner threatening her for going for child support
- Has a child with special needs, in a special school in town and also in care. Child hasn't come back to community for a couple of years. Had asked Territory Families for her to come back for a visit. Territory Families refused.

Nine participants responded to a question asking if their legal issues related to children had been resolved. Three participants indicated that the issue in question had been resolved and six indicated that it had not been resolved. One participant indicated that their issue was 'still going on after 7 years'.

Participants were also asked if they had sought legal advice or assistance for issues related to children. Three participants indicated that they had sought legal advice or assistance. They had received assistance from various legal services.

Participants, however, reported other approaches used to try to resolve problems or disputes concerning children. These generally involved contacting Territory Families or child support agencies, but other responses included seeking help from CatholicCare, the NDIS, Jumbunna Institute for Indigenous Education and Research at UTS,[50] and providing evidence at the Royal Commission into the Protection and Detention of Children in the Northern Territory.

6.8.1 Child protection

Stakeholders noted the intersection between child protection and other unresolved issues, such as housing. For example, 'There's all those safety nets that still don't get addressed like housing. It's overcrowded and, you know, you're pretty much set up for fail, really, in the remote regions' (stakeholder organisation). In another community, the problem of restricted areas for drinking, discrimination and child protection was raised.

> I think child protection is the main one. Because you see kids sitting outside the scrub or outside the pub. There are no other services. If the Sports & Rec is closed, then the kids have got nowhere to go. They can't go home because their parents are not there; they're drinking.
> **Do Territory Families come here much?**
> I haven't really seen them come here. There's a problem but it's not, it's not the problem that kids are being taken away… [Then discussion about drinking in scrub as a result of laws, leads to non-supervision of kids outside the drinking area]. There's a native drinking area over there, which I reckon is discrimination. It's stated in the law, in the alcohol law, that you must drink your alcohol two kilometres away from any outlets ... So everyone has to drink over there. So, where that leaves the kids is, I don't know… We found three to four prams of kids sitting outside while their mother and father was inside [the area], gambling and drinking, because they're not allowed to go in there, because the parents can't drink at home like normal humans. I reckon that's discrimination. Community member

Stakeholders also provided comments on issues related to Territory Families and the ability to access to legal services as follows.

> After that incident with the two-year-old and the ex-prime minister coming to town, and the funding was given, Territory Families went in and took about eight kids like, just like that. Actually, there were 15 taken… We weren't there. We're not really scratching the surface with child protection… I think we would love to have more of a

[50] See discussion at: https://www.uts.edu.au/research-and-teaching/our-research/jumbunna-institute-indigenous-education-and-research/our-3-1

presence in Tennant Creek with that issue. Stakeholder organisation

I was just horrified, when I was a granny, that her mother called me that day. The lawyer said the hearing was on that day at 2pm to remove that girl permanently until she was 18. Come 2pm, I went there. What the lawyer said to the mother, you can't change it now. If you want to challenge it now, you have to find another lawyer. I can't do it. I took that to the minister, I sat there with the mother crying. It seemed to go straight from the mother to a white foster carer. I wanted a review of how the process happened. We need a legal service that deals with family here. Community member

You have applications being filed … Often by the time the client has got a temporary order in place, it's at that point that they realise they actually need to go and get legal assistance. And by that stage kids are removed, and lawyers are then involved. But it's all post-intervention. So, it's very hard to actually try and be preventative. Now I don't know whether this new program that they're introducing, Signs of Safety, is going to change how they operate and whether they'll have less removals. I think that's their aim. But it's still a case where lawyers come in post the event. They really should be connecting clients. If they see them and the kids are on the radar and mum needs assistance, refer them. Territory Families should have an obligation to refer people to lawyers. Before they come sweeping in and removing kids, they should be saying, 'look, we've got some issues. There's every chance that we're going to step in. If you don't go and get legal advice and get some assistance, and get some client management, engagement, some kind of support, you could lose your kids. So please take steps. Here are the people you can go and see.' There's got to be an opportunity. Most people don't know what's about to hit them. Stakeholder organisation

Stakeholders noted changes in service provision by Territory Families (see also Chapter 4).

Territory Families have increased their profile this year… We've been back at school eight weeks and I think they've been out at least three times that I can tell. They've made a closer connection with the school - because they've increased their numbers I think in the office down in Tennant Creek. Whereas before we had one gentleman. I think his area was just too big. … I'd say that at least three times - maybe four times - in the last say 2 months, perhaps once a fortnight, something like that … So, there's more of a link. And we feel like our kids are being supported by Territory Families now whereas in 2018, it was basically us trying to look after our kids. Community member

Territory Families… has changed how their staff structure works and how they're accessing remote areas, trying to make sure more professionals are going out with… Aboriginal support workers - going out and working with families … And they're all separated into regions now so that, hopefully, people can get out more regularly. But I think for [this to work] … the NGOs need to be reporting properly so that they can be

> sure that the NGOs who are getting contracted to deliver some of this care to children through the department are actually meeting their expectations. Stakeholder organisation

Stakeholder interviewees also raised issues in relation to the operation of kinship care and out-of-home care.

> In terms of kinship care, if there are allocated or nominated family members, those family members have to contact Territory Families, they have to come into Tennant Creek. And often they don't have use of phone or transport. And, if they don't do it, Territory Families is not active or is not going to try and take steps. So, therefore, kids are farmed off into white foster care instead of saying, 'okay, more effort needs to be made' to connect with these family members. Stakeholder organisation

> The other issue that we find is that, if there aren't enough foster carers or there aren't any kinship carers because of those other reasons, they farm them off, kids to different places. So you've got kids in Darwin. You've got kids in Alice Springs and some in Tennant Creek. Families are being split up all over the country and that is a big concern. Now I know that Territory Families are trying to change all of that and the culture around how they do things but that's still yet to be proved. We still have an extraordinary number of kids in care. Stakeholder organisation

> [Sometimes] parents are trying to do the right thing but they're already in the system… There was a real tricky one where a mother had actually given her children [to] the Lifestyle Solution houses here, which are out-of-homecare houses. So she surrendered her little one to that house while she went in to dry out for three months, and she had to battle and battle, and battle to get her kid out of that system. She said, "But you were just looking [after the child], and I was doing the right thing". It took about 12 months for her to get that kid back. Stakeholder organisation

Basic access to the courts in child protection matters is a serious issue for people in more remote communities in the Barkly when these matters are heard in Tennant Creek. In this respect the Tangentyere Kinship Care model emphasises the role of Aboriginal organisations in decision-making and keeping children within community.[51] Stakeholders noted the need for properly resourcing this approach.

> My concern is that, if it's not adequately resourced, it may fall over. And then there's a whole lot of finger-pointing and, "Look, we tried to give it to the Aboriginal community-controlled organisations and they muffed it." But it should, in theory, address a lot of that. A lot more should come down to that family group conferencing

[51] See the Tangentyere Council, *Children Safe, Family Together* Report. https://territoryfamilies.nt.gov.au/__data/assets/pdf_file/0006/722598/Tangentyere-Children-Safe,-Family-Together.pdf.
https://territoryfamilies.nt.gov.au/news/new-aboriginal-foster-and-kinship-care-model-released.

and things happening on community. Stakeholder organisation

6.8.2 Accessing and gaps in non-legal services (child protection related)

Stakeholders identified some of the particular problems Aboriginal people have in accessing services.

> Territory Families sets the bar. So, they will say, 'you need to go to a parenting program. You need anger management. You need to go to alcohol abuse programs. You make sure you do all these things otherwise you're not going to get your kids'. The issue that we have is: why aren't you helping our clients go to these things and/or at least have accessible programs, instead of saying, 'over to you now'? I understand the necessity for clients to be able to own their issues but often they will own it once they get someone to help them… Our clients don't have watches. They don't run by a calendar or a diary. They don't have computers. They don't get on the phone and say, 'look, I just need to find a parenting program that could work for me and my family.' That is not how they operate so why is Territory Families waiting for them to go and tick the box? I just think there's a real unfairness. We're not dealing with 'sophisticated' white clients who can come in and be able to address their issues, and recognise it, thanks. You need a lot of help and support to get to that. There's a lot of disempowerment. Stakeholder organisation

Stakeholders also noted problems of remoteness and service delivery with respect to non-legal services.

> When I was working out in these remote communities, there were kids being dropped out there by Territory Families with no wrap-around support to the families. And we were having to mandatory report on them again. And so the childcare workers and stuff were having to re-report on this child not being in adequate care because they were so remote. And Territory Families just weren't resourcing out there properly. And, when they were, they thought they were ticking the box of putting the child in Kinship Care but they weren't providing the supports for the person they'd found. And so, it was a real issue with the remoteness. It doesn't get services accessing it very regularly, regardless. So the families aren't accessing NGO services. They're not accessing government services. And the children were falling through the gaps a little bit. And, when I've seen them talk about this new resourcing model, that's still a concern I think. It's great if you guys are going out there more often, sure. You can try and provide that support to those families. But where's all the other support? Half the services aren't funded to deliver remotely or, if they are funded, it's not adequate enough… But, if you're not funding an NGO, like for the work that it takes for that service, the resources, the vehicles, the funding, the staff, there's insurance, all those sorts of things, … it takes a lot of money to be able to run those programs and actually build the presence of staff out there. It's all fine to go, "We're ticking a box of remoteness." Great. But half the time they're not adequately funded to deliver those

> programs so they're not going out regularly enough. They're not building relationships with communities. And then the outcomes aren't there. Stakeholder organisation

6.8.3 Family law

While it is often recognised as a gap in legal service provision, there was comparatively limited discussion of family law by stakeholders. A couple of relevant comments were as follows.

> We haven't even talked about family law. I think access to family law is a gap. It's not known about or accessed as a remedy to address access to children and separation issues. We have a few clients that go through family-dispute resolution. Not a lot. Yet family conflict is one of the main contributing factors to people ending up in the criminal justice system. It's family tensions on top of housing and then the fallout … Stakeholder organisation

6.9 Discrimination

Discrimination was the **second** most common civil/family law issue identified by participants (39.8% of participants, Table 9.1). Male participants were much more likely to identify this issue than female participants (61.9% of men, compared with 17.1% of women). The data points to this being attributable, to a significant degree, to the extent to which male participants identified discrimination by police – illustrating too how legal issues often inter-connect: in this instance, the civil law issue of discrimination with criminal law related issues.

Participants were asked to identify the nature of the discrimination encountered, which was in almost every instance based on race - though one instance of gender-based discrimination (against men) was also raised: discrimination 'against Aboriginal men in family law'. The most common issue raised was policing (18/40 responses), followed by workplace/employment; pubs and clubs (5 responses each); and shops (4) (Table 9.2).

Some of the discrimination in question arose in the context of inter-personal interactions during specific events, but a significant proportion of it concerned practices or policies that impacted across whole communities or on multiple Aboriginal people.

- Really hard on you if you don't send your kids to school
- Low pay for CDEP work
- NTER and changes to Basics Card
- Using the wrong name for Traditional Owners
- All Aboriginal people discriminated against at [named] Hotel (over-charged and not allowed inside, served through side window)

- Aboriginal people overcharged for some goods compared to white people at [named place]
- Racial abuse in the watchhouse, referred to as black dogs, monkeys

6.9.1 Stakeholder Discussions on Discrimination

There was significant discussion around racial discrimination in the stakeholder interviews, which covered both systemic discrimination as well as examples of individuals being discriminated against (which in some cases was the stakeholder being interviewed). Issues covered by the stakeholders included policing, courts, health.

> The discrimination matters are pretty broad. They range from service providers … We've had complaints about the hospital, about the aged-care facility and then I guess the biggest one would be police. You'd be getting the same matter in, it could be a police complaint or it could also be a discrimination matter … Discrimination is racial and disability, lately. Stakeholder organisation

One stakeholder drew attention to a form of collective punishment imposed by police on their community.

> What happened is that the young kids here sometimes break in and then, because [the police officer] is too lazy to do his job, he makes everyone suffer. So he tells the outlets here to don't serve people alcohol until one of the community members come up with the name of the kid or who done it. And so, when anything happens like that, everyone has to suffer, which is bad. I mean that's discrimination – which is wrong. He should get up and go find out who it is. Someone's not going to dob in their own children…That's why he makes the community suffer. I mean that's discrimination. Community member

Complaints about police discrimination covered a range of areas, including apparently arbitrary restrictions on drinking.

> The pubs and the stores outside Elliott [will] not … serve anyone from [the community]. I reckon that's discrimination … If we're in the Barkly and you cross that grid into Katherine region, you shouldn't be dealt with like a Barkly person: you should be covered by the law in Katherine. Simple. Now this is the fight that my people got. They're getting stopped now because you, if you show your ID, it says 'Elliott' [and they are refused service]. Community member

Several stakeholders raised issues of discrimination associated with the Banned Drinkers Register (BDR).

> They had a clipboard and they wrote down your name, what you bought and when you bought it. And they're still doing it while we still get scanned [for the BDR]. I don't understand it… They do it to everyone. Everybody. They do it to everybody.

> Even if you're not there [on the BDR], they still write your name down. When you get pulled drink driving or DVO - domestic violence - or APO, your name goes onto the scanner. If I'm under an APO/DVO and they put me on the banned list. I give my licence. It will say 'no' so then I can't buy it. I reckon it is fair. I think it's fair because, if you do the crime, you do the time. You get your punishment. That's fair enough. It's on your conditions how much the judge gives you… And then, once your condition thing, your name clears, and then you can go [Right I can] drink again, yeah. But it still don't stop. Community member

The issue of police profiling and abuse of police powers were also raised.

> Then another thing that's come up a lot is discrimination, particularly discrimination by police… Lots of racial profiling… The issue with discrimination is more around police profiling at the bottle shops, which is actually a separate process to the BDR. So, they have temporary beat locations where they're standing around and …questioning people before they even get to the counter and have their cards scanned. So that's come up a hell of a lot for me. Stakeholder organisation

> Police complaints are huge in Tennant. I mostly do youth but, of course, the majority of my adult police complaints are from Tennant as well - rough policing, so assaults and batteries. We get a fair number of complaints around police powers. The most obvious one is [police checks] without having the authority to. I've had two recent examples of police, without the young person being on a curfew, checking on the child. So, there were no conditions to enforce but, nonetheless, [police were] taking it upon themselves to [check this] young person. Stakeholder organisation

> People have lots of problems with police getting smart with them. There's nowhere to go to complain about this. You can't complain to police… Police accused me of using my phone in the car. They pulled me up. My work colleague said him, 'she never used her phone'. I said too that I hadn't done it. He said if you keep going I'm going to fine you. Fine me for what? So they try to intimidate you so you won't answer back. They expect, just because they're the law, they're behind the badge… We've got every right to talk back. Community member

Others spoke of the Intervention as being racially discriminatory.

> I reckon the intervention is discrimination, big time. Didn't work. All for nothing. You know, like they put up this big sign, as big as this table… it's facing right on the highway. And it says 'No alcohol. No porn. No drugs and alcohol'. How bad would it be in, in a white neighbourhood? What's the difference? If someone drove past, they'd think, "Oh, look, Aboriginal community. All they do is alcohol, drugs and porn". I reckon that's a big discrimination. It didn't work; I know that's for sure. That failed. Community member

Differences in treatment were also noted in relation to education.

> That to me is like, for example, at school, I inherited a school where to get reports, up until last year, the report system was an open day. And the parents would come in and go, "Here's your report card. Your child's doing really well," but then there's 10 other parents or kids in the room … no privacy. No respect. So, we've changed it. So now - like anywhere else in Australia - everyone has an interview with their teacher on a day that no-one else is around… And they're the little things that our community aren't getting from services such as legal. But anywhere else … I come from Sydney so I'm comparing. And I, personally, believe that as an Australian citizen: you get exactly the same as everybody else in the place. Community member

Disturbing complaints were also raised in relation to discrimination and health in the treatment of patients at the hospital.

> Biggest issue. Biggest issue… If we have a look at their patient care, patients that have to go to Alice Springs say to go and have a baby or medical [treatment]… if you've got 'Aboriginal' on your identification, you're automatically booked into the Aboriginal Hostel or into this other rat-infested place. But if you're identified as non-Aboriginal, you get to stay over here. So, it doesn't matter if you're the same colour, identify as Aboriginal, they assume that I will stay in Sid Ross Hostel. You know what I mean? So they assume a lot about Aboriginal people. I think their policies are flawed and I think that their processes are racist.
>
> Things that are very difficult that would be very easy for a lot of non-Indigenous people trying to get on the bus at three o'clock in the morning [to travel to Alice Springs] would be easy for a household when you've got a car… But, if you live at [named] town camp and you have to catch the bus at three o'clock in the morning [to get to] your medical. So, if you're nine months pregnant, you've got to walk from there at two o'clock in the morning to catch the three o'clock bus, to get to Alice. So, they're [treated] like cattle. That's how it feels like sometimes.
>
> When we look at the processes of the hospital, we had a little girl just not long ago who choked [on something] … and died. Two years old. So they had her on life support in Adelaide. Flown from here to Adelaide. They were back here for a week and the mother was getting distressed so then it went into two weeks. And then they're saying, "We don't know where our baby is". So [I] had to ring around and found that, actually, the baby had got here that day, and it had been a couple of weeks later. You imagine a white family not knowing from step to step. They would be on the plane with their baby. They would be there when that coffin got off. They would be there when it got into the car and come to Tennant Creek. You know what I mean? Every step of the way. So, no communication and they say, "Oh, we've got Aboriginal liaison officers." But one or two for all … So there's a disregard. Doesn't that sound horrible? But it happens way too often.

> "Oh, Sharon, they're turning off the machine because this one's got bugs all in her lungs and, and they've got to turn the machine off." "Well, stop." Like, "What does that mean to you? You know when they turn this machine off she's going to be dead, don't you?". They said she could, she could pass away. She could. You know what I mean? So it's like there's just been too many of these things that you go, "No, that's not right".
>
> Women going and, and having caesareans and ending up in Adelaide Hospital, and going, crying because they've been there for three months now and they've left their little kids here or to go to Alice to have a baby. They've got the baby with them but they've got their two-year-old still here, being cared for. And then finding out that they're on their tenth operation because they've got staph. They've got no idea what staph is, golden staph. Ah! "I've got, I've got the bugs in my guts." That's not right. So, really clear information. Lay it out for people. They jump around with this thing and go, "Oh, well, seriously, I don't think an Aboriginal person would understand golden staph." Well, try them. Most of them have been to high school. You know what I mean? So, it's that pre-conception that they cannot communicate to them or have somebody in the family that can or make sure you've got interpreter services. Stakeholder organisation

We also note that the Aboriginal Justice Agreement *Pathways Report* discusses the significant problem of racism and discrimination in the community and more specifically in the criminal justice system. 'There was also a common perception that there is a strikingly low level of empathy towards Aboriginal defendants, prisoners and clients by some professionals working in the justice system. People saw this as correlating with a poor uptake of, or engagement with, programs and services by Aboriginal people' (NT Government, 2019b, p. 92). Problems that were identified in the consultations included:

- racist or derogatory comments or remarks made frequently about Aboriginal people
- Aboriginal people believing they were treated differently by police, correctional services staff or other professionals because they were Aboriginal
- the failure to be offered or provided with an interpreter
- failure to be provided with culturally appropriate programs and/or interpreters, resulting in a situation in which Aboriginal people could not understand or benefit from a program
- the poor treatment of Aboriginal offenders while incarcerated
- police officers berating and talking down to Aboriginal people
- the failure to investigate matters affecting Aboriginal people diligently or at all (NT Government, 2019b, pp. 92-93).

The Report also notes that Aboriginal people 'identified that racism and discriminatory treatment was not limited to justice agencies and was experienced throughout life, including among government and non-government services, schools, shops and businesses. Aboriginal

staff facilitating the consultations reported experiencing and being exposed to racism and racist remarks' (NT Government, 2019b, p.93).

6.9.2 Responses to discrimination

Participants were asked if they had resolved the discrimination issue they had experienced. Only one participant indicated that the issue in question had been resolved (of 30 responses). Generally, participants stated that problems or disputes were 'accepted' – 'we just put up with it', and/or that raising a complaint, particularly in relation to police, was seen as likely to go nowhere or otherwise have little to no benefit. 'Police complaints system doesn't work'. One participant who identified the NTER and Basics Card as discriminatory also stated that it was 'too big' to do anything about.

Participants were also asked whether they sought legal advice or help in response to discrimination issues. Only two participants indicated that they had accessed assistance: one through CAALAS and one through the Ombudsman (of a total of 29 responses).

Participants also responded to a further question asking if they had sought other (non-legal) advice or help. One participant had sought non-legal help or advice (of 24 responses provided), indicating that 'family' had assisted.

6.10 Accident and Injury

Just under one in ten participants identified having to deal with an accident or injury related legal problem (8.3%, Table 10.1). The percentage of male participants experiencing this type of issue was 16.3% (or 7 individuals). *No* female participants identified having an accident or injury related issue. *All* participants experiencing a problem of this type required medical treatment for their injuries. The issues in question arose in the workplace or through motor vehicle accidents. One participant described being injured whilst 'working at an abattoir, while in prison'.

6.10.1 Responses to accident injury issues

Participants were asked if they had sought legal advice or assistance and four had done so (of 7 responses). Two participants identified that they had sought help from Aboriginal Legal Aid and Maurice Blackburn. The latter matter had been opened in 2015 and the participant indicated that he was 'still waiting'.

6.11 Education

Over a third of participants identified being responsible for a child or young person attending school, TAFE or university, and/or as attending or having attended the latter two institutions in the last two years (38.1%, Table 11.1). Women were more likely than men to fall into this category (43.9% compared to 32.6%).

Over a third of the participants responsible for a child attending an educational institution identified experiencing a problem or dispute related to education (37.5%, Table 11.1). Although the overall numbers are small, female participants in this group more frequently experienced education-related issues than male participants (44.4% of women, compared with 28.6% of men).

The primary issue identified was bullying (6/12 responses), followed by suspension (4). Participants spoke of suspension of a 7-year-old in their care, of a son with learning disabilities who was 'misbehaving', and of a five-day suspension. A further participant said her son 'had problems' and that the Principal spoke to her every day about it.

Stakeholders provided further discussion of truancy and suspension issues.

> Truancy is being prosecuted in Ali Curung, [a] legal issue there. School suspensions too an issue in Tennant. But the Positive Learning Centre just opened which is great. Community member

> You know, if your kids don't go to school, you get a fine then your Centrelink gets cut off. You get suspended and you get a fine - I thought it was $2500 fine, yeah. And then they cut Centrelink off. How are you going to pay your fine? Then the end result is you're looking at gaol time because you can't pay the fine. Community member

> [Suspension and exclusions] haven't been raised. But I imagine that that would be a really big issue here because a suspension or expulsion is effectively going to, , cut someone out of the education system for a period of time. There are so few options for schooling locally. I would like to think they're pretty good in Tennant Creek [with suspensions and exclusions] because there's a pretty progressive principal. Stakeholder organisation

One stakeholder raised issues that showed the potential crossovers between education, disability discrimination and criminal law.

> Someone gave me a letter of suspension that was written to an eight-year-old boy yesterday because he assaulted another boy. I get that. But it made references to all of their Acts and all of that sort of stuff.

> Now there's not enough support there, if we're looking at this eight-year-old who is living in an out-of-home care house, has been in and out of rehab with his parents … So

what he's grown up and seen. So, my question yesterday was, "Okay, that's okay. He has been suspended but what is the school doing to support these behaviours?" So, if you're talking about a child who's suffered trauma. "What have they got in place there that you can support and do at home, like follow up?" Because he doesn't have his parents. He's always been the main care-provider. But one of the big things was the child never even had an opportunity to try and talk and say what had actually happened. So, then the kid sees that's not fair and, "Why would I do the right thing anyway?"

Our school system here is so bad… I'm seeing things getting systematically worse. The school, if those kids are naughty, just chuck [them] down in that ESL class - English as a Second Language class. Put them down there. They're naughty. "They're naughty kids but they're traumatised kids so what are you doing to support 'em? You've got one psychologist there that you share between two schools and you've got a huge population of… kids. And … most of your children have suffered trauma".

So rather than bring in a whole bunch of psychologists or strong, innovative programs, no, what happens is the children disconnect. They don't go to school and then they struggle to catch back up. And then they end up in the system. They end up firstly in our youth diversion and then they end up in the big house… They need to be supported here. They need to be. And it's not all the school's responsibility: it's everybody's. But, when I look at this school here and the bush schools, some are good but [there is] a lot of work to do. A lot of work. Stakeholder organisation

6.11.1 Responses to education issues

Participants were also asked if they had sought legal help for the education related dispute or problem experienced. None of 10 participants who responded had sought legal assistance.

Participants were asked whether the education-related matter in question had been resolved. Nine participants responded no to this question (of 12 responses). Those whose matters were not resolved include participants concerned about bullying. They indicated that the school in question was not 'doing enough', but that it was also an issue parents themselves had to resolve. In this community bullying of children at school had escalated to a fairly significant intra-family, intra-community dispute, with threats of assault and involvement of police. Children were 'kept at home' by participants due to bullying, too.

Non-legal responses to education-related issues included talking directly to the Principal or teacher of the school in question (with varying results), the local health clinic (for medication), and the school's cultural advisor. One participant's issue related to suspension, for instance, was resolved through a health rather than legal response (prescription of medication).

6.12 Credit and Debt

Almost a third of participants reported having a problem related to paying a bill or loan or other debt where a lender had threatened or taken out legal action against them (31%, Table 12.1). Female participants were over twice as likely than male participants to identify issues of this type (41.5% of women, compared with 20.9% of men).

A small number of participants (3) reported problems or disputes related to their credit reference rating; to being guarantor for another's loan; and/or in relation to bankruptcy. Female participants only reported experiencing issues of this type.

The most common types of credit/debt issues experienced by participants related to housing and phone bills and plans (10/25 responses). This was followed by Centrelink debts and unspecified loan issues (6/25 in combination); and utilities and bank related issues (4/25 in combination). Participants spoke of a Telstra deduction that was supposed to be coming out of an account but which had not been set up, leading to a significant debt. A further issue related to an agreement made for payment of a debt related to a phone bill, which the participant was not able to meet. One participant was making double payments for a vehicle, which they thought was then paid off but was repossessed.

6.12.1 Responses to credit/debt issues

Participants were asked if they had resolved their credit/debt related dispute or problem. Only three participants (of 19 responding) indicated that the issue in question had been resolved. The ways in which issues were resolved and/or reasons for non-resolution were also described. These ranged, for instance, from 'didn't know who to talk to', 'don't know how', 'don't know how to fix the problem' to 'spoken to Telstra, problem still there', 'just paid double amount' or 'just paying it off'.

Participants also responded to a question asking if they had sought legal advice or help. All nineteen participants who responded had not sought legal help or advice. No participants indicated, in addition, that they had had sought any other type of assistance with the credit/debt related problems experienced.

> I think there's a good presence of financial counsellors up there now in CatholicCare, which is a real need. Massive need. But I don't know if there's any others, but we work closely with them. Stakeholder organisation

6.13 Consumer

Around one in six participants experienced a problem with accessing or finding superannuation, or a dispute with a bank or other financial institution (16.7%, Table 13.1). Male participants were over twice as likely as female participants to experience issues of this type (23.3% of men, compared with 9.8% of women).

A small proportion of participants identified experiencing a problem with insurance (4.8%, or 4 individuals) and these were mostly men (3/4).

In the other areas of consumer law raised during discussions female participants identified as significantly more likely to have encountered problems or disputes than men. Firstly, just over one in ten participants experienced a problem related to 'scams' or contracts (such as funeral funds, used cars, and so on) (11.9%, or 10 participants). The majority of these were women (8/10).

Although the overall numbers were small, female participants also reported experiencing problems described as 'not getting what you paid for' more frequently than male participants. Overall, 8.3% of participants (7 individuals) identified problems of this type; six of the seven individuals were women.

Participants identified the type of problems they had encountered or experienced, the most common of which were superannuation (access and entitlements) and the cost of goods at the local store (on remote communities) (10 and 6 responses respectively, of a total of 31, see Table 13.5). Superannuation problems were described as trying to access superannuation early, lost superannuation, no details of superannuation so not sure how to find it, want to consolidate super into one account, and an argument over super balance. Phone related issues were also raised (5 responses), as was insurance, scams, and motor vehicle issues (2 responses each). In terms of insurance, participants spoke of not being able to access insurance, 'so I walked away'. 'Tried to get car insurance, but it was declined because of Telstra debt'. Phone issues involved, for example, pushy sales people. 'Mobile phone company keeps ringing to sell me things, sell me a phone'. Scams identified included 'laptop computer, still taking money out of account but never received laptop' and 'someone else using bank account / password to take money out of my account'.

Stakeholders raised various consumer issues they had encountered and the need for ongoing legal and consumer education. 'Cars, that you've identified in this report, are huge. So, buying dodgy cars. I mean that's the same in town. It's pretty much the same everywhere' (stakeholder organisation).

> And phones. Telstra, in particular, phone contracts - which you would have read about in the news. In both Alice, Tennant and around with consumers signing up to these crazy plans that they've no ability to pay back but also don't understand what the terms are. And the phone doesn't work in the community anyway. Stakeholder organisation

> The photographers, when they come through, that's also a big one - when they're wanting to get family portraits done with the kids and everything. There are different companies that come through. There are a lot of family members getting caught up, trying to get their photos and paying bulks of money out, and still having not received any photos. … We were able to get whatever we paid for, for those clients, but there was still quite a bit of money coming out of their bank accounts. It's just hard because they

make it difficult for you to contact anyone. It's all a bit elusive. There's no numbers. It's all email. They come here all the time. Stakeholder organisation

So there still continues to be the purchasing of vehicles and things like that. People not knowing their rights or they're too frightened to actually go back to the car yard. Stakeholder organisation

6.13.1 Responses to consumer issues

Participants, for the most part, had not resolved their consumer related issues, whether through the law or otherwise. Only three participants (of 24 who responded) had resolved their issues.

Participants were asked whether they'd sought help to resolve their issue other than legal help. Most had not (20 of 32 responses). Three participants responded to a further question asking who had provided them with non-legal help for their consumer issues. All had help from CatholicCare.

Participants provided detail about how consumer issues had been resolved or what had prevented their resolution. Eight participants (of 16 participants responding) referred to not knowing what to do, having nobody to help and/or doing nothing about the issue in question. One participant has the required form 'but nobody to help'. He also has 'no ID, no birth certificate'. A further participant noted that 'Legal Aid was helping with my Telstra contract but nobody is helping with my superannuation'. Participants also stated that they were trying to address issues directly: for instance, 'I told them off', 'just fixing it ourselves', 'bank reimbursed money' (4/16 responses).

The one evidence we had of a more strategic approach to dealing with rogue traders visiting communities was through communication among the area managers in the Barkly, 'if there's someone dubious going around'. CatholicCare also noted that they would inform the Council Office in Tennant Creek 'if we get a big scammer coming through'.

6.14 Other Non-Criminal Issues

A relatively small proportion of participants responded affirmatively to a question asking if they had experienced other non-criminal legal issues (6% of participants, or 5 individuals). This is perhaps unsurprising, given that knowledge of civil and family law was fairly limited in the communities visited, making it difficult to identify legal issues in these areas without prompting (which is what the questionnaire completed by participants does).

Female participants were somewhat more likely than male participants to have experienced other non-criminal legal issues (7.3% of women, compared with 4.7% of men, although the numbers for both groups small).

Of the five participants who identified further non-criminal legal issues, three raised issues related to drinking restrictions. 'I.D. required when buying alcohol in Alice Springs', 'banned drinking, public drinking area deemed not safe', woman wants her sons on BDR as 'he has a big drinking problem'.

Two other participants spoke of issues that may or may not be legal (including discrimination). The first was from a woman whose son was admitted into a mental health ward in Darwin. She couldn't bring her son home: firstly, as there was no transport to her community from the Ward and secondly as her home had such poor sanitary facilities. She had no shower, and only an outdoor toilet. The other participant spoke of Aboriginal men in Tennant Creek being branded as paedophiles and rapists.

We also note that two participants raised issues with tax returns in the responses to problems with financial institutions under the section on consumers (section 6.13, Table 13.5).

No participants responded affirmatively to questions related to whether they had accessed legal help or advice, or other help or advice about these issues.

6.14.1 Banned Drinkers Registry and point of sale

Many of the issues associated with the BDR and discrimination were raised in section 6.9.1. However other comments by stakeholders are relevant here, given the BDR was raised by some participants as a 'other' civil law matter.

> And I mean even that example in [named community] where the police officer has got his own banned drinkers register for community members and they're not even a part of the [scheme or program]. Where does he get the power to do that? He doesn't. Exactly. He doesn't have the power. It's just local. The cheek of it. Community member

> That's the biggest issue we've got at the moment [is that] they've all got to go into the scrub [to drink]. And we've had a meeting with the Commissioner. I don't think they've been back here since the last meeting… I think a few years ago now. We voiced our opinion across to these guys about the drinking and the permit system. It's a real issue for us because our people go and sit in a paddock that has no shelter, no toilets, no lights, nothing. The kids will sit on the outside, which is another issue. We have school attendance problems on a Friday… All the people out there, they sleep under the tree… They can't drink in their houses so the kids follow them down there and, if they haven't got someone to look after the kids in camp, then the kids end up outside at all hours of the night. Community member

> We've had deaths here in the community too with run-overs and stuff. Happened along the Stuart Highway. But no-one don't understand the legal side of it all. What do you do? They ask 'what can I do? What can't I do?' The Council or Local

> Authority Group has sent letters off, previously, prior to 2018 and are still waiting to hear back from someone. We are still trying to fix it… to look after the community We try and do our bit but no-one down the other end is getting back to us. Community member

> I think it's fair that people be treated as adults and are able to drink in their own home. If there's an issue then like anywhere else in Australia the law or whoever takes control of it. But to put people in a paddock, it's degrading. I reckon it's disgusting, actually. [Non-Indigenous people in the community don't drink in the paddock]. To me, it's one rule for all. We either all drink in the paddock or we all drink in [our homes]. Community member

Legal services also noted the complaints they receive because of the BDR.

> We get a lot of police complaints around enforcement of the BDR and checking around alcohol. Tennant's got its own alcohol regime as well in terms of how many bottles you can buy of wine and beer. And then [there are] … policing complaints in other places [where it can feel like police officers are] bit of a law unto [themselves]. Stakeholder organisation

6.14.2 Birth certificates and identification

Stakeholder also noted issues with birth certificates and identification.

> [People also need] legal support, especially with name changes. Identifications. Birth certificates. And so quite often, if they're going to put in for superannuation, they have to have all of these things. And then, as we're going through, it just keeps getting bigger and bigger. Maybe they only have one name and all of their identification has all these other names or two names. So you're always going backwards just to go forwards.

Births Deaths and Marriages have visited some smaller communities across the NT offering access to birth certificates without charge. Issues identified in relation to birth certificates, however, include their cost (no subsidy for Centrelink recipients as with other jurisdictions), and community members not having sufficient ID to apply for a certificate. ID is required for multiple legal issues, including but not limited to superannuation claims.

6.15 Criminal Issues

6.15.1 Data analysis

One in five participants identified experiencing a criminal law issue or having been charged with a crime (19.8%, or 26 participants). Only 2.5% of female participants identified being

charged or experiencing a criminal law issue, compared with a relatively high 36.3% of male participants.

The most common criminal law issues identified related to driving offences (9/16 responses). This was followed by the BDR (3/16). Participants also raised public drunkenness and unpaid fines (with no details provided, but this might also relate to driving offences). Comments included: 'Charged with public drunkenness, placed in watchhouse for no reason'; and 'License problem, barred till 2022, $700 fine no payment plan, MVR (Motor Vehicle Registry) won't provide ID card until fine paid'.

Responses to and outcomes of criminal law matters

Fourteen participants responded to a question asking if they had accessed legal help or advice for the criminal law issue or charges. Nine responded 'yes' to this question.

Eight participants then provided details of who had assisted them. Five had received help from NAAJA or CAALAS, and the other three responding had gone to the Centrelink agent in their respective communities, including to organise a payment plan, or to 'NT Debt Recovery'.

Participants were asked if they thought the outcome they attained was 'fair'. Just over half thought the outcome attained was not fair (7/13 responses).

Participants were asked what problems had prevented them from getting an outcome they thought was fair and reasonable. Two indicated that they did not receive paperwork related to court imposed orders and now have to deal with warrants; one participant referred to 'harassment'; and another stated that he needed a licence to work as a supervisor at a local organisation (of 4 responses received). Another issue raised in focus groups by people in more remote communities was that many people do not have the means to attend court – which in some communities can be five or six hours drive away.

6.15.2 IT, postal services and official documentation

Leaving aside problems with language and the use of interpreters (see Chapter 7), there are significant problems with communicating official documentation. This issue was raised specifically in relation to criminal law, however the problem extends to all areas of official communication of documentation. In the focus group discussion with men in Alpurrurulam it was noted by many of the participants stated that they did not receive notification of fines or of summons. A similar point was raised in the Aboriginal Justice Agreement *Pathways Report*. 'There is limited access to post or mail and internet, and so many people aren't even aware when they've received a summons' (NT Government, 2019b, p. 43).

The *Pathways Report* goes on to note that:

> Complicating these matters even further is the fact that the availability of technology, including audio-visual links such as Skype, is limited… The quality of the connections and communication achieved are often poor. The high usage and reliance on mobile phones by Aboriginal clients, rather than landlines, prevents easy access to government and other agencies, when the standard 'free' 1800 or 1300 numbers are not free from many mobile phones. Many Aboriginal people identified that they do not own reliable phones, access to landlines or phone contracts, instead relying on limited pre-paid credit. As a result, Aboriginal people may need to use public pay phones that offer little to no privacy or confidentiality.
>
> Common forms of communication in the wider community, such as email, may also be inappropriate as many Aboriginal clients have little or no access to, or knowledge of, computers or the internet. This can be compounded even further where there are low literacy levels. In addition, emailed communication when clients are using public or shared computers, can place the client's safety and confidentiality at risk. Many Aboriginal Territorians live in areas where there is no post office and no or limited postal service. These factors make two-way communication with service providers and justice agencies problematic, if not impossible (NT Government, 2019b, p. 85).

The problem is particularly pronounced in the Barkly region where, for example, access to the internet is half the rate of the NT in general (see Chapter 2).

6.15.3 Criminal law issues raised during consultations

There were numerous and wide-ranging issues raised in relation to the criminal justice system. These included many complaints concerning policing covering the absence of community policing, slow police responses, poor use of diversion for juveniles, police approaches to prosecution, punitive approaches to breaches of bail and conditions in the watch-house. Various issues were raised in the relation to the courts including access to information, court delays and adjournments, court infrastructure, staff training and the hearings relating to juveniles.

Community Policing

The absence of a commitment to community policing in Tennant Creek was noted by a number of stakeholders.

> Police here in Tennant Creek have in the past been more into straight policing, not community engagement … The ACLOs are supposed to bridge the gap between police and community. Here, they just do policing work. Stakeholder organisation

> It's a big problem here. A lot of disrespect. A lot of unnecessary aggression. And then you get people that retaliate and they end up in big trouble… There's no really nice community policing here. It's a big issue in Tennant Creek. So, when we're looking at closing gaps or having partnerships and friendships… Like we see it, and it's ugly. It's horrible. And, sadly, you might get one or two [police officers] that are like real nice. Stakeholder organisation

> It's a funny old thing in Tennant Creek because you've got this giant police station with all these police but yet I don't think it's done right. So the youth justice detention stats show a disproportionate number of kids in youth detention from Barkly and Alice Springs. So we're still getting policing with arrests *not* as a last resort. There's no real way that we've identified to be able to make police accountable to that. We raised the issues. I think that kind of trickles down to the whole attitude in Tennant Creek. The policing at the bottle shops. We've had a number of discrimination complaints about that. You know, that's all slowly getting addressed. The underlying [problem is] that they want to take a punitive approach and, yeah, it's pretty hard the whole criminal-justice scene in Tennant. There's going to be extra sittings there next year now, which I think indicates an overall increase. I think there's very much a focus on the criminal-justice aspects and not the prevention. We had a client just last week. He was just furious that an 11-year-old kid who wrote his name on a wall and they put him in custody and took it right up to a hearing. And he got the charges withdrawn but just unbelievably bloody-minded sort of approaches to minor things that could be dealt with in so many different ways. Stakeholder organisation

Similarly, community policing was seen as absent in remote communities.

> I think that's the big thing about policing in the NT: we don't really have that community policing model anymore. We have, "You're going to be chucked out to that [remote] community and you're going to have to just suck it up until you can come to a nicer place." Like it's not seen as a good thing or to be part of a community and engage with the community. It's a helicopter placement and then you can go back to Darwin after so long. So they don't see the benefit of taking a different approach than [enforcement].
> **From the discussions that we saw at Alpurrurulam, that's likely to get worse because they were talking about the identification of police in Darwin who'd never worked out of Darwin. Putting pressure on them to go out to remote communities.**
> This is the thing… it's almost like getting placed in the military to go to Iraq or something. You do your tour of duty and then you'll get to come home. And it's just a really negative way to project it. Stakeholder organisation

The problems associated with the absence of a community policing approach spill over into other problems associated with slow police responses, the failure to adequately support youth diversion and approaches to prosecution – all of which we return to further below.

Police Responses and Police Prosecutions

The problem of the inadequacy of police responses was also raised, particularly in remote communities.

> I had a problem with kids …. I went to a couple of families, talked to her and after that she didn't like it. She told her daughter to take a big stick and split my daughter's head. She grabbed a stick and followed me back. Her father was with her too … Then they wanted to drive their car in my house. I called the police – nothing. Then [X] called Darwin. All the people were still stoning my house. They're supposed to be coming once or twice a week but nothing. Community member

> We made a call a couple of weeks ago. There was an incident down at the camp where someone was going to die because they had a knife involved. Two knives, wasn't it? Two knives involved. A bloke had two knives. And we rang the police. It took 'em half an hour to get there and the police station is like two minutes away from the camp. And I had to ring like three or four times just to hurry the police on. And there's children around, and [a dangerous, obviously, dangerous situation] had to be dealt with. Community member

A similar issue concerning the lack police response was raised in the recent Aboriginal Justice Agreement *Pathways Report*: 'People are sick of ringing 000' (NT Government, 2019b, p. 82).

Systemic problems relating to police prosecution of offences were seen to relate to resourcing, in part. Two prosecutors are required in Tennant Creek, according to some stakeholders.

> I know there's communication issues there (Tennant Creek) in terms of trying to resolve matters. [Responses can be slow]. So that doesn't move matters along quickly for clients which, obviously, is something you want to achieve. [And this flows into] more remand, all that sort of stuff … [We have one prosecutor in town who is] … under pressure. Stakeholder organisation

Policing and Breaches of Bail for Young People

The problem of breaching young people on bail conditions and onerous conditions was also raised in the context of policing in Tennant Creek – which was also connected to the lack of bail support programs.

> A lot of youth are placed on very restrictive bail and are being locked up all the time for what could be considered minor breaches… Very onerous conditions being placed on them by police in Tennant Creek and I think that's indicative of some of the policing attitudes coming out of Tennant Creek. Stakeholder organisation

> And it's also a big problem that there's not the backup like Saltbush or that kind of option up in Tennant Creek… Saltbush have tendered and they're waiting to see, I think, if money comes through. That's the youth bail-supported accommodation service in Darwin and Alice Springs. Stakeholder organisation

> But the bail conditions are a really big problem because we get a lenient or a reasonable condition in court but then, if the youth goes and breaches it one time on the streets and the police have the power to release them on a different set of bail conditions from the watch-house, and they're just very strict. They're charged with breach of bail, which is an offence. They're locked up for overnight in the watch-house. Stakeholder organisation

The data for Tennant Creek supports the contention that there is a high level of charges for breaching bail conditions. Between 2013-14 to 2017-18, some 17% of all charges against juvenile were for offences against justice procedures (mostly breach of bail) (Lee, 2018, p. 33).

Conditions in the Watch-house and Young People Held in the Watch-house

The conditions in the Tennant Creek watch-house particularly in relation to interviewing clients and young people being held in the watch-house were raised as a major concern by numerous stakeholders.

> There's no interview room for clients in custody: we see them in their cells, in the watch-house, which is not satisfactory from anyone's point of view given you're sitting in a cell next to a toilet, it's really quite gross. In terms of proper access to a lawyer in a confidential setting, there's not really that happening in the Tennant Creek watch-house. Stakeholder organisation

> Kids from the Barkly region are held in the watch house for excessive periods of time. It tends to be that if they get picked up on a Friday, they'll be held until they can appear for court on the Monday. So they'll be held in a watch house for three days. If they're in Tennant Creek and they're picked up, they'll be held in the lock-ups. And that's co-located with adults, quite often, drinking, and they can hear, and they can see each other. And that's certainly been a major concern particularly where girls have been held in there. Stakeholder organisation

> You've got the cells in Tennant Creek which, you know, you've got the kids next to the adults. It's disgusting. And that's been raised for years and years, and years, and apparently that's all going to be fixed now under the Barkly deal, which is really good. You know, we're still taking instructions from our clients in the cells. There's just no basic infrastructure like that. X goes up to help out in Katherine and it's just [so different]. Fantastic! It's like going to Monaco or something, you know. The

infrastructure just gets overlooked. Stakeholder organisation

The facilities of the watch-house are horrendous for youth. They're directly opposite the adults. And, if it's full, they can be put down in the female section but, if it's full, they're just watching the adults. It's really loud. It's pretty awful. Stakeholder organisation

Diversion and Presentence Conferences for Young People

Various problems related to youth diversion were widely discussed by stakeholders. The two major problems that emerged were the lack of police use of diversion and the absence of diversionary options outside of Tennant Creek and Alice Springs. In relation to policing it was noted that the use of diversion had declined in Tennant Creek.

When I used to go to Tennant Creek, we had a good diversion team. But I don't know what the situation is now. The last few times I tried to get someone on diversion it's been refused by prosecution. Stakeholder organisation

It seems to be very personality-based in that, if you've got a police officer there with a really strong interest in diversion, then they will refer a lot of kids through the program. So there used to be this incredible woman there [Tennant Creek] who used to refer every single young person to diversion. When she left, it just sort of opened up this vacuum. Stakeholder organisation

We used to have higher s. 64 numbers (diversion). The problem is countless appearances until referred [to diversion] then go back to court to hear how diversion has gone. Only 4 young people on diversion, has been up to 45 people. We had community consultation on diversion recently, a new framework with 4 or 5 different options. Tennant is only getting some of these. These options include victim offender conferencing, which is not here but should be. Was working in the past. But they're saying that families won't participate. That's because police facilitate it. Community member

Presentencing conferences are needed here. Not happening. Matt McKinley [Alice Springs] proposed a model. It was not taken up. The Jesuits will do it (Alice Springs based) but want money to do it. Have family and other key people involved, also the victim. Community member

The data for Tennant Creek supports the view that there is greater scope for the use of diversion by police. Between 2013-14 to 2017-18, some 62 % of all charges against juveniles were for offences against property, with a further 17% for justice procedures (mostly breach of bail) and 9% for public order offences (Lee, 2018, p. 33).

A major issue was the absence of diversionary programs outside of Tennant Creek.

Do you have much sense of whether anything's available once you're outside of Tennant in remote communities?
There's really nothing at all… Because a lot of the justice stats will come or police interactions will come in town, then they'll sink a bit of money into responses there. But, unless you're in one of those communities where there is a bit of a focus, then there's really nothing. All of the [Back on Track] funding, and this is the thing that just baffles me, is focused in the major centres – so Tennant Creek, Alice Springs, Katherine, Darwin – and the remote communities aren't getting anything… The youth camp, youth facility that they're going to open in Tennant Creek… as part of the Barkly regional deal… But there's no targeted spending for the remote communities. Stakeholder organisation

Similarly, there was a lack of programs to support diversion.

So is the diversion program itself pretty sound or is it the lack of referral from police? Or are there any issues around the diversion program in itself? I have heard both, like referrals, but also the way that diversion itself works. The people that I speak to are really critical of the way that [it runs]. I think part of it is a lack of other programs to refer them to and the lack of therapeutic programs, and other diversionary programs in Tennant Creek. It's really hard to recruit to Tennant any workforce. I think it's very difficult to recruit and there tends to be, you see the same people popping up in different workplaces around Tennant… I'm not sure that they have the practitioners that they need there in terms of [expertise] in that diversionary space. Stakeholder organisation

Police and Criminal Justice Reform Post-Royal Commission

With this whole law-reform agenda following the Royal Commission, there's a big divide between police and government. And police have really put their flak jacket on and mustered up all the power that they've got. And they've derailed a lot of the reforms that were going to go through or should have gone through next week for the youth justice. That's been police. They've been there at the table. They've agreed all along and then they've come out at the last minute and said, "Nuh. We don't want that." And the government agrees. We've been trying to engage with police since straight after the Royal Commission about changing the policing in relation to young people in Central Australia and the Barkly. And we've met with really senior police over and over, and over again. And they've all nodded and agreed, and said that it'll take time, and it'll change. And there's no evidence of change by police… Really disappointing. …leadership's also in a bit of a state of flux. Stakeholder organisation

Court Processes

There were a number of issues that were raised which relate to court or justice processes. These include problems of access to papers prior to the first court appearance date. Obtaining court papers before a first mention court date can be problematic. Charges may not be laid. Investigating officers may not have submitted paperwork. These issues combined can slow down the court process. There can also be problems accessing information bail, DV and other orders.

> Access to court information requires a phone call or email to court registry staff. The client would need to be present or have provided an authority. Much of the information sought is in the public space, such as an adjournment date which will be published online in due course. I think there are plans being discussed with a view to implementing systems to allow limited access for legal services to the new justice database system. So it details warrants, DV orders, what your bail conditions are and adjournment dates. This could be accessed by legal staff, which would be great. I understand this system is already in place in some interstate jurisdictions. Stakeholder organisation

Court adjournments were still seen to be a problem by some – as they were during the time of the earlier Renouf report in 2003 (See Chapter 3).

> My understanding too is that [when] our people go to court … 9 times out of 10 they sit there for three hours or whatever to be then told it's been adjourned. So I have people who work for me, who, for various reasons, need to be there, and they come back, and they say, 'it got adjourned.' So it impacts on them. And they don't get paid by me if they're not at work. [Also] 44-degree heat outside there, waiting while everyone is in the air con and [someone from inside] has to go out and sing out their name, and then go and see them. What sort of system is that? Shouldn't it be confidential? Sounds like nothing's changed … Community member

Similarly, court delays and adjournments negatively impacted on young people, particularly those on remand.

> Delay on-court weeks is an issue, leads to more time on remand. The watchhouse is gazetted as prison but young people have to be taken outside of Tennant Creek if on remand. If Alice is full, which it is, [they] go to Darwin. Can be long process of remand. Community member

The need for improved training of court personnel was also raised: 'All court personnel need more training with trauma' (Community member).[52]

[52] Magistrate Borcher's comments in the Tennant Creek Youth Court in 2017, and responses to these comments highlight this issue, as an example. See discussion in the media, 'NT judge's 'disgraceful' comments to child

Court Infrastructure

> In terms of the courthouse, I understand that conditions are still not fantastic [but there have been some improvements]. Previously, Tennant Creek court had no client interview rooms. Lawyers would sit under a tree or around the corner. It was just terrible in terms of confidentiality. Currently there are two interview rooms for people on bail … As part of the Barkly Regional Deal we have been told there will be interview rooms for people in custody. The head works may take some time, but whilst it's lacking, there does appear to be high level acknowledgement that such infrastructure is required. Stakeholder organisation

> And it's like the Tennant Creek court house. There's no exit to the back area where a victim could be exited. Everyone needs to use that front, little, tiny path. There's all these legal and injustices that have never, ever been addressed. Stakeholder organisation

There were also some comments on improvements in the circuit courts at Ali Curung and Arlparra.

> It looked like it was pretty bad in 2003 for court set-up. But I assume now all the courts have the mobile earphones to assist clients with hearing difficulties. It's just up to the lawyers to, obviously, pick it up. That was one of the things that lawyers couldn't hear - clients couldn't hear - the judge, identified in the 2003 report. There is AVL in court so vulnerable witnesses can give evidence remotely now, which, that's happening. Isn't it? Stakeholder organisation

Young People and Court Processes

> Young people left until later in court day if they have no advocate, probably because their cases take longer. Young persons' court day, but still putting adults on the day so kids wait and then not heard until later in week. Lawyers also need more time to talk to the young people. Community member

> We need to have someone in court to explain in plain English language. YOREOs are too Corrections-based.[53] They're not always trusted. People might not understand their role. Too many blurred lines. Alice Springs has a Youth Court Liaison officer who might do this work. They're supposed to be here too but don't come. [There's a] need for this for adults too. Community member

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offender to be referred to the royal commission', 17 June 2017, ABC NEWS: https://www.abc.net.au/news/2017-06-17/nt-judge-made-disgraceful-comments-about-teen-offender/8627282

[53] Youth Outreach and Re-engagement Officers, Territory Families. See https://territoryfamilies.nt.gov.au/youth-justice/youth-outreach-and-re-engagement

Aboriginal Input and Court Processes

> We used to have community court, used to have drug court which incorporated greater Indigenous input but they've gone now. We need to be seeking input from community. Courts will ask the YOREOs for input. And one of them is Aboriginal, which is great. But need more. We need local people employed as YOREOs. Community member

Youth Detention

Youth detention was raised as an issue, with reference made to the proposed youth facility in Tennant Creek.

> So just to let you know as well, I sit on the Youth Justice Advisory Committee and we do have two people from Tennant Creek on that. So Tennant Creek comes up a lot. Statistically, if you look at the numbers of kids in detention in the NT, most of them come from Central Australia, followed by Barkly and remote. And so, for a long time, people in Tennant Creek have been asking for an alternative detention site. People are really interested in the Diagrama [Spanish] model.[54] They would like some local responses. Stakeholder organisation

Legal services

NAAJA commented on the improvement of legal services in Tennant Creek.

> It starts at one o'clock on a Monday. So we go up on a Sunday and that's purely so that people can see clients in the morning before court starts at one. We used to travel up on the Monday morning but you would be literally go straight to court … We wanted to provide a better service to clients and spend more time with them, give them the option to come into the office in the morning and meet them. So we do that now and then criminal court, Friday mornings, they try to list as little as possible but sometimes matters get adjourned over, across the week. And that's just to let people get away because it's a five, six-hour drive [back to Alice Springs]. Youth court on Monday. That's, generally, where the youth matters are listed, and then plus anyone who's been arrested and held in custody. Stakeholder organisation

One stakeholder raised the problem of the quality of legal representation.

> Our people go to court and the lawyer tells them to plead guilty all the time. They can't even talk up for their rights. You've got to plead guilty to get a fine or get locked up. They go to court on the court day. The lawyer sees them for 5 minutes.

[54] See Diagrama Foundation site: https://www.diagramafoundation.org.uk/bbc-visits-diagramas-custodial-centres-spain

> They should talk to them a couple of days before court. They just talk to them at the courthouse and that's it. That process needs to be looked at. They sit in their offices all the other weeks. They just see them on the day. Why can't they get out of the office before court? Community member

6.16 Family and Domestic Violence

Although family and domestic violence did not appear in the statistical data, as noted in section 6.4, it was raised as a major issue by stakeholders: 'There's enough clients and DV to go around for ever more' (Stakeholder organisation). Various specific issues were raised.

In relation to safe houses and safe house rules, it was noted that the failure to take women who are intoxicated created particular problems.

> We're also trying to work with the Safe House because we have mothers and babies. When the mother gets bashed, they've got nowhere to go because they're intoxicated. Our main priority, like I said, is children. How are we going to remove the child from the situation if we can't take the mother as well? … We try and ask a family member but some family member don't want a drunk in their house because the man can still get in the car and still come there. It is a bit hard. We're trying to [find the solutions] Community member

> Oh, mate, my house is a Safe House. It's a first-aid place. It's Red Cross. You name it - it's there. And I'm getting a bit fed-up with it now, at the moment, because it's taking a toll on me …. I'll open my door to anybody but it's now getting to the fact where I've got three females staying at my place… We've got a perfectly good Safe House there but, apparently, they're not allowed to take intoxicated women in there. What's the go with that? Like why is it called a Safe House? Why? Are we wasting our time? Community member

Charging women a fee for staying in a safe house was also seen as problematic.

> It's wrong when women's shelters charge you for staying there. Nothing is for free in the world but, if you're on income management, you're paying rent for where you escape violence from and you run into a shelter very vulnerable. You need to sign x amount of forms because of new policies and all of that. You're signing a form as well to deduct your income management while you stay at the shelter. Stakeholder organisation

Also identified was resourcing and the under-utilisation of safe houses.

> Difficult to resource shelters out bush in every community: not viable. Tennant Creek is the centre to which everybody gravitates. Safe House in Ali Curung and Elliott are under-utilised. Find a reason for women to come in there, BBQ or workshop, making

> soap – get them in there so they can feel comfortable. Then they might use the facility. This would also improve access to us. They're a bit run down as well. Need some upgrades. Being so remote can take up to four hours to get to a centre. Need a vehicle. Barkly is huge. [We only get] walk in or referrals. No calls. Stakeholder organisation

The problem of family and domestic violence was also linked to other issues, including child removal.

> With that lady it was, "Too much domestic violence going on in your household. You need to do this, this and this or your children will be removed." "Okay, well, for me to do this, this and this, I don't have anyone to look after my little one because her father's in gaol for DV." "Okay, well we can do this." And there's always DV. It's very seldom that there's not domestic violence in there. But, yeah, so predominantly CAAFLU and CAWLS [are the service providers]. So they're good as well. They're good for a lot of different advice. They're very good with the women. Stakeholder organisation

The problems associated with remoteness, reporting family and domestic violence and police responses were raised by numerous stakeholders.

> If I have a look at places like Ampilatwatja or Arlparra: they've got a big Arlparra police station but you've got 23 outstations out that way. And how would you manage a DVO … And how would you [report it] where there is no police presence. Stakeholder organisation

> Well, it depends what time it is. Like I don't know what the police do here. That's their business. But, if there's a domestic violence that night, the police should be out, if they're reported, straight away. Not waiting 'til six o'clock in the afternoon when they all get together and hug, get him back… When it gets reported, if it gets reported, then it should be dealt with straight away. I don't think they do that. No. I've got no harm with the law. … But I've got to speak the truth. If I don't say the truth on the tape no-one will listen. That's the biggest issue - they're not reported, they've got to report it, mate. But, when it's reported, they need to deal with it straight away. Deal with it then. Not deal with it a couple of hours later because they're all good again. 'Don't worry about doing the report. We're fine. It's over. I'm not going to say nothing.' Community member

In some cases, the absence of a police response has meant that community organisations and members have had to intervene, placing themselves at risk.

> My second concern is the policemen down at Arlparra are awesome guys. They are really lovely. But they're seventy kilometres away and our response time is very, very slow. They did have a time where they didn't have any staff and we required someone

to come out because of a violent situation. And we had a three-hour call-out from Hart's Range. And by the time they came out the situation was a case of, well, little too late. The flow-on effect is a couple of times we've had women who've been assaulted by their partners, and a couple of times they've said yes, they would like to make a complaint. So then three hours of keeping a woman and her child in our clinic, keeping them safe … It increases the risk to ourselves because we're in the middle of a domestic situation. It changes our workload. It impacts on everything we do. And it's not a people thing. The policemen are lovely and responsive. They're just not here… To the point where there've been times where I mean there was that time where X was getting yelled at and threatened, and instead of phoning the police we phoned [community member] and said, "Right, come in and do it community way." And I put my life on the line.

Is there a night patrol here that works?

Yeah, but they're not allowed to do any of those things. They've got new laws - they can't go into a risky situation. Stakeholder organisation

The problem of reciprocal orders and issues with current police guidelines and procedures were also raised.

> In Tennant Creek [and Alice Springs], something we've raised with police - and other lawyers are aware of it - are the reciprocal orders that are going on. So, the failure of police to identify the dominant perpetrator or offender. And so, we are now having to work for or assist women who are defendants. And they're actually really the victim. It's so misguided that police are not looking at the history of matters. Police said that they will work harder around that… So, it's absolutely crucial that we have delineated roles for everybody so that women don't slip through the gaps for reasons that are [nothing to do with] legal intervention. These are police procedure related issues… Stakeholder organisation

> Women who find themselves subject to reciprocal police orders are generally either misidentified by police in first instance or, if I am to be cynical, indicative of lazy policing. Stakeholder organisation

> In terms of getting history, my understanding is that they are given history on the way to a job and then they make the decision there. [We've said that] there needs to be a lot more information shared before they get to a job, before they make that final call because we are seeing a lot of examples of reciprocal orders being made or mis-identifying women as needing to be charged. We've got, for example, women sitting on remand for one, two years, waiting for their trial, and they should not even be there because they were victims twenty years, have had the most horrific crimes against them, and then they've fought back. Well, one day in prison in their life is pretty much going to - they've been destroyed… for the amount of times that they've survived, really, taking hits, punches, stabs, and then end up in prison is just absolutely wrong. Stakeholder organisation

The problem of reciprocal orders and legal representation was also raised.

> If these women then don't have legal services able to assist because of conflict, for example, then they will end up serving time because they can't get someone to represent them and actually argue that they are really the victim. Stakeholder organisation

> The rise of reciprocal orders and representation is an unmet need for women in Tennant Creek; particularly in small jurisdictions where conflicts can occur on a regular basis with NAAJA and NTLAC. A respondent woman to a DVO can and does have huge implications for child protection and in some instances, family law and housing. In the past year CAWLS has assisted over 45 women respondents in Alice and Tennant Creek in the local as well as the family court and child protection space. Stakeholder organisation

Fear of the perpetrator and the failure of the criminal justice system to change men's behaviour was also raised as an issue impacting the non-reporting of family and domestic violence.

> You dob on me, I'm going to still do it. I'm going to threaten you in the room. I'm going to wait 'til everyone goes. And I've seen [that] a lot. Now they made the law that the police can put it [a DVO] on automatically. And some men have been in prison that many times, it's nothing. In prison your biggest enemy is your own mind I guess. He goes to prison. He comes back out. Bashes her again because in prison, he's just thinking, "She's probably meeting someone else." All this. And it's just a sort of cycle. Community member

Also impacting on the failure to report was the absence of information/education relating to domestic violence orders.

> So there's a lot of domestic violence that goes unreported and people don't know that they can actually just get a DVO to say, "You can't come back here drunk." You know what I mean? So, it doesn't mean a full, no contact [order]. It's, there's the stipulation. So that's another good thing. Stakeholder organisation

Also relevant to legal education was the need for preventative work and legal education with men, where information on complying with DVOs as well as addressing other legal issues causing stress can work to prevent violence.

> Legal Aid are doing preventative work with men who are perpetrators of violence. sessions with the Corrections Family Violence Program sessions with the men about domestic violence, domestic-violence orders, how to comply with your orders. And other activities that raise awareness about their legal rights in terms of other areas of

> their life that are causing stress and contributing to the violence that they perpetrate. the outreach at places like BRADAAG is also a preventative legal service in domestic violence because, we're responding to stress, like very, major stresses in men's lives that are in the background. Stakeholder organisation

Finally, issues with accessing emergency relief were also seen as problematic.

> The Commonwealth Bank offers the emergency package for DV victims, which is great. But there's no Commonwealth Bank, of course, in Tennant Creek. Women there are forced to use the banks that are available; Westpac and ANZ. That's it. And they don't offer those kinds of packages. So, they're robbed of that opportunity as well…. We have got a lot of demand around emergency relief. We haven't been able … We try our best to kind of satisfy that demand and that need but we're not funded to do that. Stakeholder organisation

7. ISSUES IMPACTING ON ACCESS TO JUSTICE

This section conducts a more detailed assessment of whether current legal need is being met by current legal service delivery and related strategies and approaches, incorporating discussion of gaps in service provision. It considers what is impacting on current access to justice. Issues impacting on criminal justice outcomes, in particular, are set out in Chapter 6.

7.1 Service delivery

7.1.1 Legal service presence and continuity in coverage: Tennant Creek

The legal service landscape in the Barkly, particularly in Tennant Creek, has come some way since 2003.

> We've gone from having two lawyers based here to up to five permanently based here, and there are a number of lawyers that come in and out as well. So, if access to justice hasn't improved since those developments, something is fundamentally wrong. Stakeholder organisation

Legal service provision gaps identified in 2003 in Tennant Creek have, to a significant degree, been addressed. There is now considerably more legal service provision to women, with some important limitations (discussed below). In place of a Legal Resource Centre in Tennant Creek there are now four legal services situated there permanently. The following comment provides some context to these changes.

> At that time, most of the legal help that people were accessing was very much that pointy end of court-related activity, criminal court proceedings where they had no option but to engage with the legal system. And that resource centre [was] very much focused on the range of legal needs that people had, and assisting them to access the main services that could help them with those legal needs. And so very early on we got quite a heavy sense of clear legal-education needs and, and civil-law needs that people have, as well as understanding more about the domestic violence and child protection legal context, how that affected people, and how they could navigate that system in a way that didn't unduly impact on their other activities. It was a very interesting time and I think there were some things about it back then that have changed. It was a resource centre [with] a very specific target of pulling together people and re-referring them back out. We didn't have a lawyer based there. [Lawyers were still circuiting from Alice Springs] … It became a referral hub. Stakeholder organisation

There is increased availability of information about services in Tennant Creek and how to make use of them, however issues of coordination and collaboration discussed below point to

issues in this area. Provision of legal education has increased, as has access to face-to-face service provision, though this is still impacted, at times, by issues of conflict, staff turnover and infrastructure (eg, at the courthouse). Limited access to private practitioners remains a problem, and more of a focus on addressing systemic issues is perhaps required. There is still an absence of 'other government and community services' (Ombudsman, Anti-Discrimination Commissioner etc.), and with non-legal service delivery considered below.

Some gaps in areas of law covered have been addressed due to the increased legal presence (discrimination, family law, consumer and employment issues, assistance for victims of crime), some have not (wills and estates, legal assistance for organisations). Additional gaps to those identified previously are discussed below, including major gaps for remote communities, which were not considered in the 2003 report.

Civil and family law

Legal service stakeholders pointed to gaps with respect to legal assistance for and understanding of rights related to civil and family law issues: a significant gap covering a very broad sweep of matters, given that civil and family law cover issues that touch on every aspect of life - from birth to death. 'Criminal does get prioritised' stated one stakeholder, which encompasses family violence and other criminal matters. This was a view shared by others, including community members – particularly those living remotely, who report only seeing lawyers in their community when criminal court is sitting (though this might be partly due to lack of awareness of other legal visits (see Knowledge of the law and services).

> Well, I only see lawyers or people like that when court's on. There's none before or after … So yeah. There's … no help here ... There's just no help I guess for people. Community member

> I think this comes down to a lack of awareness around civil law, generally, and how important it is in *preventing* violence. A lot of funding goes into family violence and specialised legal practices [in that area], for instance. They're not general civil practices. Stakeholder organisation

Gaps in non-criminal legal areas are not just related to resourcing. Legal services do not practice or have expertise in some areas of law, such as wills/estates. Matters are still being picked up by legal services in Tennant Creek, to varying degrees - but then referred on to other legal practitioners, where possible. NAAJA commented, for example, on the level of assistance they could provide with respect with complex employment matters. 'I've had a bunch of employment matters but also NT WorkSafe matters that are, particularly from Tennant, where we're able to provide limited assistance, but there's quite clearly a need.' For the most part these matters, according to NAAJA, end up as referrals. Means testing (for a

grant of aid) and/or other legal service criteria may also prevent individuals from accessing subsidised legal help in Tennant Creek, including for civil/family and criminal matters.[55] One related issue highlighted during interviews was that there are no private practitioners permanently based in Tennant Creek, and those that visit do so in a relatively limited way (see Chapter 4). This is partly an issue of economics: for instance, having to cover costs associated with travel to the Barkly for a small number of matters or a single matter. This is not viable for a private practitioner. Referring to private lawyers generally involves a referral to practitioners located in Alice Springs or elsewhere. This referral may be facilitated or otherwise supported, however, by lawyers in Tennant Creek: by use of video-conferencing facilities to connect the lawyer in question with the client, for instance, or by identifying and linking an individual in need of help to the practitioner or organisation from whom they might seek assistance.

> A lot of the matters following death are very specialised areas of law so like wills – [we] absolutely can't assist. And the same goes with motor-accident compensation. Just really tight time limits and very technical. But, with both, I'll explain any time limit, for example, and then link them up with the person that they need to help them straight away ... I make that warm referral. I'm explaining to the lawyer, "Okay, we've got a well-staffed office. We've got video-link facilities," and all the rest of it. "So, if you need anything signed or a stat dec witnessed or anything like that, you can do it through our office." [We] always make our video-link available to anyone, really. Stakeholder organisation

> Certainly, if they had a really high income, we'd be saying "you can get a private lawyer." But some people, despite their income, can't access legal services that they can afford. So sometimes even performing a little bit of an agent role in connecting those people with the legal services that they should be accessing [is important]. Stakeholder organisation

> For non-Indigenous people who happen to *not* meet our vulnerability criteria (for civil law issues), then our admin officer would be referring them straight out to a private lawyer. I wouldn't necessarily be able to tell you in the most accurate manner the breadth of issues that they're coming here with. And, of course, our vouchers pay for an initial advice session for someone … So, I think that does make accessing a private lawyer a little less intimidating for people. Stakeholder organisation

Legal needs of men

As statistics set out in this report indicate, men are much more likely than women to require advice and representation as defendants in criminal law matters. Other legal needs of men, particularly in DV matters or in civil/family law areas, were identified as under-serviced.

[55] Means testing is part of NTLAC guidelines. For a person living remotely its vulnerability test is likely to be met. See https://www.legalaid.nt.gov.au/wp-content/uploads/2017/07/Chapter-1-Guidelines.pdf

This includes where men are both victims of DV or FV and respondents to DV or FV violence applications. Under-representation of men in such matters is problematic for men and for women applying for protection.

> We only have one family lawyer and they're not based up there. And child protection. There is [CAAFLU]. They do men and women. Well, except that there are conflicts. They do get a lot of conflicts. [They] … do mainly women. They can't really do men *and* women. So, there's a real gap for men in Tennant Creek. And we're not funded to do DVA (Domestic Violence Applications). So, men always need help with DVAs as well.[56] Stakeholder organisation

> The gaps, I think there are gaps in provision of services for men. Both on the behavioural change front and in circumstances where legal assistance may be required. The statistics show that women are predominantly the victim of family violence, and the statistics are shocking, but if against the odds a man is a victim, he has limits to the services he can access. Stakeholder organisation

There is a need, too, for more information and support for men aimed at or likely to prevent male-perpetrated family violence.

> We have had this injection of funding into legal services particularly around domestic and family violence but that hasn't necessarily meant that we have this holistic, wrap-around, legal service for victims. And, concomitantly, that we haven't had any increase in funding of preventative legal services for perpetrators. The victim emphasis like while, of course, there should be a victim emphasis, if it's to the exclusion of a perpetrator focus then there are major concerns in terms of access to justice. Stakeholder organisation

> Men are asking the questions around restraining orders. 'What does it all mean?' You know, all that sort of stuff. So, to prevent further violence … It's a really bad history, really. Big time. And I worked on that national inquiry to the Stolen Generation and the stories I heard I just thought, 'Oh my God.' And even men reporting for the very first-time sexual abuse, and then no supports for them, support with anger management. There's got to be a lot of work in and around men's behavioural change but it needs to be culturally appropriate - not clinical. Stakeholder organisation

Staff retention and expertise: impacts on service delivery

Our interviews were conducted prior to NAAJA's commitment to place a lawyer permanently in Tennant Creek. During our interviews, the absence in Tennant Creek of a permanent NAAJA lawyer, with lawyers travelling up from Alice Springs for criminal court,

[56] Note that CAAFLU work with both female and male victims of violence, though the bulk of their clients are female – as this comment suggests.

was seen to have impacts on other legal services and the community.

> NAAJA have historically had a lawyer in Tennant Creek for many years but they don't have one based here now … They're saying they're sending two lawyers up every week which I think they sort of are doing but, when there's a crime week, those two lawyers are in court so they can't be in the office … The lawyers will travel on a Monday and back on a Friday, which means that half of Monday the office isn't open and half of Friday the office isn't open. So, we are receiving many, many calls and enquiries from their client base because they have no way to access their service. And also from the prison. Like screening lots. When I say 'lots', at the counter it's five or six a day… and heaps of calls. Stakeholder organisation

> The reason why [systemic police] practices can exist I think is because of lack of visibility of legal services, an ongoing visibility in community - knowing who to come to and where to raise those issues. Like, they're not as severe as a police assault where everyone knows you go tell your lawyer if the police bash you up. [It's more that insidious kind of discrimination]. Stakeholder organisation

NAAJA is now actively recruiting a permanent lawyer in Tennant Creek. The points raised about the absence of a permanent NAAJA presence, however, highlight difficulties all legal services face in terms of recruiting and retaining lawyers in Tennant Creek, particularly those with sufficient experience and expertise. Staffing issues are not exclusive to NAAJA, or to legal services (see also Problems of service delivery coordination below).

> [NAAJA] did have a lawyer up there on a permanent basis up until I think it was mid last year … There's still potential for NAAJA to put a lawyer back up there. It's just jigging the numbers and also finding someone who wants to live there. That's the biggest hurdle. NAAJA doesn't want to put a junior lawyer with zero experience up there because it is a very busy circuit … [You need to look] after their wellbeing, and be on top of the level of work they're taking on ... And it's hard to do that with a junior lawyer. A senior lawyer perhaps or someone with a few years under their belt – it's probably harder to get someone at that level who wants to go live in Tennant Creek. [There's no one] at this stage … to travel up there and manage that practice, oversee that practice … [You could] rejig staffing around but it's finding the right person with the right level of experience to go in there. Stakeholder organisation

> This is a really big problem, with offices being staffed with only one lawyer and then that lawyer not being able to sustain it for a very long period of time. I know that there's been really recently high turnover in Tennant with I think three lawyers leaving within this year. And I think that is a substantial [issue]… Problem is, you can't actually, particularly if they're a young lawyer, you can't just have one lawyer in an office being required to deal with … case load demand and also the pressures of being in a community that they're not from, and having the isolation. And then it's a small community. You go to the shops and everyone's … it's a very difficult,

> personal cost that it takes on lawyers if they're not adequately supported while up there. Stakeholder organisation

The expertise required of staff, additionally, is not just legal expertise. Rather, having sufficient experience and understanding to work remotely, with strong cultural competency – these are important criteria for legal service employment in the Barkly.

> In the past we've seen junior lawyers here running huge … cases, and having to go out to remote communities with little support … To work well in those contexts … a lawyer really needs to be working alongside somebody senior but also someone who can work in community development or understand how to listen and [has] cultural understanding of how things work … So much more is involved than legal skills … like the advocacy, the community-development understanding, the policy-development understanding. It was very legal-centric and so the other stuff that happens around it, the awareness of what other organisations do, linking clients up with extra supports etc. wasn't necessarily there. And, because it's so hard to recruit to Tennant Creek, if you've got someone who's going, "I'll go live in Tennant Creek …" they just take someone on. Stakeholder organisation

7.1.2 Non-legal service delivery gaps

Participants have also pointed out inconsistencies and gaps in other service delivery and programs, with the lack of programs for perpetrators of DV noted above just one example of how these have justice-related consequences. As further examples, increased availability of effective programs for families or those with drug and alcohol issues needing additional support, social workers and mental health services may all help to reduce contact with child protection or criminal justice systems and/or deliver better outcomes for those already caught up in these systems (see Chapter 6). These and other gaps (and their connection with legal issues) were discussed as follows.

> Another really big thing is access to healthcare here. The fact that women can't give birth to their babies in Tennant Creek and need to travel to Alice Springs two weeks before their due date. Like that health service is one that is really disrupting to family life and dislocating for families, and brings with it a whole raft of problems which are all inextricably linked. Family goes to Alice Springs for the birth of the baby. Other family comes and stays in the house while they're away. The debt happens. The fighting happens. The damage to property happens, whatever. Stakeholder organisation

> We've only just recently got a male counsellor back in Tennant Creek. We've had them there, then gone, then there, then gone. And in the last two weeks, we've got a new one. And, in terms of parenting courses and family-violence courses, there's family-violence courses on about five occasions through the year in Tennant Creek and I believe Relationships Australia are going to be rolling out a course, Bringing Up

> Great Kids, which is a full week but it can be spread over two months … And that's a great referral point for someone trying to demonstrate that they're taking steps to change their ways or have taken steps (which assists with, for instance, applying for an Ochre Card when you have a criminal record). Stakeholder organisation

The following comment also refers to the barriers created by clients having to access support from larger NGOs by calling a call centre or other central point of contact.

> We'd actually give [this counsellor] a lot of referrals … But there is a gap with counselling. For example, if you ring up the Victims of Crime counselling, which is under, I believe, the Anglicare umbrella, they refer you to Darwin. So, I have to talk to someone in Darwin to get them to call someone in Alice Springs, for them to then get an appointment for a counsellor in Alice Springs. And how would a client have done that? We will ring ourselves and do it all for the client because we recognise the hurdles. Stakeholder organisation

Also discussed were gaps in and the importance of connecting clients with *culturally safe* programs, persons and organisations (see Working with culturally diverse clients).

7.1.3 Problems of service delivery coordination

Some stakeholders felt that Tennant Creek was relatively well serviced when compared to 2003. What was required, however, was improvement of *access* to existing services.

> There's a lot of support in Tennant to anybody who's in trouble. The only thing we can do better is improve access to the support that we have. Tennant is basically a welfare town, hardly anything else there. Stakeholder organisation

According to some stakeholders, the community may be 'over-serviced'. This does not mean there are too many services but that people are often having to engage with multiple organisations simultaneously and for the same issue. This was attributed to problems of service coordination and collaboration.

> I see a very apparent simultaneous over-servicing and under-servicing of people in Tennant Creek and the Barkly. We need to be more co-ordinated in our approach to meeting clients' needs. It would just be so incredibly frustrating and disillusioning to be basically humbugged by service providers and have to put in so much effort to get outcomes from this panoply of service providers who aren't communicating with one another. It's like this bureaucratisation of peoples' lives … when you weigh up the reporting requirements under CDP and with the job-service provider … and then involvement with CatholicCare, and then legal services. It just all really adds up for people. And particularly when the issues that they are confronting involve significant amounts of trauma, having to revisit and go over that trauma on innumerable occasions with different individuals is really compounding. And this is just across the

> agencies. You then have to add up the fact that there's the staff turnover and there's often not a hand-over. So, even within a single organisation, people are having to go through it again and again with different staff. Stakeholder organisation

Whilst choice of services is a good thing, participants raised the importance of coordinating how services might work better together, including in terms of referrals.

> [Some non-legal services] have a client that comes in and they have this automatic referral pathway to [a specific service] … without asking the basic question: "Are you already engaged?" If they are, they should be allowed to have the ability to reconnect with their current provider. Stakeholder organisation

There are some initiatives or strategies that appear to be working well in terms of coordination, likely to address servicing issues, for instance. As an example, holistic or coordinated case management is occurring in the Barkly through the Domestic, Family and Sexual Violence Reduction Safety Framework for those experiencing DV, and working effectively according to one participant, though there was not consensus about its effectiveness.[57]

> The framework is fantastic.[58] It holds agencies accountable for working with referrals. If I refer I don't know what happens but with the Framework every fortnight we have meetings, all welfare agencies, attendance is great. Housing, Territory Families, Centrelink. We get assigned tasks and we get checked on that. There's been a real difference since the Framework came in. It's usually so difficult to know who is doing what, but very helpful to know that because there are so many services. We're practically over-serviced. Having this Framework, with very strict confidentiality, working with managers, we then collaboratively can work on a case by case basis. It's really effective. Stakeholder organisation

CatholicCare and the legal services work together well around financial issues, as another example. The legal services are referring clients to CatholicCare and 'tricky' matters come back to or are initial referrals to the legal services by CatholicCare. Some legal services also report having good referral pathways to each other and other services or agencies.

> We've had a lot of enquiries come through our front door in Tennant Creek where the legal matter is one we can't assist with, but we're doing the traffic controlling. "Your best spot or place is either to go up to see Territory Families, go and see NT Legal Aid ... or phone." "You're welcome to use the phone to phone such and such a

[57] Criticisms include its focus on higher levels of risk, without sufficient training for those tasked with assessment of risk

[58] See https://territoryfamilies.nt.gov.au/__data/assets/pdf_file/0006/464775/Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf

service." Stakeholder organisation

Other positive collaborations involve joint delivery of CLE by legal services through other services and agencies (including the school and BRADAAG) and sharing of resources. NTLAC makes its video-conferencing available to others. CAWLS spoke of a trauma-informed counsellor they have engaged who they will 'share' with any Barkly service whose clients require counselling. There are also some pockets of regular or structured networking occurring.

> We don't do it as often as we should but CatholicCare likes to at least once every six months have a catch-up with the legal services just so staff know who's who. And that's been working very well. That's really good information and sharing, [e.g.] if there's been any changes in legislation. So that's very good. And it's really informative. It actually gives our staff the knowledge of, "Oh, okay, you know what? I'm going to get in touch with so and so from Legal Aid" … So they're very important - partnerships and the relationships, and people knowing each other's business. Stakeholder meetings [are important] so we know who's really over the top of what. Stakeholder organisation

7.1.4 Service funding

Funding issues, including both its insufficiency and insecurity, impact on the effectiveness of service delivery. 'Longevity of funding by government is a key issue. They fund things too short term, which doesn't help'. This then feeds into 'competition' for resources, which reduces levels of collaboration. Successful initiatives or programs are de-funded (by government, or by services because they need to make decisions as to best use of limited resources).

> But the trouble is like, if one's defunded and there's not some additional money - like for Legal Aid not going to Alpurrurulam anymore… That's actually dropped out that whole community. Goodness knows what's happening there. We don't go there. So that can be damaging. Stakeholder organisation

> People get territorial …. Clients just want a service, a result, they don't care about [who provides it]. Women want to be safe. Whatever works. The guys think, I don't want to go down for life. … It can be very difficult trying to be collaborative. Really, we're here for the clients. We need to think how best we can serve them … People need to understand collaboration and … that no one's there to step on another's turf. Stakeholder organisation

> There are also the competitive-funding models. If a service is funded to deliver something in one, in a section of communities, there can be animosity between other services who are going in to try and also deliver in the area. And so, it is like, "This is our section. That's your patch. That's your patch. That's your patch." [Meanwhile,

there are considerable gaps which require servicing, but to do this, services need to talk together and develop a strategy.] Stakeholder organisation

[Funding insecurity] flows on to recruitment too as you can't guarantee a position. To recruit for Tennant Creek can take 5-6 months. Some organisations have long-term staff. [Others come and go] …Those ebbs and flows are a big issue. Stakeholder organisation

7.1.5 Working with culturally diverse clients

There was some discussion about the difficulties of mainstream non-legal and legal services working effectively with Aboriginal people. Issues raised related to use of overly clinical spaces, for instance, or services not being 'intuitively' in touch, in general, with what Aboriginal clients need.

> They had a very clinical space for clients ... And I suggested to her that, "You know, if you were seeing Aboriginal clients, you might want to think about a different type of approach. This is not going to be your standard kind of client situation. So think maybe going to [named Indigenous organisation]." She didn't even know about this place because she comes from mainstream. It was like, "Well, maybe you need to go and talk to these people and find out what is right for clients from that background." Stakeholder organisation

> The specific nature of an Aboriginal service, I don't think you can ever do away with it. I think we can guide and say, for those types of clients, that's the sort of thing that we do. That's what we consider is important. And our clients feel very safe when they're here. They see the stuff around that makes sense and connects with them. Stakeholder organisation

One difficulty noted is that services are not always wholly focused on one particular client group, culturally. Services may be working with CALD, Aboriginal and non-Aboriginal clients and 'everyone has got different needs' to accommodate.

Another point raised is that databases may not facilitate collection of information of relevance or importance to Aboriginal people: information that might be used, for instance, to demonstrate positive service or program outcomes or to inform decision-making about service delivery.

> How bad is it that we're using a mainstream database? I reckon shred that because we should be able to provide a very clear, black picture about the puzzles that we're working with at the moment. When a [client] … comes through our door, okay… tick homelessness. Has her child got foetal alcohol syndrome? … We would be able to capture so much. However, our funding and our providers don't listen to us. I reckon it should be owned by Aboriginal-controlled organisations, sovereignty in and around

> data. And that's not a discussion that legal services also speak about because we're batting so hard… for our funding side of things. Your data is a really big issue in and around legal services… Our KPIs don't match up... Nothing matches. We could provide geographical snapshots. We would be able to say "This is how many clients we've got in Ali Curung," but we can't. They say there's a geographical tool that you can use but, when we want to get in, it doesn't actually spit out the number…. We've raised it and raised it … And the funders want to ask about your outcomes. Like our clients have completed the legal matter from A to Z and they've been supported to, hopefully, be accommodated. They've been referred out to other, main, key stakeholders and that. But, seriously, this is a bigger issue, especially when it comes to Aboriginal and Torres Strait Islander data. And we're not in a position to give you the picture. A clear, bright picture …. So small services are being forced to actually have other types of databases, to capture the information [we need]. And it's cost us out of our own funding bucket … We're squeezing into the white little picture. Stakeholder organisation

Things that are working well to meet the needs of Aboriginal people include employment of Aboriginal CSOs or similar to work with clients. There was discussion, for instance, of the NTLAC outreach initiative as being a successful model due to 'a combination of lots of things. We had Aboriginal liaison workers. We had a couple of them over the years but very, very good. Very connected to community.' NAAJA have a long history of employing CSOs. CAWLS are investing in employment of locally based CSOs. CAAFLU also spoke of the value of their CSOs, including that they provide such holistic support to clients, and of the benefits of working with an Aboriginal psychologist for clients (with one psychologist named, in particular). 'That would save so many lives if we did'. Also discussed was effectiveness of delivery of behavioural change programs *to* Aboriginal men *by* Aboriginal men who had themselves experienced and perpetrated family violence.

> And the uniqueness of CAAFLU are the Client Service Officers who do outreach into community and it's like case-management work, working side-by-side with our lawyer. And not all legal services on the ground in Tennant Creek have that. It's only just been recent that NT Legal Aid have that. So, same again: it's about what works. Why break it when it's working? … Clients will engage with lawyers but they also need to have that other person [providing cultural support] … They are the cultural brokers. They are absolutely essential. … [CAAFLU works] holistically with all of our communities … doing all the prevention stuff and the side-by-side working and learnings. Stakeholder organisation

7.2 Knowledge of the law and services

Though one might expect that knowledge of the law should have increased since 2003, given the increased level of legal service provision in Tennant Creek, lack of knowledge is still identified as a major barrier to accessing justice. As one community member commented, 'People don't understand the legal side of everything. In the community itself, a lot of things

… The whole lot.'

> The real umbrella barrier for Indigenous and non-Indigenous people is just lack of understanding that the problems causing stress in their lives are actually legal problems. Stakeholder organisation

> I think there's a real lack of knowledge about what people can do. And it has this very debilitating effect on their whole life. So, housing I think is the most obvious one in Tennant where people are living in the most appalling situations, paying these enormous debts off in places that actually are uninhabitable. And that will go on for years before anyone identifies it as an issue and they know that there is a legal recourse. I think that there's this big gap. Stakeholder organisation

There is likely to be greater awareness of criminal law than civil and family.

> So… [awareness] is about a particular range of legal issues. So, police complaints, everyone is pretty clear, 'I know my rights. They can't just come into my house,' that kind of thing. Stakeholder organisation

There was an understanding that there are significant levels of need for legal assistance currently unaddressed because of this lack of knowledge. An essential first step to averting and addressing legal issues is to recognise a legal right (and/or a responsibility). As such, when CLE is delivered or legal advice is provided, other issues start to emerge.

> I would say an incredibly small proportion of people are getting help with their legal issues, their civil legal issues … Every time I go and do a session with a different group of people they are completely unaware that that's (a) a legal problem and (b) a legal problem that they can get free assistance in relation to. So every time my prospective clients are enlightened that tells me that the general community are not, getting help. I think it's probably the same for Aboriginal and non-Aboriginal people in Tennant Creek. Stakeholder organisation

> There's often layers of issues and that's like money issues, financial, electricity. Loads of things come out of the woodwork once you start talking. And often we get matters when we go do CLE and we're talking about an issue. Because people don't know they have an issue. Or that they have a right. 'Someone's docking my pay, my Centrelink pay. They told me I had to do that. I've got a $40,000 debt,' but it might have been Centrelink's mistake and they don't know they can come in and talk about that. So, there's probably still a great big, untapped need. Stakeholder organisation

> I mean sometimes people come in and you have to read between the lines, and work it out. When someone says, 'There's this invisible thing', and you go, 'Well, what's the invisible thing?' and … And it is an invisible thing because legal issues aren't always visible. So not being able to articulate what your problem is [is a barrier]. Stakeholder

organisation

Connecting with legal services assists community members to identify or articulate legal needs. However, community is more likely to understand that they have access to *criminal* legal service provision. One legal service (providing civil law assistance) described a discussion they had with the Cultural Authority Group in Tennant Creek about needing to ensure community are aware of civil law help available. Awareness of the availability of legal help is impacted too where services are 'fly-in, fly-out'.

> They really want our help in putting up bigger signs to say when we're going be in town. So, they want that presence felt … They see that there's people who need to know where to go. And we're not there all the time. They need to know, clearly, when we're there. We need to get something set in stone probably either to make sure they know when we're there or how they can contact us. They wanted the posters to be bigger and put up at more places: petrol stations, IGA, Patterson Street hub. They didn't want the posters to say 'civil' as people don't know what that means but rather list the problems that a civil lawyer can help with. Stakeholder organisation

In one community visited those interviewed had the following discussion about CLE

> **You're aware of CLE in community in the past?**
> I couldn't tell you.
> No, me either. I haven't heard anything.
> **Do you think there's greater knowledge of legal service delivery around criminal court?**
> That's the only, the only time that, from my perspective and from my understanding, from the people that work with me, the only time we talk about law is if it's a court day. And sometimes people travel to other places, Alice or Tennant Creek, because they've got to go and see someone about something legal.
> **Would you like to have CLE here?**
> Well, it's knowledge, isn't it, from the legal side. It's got to be useful. Community member

Additionally, organisations are also not always aware of what services are available which itself is likely to contribute to duplications, gaps and poor coordination in terms of service delivery.

> There are people who don't know what everyone else is doing. I did some outreach at the Sexual Assault Referral Centre and spoke with the social workers there. I [asked], "What help are you giving clients in relation to housing?" They're like, "We're doing the support letters." And I was like, "Alright. What if they're getting charged for repairs that's actually general wear and tear or whatever?" They're like, "Oh, well, we can't help that." And I was like, "We can challenge that. You can send …" And they're, "Oh, I didn't know that." Stakeholder organisation

Things that are working well with regard to increasing knowledge of the law and of services, particularly legal services, include CLE and strong collaborations with other services in the community - though there are issues about how to meet the need that emerges through education. 'It'll take one session talking about housing problems' in the community 'and then that week I've got six people coming in wanting advice' (stakeholder organisation). CLE helps to build connections and encourages collaboration.

> I can't really emphasise enough how important [it is] being in the community and being an approachable person, and debunking that myth that you only see a lawyer if you're in lock-up … So being a friendly face who can empower people a little bit around their legal rights … If I had the time and capacity to be out in other parts of the community, raising that awareness about legal rights, I think we would have more non-Indigenous people coming here. And probably a lot of them would be eligible to access our service. Stakeholder organisation

> [Casework and advice for individuals is] very closely intertwined [with CLE] because the outreach I do in the community raises peoples' understanding of their legal rights and improves the accessibility of our service. And then they come into the office for help. And there's a really direct correlation between the two. Stakeholder organisation

Some of the strategies related to increasing knowledge of legal services put forward in the 2003 report are still happening, for example, legal services 'advertising' their services in the Courthouse in Tennant Creek. Flyers advertising legal services were also seen out bush, in some locations (including the school at Alpurrurulam). But increasing information about legal services requires broader strategies, including those that build relationships between legal and other services, and with community, more broadly. Positive initiatives include a legal education program delivered to school students in Tennant Creek, including about rights during interactions with police, identified as effective because of its early intervention focus (as it is delivered to young people). Other elements of effective CLE highlighted by stakeholder organisations include consistency, regularity and connecting through existing events or organisations already well engaged with community members. 'You have to build up relationships. You can't just jump into a community uninvited'. Consulting with communities about issues they need information on was also highlighted, along with collaboration. 'We do get rung up by police. We went to Kintore with police'.

Legal services are also upskilling other organisations (including BRADAAG, Stronger Families at Anyinginyi and the Women's Centre), capacity building service providers 'so they can issue spot for clients to make appropriate referrals.' This may help to avert legal issues, as well as increase referrals to legal services. As it is sometimes about 'ensuring they're clearer on their obligations around mandatory reporting (of child protection concerns) so they can respond appropriately.' CAWLS spoke of the education they are was doing with hospital staff. 'What information sharing is, how to identify DV. They need to know about this.' Stakeholders also pointed to the necessity for government agencies (housing,

Centrelink) to be ensuring community members have 'the right information' about rights and obligations.

7.3 Disempowerment, fatigue, resignation

The more issues or challenges people face, the less likely it is they will be addressed. If their circumstances are complex they may need to prioritise one issue over another, or feel resigned to experiencing difficulties. Sorting out credit and debt matters, for instance, may not be 'a priority for them. Money's there or it's not there. And sometimes they just don't have time in their lives. It's just life' (community member).

Aboriginal people face additional layers of disempowerment or disenfranchisement due to colonisation, and the Northern Territory Intervention has further contributed to and created barriers to engagement with legal issues, services and institutions.[59]

> And the Intervention hasn't helped the Northern Territory, not one bit – with the controlling of the income-management systems and the basic cards, and all of that. So… very frustrating. Community member

> I think you need to look at *how* you do [CLE] more than anything else. I mean even with the meetings in the park no-one rocks up. Unless you give them an incentive to be there they don't show up. The housing meeting… they had it down [at named place]. And there was still only twenty people there. People are just tired - really, really tired of just nothing happening. There's been a lot of talk. Nothing changes. Why should I bother? Community member

> Knowing that you can walk in a door and get help... I think, if you're non-Aboriginal, you're probably just more likely to walk into a government-type office and feel a little bit more confident about it, whereas for some Aboriginal people there is I think some challenges to just walking through that door and going to a counter, and saying, 'I've got a problem'. Stakeholder organisation

> A major barrier for Indigenous people is the institutionalised effect of colonisation. To this day, a lot of Indigenous people are very intimidated to even walk into our doors and that's the association that they have with police, lawyers, the courts. We're not performing separate roles: we're part of one umbrella. … We try to actually break down that barrier in really simple ways like being out in the community, being friendly, having an open door on hot days. Anyone comes in and gets a drink of water. Sounds like a really obvious thing but it just gets people in here and gets community talking with us. Stakeholder organisation

[59] See also Cunneen, Allison and Schwartz (2014b).

Initiatives already in place that are likely to empower or help overcome disempowerment, resignation or distrust, include strategic litigation and policy reform which the legal services are engaging in, dependent on resources. Other strategies likely to build a collective voice around more systemic issues that impact across a community are also useful, with the Cultural Authority Group in Tennant Creek one example of this. These approaches work well because they shift the burden away from (relatively marginalised) individuals, and expectations that look to these individuals to come forward and assert their rights. Some participants felt that Tennant Creek residents were comparatively empowered and outspoken. This is something to build upon.

> We went to the launch of NTG Safe, Thriving, Connected, which is, basically, the implementation plan from the Royal Commission recommendations. … [P]eople in Tennant I find are really strong advocates for what it is that they want and at a grass-roots level, which I always find really impressive. They were really strongly saying that they wanted to have their own site, that they want supported … accommodation as well as that, and diversionary programs. Stakeholder organisation

Other current initiatives that address these issues include, as an example, Indigenous-led strategies, programs and service provision; employment of Aboriginal CSOs; placement of a legal service within a service with which community is already engaged; and holistic service delivery (so that complex issues can be addressed together).

7.4 Language, literacy and related issues

For those who are interacting with the justice system there may be difficulties understanding processes and outcomes due to language and literacy, but also levels of education (see Chapter 2). This leads to (re-)incarceration and other poor justice outcomes.

> This is why they get into trouble. Nine times out of ten they don't understand their bail conditions, which leads to reoffending, breaching conditions. The judge may say they're not allowed to be seen with their partner. She's waiting outside, and up the street they go. I see that all the time. They don't understand the consequences of that. Why can't I walk up street with my wife? Community member

Various issues were raised with respect to the justice system, including limited use of interpreters including by police and lawyers, a point discussed in the 2003 report. One interpreter spoke of having to wait for a long time at court with no work. 'We're busy people. We have important things to do'. 'We always have to think on our feet – how do we get around these barriers' (community member).

> Another thing that really stands out are the documents and the bonds, and the types of conditions. And sometimes they're lengthy. There can be nine conditions … In the police station prior to someone coming to court with a whole lot of bail conditions that have been put on them, and then they've just signed a document, and it's just presumed that

they know what all that meant. And then there's going be a breach of it, and they say, "I didn't know what that meant," and that's not accepted. "Well, you signed it. It was explained to you by police …"

They don't use interpreters, the police, for that sort of thing?

Not to sign someone out of a watch-house on bail. They might use one if it was a high-end charge and it's important to get it right. But, in terms of someone being … They just explain it at the counter. They read it out. "You understand that?" And, of course, anyone's going to sign anything because it means I'm getting out. The interpreters aren't used in those situations. People walk out of court. The judge says, "Blah, blah, blah, blah, blah." If you came down to court and the people that walked out just stood there and asked them, "Did you understand what just happened in there?" I would guess … ninety per cent would say, "Oh, a bit." Or "Nuh." There's no-one there actually getting people as they're sentenced, after they're sentenced. Not writing a wordy letter and saying, "Here's your rights", which will never get picked up from the post office and returned to sender anyway, often. That's another big gap.

You really need someone there and then.

But, if you have someone there just to sit and explain, and get their permission to explain to family …

Who do you think would hold that role?

I think someone within the court system, most sensibly. Like a court liaison. I think they've had trials like that in Alice. Stakeholder organisation

There are some really big barriers to interpreter use at the court, and that's a pretty big issue. Barriers are that the courts are often busy. There's a lot of work to get through and, if you're going to sit with a client with an interpreter, it's going to take longer. And I think that the pressures that are put on the practitioners to get matters ready and through, and they often don't have an opportunity to get the matter ready before the day of the court … so it's not like they've had two weeks to have regular appointments and see all their clients, and have everything ready. It doesn't work like that.

Interpreters are not utilised to the extent they should be. I think the interpreter service themselves will tell you that. The interpreters might be sitting right there, looking at a client walk past, and go, "Gee, that person needs me to be there." But they're not there. And I think there's solutions to it. In some ways, the interpreters need to stand up a bit and actually go to the clients before the lawyer sees them, and say, "Look, I'm here …" I mean they do some great work. They print out a court list which has colour-coded, pre-identified languages for all the people on the list that they know of, which is usually the whole list. And then they have who's available in those languages. They have a whiteboard down there to show who's there and what languages they cover. So even a new practitioner that just arrives… they're able to work it out pretty quickly. And even still they just don't get used. Stakeholder organisation

There seems also to be some reluctance to use interpreters amongst community members presenting at court, including due to confidentiality concerns. One community member spoke of the lack of privacy at court, of the 'little rooms off to the side'.

> People can go in there to sticky beak. And sometimes people like the interpreters use it as an excuse. That's why I told the lawyer I don't need an interpreter. Why do they need to know my business? If that person doesn't need an interpreter there's no need for them to be in there with you. Community member

One stakeholder indicated, too, that interpreters were high quality, but consistency in terms of availability (both time-wise and for different language groups) was also a problem.

> I think we're very fortunate. We've got great interpreters here but sometimes only one for a language. So, if they're away and there's a gap of three weeks, there's really no-one else. I believe they're actively trying to recruit younger people to come in … Stakeholder organisation

Literacy and language impact on community members' interactions with *every* government system: child protection, housing and social security systems, as well as with services (see Chapter 6). This lack of understanding both gives rise to and impedes effective resolution of all types of legal issues.

> They need help filling in forms. CatholicCare explain things when they go there for help with matters such as debt but then they come to me as they need another layer of explanation. They have no understanding of what is happening. One man today didn't realise that his kids were not getting tuckshop because Centrelink had cut him off. We went to Centrelink to work it out. Community member

Interpreters are not (and ought not to be) just used in a criminal justice setting. Housing and health are the other contexts in which they are most frequently utilised. Other government agencies *and* services too, it is suggested, *should* be using them more than they are. Sometimes internal staff who speak language are used, but they are not trained, including around confidentiality requirements, according to participants. It is particularly important to have an interpreter, stakeholders suggested, where staff are from a CALD background – important both for the Indigenous person and the worker in question.

7.5 Remote communities

Most of the discussion thus far in this Chapter has centred on Tennant Creek, however, there is a whole lot more complexity to barriers to accessing good justice outcomes *outside* of Tennant Creek. Most or all of the above barriers are significantly multiplied when we consider remote communities, and as well there are additional barriers which are specific to remote communities. These barriers combine with potentially exacerbated levels of legal need.

> So outside of Tennant Creek, the barriers are the geography, the remoteness. It's only fairly recently that some of the communities have mobile phone coverage, and so

> access to information on the internet. Just an ability to access that type of information and know what to do with it. And literacy: being able to read and understand legal concepts. There's a big difference for people that are raised in remote communities. And the language barriers. Access to interpreters. There's been many, many occasions where someone has a non-English-speaking first language and who really does have some difficulty understanding complex issues who doesn't have access to an interpreter because there's none trained in that particular language or none available for weeks on end. Stakeholder organisation

> Language is an issue when English isn't your first language. A 1800 number doesn't even work in our remote communities. We've been advocating so badly about that. We've got a great interpreting service available but why can't that be available 24 hours, seven days a week, to our remote regions - where you can phone into 1800 Respect or any of those crisis lines that should be available to First Nations people? We are so far behind the eight ball, to be able to speak to someone for help. It's usually only one pay phone on a community anyway. Everyone knows if you're on the phone. It is not private. There's no privacy at all. Stakeholder organisation

> So there's a lot of issues remotely. There are housing issues. Housing's it. If you haven't got a good and safe environment in the house, everything else is going to collapse … We've had clients that have walked in saying that they want to end their life because of a whole lot of underlying issues … There are income-management issues. There's a whole basket of underlying issues. If you want to really escape from a remote community in the Barkly region and your card is locked into paying rent somewhere and you've got minimal fuel money. You may have an unregistered car or a car which isn't going at all - to escape something, to go from A to B, you've got Buckley's, really. We've had to evacuate them to Mt Isa, to Darwin, down to Alice, out of Barkly. [We pay] to get them out … There's no money from the government to help us … So, to get them safe, make sure that they're safe, and they often have kids in toe, it's buying bus tickets. 'Have you got family somewhere else? We'll pay for you to go there.' Stakeholder organisation

There are major limitations in legal service delivery to most Barkly communities, with these limitations somewhat reduced for more geographically accessible communities (Elliott and Ali Curung). To some degree, legal (and other) services face similar access barriers on remote communities to the residents who live on them. Speaking of Ampilatwatja, for instance, NAAJA indicated that it is 'just physically impossible' to be there more often than they are 'because we're actually locked out for going there almost six months of the year, because of the heat and the men's business' (stakeholder organisation)

> Because it's a long way, Alpurrurulam is not serviced very well but it's also really close to the border … and there's heaps of problems with petrol and housing. And it's major issues. Completely misses out … because it's too expensive. It's too hard for us to get there – to get there for two days takes a full week. Stakeholder organisation

Difficulties associated with trying to service a remote community with which you have no or a limited relationship or connection (especially by way of FIFO service provision) were highlighted by community members, as was the need for services to send out male *and* female staff.

> There's nobody to go to their house and say, "Look, I'm here if you need me". "Here's my number. Call me if you ever need someone to talk to." Or even just come and have a coffee at the Safe House. There's nobody there to do that. And if you don't have respect from a community, you're not going to be trusted. Nobody's going to walk up to you and talk to you. You have to be more involved for people to have respect … The last drug and alcohol woman, she sat in the clinic and that was it. There was no-one going in there. She didn't even come to any community meeting and say, "I'm here." And the issue about that, the second thing, some men here are not going to tell a woman. They're not going to speak to a woman. No way. Same as a woman's not going to tell men. Community member

Of note too, access to justice issues impacting on remote communities are not only connected with legal service delivery, but to all parts or aspects of the legal system.

> The access to justice and legal representation in the bush courts is huge. So whether it's [in the child protection space and families having to travel to court] … or domestic-violence victims, and the therapeutic supports that just don't exist in those areas and you're meeting with your lawyer under a tree, and you can see all the family, and everyone's around. All those sorts of things need to be addressed more generally as well … Often, you'll have the criminal legal services accessing more remote areas as opposed to the civil services ... I think that's a huge one. Stakeholder organisation

> What about psychological assessments [for victim's compensation] where our clients have to come from the Barkly region? Some of them are so remote and they always will want to travel with a support person plus children. And then accommodating from A to B. So why can't psychologists, who are employed by the NT government, go to the Barkly region and then attend to five clients there in one hit?
> We've raised this with CVSU and they've said that they can't find a psychologist willing to do it. So you've got clients who are often traumatised, disabled, and have to catch the only bus that leaves Tennant Creek at three in the morning … That's the only transport. Wait in the freezing cold, in winter, with their kids in toe and a support person, with the offender on the loose, to come to Alice for assessment.

> And we've had our staff member, who are in the front line, where they're kind of shielding with the police. Police are unaware of what the offender looks like but our staff members have waited there with our client to hop on the bus at ungodly hours, to come to Alice Springs, to do a psychological assessment. So, the trauma that's

> involved with that, and this is a legal procedure for her about one assault, let alone could be twenty other assaults that she hasn't spoken about. It's just so wrong. Like who do you … We've been telling governments about this - It's very unfair and it's very unjust with what is happening with Aboriginal people in our remote communities. Stakeholder organisation

While the example above related to the difficulties of getting from Tennant Creek to Alice Springs, the problems are magnified significantly for people in remote communities in the Barkly where there may be no option of public transport to Alice or to Tennant Creek.

Policing was also raised as problematic in remote communities (see also Chapter 6). One story shared during focus group interviews related to a woman threatened by violence who called police stationed in her community. The call went through to Darwin. Three days later, the woman claimed, police came to her about the matter, at which point she said 'Well, forget about it. It's dealt with'.

> Policing is a regular problem because, by the time they put out whatever spot fires they're dealing with in their own kind of designated community and then get to another location, that would be time on the road. Locally based [police also have poor response times as they have to travel out to other communities]. Stakeholder organisation

There have been are some positives, however – with legal services trying to do what they can within resource constraints. In terms of past strategies that have worked well, NTLAC's outreach initiative, funded through the NTER and running 2007 – 2014, increased community access to regular and fairly comprehensive service delivery, including the focus communities. It provided CLE, minor task assistance, advice and referral services. A decision was made to cease providing outreach and to focus on Tennant Creek. The tension between servicing need in town or in remote communities was a factor in this decision-making and remains an issue for legal services.

> I think, in terms of NTLAC staff and funding, it's a very big geographical area, and the service can't do everything. There was a decision made that we would have a service centre in the Barkly, which is the Tennant Creek office, which is manned with a legal practitioner, whereas it wasn't before. It's sort of a compromise … The service doesn't, at this stage, travel any more out to communities but we will receive phone calls and when people are in town, they might come in and see us – they do. Of course, it's not a perfect model, especially for the communities that are furthest away, like the ones that are up to a seven, eight-hour drive away. Stakeholder organisation

> And the more I've been here … the more clients we've got, which has meant that I'm unable to actually extend to the other communities yet. Which is a double-edged sword. Is it better to just extend your reach or really service the community here as well as you can? Because that said I have a number of clients who live in remote

> communities, come into Tennant … This is a service town and they access our service here. And then we find novel ways to stay in touch with them. But it's that initial point of contact, getting those initial instructions that are most crucially done in person. Once you've got that trust and … that story, it can be possible to continue to act for them and assist them, even though they live really remotely. Stakeholder organisation

The NTLAC initiative delivered justice outcomes to people that would have had no outcome at all without this outreach.

> There was one guy who had been paying extra for death benefits instead of the normal amount that comes with the policy. He'd been chipping in an extra $11 a week or something. And he had a death benefit of $150,000, and it wasn't claimed. So just the super that was in his account had been claimed and, of course, the super company then went, "Oh, by the way, you haven't made a …" So, Legal Aid assisted the family to access that. And, there was another one where there was a death benefit and the conditions of the policy meant that you had to have worked within the last six months, and this person was eight days out, and it was initially just refused … The insurers reassessed that when we got it and did pay it out. ….. There were lots of things picked up. Medical-negligence matters that would have just gone nowhere if Legal Aid didn't see people. And people involved in motor-vehicle accidents that were quite seriously injured and had ongoing injuries, and no real knowledge that they had remedies. Stakeholder organisation

Positive elements of the project identified by stakeholder organisations included that NAAJA sent a female lawyer out with NTLAC's male lawyer, as well as the 'frequency and regularity of visits – something that builds up relationships.' 'I think a lot of communities are used to services that are there for a few months and then they're gone.' Additionally, initial distrust on the part of organisations like Council or clinics fell away, once the mutual benefits to all involved were clear, and strong connections were then formed that contributed to the effectiveness of the initiative. There were therefore 'people on the ground in the community knowing when Legal Aid was arriving' and they were 'able to refer in clients on the expectation they could get some assistance.' Clinics were sharing audio-visual facilities with NTLAC, linking people with financial counsellors. Councils were providing substantial in-kind support too.

> On community, for example, when we first arrived … Council just said, "Look, there's a tree out there." And no phone. We had to use our sat phones to refer people. That rapidly changed after a few visits and to the point where we were so well accommodated. Council would make a room available, understand things about confidentiality … We worked in different communities from different spaces. In Alpurrurulam we worked from a Council office. They set up and allowed us access to a separate office. It had two computers. It had phones. It had a discreet side entrance. Stakeholder organisation

> CatholicCare had a really good financial counselling and money management outreach program. A lot of the issues Legal Aid were helping people with related to those concerns, so they were interlinked. They might be unclaimed super or … unserviceable loans and those sorts of things. So, there was a trial – and it did work really well – of a number of linkages where those people would go out and then video-link back through the clinic or the Council, or whatever, to Legal Aid. And they could help get the instructions from a person ... And that worked for a while, and then I think that person left CatholicCare. And I don't know what happened to the program. Stakeholder organisation

The NTLAC initiative is also a good example of collaborative or coordinated practice. Schedules for visits were initially ad hoc, 'and then things became quickly more sophisticated.'

> There were meetings which were facilitated by the Federal Government to bring services together and talk about how we can make this work best. Shared calendars and knowing what other services were doing started to come into play. Some other good things: services collaborated to put together community legal-education resources. And then, in meetings with other services, we ended up dividing up sections of the NT. Stakeholder organisation

Other initiatives spoken of include a travelling 'law fair' that has been out to remote communities.

> A good model, if you can get it to happen, which was more like a law fair where you try and get as many services as you can into the one place at the same time. So you're not doing referrals to services that are hundreds of kilometres away ... If the service is right there and you can have a face-to-face, warm referral on the spot, that's really good. We had some occasions when that worked quite well. There was one in Elliott where we had a lot of services come to Elliott. We've had one in Alpurrurulam. [Legal services] ... but also, the non-legal services like the financial counsellors actually coming out to the community with us. We did that for a while [on about a] two-year cycle. Stakeholder organisation

8. ACCESS TO JUSTICE IN THE BARKLY: WHERE TO FROM HERE?

This chapter sets out suggestions and some recommendations for improved service delivery, strategies and approaches most likely to meet current legal needs in the focus communities.

The strategies in question cover a relatively wide range. This is because achieving improved access to justice has some complexity to it. As one stakeholder suggested, 'We wouldn't be here' talking about this 'if it wasn't complex. We're never going to unravel it all. You can only slowly chip away.' Given this complexity, a multi-faceted approach is required, one important part of which relates to legal service delivery.

Strategies considered are likely to improve access to justice as more traditionally understood, including by enhancing legal service delivery. But they also encompass approaches focused on community development, system reform and other more collective responses to relevant issues. Access to justice is traditionally defined as resolving legal issues after they arise and often for and by aggrieved individuals. It is usually situated within a legal framework, involving legal institutions, legislation and lawyers. The concept needs to be expanded, however, in terms of processes used to ensure access to justice and what 'justice' means. Access to justice requires, for instance, building capacity of more marginalised individuals so that legal problems are averted to begin with or are dealt with perhaps more directly by these individuals when they do arise. Reform of legal, government and other systems likely to deliver better justice outcomes to whole communities requires input from legal and other services, community members impacted by those systems and from government. These are just some examples of how we might broaden definitions of access to justice.

8.1 Responding to barriers: knowledge, complex needs and culture

This section considers responses to a number of specific barriers to accessing justice, with some focus on legal services, information and institutions.

8.1.1 Increasing knowledge and awareness of the law and legal services

There is a need to increase access to information about the law and about where to get help with legal issues.

> The more our community knows and the more we educate them, the stronger they'll be. So, when it comes to things like finances, if they have been walked through the process and the things that they can utilise, that's going to help. Community member

One stakeholder referred to the use of standardised approaches to legal information for various agencies developed by Legal Aid WA.[60] The tool is confined to criminal law,

[60] See https://www.legalaid.wa.gov.au/news/blurred-borders-new-legal-communication-resource

however it uses a range of communication mediums (including visual art and story-telling) that all stakeholder organisations in the east Kimberley region agree to use.

More CLE that accords with good practice identified above (talking with community about areas in which they need more information, delivering CLE through organisations with which community is already engaged, for instance) would be greatly beneficial, with some focus on civil and family law issues, where appropriate. Use of radio or similar may be more useful than printed materials in getting the word out about available legal assistance and about legal rights. Increased CLE, however, requires further resources: to develop and deliver it and to respond to the increased demand that will inevitably emerge as a result of increased delivery. However, increasing access to information about the law and legal rights, including through CLE, should also help to avert (future) legal problems from arising.

Additionally, increasing understanding of the law and of access to legal help should not be the sole responsibility of legal services, nor just be about CLE as it is traditionally understood. Such a significant amount of legal need in the focus communities arises in the context of government system/community interaction, including in civil and family law areas. It is suggested that government agencies (including local government) need to take on much greater responsibility for ensuring community members have access to basic information essential to ensuring effective interaction with government systems and about relevant rights and responsibilities. This is identified as a form of community-wide 'capacity building', and again, may help to avert the need for more reactive legal responses. Government agencies should also know about and be able to refer clients to legal services, where required. This is discussed in the context of housing and employment below.

> I think a lot of [the education] could be done by the Department [of housing] also taking a more open approach, informing and educating people, it doesn't have to be talked about as 'rights' because it's kind of a dirty word. And it's the same with employment. Since the Intervention [housing and employment arrangements] … have been … different concepts to remote communities than what they used to be. You know, back in the day, you paid your rent for your house and, if you paid your rent, then you got your house fixed. And, if you didn't pay your rent, you didn't get your house fixed, and you just got to stay in your house. And then suddenly it was, well, you paid your rent and you still didn't get your house fixed. Or you didn't pay your rent and you got told you have to get out of your house. So there was very little transitional capacity-building around those changes. And the same with employment, there was no information about what's your pay slip and what's super, and what's unlawful dismissal, and what's workplace bullying and what are the expectations of your employer. Because you've just been in CDP for the last 20 years doing your whipper-snipping four hours a day … That's the Shires, being the main employer there. The Shires and Territory Housing could still do a lot more capacity-building to help that transition for tenants and employees as well. And legal services could be involved. Stakeholder organisation

Similarly, understanding of processes and outcomes in the criminal justice system, identified as currently problematic, ought to be enhanced, potentially through creation of a position situated within the justice system designed for this purpose. Other initiatives likely to build knowledge and help link people to legal (and potentially other) assistance include use of a legal health check tool and employing community members to work with and/or for legal services on remote communities. These are both discussed in detail below.

8.1.2 Working holistically to address complex needs

Disempowerment, fatigue and resignation are identified as barriers to addressing legal issues. Responses to these issues include building capacity of individuals and re-empowering community (see Community solutions below). Discussed in the context of the latter barriers too, however, was the complexity of issues individuals face, as well as 'over-servicing' of clients - where they are connected to multiple organisations either for the same issue or so that all of the issues they face are responded to. More holistic service delivery within a single service is likely to be more beneficial than multiple referrals to organisations working with clients.

One suggested strategy is recruitment by legal services of social workers. There was some discussion of collaboratively seeking funding for a social worker position that would be shared by legal services in Tennant Creek and/or of employment within individual legal services of social workers. NTLAC has employed Social Support Workers (SSW) to work with non-legal issues of clients in Katherine, Alice Springs and Darwin. This approach provides opportunity to address need holistically.

> It would be an absolute game-changer. It would also mean that lawyers are doing less social work and therefore have the capacity to do more strategic-impact litigation. Whereas, at the moment, as a lawyer, you need to respond to a large number of an individual's social needs in order to get to the point of actually being able to address some of their legal needs … Engaging with government agencies like … housing and ascertaining someone's housing status, whether they have any debt, advocating for them to be on the priority-housing list. That's totally non-legal … [You're just] telling a person's story and explaining why they meet the criteria for priority housing. So, a social worker could absolutely be doing that. They could also be doing a lot of the warm referrals that we do that are non-legal. So, with just about every client I have, I refer them to CatholicCare for financial counselling. A social worker would readily do that. Other things like notifications. So ... ensuring that housing is aware of all of the people living in a house with a person and, if a person passes away, advising housing that, for cultural reasons, they can't live in that house anymore, that they need to be transferred. When there's a death, liaising with the Land Council to get vouchers to pay for funerals. We do all of those things because no-one else is doing it that we know of. And also, because that person requires, particularly with very vulnerable people, a wrap-around service at that time, so …A lot of lawyers here are doing a lot of non-legal work. Stakeholder organisation

8.1.3 Working with Aboriginal clients

Also discussed is the broad support already being provided by Aboriginal staff (particularly CSOs) to Aboriginal people with legal problems or disputes. These staff have capacity to work with complex legal *and* non-legal needs of clients, including their need for cultural safety and connection. They help to address barriers of distrust when they are working with Aboriginal clients in a non-Indigenous service, in particular. Any opportunity to expand or otherwise build on Aboriginal CSO-type roles in Tennant Creek, given that it works effectively, ought to be taken. Suggestions are set out below about creation of an Aboriginal CSO type position on remote communities.

Apart from creation of Aboriginal CSO positions or similar, other issues raised in the context of service delivery to Indigenous people referred to prioritising Indigenous-led strategies, programs and service provision (see Community solutions below) and being culturally responsive through greater uptake of interpreters, including by lawyers.

> We're not an Aboriginal legal service but, in terms of cultural safety, I think that we can be well ahead of the others sometimes, in terms of always using interpreters, proactively using interpreters. Things like that make the service much more accessible to people. Stakeholder organisation

Some of the work to be done to increase use of interpreters by lawyers, government and services involves educating community about the role of interpreters (and about interpreter obligations with respect to confidentiality): both to overcome barriers to community use of them, but also to recruit more community members to work as interpreters. There are currently funds available, but not enough interpreters to do the work in question. 'We have a list of people who have done the training. They say, we'll come, don't pick us up, then they never come'. Community member

> One lady came up to me. We don't know what you mob doing. You need to give us more information. We need to tell our story to the community, to promote the role. Hey what you mob, this is what we're doing at the Interpreter Service. Community member

Sometimes service providers take information out to remote communities about working for the AIS, too. As a further point, lawyers also need more training about why, how and when to use interpreters when working with Indigenous clients.

> All new lawyers and legal staff should go through interpreter training. The AIS has specialised legal training, which provides basic legal understanding for interpreters. Training's also available to all agencies about use of interpreters but there's not a lot of take up. NAAJA's trained their staff in Darwin and that's been really positive. Stakeholder organisation

There is a need to increase knowledge and awareness of the law, legal services and where to obtain help with legal issues.

1. We recommend expanding CLE that accords with the good practice identified in this Report. In implementing this recommendation, we note:
- the importance of further resources required to develop and deliver CLE and to respond to increased demand;
- that various forms of communication may be more useful than printed materials (e.g. radio).

2. We recommend that government agencies (at all levels) ensure that community members have access to basic information essential to ensuring effective interaction with government systems and about relevant rights and responsibilities. Further, we recommend that government agencies ensure that they are aware of relevant legal services and that they refer clients to legal services, where required.

3. In order to improve community understanding of processes and outcomes in the criminal justice system, we recommend that consideration be given to establishing a designated position situated within the justice system designed for this purpose.

There is a need to work holistically to address the complex needs which many people caught up with various legal and non-legal issues in the Barkly face.

4. We recommend that the legal services consider the feasibility of recruiting social worker/s for the region. Consideration may be given to collaboratively seeking funding for a social worker position that would be shared by legal services in Tennant Creek and/or of the employment within individual legal services of social workers.

Working with Aboriginal clients.

5. Aboriginal staff have capacity to work with complex legal and non-legal needs of Aboriginal clients, including their need for cultural safety and connection. We recommend that the legal services consider the feasibility of expanding Aboriginal CSO roles (or similar) in the Barkly. Consideration should be given, in this context, to collaborative solutions across the legal services.

6. We recommend various strategies for increasing the use of interpreters. These strategies include educating community members about the role of interpreters (including interpreter obligations with respect to confidentiality); and more training for lawyers about why, how and when to use interpreters when working with Aboriginal clients.

8.2 Collaborative and coordinated service delivery

8.2.1 Collaboration and coordination in legal service delivery

A number of gaps in legal service delivery were identified in earlier parts of this report. These pertain to civil and family law in general, and particular issues within these areas of law; to providing services to males and on remote communities; lack of private practitioners; and lack of a permanent NAAJA presence in Tennant Creek at the time of writing (which is now being addressed, as noted above).

For the most part, without a fairly immediate injection of major financial or other resources, many of these gaps are not going to be addressed in the short term. They are probably best addressed, as participants identified, by thinking through improvements to *the way in which legal services are working*, with some focus on increased collaboration or coordination. Detail is provided below about potential approaches in a remote service delivery context. The comments in this section have broader relevance.

Gaps in legal service delivery might be responded, to a degree, to by ensuring that all legal services are aware of and using *appropriate* (warm) referral processes to service providers, including private practitioners and what are referred to in the 2003 report as 'government and community services' (complaints agencies). Information about and processes of referral to the latter persons and organisations must be monitored and improved on an ongoing basis.

Increased collaborative and strategic service delivery planning so that legal services know each other are doing, and where and at what time would be beneficial. Participants pointed to a need for more formal or structured relationships between legal services at a local level, including to increase knowledge about legal service provision (for instance, when legal services are travelling outside of, or NAAJA and NTLAC civil lawyers are travelling to Tennant Creek). This and other information might be used to identify and respond to possible duplications and gaps in legal service provision. There could be discussion about how resources might be shared, too, so as to add value to the work of the legal services.

> It'd be good if legal services could visit those black-spot areas where we're not funded to go. That's where those gaps [can be addressed]. Stakeholder organisation

Regular meetings between the legal services was recommended by some participants, though with acknowledgement that everyone is time-poor. Another recommendation was for a shared calendar, accessible to all the legal services.

> In terms of a legal meeting group, specific legal, I don't think that's happening … [E]veryone's communicating with each other… sort of stopping and talking about the highest trend needs and gaps, and all of that. It would be useful for the four legal services to have regular meetings that are set apart from the general community services … For a small community, it makes sense for them to know what's on the

ground, to talk to each other. Stakeholder organisation

A further suggestion is the setting up of MOUs between the legal services, which might lead to consensus around and formalisation of ways of working (in relation to referrals, for instance).

> I think it's been patchy and it could definitely benefit from a bit more structure and commitment from the organisations. An MOU or something a bit more formalised because a lot of it has relied on personalities, developing relationships, [but there are always] changes of staff. We've had an MOU … in the past but that was really just about them sharing our office space. Haven't really had anything about referral of clients … or anything like that. And I think we could benefit from something like that. Stakeholder organisation

> I would prefer to have some kind of MOU developed between the legal services where everyone knew what their delineated boundaries were and what their workloads were, what they could accept or not accept …They're not having to be here, there and everywhere. And also helps the legal provider prevent conflicts from arising. Stakeholder organisation

8.2.2 Collaboration and coordination: all services and government

Collaboration in service provision by *all* services (not just legal services) and government is required: both to respond to the (often) complex issues faced by individuals and families,[61] and at a broader service provision systems level (see also Systemic approaches to addressing systemic issues).

Participants suggested increasing partnerships and otherwise improving collaboration and coordination with respect to referral processes, for instance. Agreement over sharing of client information also needs discussion and formalisation, in this context. Legal services might think through where further partnerships might be established, as a priority. One legal service participant discussed this as follows.

> I think a really significant one that we're only just starting to actually explore is partnerships with other organisations. There could be formal health-justice partnerships (discussed below) or they could be strong relationships with those organisations that, with the client's consent, refer them directly to us at the appropriate point in time. I think there is such a multiplicity of legal, financial, social, cultural issues that affect so many individuals here on an everyday basis that they just feel overwhelmed and inundated. Stakeholder organisation

[61] One suggestion was that there be shared case management of individuals and families similar to that used for the Family Safety Framework, but with a focus on families (or households) experiencing multiple issues that all require attention. At present, multiple services and agencies are responding to these issues with very little coordination, unlikely to produce positive outcomes and a waste of resources.

> So many organisations working across so many issues not talking with each other, so people feel like, and I see this with my clients, they walk from here to there, to there, to there, and they just become disillusioned by that, understandably. I think it's very reassuring for a client if you can say to them, "I can help you with this. I'm going to get you help with that from this person. I'm going to send them your story. I'm going to give them all of your information. You don't have to recount your trauma again and we're going to all work together to get to the bottom of this." It's not happening enough and it would improve access to justice so markedly. Think about the social workers at the hospital. … On a daily basis, they have clients coming to them with a panoply of legal issues and they're not coming to us. And that client is not going to come to us because they've already spoken with a social worker about what's going on. They've got health things, death, injury, whatever worrying them… I think we really need to be working toward - of course, always with the client's authority - information-sharing in a way that really benefits them so that they're being appropriately and meaningfully serviced rather than over or under-serviced. Stakeholder organisation

A further suggestion was for shared resources that would fill existing gaps in service provision. As an example, there was a suggestion that agencies in Tennant Creek jointly fund a position that would work therapeutically with male perpetrators of DV. This position could sit within a legal or non-legal service, and though not a health justice partnership per se, would reflect and/or emerges at just one of multiple points of intersection between health and justice issues.

Formalising collaboration and coordination is essential, according to some participants. Agreed processes, for instance, can come unstuck where reliant on the knowledge and inclination of or inter-personal connection between individuals, particularly given the turnover of staff in Tennant Creek. MOUs were recommended in this context, identified as beneficial for the executive or management level buy-in (and authority) they bring to the table.

> I consider siloing to be a really major issue in Tennant Creek and the Barkly ... I think probably, in an appropriate manner, formalising them a bit would help. Just because my experience has been that even with positive relationships with people, there isn't that proactive approach to collaborating. So maybe it needs to be helpfully imposed a little bit. Stakeholder organisation

> Collaboration needs to be part of the processes and procedures of organisations. So, like starting with an MOU, for example, because staff retention is such a problem in Tennant Creek. I'll have a good relationship with someone … and say "You've got case workers. If there's issues coming up, just directly link them with me." But then that person you're working with goes away and you're back at square one educating new staff around the processes they can follow with you. It really needs to come from

management and be an entrenched thing. Stakeholder organisation

> In terms of other services and agencies, when I started, I was as much as possible just out in the community and visiting all the organisations, and talking about the legal service and my role, and exploring how we can work together. I've been starting to lose steam there because one starts to feel like you're just reaching out and they're not grabbing. We've held a number of community service-provider forums and facilitated that out of the courthouse, basically, getting all of the service providers together and explaining what each of us does, encouraging warm referrals and also breaking down those barriers. We did that a year ago. I guess there was a slight increase in referrals and then it just petered out. And, again, that's probably staff turnover but I also think management in these organisations needs to really lead that. Stakeholder organisation

Local level and/or NT-wide MOUs with government agencies, in particular, are seen as likely to be beneficial for addressing systemic issues, including to improve on existing referral processes.

> Given the level of policing in Tennant Creek, it might even be something that could include the police. I know there's been a lot of frustration in terms of referring clients for assistance … where police have told fairly vulnerable people particular information and that's kind of been bounced around as well. Territory Families is another agency that could refer clients earlier on. … I mentioned police because of the DV, the levels of DVOs that they are involved in. They're effectively a legal service in that sense. So, making orders on behalf of people. And then Territory Families obviously representing the interests of children. And, and we've had long conversations with them about early referrals of people to get legal assistance …. And they've been receptive to that then, again structurally, people change, things fall down and that sort of thing necessarily happens. Stakeholder organisation

8.2.3 An example: health justice partnerships

One type of partnership that is likely to be particularly beneficial, and in which there is positive interest from both health and legal services in further establishing in the Barkly, are health justice partnerships (HJPs). There are a number of HJPs in Australia and interest in them is growing, as they are seen as an effective mechanism to improve both health and justice outcomes.[62]

Barkly legal services are already engaged in HJPs and/or other collaborations with health services, including in Tennant Creek. NTLAC has a partnership with Danila Dilba in Darwin and will also coordinate an HJP in Katherine, collaborating with Katherine Hospital and other services. NAAJA has collaborated with Miwatj Health Aboriginal Corporation in the Top

[62] More information about HJPs is available on Health Justice Australia's website. https://www.healthjustice.org.au

End. CAWLS is working with Anyinginyi in Tennant Creek, providing services to community through this organisation's Stronger Families unit.[63] CAWLS also delivers Responding to Family Violence training seminars to health staff in Alice Springs, including in the local hospital.[64] Through Health Justice Partnerships CAWLS provides on-site assistance to women at Health centres in Central Australia including the Alice Springs Hospital and Central Australian Aboriginal Congress. These women are then linked in to CAWLS client support services for assistance with interconnected non-legal issues. This service model is in the process of being rolled out in the Barkly region.

Given this and for other reasons, there appears to be a good understanding of this type of partnership and why they make good sense. There are many links between health and justice, and this, as well as the increased potential HJPs might bring for increased community engagement with legal help and for building knowledge of the law, suggest that establishment of further HJPs may be useful in a Barkly context. The potential for health justice partnerships in remote locations was a particular focus (discussed further below). One participant working in health stated as follows.

> And even our discussion this morning about what things count as justice we're like, "Oh my God, totally! Yep. Maybe that fits in there." And not thinking about it that way. And, if you aren't used to viewing all of those issues as justice issues, you're just never going to be looking in the right place for the assistance … If it is something that is moving forward [we would be interested] … We want to be cutting edge. We want to be progressive. We want to be the best service we can be. Stakeholder organisation

Some Barkly clinics, and health services generally, are already doing work that impacts (positively) on justice outcomes: whether by way of advocacy around issues such as housing or addressing issues that underpin poor justice outcomes (such as mental health or drug and alcohol misuse).

> For me, I don't feel the community has a very strong advocacy face. So, we are doing what we can to be squeaky wheels and try and get things moving to benefit them. Particularly for housing at the moment, that's where we're trying to throw our effort behind this because the current living situation of community members is having a noticeable impact on our service - not only in the delivery, but in the presentation of people. So, we're trying to … encourage our community. "You guys need to phone housing." Because the more voices we have making the same complaints, the bigger an impact we're going to have. Stakeholder organisation

[63] CAWLS is not in partnership but is co-located with Anyinginyi and has an MOU for service delivery which includes setting up and delivery of Health Justice. This is still being developed with other services and will include a comprehensive and integrated service delivery.

[64] This free training is an opportunity for professionals to gain deeper insight and knowledge into how to identify domestic violence and respond to disclosures of domestic violence (including referral pathways). There are presenters from a range of services and it is the only accredited workshop of this kind in the NT. This training should be rolled out in the Barkly with legal and non-legal services in 2020.

Challenges associated with HJPs were also discussed, as follows.

> [Even in an] urban environment [an HJP] takes a really significant amount of time and attention, and, basically, reminding everyone through training, through resources, through ongoing communication, through turning up and going, "Hey, don't forget about us!" "This is a really good outcome. That was really great that you referred that person." That kind of ongoing, physical presence. And even then, it's still a really significant challenge to get the health providers to think about the other needs of patients. Stakeholder organisation

> As long as we're not positioning ourselves as - this is the health centre where you come to get in trouble … We have a healthy relationship with the police down at [named place]. I do not want for the community to see that, "Oh, they've come into the health centre and now they're being carried off to court," or what have you. But I would like for the community to say, "I've got a problem and I need to go somewhere. Who can we access as a resource?" And there should be no issues of us putting up, "Hey, you know the lawyers are coming. Have you got a problem with debt or crime, or humbug?" And do it that way. I don't think that would become a problem. Stakeholder organisation

Legal health check tools

An HJP is more than just provision of outreach legal services from a health service. Legal services become much more embedded in the health space through an HJP, with collaboration taking a variety of forms. Collaboration might extend, for instance, to shared legal and health service delivery to individual clients. Some HJPs are also using legal health check (LHC) tools, through which health staff (who generally have no or very little legal knowledge) identify and then refer legal issues to legal services.[65] Implementation of the tool serves as an opportunity to upskill health workers around legal issues and to build collaboration across services and sectors.

> Someone could just come in for a regular GP visit or a check-up with a nurse and there's a legal health check-up that can be done at the same time. And, if some things jump out … I really believe that people that have legal issues that are causing them sort of anxiety and stress, it really is closely linked to a health issue. And, you know, we've had so much experience in the past of helping people, taking that pressure off them when they realise it's not as big an issue as they thought … or it can be fixed. Stakeholder organisation

A legal health check tool might be introduced outside of an HJP in Tennant Creek or the Barkly more generally. It could be used by legal services (lawyers and other staff), and by a

[65] LHCs have been used in contexts other than health, but are now being rolled out within HJPs, including in Indigenous-focused HJPs. Information on LHCs is available from various sources, including http://legalhealthcheck.org.au

range of other organisations and individuals: addressing barriers to accessing justice, including poor identification of legal issues other than criminal issues.

> I don't think that we should be sitting at the hospital. I don't think that's an appropriate use of our resources. I also don't think that it's socially or culturally appropriate for a lawyer to be really engaging with someone at the time of a health crisis. It's about upskilling the social workers who those clients have relationships with and trust to then access our service at a time that works for them. But it's that first point of contact. When you lose that opportunity, you lose the opportunity of helping the client. You need to set something up. The counsellor at the women's refuge could be using a legal health check tool. The entire outreach team at the women's refuge. All of the counsellors at the Sexual Assault Referral Centre. The high school wellbeing team. The case workers at Anyinginyi Health. I mean even the entire medical team at the hospital. … There are so many systemic issues affecting people here that any service provider in any field is going to confront all of these issues. The point of a legal health check is to actually enlighten those service providers to the fact that it is a legal issue. Stakeholder organisation

It was suggested that the NTLAC helpline might also be contacted to assist with 'triaging' of legal issues picked up through the LHC process, assisting services to identify if they are legal and/or what to do in response. Increased community awareness of this helpline may be useful. It is important to note though that as is the case with CLE the more legal need you find, the more the resources required to service this need.

A number of gaps in legal service delivery were identified in the Report. Without injection of major resources, many of these gaps are likely to best be addressed through improving legal services' collaboration and coordination, among themselves and with other relevant organisations.

7. We recommend that all legal services, including private practitioners, and government and community services (including complaints agencies) are aware of and use *appropriate* (warm) referral processes to service providers. Information about and processes of referral must be monitored and improved on an ongoing basis.

8. We recommend increased collaborative and strategic service delivery planning between the legal services. In this context we further recommend consideration of:

- the establishment of MOUs between the legal services to develop consensus and formalisation of processes (eg, referral processes; agreement over sharing of client information);
- regular meetings between the legal services;
- a shared calendar, accessible to all the legal services.

9. We recommend consideration of the potential for shared resources (both between legal services and other agencies) to fill existing gaps in service provision. For example, agencies in Tennant Creek might jointly fund a position to work therapeutically with male perpetrators of domestic and family violence.

10. We recommend consideration of establishing local level and/or NT-wide MOUs with government agencies, particularly those likely to be beneficial for addressing systemic legal/non-legal and service delivery issues (for eg, by improving existing referral processes).

11. We recommend consideration of establishing further *health justice partnerships* (HJPs) with the potential for HJPs in remote locations as a particular focus. In this context we recommend consideration of establishing a legal health check tool. We note the suggestion that the NTLAC helpline might be utilised to assist with 'triaging' of legal issues identified through the legal health check process.

8.3 Remote service delivery

Given the major barriers associated with and gaps in current legal service delivery provided to remote communities some attention has been given to thinking through strategies to be used outside of Tennant Creek. Recommendations in the 2003 report about service delivery in Tennant Creek are discussed again below, but in the context of remote service delivery (such as video-conferencing or creation of a community development worker role).

8.3.1 Shared legal service delivery to remote communities

Legal services are aware of the gaps in remote service delivery and discussed ways to address these gaps. A common theme that arose in this context was sharing of service resources, both legal and non-legal. Participants spoke of joint visits to communities, which brings together both financial and other resources, but also the different areas of expertise or focus of services.

> There's a lot of driving, I think that it's really important that the legal services and other community organisations are collaborating more. … Through those relationships I've built with the other lawyers and legal services, I started exploring the possibility of us doing joint trips to a community, for example, because, at the moment, not all of the legal services have an Indigenous liaison officer. My position has been, okay, we have different clients. We have different practice areas. We can go out and do a trip without it presenting any conflict whatsoever. We don't talk about our clients. We could go to a community. We could do a joint CLE session and then

> set up in separate offices. And, you know, in that one trip, service the community a hell of a lot better than would be if we're doing trips only every four months because it's such a logistical feat to get out there in the first place. Stakeholder organisation

> You need resources to get out to remote communities. Four services going out at different times. All need vehicles, contacts in the communities to organise meetings and so on. We also can't send women out by themselves. Resources are scarce, let's try to share them. We were thinking about getting a big bus and everyone pooling resources. A travelling circus! Stakeholder organisation

It was stressed that this could only be started if there was sufficient commitment and capacity to do it properly. 'Well, I think, if we fail to meet peoples' expectations, we do more harm than good, which is why I honestly haven't dared to go out there until I can guarantee people that I'm coming back' (stakeholder organisation).

> All those conversations [between legal services] have happened but it was just more down to the actual funding of that delivery, lining up dates and everything. It's just the logistics of it. And making sure … you can't just go out every six months and go, "Okay, we're back," or even every two months. You need to dedicate a big chunk of time when you're first starting that program to just develop relationships. Stakeholder organisation

> If you wanted to bring [the NTLAC outreach] model back in, you probably would have to do some regular visits in the communities … You'd have to do at least four visits a year. And you could probably roll back a little bit over time and cut it back to three. If you could do more, then that would be better. It's essential [too] to have Aboriginal people involved I think [in liaison roles]. Stakeholder organisation

On the latter point raised, an Aboriginal liaison position shared across legal services and situated in Tennant Creek (but able to travel out to communities with the services) was discussed, as follows.

> You could have one or two liaison-type facilitators for remote visits that would be a regular face coming into the community. And they could transport different lawyers so you would share the load across the services. So, you might have a civil lawyer go out from NAAJA and then the following visit there'd be a civil lawyer going from NTLAC. Now that would pick up your issues with conflicts and give you your face-to-face contact. There's no reason that a civil lawyer from NAAJA, if there wasn't a conflict, couldn't instruct a Legal Aid lawyer to act as an agent, take some instructions, take an affidavit or get something signed and those types of things that you really need someone on the ground to do. It's hard to do that stuff over the phone and, of course, signing documents can get difficult. You lose any sense of confidentiality if you start scanning documents out to a community office and asking someone, "Can you just get so and so to come in and witness?" There are examples of

> when our worker linked up with another field worker (CSO). Maybe. But definitely linked up with another service and took another service out to a couple of communities. Stakeholder organisation

Funding is an issue too, as present arrangements do not lend themselves to doing this kind of work, which takes time (and can be about more than the number of files opened). Funding also needs to be sufficient enough that the work is not set up to fail.

> And you always have to send two staff out for security. So there's two staff … They're not actually going to really deliver the program for the first 12 months. They're just going to go and build a relationship with the community … At the moment, domestic-violence services have been put on a five-year funding agreement cycle but not domestic-violence legal services. Maybe a five-year funding agreement would give services greater capacity to develop their programs more thoroughly as opposed to being worried that they have to report on it in this really small timeframe, try to get some stats up so they can get their funding again. That could increase good outcomes. Stakeholder organisation

Also suggested was that servicing remote communities in partnership does not only have to involve legal services. Health services and other NGOs, for instance, may be on board. Any type of 'justice partnership' could be established. There is precedent for this, for instance, in the previous partnership between CatholicCare and NTLAC. Appendix C notes which non-legal services are working in communities. These might be approached to build partnerships and collaborations with legal services, whether situated permanently on a community or providing a FIFO service to it (see also *Remote service delivery: partnerships and collaboration with local organisations* below).

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> It's about really keeping your finger on the pulse and understanding what those other activities are that do go out to communities and how we can link in with them. That takes a fair amount of resources to keep on top of in itself. But I think that there's lots of models like that that you could use. Stakeholder organisation

8.3.2 Remote service delivery: video-conferencing

A recommendation of the 2003 report was for use of video-conferencing in Tennant Creek to improve access to justice. It is being used now in town, with facilities (at least) available at the Courthouse and at NTLAC to link clients in with counsellors and private practitioners outside of Tennant Creek. There was discussion of use of audio-visual facilities on remote communities to improve access to legal services. Some positive precedent has been set through health services, and some thought it was a good idea to use A/V facilities in a legal context, too – for legal information sessions, for court sittings and for provision of advice to individuals

> Well [in health] … instead of jumping on the bus here, going all the way down there

> just for a check-up and then rush back, they've got one at the clinic where you can speak to your doctor. And he'll give you your result and tell you how it is instead of going all the way there, coming back again. So, obviously, it's working there. I know [people who have] used it … they're open to it. So, it's not, "Oh, gees, what's that?" Community member

> We used it to link clients from one community into financial counsellors, and they'd speak face-to-face. We tried that in other communities but often the internet speeds … It just didn't work [well]. I think there's a lot of room for that. I don't think AV is the answer to everything but it's part of an answer. And the medical services do it very, very well. They have specialists that do specialist appointments via AVL to clinics.
> **And community members that you did that with seemed comfortable enough using it?**
> Much more comfortable than speaking on a phone. I think it worked. I think [they] responded pretty well to that. Stakeholder organisation

Other participants did not think it was appropriate at all for use on Indigenous communities.

> Our clients don't want this. That'd be non-engagement. It's pretty invasive stuff. It's very personal stuff too. Especially the sexual violence. They don't want to talk about it on a screen. It's the old contact stuff. It's the cultural side of things which we need to put front and centre, to ensure an individual's wellbeing. Stakeholder organisation

Use of video-conferencing, moreover, would have to be accompanied by and could never completely replace face-to-face contact on and travel to remote communities (also discussed in the next section).

> I think whatever we come up with we ultimately need to consistently attend that community in person. That's just the way that communities work in the Barkly, to my knowledge. Once trust is built, then certainly there are clever ways of reducing the amount of trips we're needing to do. And that is things like video link or even having support people on the ground that can be that conduit for us. But, if our face isn't there on the ground, I just can't see people accessing our service. Stakeholder organisation

The facilities would need to be in a neutral location, where confidentiality would be assured (eg, not the police station). Someone would need to coordinate use of it locally: ensuring that people made it to appointments, but also setting up meetings and managing the technology (also discussed in the next section).

> I think that the absolute ideal is to have someone who specialises in doing that for legal services but I just don't think that's sustainable … Why couldn't the council's role be to help people connect up with services? Stakeholder organisation

8.3.3 Remote service delivery: remote community liaison/development role

Set out above is a suggestion for development of a shared Aboriginal CSO position, employing someone from Tennant Creek who would then travel out to communities with lawyers (see Shared legal service delivery to remote communities). There was also discussion of employing and upskilling individuals living on remote communities to identify and respond to legal issues, including by connecting them with legal and/or other services.

There was a lot of interest in this idea, which situates the same or similar Legal Access and Community Development role recommended in the 2003 report outside Tennant Creek. This role was to:

- provide information about the law and available legal services and coordinate legal education for members of the public and to government and community service delivery workers
- be a one-stop shop access to legal services and other related services for individual and groups with a legal problem
- to work with community to identify broader legal problems and devise responses to them.

The suggested (present-day) position was described as follows by participants.

> So, it's really just about having a resource and referral point. So, having a cohort of people that are trained in understanding how to spot legal problems, what the legal services are that they can refer people to and helping to make those referrals. Stakeholder organisation

> We have so many highly-skilled people who could take all the information, be able to give [non-legal advice] … Like so many legal problems that we get are not civil. They're not necessarily even legal. "There is a common-sense solution that we can assist you with." They could do all of that. You could… then distil whatever the actual legal issue was, call someone in Alice or … wherever. I think that could work. Stakeholder organisation

This was seen as a good idea, for a number of reasons. Firstly, it helps to address problems associated with FIFO service delivery, which make it very difficult to establish trust and relationships on community – essential to delivering good outcomes. The importance of building connections was discussed by community members as follows.

> It's about relationships. If someone comes back in the community … instead of having it behind a closed door get out there, visit the family. See who they are. Meet their kids. Talk to them… Have that couple of days. Don't just come in our community and go again. Or don't just fly and go. Come and stay here for a few days. Go visit staff at the school. Visit the older people around there. Just looking around. … The community is out there [not in this Council building] … And it's more or less

> – if people are showing up at their place. "Oh, well, hang on. He cares about me. Here's a seat. Get out and have a yarn,", that sort of stuff. Community member

Secondly, it is applying community development principles and delivering community development outcomes (see also Community solutions below). It builds capacity of individual community members and the whole community, as they have greater opportunity to raise concerns and have them responded to, as the local worker is linked in with legal services. 'Yeah, that'd be good because, for myself … I think we miss out on a lot. And then we end up in bigger problems' (Community member).

> And, if we've got a central repository of information, they can unify the situation. And, while I'm big on lots of little, tiny voices making lots of noises, sometimes you need to be tackling the big problems with the big boys. And that's having someone with the resources, the skill, the time, the ability to get all of those little, tiny voices together and create a single statement. And even if we're working from in community I think there's no avoiding the fact that we need something from outside because we can't do it from within here. We don't have the resources and the knowledge. … We might have some enthusiastic people, well-spoken, well-educated people, but we don't know what we've got to do and we don't know where to find things, and who to contact. Stakeholder organisation

Thirdly, the worker(s) would be much more (immediately) accessible to community members than FIFO legal services, thereby improving access to justice. Fourthly, it is also a good use of shared resources, reducing but not completely cutting back on financial and other resources required for legal service travel out bush. None of the remote community-focused initiatives suggested in this report are going to work without some direct contact between communities and legal services, as noted above.

Challenges might arise, however, when the worker in question is responding to certain issues and because of their connection with community, with the latter making it difficult to put tight boundaries around their work. 'Things like housing and child protection sound controversial enough, but if it was a domestic-violence-type matter or something like that' (stakeholder organisation).

> I can see merit in this idea. Though there would be issues in terms of giving out legal advice and conflict for the person in the community - if they're from the community or living in the community. The pressure that they would face would be really difficult … I think it would be good but you just have to have very strict parameters around what they're able to, what information they can give out. The trouble is with a lot of CSOs - they get stuck in, there's no like cut-off at five o'clock. You will be spoken to all the time. If there are parameters around how to manage it … If there's a team and, and there'd have to be a culture of making sure that person wasn't just left out there and not really part of the team. Organisationally, I think you have to work out a really good, supportive culture for everyone. But I think it's possible.

Stakeholder organisation

As this comment suggests, this strategy would require resourcing financially, as well as significant levels of ongoing support (including regular face-to-face contact) and capacity building.

> Any employment of a remote Indigenous person needs significant support, training, resourcing and all those sorts of things. And I think the reason why it worked quite well at TEWLS (Top End Women's Legal Service)[66] was because you do have that regular attendance on the community. You know, you could upskill … when you go out to court, …You'd debrief about things that would happen. And then you'd work in a side by side type partnership. And I think that, unless you have something like that, it's going to be really difficult for a remote person to have that really crucial and quite pressurised role. Stakeholder organisation

> One of the difficulties for the local countrymen is that culturally there's a different emphasis on education … Education is a living thing as opposed to reading, writing, those kind of structured school things. So a lot of the adult people, whilst they might be excellent speakers and could be great advocates, the paperwork that we generate to do everything is not going to potentially be their strength. And access to a scribe or a secretary, or an administrator who can do those tasks while the community member is collecting the stories, the problems, and coming back, and saying, "This is what we need. How do we make it happen?" At the clinic too, we try to do paperwork there. Sometimes it's … hard. Stakeholder organisation

> When you have all these different roles, lawyers are held up as the pinnacle. And so, if you have a paralegal or a CSO, or a different title, if those people aren't valued as much, they're not going to be necessarily trained as well. And you have to not have that situation. If you've got one person out in community, you would have to value them and resource them like you would if there was a lawyer in that community. Otherwise you're setting them up to fail and also the community up to not having good delivery of service. But I think, if there was a real culture in the organisation, of understanding what that role is for and that that person needs to be supported the same way that you would if you put a lawyer out there, then, there's total possibility. Stakeholder organisation

8.3.4 Remote service delivery: partnerships and collaboration with local organisations

There is precedent for developing collaborative practices between legal services and health clinics and/or Councils in remote communities. NTLAC had a positive experience with both

[66] The 2003 report referred to an effective Top End Women's Legal Service (TEWLS) initiative that employed women living on remote communities to work on domestic violence and associated matters arising for community members (Renouf 2006).

types of organisations as part of their outreach initiative, for instance. CAWLS lawyers travel with NPY DFV workers to communities on NPY lands. These visits have been highly successful, and both organisations would like to enhance and expand this service delivery. Collaboration in this context might take different forms. Firstly, Council can offer space and other facilities to legal services during visits.

> When I last was at Ali Curung, I did do a bit of a scoping exercise around legal need and approaches to doing that outreach … We went and spoke with the Barkly Shire, and they were just like, "If you come out here, use our offices. You can both have separate offices. We'll do whatever we can to facilitate this. It's really important," because this community is so under-serviced and, as you'd be aware, there's just been so much going on in Ali Curung that there's a lot of good work we could be doing… Stakeholder organisation

Council offices and/or clinics might also serve as a referral point through which community members can access information, including about legal and other services and/or legal issues, and/or connect with legal (and other) services. This is already happening, to a degree. As one Area Manager describes this: 'most community members come to the BRC office and we help as much as we can with any issues around banking, finance, licences, fines, ID etc.' Another particularly proactive Area Manager research participant is in the process of developing a resource for all Council offices that would assist Council staff to guide community members through (usually) more straightforward processes such as how to access a birth certificate. Legal services might collaborate in development of these types of resources.

HJPs on remote communities is another suggestion, again serving as a point of referral to legal services. Clinic video-conferencing facilities have been suggested, too, as a mechanism through which community members might contact lawyers.

> Now, the other thing about confidentiality issues and getting things signed is big gaps. It's a long drive to a lot of these places and say you did only visit three times or four times a year, that still is big gaps … So sometimes you do need things done between these gaps and I think partnerships with the clinics, with the medical … You've got more of a sense of confidentiality through that service. Stakeholder organisation

> This would run nicely parallel to the social-emotional program … to be instigated very shortly … The health centre is also incredibly well-situated to be a hub because we do have *the best* staff. No, we, we are very lucky that we've got an Elder and very respected members of community who've got language, who understand culture as well as whitefella business as well. You've got to merge those two together sometimes. Stakeholder organisation

Alternatively, or in addition, the community development worker position discussed above might be located in Council or in clinics and employed externally (e.g. by the legal services), *or* operate out of the latter spaces and be employed by Council (most likely).

> I'm not sure about having someone here at the clinic all the time for those things. I think also having them linked to the Shire offices because, whilst we might associate justice with health, I'm not sure if [everybody does]. And, because, if I am really honest about it, when I think about, "Oh God, I've got to fight this [legal] battle" my first thought is not the health centre. So maybe it would work better out of the Council offices for our community … It depends on the community. *I* can see how it fits in with the health centre but I'm not sure if it is intuitive. Stakeholder organisation

> [We need to think about structures where] … remote staff would already be in a supportive employment environment … Like, so, in my experience of going to remote health clinics, they are such busy places. I think Council is now, they are part of the Super-shires. They have more of that role of housing support and more of a broader role … It seems to fit a bit more neatly with their role … The closest thing [where you might find a parallel in the NT] … is that Territory Housing has taken over responsibility for housing and, therefore, the Shires have, I forget what they're called, Indigenous Community Housing Officers or something like that … The other one that seems to be having some success … is Territory Families employing Indigenous people in the child protection and prevention sort of space. But that's still government employment through Council. So no, nothing that I'm aware of in terms of justice … It depends on their staffing configuration but I see someone like a Housing Officer might be able to [take on this work]. Stakeholder organisation

> What I see, for the whole Barkly community to have someone to work in amongst them. Maybe through the Shire. The Shire would look after the whole area … They'd be moved around. Rather than one person in each community. Or maybe you could have [one person] that co-ordinates. Stakeholder organisation

Issues arising when positioning staff within or employing them through Local Government might include perceptions of a conflict of interest and lack of confidentiality. Council will be associated by community with government generally, and many of the legal problems arising for Aboriginal people relate to government (housing, Centrelink and so on).

> Well, I think it's about making sure that they know that their role is to refer … Just like if I went into Housing and I said, "Oh, I asked you to fix my tap and you didn't fix it." "Oh, well, you should go to [such and such] and get advice about that." The same with Territory Families. They would just go, "Oh, you want to get legal advice about your rights? We've got concerns. We might remove your child. You should go to Legal Aid and get advice about that." It's not about them saying someone has done the wrong thing or the right thing: it's about early referral to services that could help … They're basically employed as a liaison officer working with the legal service.

> More like a citizen's advice bureau, if you know what that is … I think they use it in New Zealand … "I can look that up for you. Oh, I looked up, had a look on the directory. Yeah, you've got a tenancy issue. You should ring…" Stakeholder organisation

In looking at any kind of collaboration with Council, there also appears to be some variability in terms of the relationship Area Managers and other Council staff have with local community members. On remote communities those relationships become everything because there are a few people that appear to wield a lot of power and others are, for the most part, on the outside of that. It might be difficult to 'sell' the partnership, which must have mutual benefit. This might require setting out an economic or other argument establishing the benefits to be derived by all through collaborations of this nature.

> I think we all know that helping people resolve their problems early has a social and economic cost benefit down the track. But, how do you quantify that? How do you make that a value to them? And I think that's why working in a health space is really useful in a lot of ways because they do understand the importance of prevention. Stakeholder organisation

NTLAC spoke about Council and legal service partnerships as part of the NTLAC outreach initiative as mutually beneficial, as follows.

> What was happening before here is that someone might have a relative pass away, for example, and they just don't know what to do. And they go to a Council worker. The Council worker says, "Oh, they worked with us." They had some superannuation and they might get some superannuation papers, and then they help their relative fill them out. When Legal Aid first went to [one community] … there were a few of those, where people had been assisted by people that aren't used to that type of work. They might be a tradesman and they're helping a community member fill out forms - and they've just missed really big parts. So they realised that not only [were they] missing things, but that having the lawyer there took a lot of that burden away from them.

There are major barriers associated with and gaps in current legal service delivery provided to remote communities in the Barkly.

12. We recommend consideration of establishing an Aboriginal liaison (CSO-type) position shared across legal services and situated in Tennant Creek, but available to travel to communities with the services. In addition, we recommend consideration of employing and upskilling individuals living on remote communities to identify and respond to legal issues, including by connecting community members with legal and/or other services. This strategy would require funding, significant levels of ongoing support (including regular face-to-face contact by the legal services) and capacity building.

13. We recommend consideration of the use of video-conferencing in remote communities to improve access to legal services. We are aware that there is not uniform support for the development of video-conferencing in a legal context. However, on balance most stakeholders believed there was a place for the use of A/V facilities for matters such as legal information sessions, and for provision of advice to individuals. Important caveats for consideration include:

- video-conferencing would have to be accompanied by and could never completely replace face-to-face contact.
- the facilities would need to be in a neutral location, where confidentiality would be assured (eg, not the police station).
- someone would need to coordinate its use locally: set up meetings, ensure people were able to attend appointments, and manage the technology.

14. We recommend consideration of 'justice partnerships' between legal and other services and NGOs in remote communities for the purpose of improving access to justice. There is already precedent identified in the Report for developing collaborative practices between legal services and health clinics, councils and NGOs in remote communities. For example, collaboration might include:

- the use of space and other facilities;
- the development of resources to guide and assist community members with processes (eg accessing a birth certificate, a death certificate, or superannuation queries);
- the use of A/V facilities; or
- more formalised arrangements (such as a HJP).

8.4 Systemic approaches to addressing systemic issues

Discussion of strategies that aim to address problems of or that impact on access to justice at a more systemic level are raised above: for instance, establishing MOUs to ensure that those interacting with the child protection system are referred to legal services as early as possible. CLE can also be thought of as a more strategic approach. Increasing community-wide knowledge of legal rights is a potentially early prevention, wide-reach strategy likely to help deliver positive justice outcomes (because legal problems are averted or responded to earlier than they might be if contact with legal services occurs when legal problems have become more acute).

This section discusses other systems-focused approaches to improving access to justice. These are important to consider as issues impacting on access to justice may sit within or arise from 'systems', including through failures of policy and of service delivery. Examples of the latter are easily located in the discussion of legal needs set out in Chapter 6 (in the areas of housing and child protection, for example) and of service delivery and its impact on access to justice in Chapter 7.

> Look, there were three suicides last week in Tennant Creek. So, the town is not going well. And the ripple effect from that and the failure of policies and of other services being readily accessible means that you've got open wounds across the whole landscape. Very, very challenging times ahead for that community. Stakeholder organisation

8.4.1 Litigation and legal service-led policy reform

Strategic litigation and policy reform by legal services may have impacts for multiple individuals, as well as address issues impacting on these individuals at their centre. As such, this can be a highly effective access to justice mechanism. The class action launched by pro-bono lawyers on behalf of Santa Teresa to challenge DLGCS policy and practice (leading to housing on the community being in a terrible state of repair) was discussed by participants. It has provided motivation to others to think about legally and collectively challenging similar problems, though only as a last resort (as more preventative action may be preferred).[67]

> [We were talking about housing and one staff member said] "Look, you know Santa Teresa has had a really good go and maybe it's something that we could consider." … To me there's people supposed to be out here doing things … Sometimes … because we're a little community [they think we don't need the basic] necessities. "Oh, you don't need that." And that's not right. As Australian citizens … we all need that service. It's sad that we have to go to this far - to get a lawyer in [to litigate against the Department]. You know, that's not right …. Stakeholder organisation

One legal service, in looking through the 2003 report and cross-checking legal issues covered by legal service then and now stated: 'Community advocacy in relation to social issues: well, not really.' The degree to which more strategic work is happening is impacted by resources.

> And like [strategic litigation and policy reform is] where my skills lie and that's what I do whenever I have the capacity. I would also say that there would be a greater retention of lawyers if they were doing that more rewarding work out here. Lawyers out here are really prone to burnout because you work bloody hard, using a lot of skills that you didn't actually gain at uni or anything like that, and you might help a client on an individual basis, but you're eventually just banging your head against the wall. Stakeholder organisation

It was also noted by one stakeholder that regular meetings between the legal services to 'discuss the big issues that have arisen for them, would be a really, really good first step in detecting and properly diagnosing ongoing systemic issues and where the points of intervention need to be'. These meetings could also identify 'capacity sharing in terms of who actually actions the response etc. to share the load'.

[67] See discussion of this case at: http://alrar.org.au/santa-theresa-community-housing-claim/.

8.4.2 Collective impact approaches

Earlier sections of this report outline the current NT and Barkly policy environment likely to have some relevance to or impacts on Barkly access to justice. This policy environment needs to be considered, particularly with respect to what it might contribute to enhanced access to justice.

As one example, the BRD aims to use a collective impact (CI) framework to move the Barkly region in a positive direction. CI brings together multiple stakeholders, including all three tiers of government, to resolve complex social issues impacting on a particular community or area. CI generally involves ensuring consensus across stakeholders on a shared agenda and priority areas for effort and reform, with statistics used for setting baselines, setting priorities and measuring progress over time. It has some focus on reviewing service delivery to identify gaps and duplications, funding issues impacting on outcomes (see below) and aligning service provision to community needs.[68]

CI is also used in a justice context through justice reinvestment (JR). JR is a framework through which underlying drivers of incarceration in and outside of the justice system are addressed (such as problematic bail practices of police and courts, unemployment, early childhood development, family issues).[69] This work may improve outcomes in civil and family law areas too (for instance, housing). JR argues for a diversion of money spent on imprisonment to resource community perspectives on what needs to be done to reduce incarceration (for instance, Indigenous-led cultural programs, changes to child protection or education systems and policy, diversion of young offenders on country). JR work is informed by statistics, as is the case with CI generally. It also has a strong focus on self-determination and community development (see Community solutions).

The possibility of implementing JR has been discussed in Tennant Creek. There is certainly some recognition in the Barkly that alternatives to existing (criminal) justice responses are needed. Sometimes existing responses exacerbate problems in families and communities, rather than solve them, according to participants.

> It's just a waste of time being incarcerated when you see families that the father's been put away in gaol for three, six months because of his vehicle, got caught drink driving, no licence, whatever. "Yeah, well, you're going there." But, while you go there [prison], everything else falls down here and then the children get removed because this has all turned to shit. And we have to have a better way of doing things so that that man stays [home]. You know, understandably, when it's violence.

[68] This has been happening local through other initiatives, such as the Northern Territory Government's Service System Review of the Barkly and Big Rivers Regions, conducted as part of the *Domestic Family and Sexual Violence Reduction Framework*. The review is designed to 'strengthen the community-based service response for women, children and young people impacted by domestic, family and sexual violence'. See the Framework's *Action Plan 1: Changing Attitudes, Intervening Earlier and Responding Better*, Outcome 3.6c

[69] See video explaining JR at: https://www.youtube.com/watch?v=VNll9IW2468; also the website of Justice Reinvestment Network Australia www.justicereinvestment.net.au.

> Understandably. But not when the prisons are full of these [people for motor vehicle related offences] … And, you know, the Barkly Work Camp. Every time you'll see someone, you go, "Oh, my goodness. You're in a green shirt. What have you done?" "Drink driving." Stakeholder organisation [70]

Communities spoke too of wanting to set up and implement programs in communities to help reduce offending. One community member talked about the DV situation his sister had been in, and of the bigger picture surrounding this issue on remote communities. It is this bigger picture that JR would seek to respond to, and JR is worth exploring in a Barkly context.

> What do you do? It's someone (the perpetrator) you want to show to the pit, mate, and just leave them there. Sorry, but that's the honest truth, I'm telling you, as a community member. We do have issues in the community. But… it comes back to our underlying issues of unemployment, not having people have a reason for getting up in the morning - those sort of things - alcohol use. Community member

One idea put forward, too, was for collaborative work around particular households that are struggling, which again may help to reduce poor justice outcomes, where struggles are tipping over into legal problems of various types, including criminalisation.[71]

> Government and NGOs don't collaborate. Maybe 20% of houses in a community like Tennant Creek need attention. On any day you could have housing, police, education health, Corrections all turn up to those houses. They go there to look at one thing. Then they go away and never talk to each other. They hide behind privacy. That's my biggest issue. Unless greater collaboration happens, what they're doing is not going to work. Could we all come together to support those households in Tennant Creek – to work together and see if we can get some better outcomes? Stakeholder organisation

In some respects, the Barkly Regional Deal is undertaking work that would be done through JR (without the primary focus on improved justice outcomes), and JR is presently being talked about as potentially siting within BRD work. Regardless of whether JR becomes a formal part of the BRD agenda, the BRD initiative may still help to contribute to better justice outcomes. Some of the BRD's focus is on justice related issues, such as the building

[70] One legal service pointed out that to get into BWC you need minimum length sentences or have already established classification. Most inmates are in for DV and offences of violence not traffic matters.
[71] A similar approach is being used in the ACT's Justice Reinvestment Strategy. See discussion of the ACT Justice Reinvestment Strategy at: http://www.justice.act.gov.au/page/view/3829/title/justice-reinvestment-strategy. There is reference here to 'focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to the group – for example the family centric model of support provided through Yarrabi Bamirr', a program run by the Winnunga Nimmityjah Aboriginal Health Service. A partnership has been established between the ACT Government and this health service See discussion at: https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2017/family-focused-justice-reinvestment-trial-to-help-reduce-over-representation-of-aboriginal-and-torres-strait-islanders-in-justice-system

of a youth justice facility in Tennant Creek and upgrading court and police infrastructure. More broadly, however, it will address issues that give rise to civil, family and criminal law problems. As an example, one of its focus areas is housing. Housing is the principal area of legal need identified through this research - significant in its own right, and one that feeds into offending (including DV), child protection and other legal problems and disputes. Without taking away from the importance of legal advocacy in the context of housing, stakeholders have identified that there is only so much legal services might do to tackle problems in this area. A broader policy response is required, one which the BRD may offer.

The BRD is bringing various interconnecting issues together, and through collaboration consultation and engagement, is gathering input on how best to respond to these issues. If this is done effectively, the potential for positive justice and other outcomes is strong. It is suggested that legal services should be providing as much collective input as they can into the BRD decision-making processes, both on legal need and on issues impacting on access to justice.

8.4.3 Funding issues

A key element of CI and JR approaches is examining current funding arrangements and ensuring they are delivering best outcomes that accord with priorities of local communities. This is also something government and institutions such as the Productivity Commission have been looking at in the NT (see below).[72]

Funding has come up at in discussion in a number of different respects : the need for *more* of it or for *different* ways of funding to ensure, for instance, effective legal service delivery to remote communities (taking better account of the time taken to build relationships), to undertake CLE and manage the demand that might emerge through increased knowledge of legal rights, to address gaps in service provision in general, and to support coverage by legal services of a wider range of matters, and to ensure consistency in service provision (longer funding cycles). It also arose in discussion of funding and data, measures or KPIs which do not adequately capture the nature of the work legal services are doing, particularly with Indigenous people.

A point made by one stakeholder organisation was that funders (government) need to include collaborative work within KPIs, and to attach adequate resourcing to this type of work.

> How things are funded is quite important. Funding must be attached to collaboration. You can't get the money unless you are delivering collaboratively. [And then it's a question of deciding: what] outcomes are coming from that. How to measure [success]? Stakeholder organisation

[72] See the Productivity Commission's work, which came out of a recommendation made by the Royal Commission into the Protection and Detention of Children in the Northern Territory: https://www.pc.gov.au/inquiries/current/nt-children#draft

Other comments related to funding are as follows. One of these is not about legal services, specifically, but points to problems when government funds cheaper services, which then cannot provide sufficiently holistic or culturally competent assistance to community members.

> We just can't lose sight of the fact that it is extremely expensive to deliver services in the NT, full-stop, but particularly when you're delivering services to people with multiple and complex needs. And so the five-year funding – that should help, but organisations need to be adequately funded. Stakeholder organisation

> We had Venture Housing, which was a for-profit organisation in Alice Springs that tendered against one of the Aboriginal corporations for tenancy support, and they won it because they were cheaper but they had taken out the case-management side of things. They were just delivering a straight-up service whereas the Aboriginal corporations that they were tendering against were going to be offering these more wrap-around supports ... The actual cost of delivering services in that way is hidden, in a way, because then that case management that they're cutting out, that's going to be picked up somewhere else. So, actually, that cost still exists: it's just being spread around or going to an organisation that doesn't actually have the funding to deliver that service. Stakeholder organisation

The Productivity Commission has completed a report on expenditure and children in the NT, with completion of this work a recommendation of the Royal Commission. It's discussion about coordinating and collaborating around funding is relevant to the discussion above about legal service coordination and collaboration, including sharing of resources for remote work. Other ways in which this might occur is worth consideration.

> … it kept coming up, this idea about duplication and wastage in the NT, and it certainly does exist. I'm not saying it doesn't. And there does need to be much greater co-ordination and collaboration ... there's an enormous amount of money spent in the NT and I do think the Commonwealth and the NTG need to coordinate their funding for service delivery. But they don't … Stakeholder organisation

8.5 Community-led, community strengthening strategies

Enhancing justice outcomes requires community development approaches, including as input by community leaders. This helps to address barriers to access related to disempowerment, for instance, and can also lead to collective action likely to help tackle legal and related issues impacting across whole communities. In an Indigenous context, self-determination is also strengthened through this type of approach.

Examples of relevant strategies discussed above include creation of a community development worker role on remote communities. JR is a further example: largely situated in and led by Aboriginal and Torres Strait Islander communities around Australia and

principally focused on community driven solutions to incarceration.[73] Collective Impact strategies are also closely aligned to JR and seek to progress community priorities. Legal services do and can continue to support strategies and initiatives in these areas.

8.5.1 Building community capacity and community-led and based solutions

In one community, during conversations about improving justice outcomes, community members spoke about the importance of building community capacity by addressing a range of *social and economic* issues. Strategies likely to help achieve this were discussed in the context of reducing offending, but they have potential to impact across all legal areas and require further support. Strategies identified were as follows:

- initiatives at school that taught children to save money. 'There's no stress at home anymore' about money and there is therefore less DV;
- leadership shown by Assistant Teachers in school, who would hopefully one day become school Principal in their community, in delivering programs to lift education levels in the community. Otherwise, 'walk out that door (of the school) and … all you can do is sit under a tree or whatever ... You've got no choice, that's where you end up';
- programs to support and build capacity of parents. '[W]hen the little ones' become parents such programs are 'going to have a huge impact on our family structures and how we deal as families with our kids down the road'; and
- older men mentoring young men 'to show him that path in life, before he starts veering off the end and up over there' (that is, offending); and
- increasing local employment. This was commented on as follows:

> All these contractors are coming in. Come on guys! We've got blokes in the community to do this work. I fight for my people in the community. Give them a go! … And it's to do with building capacity of our workers but also giving a, a job where they can feel they're adding value to their community, and improving the lot of our kids.

Community members went on to talk about the importance of changes *within community*, rather than just the legal system.

> Some of us still don't give up in the community. We're still battling on but I'd like to see some sort of change in the legal system, in the community itself, in every way, I suppose, not just the legal – when people get in trouble with the law but everything else around that. Because everyone does have issues in community and community is pretty hard to live in. But we choose to live in this community. Same like other communities. It's easy to pack up and go, move to Darwin or Katherine where you

[73] Details of JR work in Australia is set out on the Justice Reinvestment Network Australis site: https://justicereinvestment.net.au

> can go and see a counsellor once a week. He's just there. Knock on the door. Come in. He charges you big money and you go out again. Know what I mean? It's easy to do that but no point in that. People are here not there. See what happens in another 10, 20 years. If some of this works, well, I think I've done my bit. Community member

This conversation ended with a comment 'We're probably not talking legal stuff for you. But that's where we're at.'

Other community members spoke of community-led strategies that might more directly work with offending (amongst other issues) and help to reduce contact with the justice system, including night patrol. These need further financial and other support, and to be recognised as effective mechanisms to deliver positive change.

> Our main priority is making sure children are safe... and we patrol in the night. It's 11 o'clock. Here's a little kid. "Can you go home?" [We] make sure everything's alright at home. If he says, "Oh, Mum and Dad are fighting" … But we also patrol around and check the shops and the school, make sure no-one's breaking in, and residences. But our biggest job is [people who are drinking] … We take them home, drop them off and make sure we check [everywhere] …. See if any other kid is left behind. We ask them if they're okay. We'll take them back home. Make sure they're safe. And then we just do a patrol around the camps and the town. And, if everything's all quiet, we just come back and then we will knock off ….

> We've come across a few incidents where there's been a whole lot of violence, and kids have been around. What we do is we remove the kid from the situation first …If it's just a verbal argument, we try to settle it down. But, if it gets out of hand, then we ring the police. … and do follow-ups, and, you know, witness statements, and what we've seen and stuff like that. But we try and settle them down because we're sick of our countrymen going to gaol. We try and be there first, and stop it. Because the problem is the problem builds up. It builds up, but they don't talk to each other because they're quiet … "I don't want to talk about it," because they're sober and they're ashamed about it. It builds up, builds up. By the time two weeks come around on their pay day now and then boom! Explodes! Community member

Comments were made about night patrols not having enough autonomy – being run by Shire Council, not Aboriginal people themselves.

> Aboriginal people … are trying to run a night patrol service but then [the Shire is] kind of putting real pressure on them, "Do it this way and not that way." And rather than negotiating and having a cultural influence on how to run things in the community, what works and what doesn't work, I think it's their way or no way. This is a big issue in all of our communities ... Night patrols were about Aboriginal communities taking control of policing. So, I just think that whole kind of concept of Regional Councils, Shire Councils [running patrols]… We need to get that cultural

> authority back and be Aboriginal community-led. Stakeholder organisation

Though there is a necessity for and a right to access police services, the absence or under-servicing by police was raised in all focus communities outside Tennant Creek – a further issue that requires a policy response by government. Building local strategies to address conflict in communities is a further response to, but these strategies still need to be supported and backed-up by adequate levels of policing.

Other examples of community-led solutions include community mediation. This is happening at present in general on an informal and unfunded basis in communities in the Barkly. '[X] already does that. But then I see that not everybody agrees with him. They don't listen to him,' one community member stated. One approach is to train up and resource community-based mediators, as has happened, for instance, in Far North Queensland.[74] There was an external mediator brought into Ali Curung in 2018 following community unrest. He is still working there, according to a community member participant.

> He did well at Yuendumu. He's doing well there too [Ali Curung]. They were trying to get local mediators trained up there but nobody would put their hand up, too much unrest. We need mediation there from community, but only once it's calmed down. They got everyone with a piece of paper, saying to themselves every morning [I will be peaceful today] or something like that … I don't think that's going to work. You need cultural way in there too. He needs a community person working with him. Community member

> I don't have the answer for [conflict in] Tennant Creek. We need everybody to think about it here. CAG was supposed to intervene with the violence. It was in their charter, to try to put things in place and talk with families to mediate ... We used to have our own mediation if two people were fighting. The old people would say, okay, Saturday down at [named place] … Everybody would come down there. They'd have a fight … that was the end of it. You're dreaming is this one, you're this family. These old people would tell them. That respect is not there now. We're not practising this anymore. That was our way, it was nothing for Elders to get a stick and whack them too. This new law, we're not allowed to do that. We need family groups to talk it out. Community member

As a final example, programs are being used to upskill remote community members as financial counsellors. The Indigenous Consumer Advocacy Network (ICAN) delivers financial capability and training programs to remote communities, and has both trained and

[74] Mornington Island and Aurukun are two communities working with community mediation models. See press release from Mornington Shire Council: https://www.mornington.qld.gov.au/2015/12/01/island-mediation-service-recognised-nationally/ These projects were established by the QLD government, with publications available at: https://www.publications.qld.gov.au/dataset/restorative-justice-program/resource/da552f2c-dab8-455d-8079-c8bf44c17c2d

mentored community members to assist others with money related matters.[75] This may be happening already in the Barkly, but is worth considering if not.

8.5.2 Community leadership: structures and processes

As discussed earlier in the report, including in Chapter 3, there are various frameworks and initiatives designed to establish and/or pointing to the importance of establishing representative governance structures to support local decision-making. These structures are one platform through which communities might have input into legal and justice issues. A point of discussion during the project was how to ensure community-wide issues (like housing) might be discussed, challenged or advocated for by community. Community members wanted a workable structure through which to voice concerns. Legal services could also potentially liaise with local leadership groups about legal service delivery and legal need.

> I don't know [about Local Authority Group (LAG) meetings], never been to one of them. They should have a meeting for the whole community. Those old people miss out … Usually just a little group here, little group there. Nothing comes out of those little groups. Used to be big community meetings. Somebody to write it all down, back each other up. Could be LAG get that happening or usually just the Elders… Community member

The Cultural Authority Group (CAG) provides an opportunity for this to occur at a Tennant Creek level.[76]

> CAG can be the voice around these issues. That's the only power we have at the moment, where non-Indigenous people will go and listen to us. If we go and talk ourselves, they won't listen to us. CAG is the space where we have power. Community member

> They're setting up the cultural-authority group and, hopefully, eventually, we have some Aboriginal community-led decisions coming out of that. So, I know that there's one in Tennant Creek and for the Barkly region, one here in Central Australia, one at Hermannsburg … I mean that's what you want and to be able to lead those conversations around all of that community justice and the whole community aspect for the shires anyway. Stakeholder organisation

Structures that may help facilitate this include the Local Authority Groups (LAG) on remote Barkly communities. The researchers sat in on LAG meetings in two communities and met with LAG members in other communities. Both the meetings attended had good representation of community members, with the Mayor and Area Managers also attending,

[75] See discussion on ICAN's website, including at: https://ican.org.au/programs/
[76] However, some concerns were raised during discussion with community members in Tennant Creek about how representative of local community this group is.

and in one instance the Superintendent from Tennant Creek police station (to discuss problems related to local policing). Perspectives on the extent to which they work to address and raise issues of importance to community members are mixed. Though they are government constructs they do provide *a* forum through which community issues can be discussed and decisions made (though generally with a focus on Council-related business). They are a structure and process which to some degree recognises and strengthens community leadership. Although they are not wholly Aboriginal developed or led structures, there are local community leaders represented on the groups.

> One of the women who is part of that Local Authority (LAG) – one of the big struggles we had was getting people to be confident enough to say, "This is what's happening," because, obviously … they are worried about getting victimised. And one of the women from that group like popped us in a car and drove us around, and gave everyone a stern talking to about sticking together and sticking up for their rights. It was quite amazing. Stakeholder organisation

Some of the problems raised were that community members self-nominate to be part of the group. Selection only goes to a community vote if nominations sit over a certain number. They are not elected *by* the community, therefore. The quality of connection between LAGs and the broader local community needs reinforcing, too. It was our strong perception from stakeholder interviews and the focus group discussions that community members had little idea about what went on in their LAG meetings. Community members did not appear, in general, to attend these meetings to observe proceedings, though it was possible for them to do so.[77] Additionally, LAGs can come to a particular decision, but decision-making as it impacts on communities ultimately sits outside communities.

> Any community members can come into our meeting and sit and listen. But they're not allowed to speak. But they can voice their opinion. If I'm out there walking around and someone pulls me up, "I've got a problem with this," well, I'll bring it to the meeting. Community member

Some stakeholders and community members identified problems with information being passed back from the LAGs to the community and lack of community participation.

> Nothing comes out of that [LAG] meeting though. Nothing. They have that meeting and then there's no change afterwards. They just continue having meetings, so what's the whole point of having the meeting? They're not going to do anything. They haven't done anything yet.
> **And are people in the community aware, know about what's discussed in the meeting?**
> No. Only the people who sit in it.

[77] Although entitled to attend the meeting, in at least one community we were told that community members could not speak at the meetings.

How do people get appointed to that?
They vote. They go and be voted. They're voted in. Nominated. But it's never the … the community. I have never seen a vote. Like I've never … Have you come to a voting thing here? For the local community to get on the [LAG]? Nope. Stakeholder organisation

I've said something about this last year, about having meetings in here, behind that closed door … Why can't we just go to the park and have our meeting? … Then how do you control 20 people who are asking questions? … You won't be able to.
I think more information … I think just putting something on the wall what we've discussed [in the meeting]. Because really you can't have 20 people in here…They can come in and ask for the printout [after the meeting] and sit and read it. They can do that. Community Member

There is [probably] a weakness in the way that we're disseminating the information. Not just talking about what issues are in the community, but not getting any answers for them. Obviously, there's something missing if everybody doesn't understand how this [LAG] functions … If community don't know [that] if there's an issue with workers they can come here and say, "We've got this issue with work. Can you bring it up?" Or, if there's a footpath that needs fixing, or whatever, they should know they can come and report it. Obviously, the process hasn't been delivered and then embedded in communities because it's not part of our community. We should be the voice of the people, not the voice of me or the voice of individuals. And people should understand that. Like it's part of our democracy. Community Member

In terms of other structures or processes, community members talked about 'town meetings' initiated by 'government' and held in Elliott, for instance, to discuss community-wide issues - in this instance, the local permit system - and how little seems to come out of this, which then reduces peoples' interest in attending them and increases a feeling of disempowerment. There was a sense that community had little power to change their circumstances or address any injustice, as the following comments from community members indicate.

They have town meetings sometimes. But you just go and sit there and talk, and then no follow-up. Nothing happens. That's why it just gets less and less people. [Discussion of meeting on permit issues in Elliott, run by government]. They just tell you the issues that they have and then what they're doing to improve it. And then it takes another three or four years for them to get back and have another meeting. And they said, "Oh, this is going to happen and this is going to happen." … I'm really angry at this whole system because I'm sorry to say this but I think white people gather amongst themselves. Police are their best friend. They're best friends with the shops, school, clinic. So I reckon they all gang up. And they've got a bit of power all those -

Exactly. They're all the most powerful people. What they don't realise is that they

> come and go. You know what I mean? We're here forever. The community needs to get together but back when I was young, oh, you couldn't beat this place because everyone was together. Now it's just drift off to individual family groups …
>
> **The community's broken apart a little bit?**
>
> Oh yeah. Big time now. I don't socialise with anyone except for my family. That's it because everyone wants different things… Everyone got sick of waiting. Community members

There are also government-established remote community Housing Reference Groups, discussed above - but again, feedback was that these groups had little teeth and/or were not properly consulted by the Department about community concerns. Further work is required to think through how existing structures might be used to improve justice outcomes.

8.5.3 AJA

As indicated in Chapter 5, it is important to note, as a final point, that the draft Aboriginal Justice Agreement, if implemented, will have a significant impact on the criminal justice system in the Barkly more structurally, and also potentially impact on access to justice in areas of civil and family law – though the focus of the AJA is very much on criminal justice. There are specific initiatives (related, for instance, to diversion and alternatives to custody) likely to have direct consequences for criminal justice processes and outcomes. Increasing Aboriginal JPs and COs to assist Aboriginal people to access services impacting on an individual's interaction with the criminal justice system is also of relevance; as is *increasing* accessibility and uptake of complaints processes.

Initiatives related to Aboriginal leadership in the AJA are also important to highlight in this context. These include establishment of Law and Justice Groups through which local justice issues might be addressed, including through locally led initiatives. These groups may also 'provide critical input to reform the justice system'. Strategies in the draft AJA reference the redesigning of 'key service delivery models' (Strategy 16) and improving 'cultural competence in service delivery' (Strategy 17), also demonstrating the potential for Aboriginal perspectives to lead change with respect to issues impacting on access to justice. Establishment of a position and appointment of an Aboriginal Social Justice Commissioner in the NT would also have significant positive impact in terms of access to justice. As one stakeholder organisation states:

> The Aboriginal Justice Agreement … touches on [community development] … in building up local decision-making and local justice groups. And that's certainly been a lot of the feedback to NTCOSS is that capacity-building in community, if it's done well, it should be far more sustainable [than what we're currently doing].

Strategic litigation and policy reform by legal services may have impacts for multiple individuals, as well as addressing the need for systemic change. As such, this can be a highly effective access to justice mechanism. We note that implementing Recommendation 8 also has the capacity to improve strategic and coordinated approaches to systemic issues by the legal services. In addition, the current policy

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APPENDIX A – INTERVIEWS

Aboriginal Interpreter Service
Aninginyi staff (includes Cultural Authority Group representative)
Barkly Regional Council (Mayor)
Julalikari CEO and Board (includes Cultural Authority Group representatives)
NTLAC (Tennant Creek and Darwin)
NAAJA (Alice Springs and Darwin)
CAWLS (Alice Springs)
CAAFLU (Alice Springs and Tennant Creek)
Night Patrol (Tennant Creek)
Night Patrol (Elliott)
Kim Braham
Aboriginal Inland Mission
CatholicCare
Papulu Apparr-kari Aboriginal Corporation
Area Manager (Alpurrurulam)
Area Manager (Elliott)
Tennant Creek Women's Refuge
Karen Sheldon Training
Territory Families (Tennant Creek)
Territory Families (Alice Springs)
Police prosecutor (Tennant Creek)
Police (Tennant Creek)
Police (Avon Downs)
Tennant Creek Hospital social workers
NTCOSS
BRADAAG
Registrar (Tennant Creek)
Magistrate Birch
Digby Horwood, NDIS
Relationships Australia
Barkly Regional Deal representatives
Clinic staff (Ali Curung)
Clinic staff (Ampilatwatja)
School staff (Ampilatwatja)
Local Authority Group representatives (Ampilatwatja)
Local Authority Group representatives (Elliott)
Local Authority Group representatives (Alpurrurulam)

APPENDIX B
SERVICE DELIVERY: TENNANT CREEK

ISSUES USED TO MAP SERVICE DELIVERY

Legal services were asked which of these issues[78] they covered

1. Housing and tenancy
2. Neighbourhood disputes
3. Victims compensation
4. Wills/estates
5. Stolen Gens/Stolen Wages
6. Employment
7. Education
8. Family, including child protection
9. Discrimination
10. Consumer
11. Credit/debt
12. Accident/injury
13. Social security
14. Other civil
15. Criminal (including youth justice, domestic violence)

[78] Issues identified in the focus group questionnaire.

CAAFLU SERVICE MAPPING – TENNANT CREEK

	Primary legal issues responded to in Barkly (*Tennant Creek and all communities listed below*)	Other legal issues have capacity to respond to	Issues not able to respond to	Primary non-legal services working with in relation to Barkly (*Tennant Creek and all communities listed below*) legal issues/need. Here, we are seeking to identify who you have relationships with for a. CLE b. Receiving referrals from or referring to, and the main legal issue (e.g. Catholic Care for superannuation). Please refer to the list of legal issues we covered in the community questionnaire (below).	Tennant Creek presence (regularity/no. of days per month)
CAAFLU	Domestic Violence/Family Violence orders FV-connected civil matters including: child protection, housing (eg preparation of support letters for priority housing or relocations, upgrade security in housing), Centrelink, and those related to victims (compensation, Victims Register, safety planning Court support) Preliminary stages of family law matters (including mediation) Sexual assault related matters: compensation, connection with SARC (Sexual Assault Referral Centre), PVO (Personal Violence Orders)	Dependent on relationship with client, will cover other issues, if need be. Some flexibility around matters related to accessing superannuation or insurance, police complaints	Later stages of family law (court based) Matters for anyone who is not an Aboriginal victim of FV. Matters must be connected with FV or sexual assault.	Referrals to and from: SARC Tennant Creek Women's Refuge Police Catholic Care Anyinginyi Stronger Families BRADAAG ADSCA Tennant Creek hospital CLE: co-presented with other legal services and delivered upon request to Tennant Creek High School, BRADAAG, Correctional Services Family Violence Program, Red Cross, Barkly Shire Council, Elliott Safe House and Council in Elliott	2 x F/T Aboriginal CSO/administration/ reception 2 x F/T lawyer Up to 4 positions to be filled in Tennant Creek. Currently one lawyer and one CSO

CAWLS SERVICE MAPPING – TENNANT CREEK

	Primary legal issues responded to in Barkly (*Tennant Creek and all communities listed below*)	Other legal issues have capacity to respond	Issues not able to respond to	Primary non-legal services working with in relation to Barkly (*Tennant Creek and all communities listed below*) legal issues/need. Here, we are seeking to identify who you have relationships with for a. CLE b. Receiving referrals from or referring to, and the main legal issue (e.g. Catholic Care for superannuation). Please refer to the list of legal issues we covered in the community questionnaire (below).	Tennant Creek presence (regularity/no. of days per month)
CAWLS	Family law Child protection Housing Domestic & Family violence V/compensation Non-legal work: Sourcing identification documents Centrelink applications Housing applications Trauma Counselling Financial literacy & counselling Other non-legal tasks	credit and debt employment wills and estates superannuation complaints tenancy/housing other civil matters	Community justice mediation Elder abuse	**Community Legal Education** BRAADAG Ali Curung NT Police TC High School TC Womens Refuge Catholicare Anyinginyi – Stronger Families Unit	1 x Lawyer 1 x Program Support Worker

NTLAC SERVICE MAPPING – TENNANT CREEK

	Primary legal issues responded to in Barkly (*Tennant Creek and all of the communities listed below*)	Other legal issues have capacity to respond	Issues not able to respond to	Primary non-legal services working with in relation to Barkly (*Tennant Creek and all communities listed below*) legal issues/need Here, we are seeking to identify who you have relationships with for a. CLE b. Receive referrals from or refer to, and the main legal issue (e.g. Catholic Care for superannuation). Please refer to the list of legal issues we covered in the community questionnaire (below).	Tennant Creek presence (regularity/no. of days per month)
NTLAC CRIMINAL	legal advice, duty lawyer services, representation (if eligible), in Criminal Law and Family Matters jurisdiction of the NT Local Court (Family Matters Jurisdiction deal with Child in need of care applications. on-call telephone advice to children and adults in police custody	Broad ability to provide referral service	Defended Domestic Violence order applications - unless exceptional circumstances Representation in relation to traffic act offences other than advice and duty law services	a. CLE education, Aboriginal Interpreter Service, interpreter training – legal terminology School, Corrections FV program Input toward NT Legal Aid's broader engagement with Government and other relevant stakeholders – advocacy and policy submissions ADSCA (client referrals - Alcohol and other drug issues) BRADAAG (client referrals - Alcohol and other drug issues) Anyinginyi Heath Service (Stronger families, counselling, address offender underlying issues) Future Stars (employment engagement pathways) Various out of region AOD rehabilitation services Catholic Care (counselling – addressing	Permanent F/T presence of lawyer Permanent F/T administrative staff

				underlying issues and youth diversion matters)	
NTLAC CIVIL	Discrimination Housing (access to priority housing, repairs, arrears, transfers, etc) Employment Social Security V/compensation Consumer credit and debt (including scams) Police complaints Matters following death or injury, including personal injury and access to superannuation death benefits Early access to super advice Wills and estates advice NDIS access requests and appeals (internal and external merits review) Banned drinker register advice and appeals ochre card advice and appeals certifying copies of ID docs including birth and death certificates	Neighbour disputes Bankruptcy advice Coronial inquest advice	Drafting wills MV compensation claims Workers compensation claims Civil suits against police	Catholic Care (CLE and referrals re financial counselling, and early access to superannuation and lost superannuation) Land Council (funeral vouchers) Social workers at hospital (referrals re advance personal planning, wills and estates) BRADAAG [CLE and referrals] Corrections FV program [CLE] School [CLE]	In person visits to Tennant Creek 1-2 weeks/month (generally, when NAAJA civil is not in Tennant) Weekly civil clinics with Tennant Creek clients via video link (when civil lawyer is not in Tennant Creek) Regular appointments with Tennant Creek youth detained at Alice Springs Youth Detention Centre

NAAJA SERVICE MAPPING – TENNANT CREEK

	Primary legal issues responded to in Barkly	Other legal issues have capacity to respond to	Issues not able to respond to	Primary non-legal services working with in relation to Barkly (*Tennant Creek and all communities listed below*) legal issues/ need. Here, we are seeking to identify who you have relationships with for a. CLE b. Receive referrals from or refer to, and the main legal issue (e.g. Catholic Care for superannuation). Please refer to the list of legal issues we covered in the community questionnaire (below).	Tennant Creek presence (regularity/no. of days per month)
NAAJA CIVIL	• Housing • Discrimination • Police complaints • Employment • Medical complaints • Family law • Child protection • Consumer • Victims of crime compensation	• Motor accident compensation • Personal injury • Centrelink debts • Coronial inquest • Mental Health Review Tribunal • Adult Guardianship • Restricted	• Wills/estates • Superannuation • Aboriginal organisations • Land rights / native title • Royalties (land & art) • General social work / social support • Historical institutional abuse • Stolen wages	• CatholicCare • NADS • Julalikari • TCK Hospital (for records) • Aninyingi Health • BRADAAG • Papak Centre • AIS • Barkley Work Camp	Civil (alternate weeks to criminal lawyers, at least once per month, for up to 5 days) Child protection (at least once per month to coincide with court sittings, for 3 – 5 days at a time)

		premises • Seized vehicles • Banned Drinkers Register	• Stolen generation redress • Defamation *NB: We can assist with referrals for above issues.*		
NAAJA CLE	• Housing • Discrimination • Police complaints • Employment • Family law • Child protection • Consumer • Victims of crime compensation	• Motor accident compensation • Personal injury • Centrelink debts • Adult Guardianship • Restricted premises • Seized vehicles • Banned Drinkers Register	A/A	• Paterson St Hub • Julalikari Night Patrol • Aninyingi Strong Families Staff • BRADAAG • AIS • Barkley Work Camp • CDP Activities – Red Cross • Tennant Creek High School • FAFT	CLE (alternate weeks to criminal lawyers, teaming up with the civil team at least 4 times a year for up to 5 days)
NAAJA CRIMINAL					CSO in office F/T Visit: two full weeks/month to coincide with court sittings (works out to 21 weeks of the year) **As at November 2019**

					NAAJA recruiting permanent managing solicitor at Tennant Creek

APPENDIX C

REMOTE SERVICE DELIVERY[79]

Legal services were asked to indicate visits to the 7 focus communities outside Tennant Cr tables below note their responses *where visits are regular*. The legal services also indicated do visit and have visited the 7 communities on an 'as needed' basis, dependent on resource clients and to provide CLE. They also pointed out that they service community members fr communities either in Tennant Creek or in communities visited more regularly. This is *not* the tables.

The tables list legal service provision first, followed by non-government and then governm provision. All information on non-legal service provision has been provided by non-legal s including the Shire Council (Area Managers in each community). Canteen Creek is indepe Barkly Shire Council. The Owairtilla Association has therefore provided information on Ca Creek.

Ali Curung

Service	Service provided	Regularity of visit if FIFO	Permanent presence
NAAJA CRIMINAL		Every 6-8 weeks	
CatholicCare	FWC help with tax, financial advice	2-3 visits p/a	
Saltbush	Employment	Weekly	
External mediator	Mediation of community dispute (2018)	Ongoing	
Police			X
Centrelink		3 days/month	
Territory Families		Have an office (not sure of regularity)	
Council	Youth diversion supervision by Council possible, not happening yet Night Patrol		

[79] As noted previously in Footnote 20, there were occasional differences between the information pr by organisations and what community members and/or council managers told us about the (in)frequ visits to remote communities, indicating perhaps even greater levels of under-servicing. We have re the information provided to us by the agencies.

[80] For instance, NTLAC will visit communities for court if another legal service is conflicted out of representation.

Alpurrurulam

Service	Service provided	Regularity of visit if FIFO	Permanent presence
CatholicCare	FWC Financial and superannuation issues	2-3 visits p/a	
Rainbow Gateway	Social security issues		X
Police	Avon Downs	2 days a fortnight	
Centrelink	Shire is agent		X (as agent)
Territory Housing		Every 6-8 weeks	
Territory Families		Quarterly	

***** Shire has indicated that they assist community members directly with credit/debt matters, wills/estates and that they refer consumer matters, as required. They also indicated that Legal Aid assist with criminal and non-criminal matters via phone, no visiting legal services

Ampilatwatja

Service	Service provided	Regularity of visit if FIFO	Permanent presence
NAAJA CIVIL		Every 8-12 weeks	
CatholicCare	FWC	2-3 visits p/a	
Centrelink	Council office is agent	Every three months	
Territory Families			
Housing	Housing issues	Every 3 months	
Police	In Arlparra	As needed	

Arlparra

Service	Service provided	Regularity of visit if FIFO	Permanent presence
NAAJA CIVIL/CLE		Every 8-12 weeks	
NAAJA CRIMINAL		Every 12 weeks	
Finke River Mission (Lutheran)	Financial advisers	2-3 days/month	
Royal Flying Doctor Services (mental health workers)	May pick up financial issues impacting	2-3 days/month	
Urapuntja Health Clinic	Welfare officer (pick up legal matters)		X
Centrelink		Council is agent but 3 x a year, remote team visits	
Territory Families		Regular visits (not sure of timeframes)	
Police*			X

*Police station can be unattended as police service a large area including Ampilatwatja and Ali Curung

Canteen Creek

Service	Service provided	Regularity of visit if FIFO	Permanent presence
Rise	CDP	Weekly	
CatholicCare	FWC	2-3 visits p/a	
Centrelink		Every 8-12 weeks	
Territory Families			
Police	Tennant Creek	As needed	
Council*	Night Patrol		

*Will do advocacy for banking issues, link community members with prisoners, superannuation

Elliott

Service	Service provided	Regularity of visit if FIFO	Permanent presence
NAAJA CRIMINAL		Every 12 weeks for court	
CAAFLU		Every 12 weeks for court, and as needed	
Rise (CDP)	Money matters, employment, etc.		X
Saltbush	Employment mentor/trainer		X
CatholicCare	FWC	2-3 visits p/a	
Centrelink		Every 6-8 weeks (for a week)	
Territory Families		Once a month for LA meeting, or as needed	
Police			X

Epenarra

Service	Service provided	Regularity of visit if FIFO	Permanent presence
CatholicCare	FWC	2-3 visits p/a	
Rise	CDP		X
Centrelink	Council office is agent	N/A	
Housing	Housing issues	Every three months	
Police			

APPENDIX D DATA ANALYSIS

1. HOUSING AND TENANCY

Table 1.1 Number and Percentage of Focus Group Participants Identifying Housing and/or Tenancy Dispute or Problem

	Focus Group Participants					
Housing/Tenancy	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	29	67.4	28	68.3	57	67.9
No	14	32.6	13	31.7	27	32.1
Total	43	100	41	100	84	100

N=84

Table 1.2 Reason Identified for Housing/Tenancy Dispute or Problem

Reason	**No.**
Repairs and maintenance (incl. fencing issues)	33
Overcrowding	16
Rental arrears or other rent issues	14
Access to housing – no house, relocation transfer	11
Bond	3
Unspecified debt	2
Eviction	1
TOTAL reasons provided	**80**

56 individuals identified a total of 80 reasons for housing-related disputes or problems.

Table 1.3 Number and Percentage of Participants Identifying Housing and/or Tenancy Dispute or Problem Who Sought Legal Advice or Help

	Focus Group Participants					
Legal Advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No**	**%**
Yes	1	3.6	0	0	1	1.8
No	27	96.4	28	100	55	98.2
Total	28	100	28	100	56	100

Excludes 1 missing case. N= 56

Table 1.4 Number and Percentage of Participants Identifying Housing and/or Tenancy Dispute or Problem Who Sought Other Help or Advice

	Focus Group Participants					
Other advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No**	**%**
Yes	17	65.4	9	36.0	26	51.0
No	9	34.6	16	64.0	25	49.0
Total	26	100	25	100	51	100

Excludes 6 missing cases; N= 51

Table 1.5 Source of Other 'Advice/Help' Provided to Focus Group Participants for All Housing Issues

Provider	**No.**
Shire Council	9
Repair contractor	8
NT Housing	7
Family or friend	2
Housing Reference Group	1
Other	1
TOTAL responses	30

Twenty-six participants provided a total of 30 responses

2. NEIGHBOURS

Table 2.1 Number and Percentage of Focus Group Participants Identifying a Dispute or Problem with Neighbours

	Focus Group Participants					
Neighbour Issue	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	19	44.2	12	29.3	31	36.9
No	24	55.8	29	70.7	53	63.1
Total	43	100.0	41	100.0	84	100.0

N=84

Table 2.2 Reason Identified for Dispute or Problem with Neighbours

Reason	**No.**
Animals	16
Fence or Boundaries	15
Noise	10
Anti-social/criminal activity	3
Total responses	**44**

Twenty-nine individuals identified a total of 44 issues relating to disputes or problems with neighbours.

Table 2.3 Number and Percentage of Participants Identifying a Dispute or Problem with Neighbours Who Sought Legal Advice or Help

	Focus Group Participants					
Legal Advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No**	**%**
Yes	3		1		4	23.8
No	13		11		24	76.2
Total	16	100.0	12	100.0	28	100.0

Excludes 3 missing cases; N=28

3. WILLS AND ESTATES

Table 3.1 Number and Percentage of Focus Group Participants Who Have Completed Will

	Focus Group Participants					
Completed Will	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	6	14.3	1	2.6	7	8.6
No	35	83.3	37	94.9	72	88.9
Not sure	1	2.4	1	2.6	2	2.5
Total	42	100.0	39	100.0	80	100.0

Excludes 4 missing cases; N=80

Table 3.2 Number of Focus Group Participants Who Received Advice in Completing Will

	Focus Group Participants		
Advice	**Male**	**Female**	**Total**
	No.	**No.**	**No.**
Yes	4	1	5
No	2	0	2
Total	6	1	7

N=7

Table 3.3 Number and Percentage of Focus Group Participants Who Would Like Legal Advice to Complete a Will

	Focus Group Participants					
Seek Legal Advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	17	43.6	17	45.9	34	44.7
No	20	56.4	22	54.1	42	55.3
Total	37	100.0	39	100.0	76	100.0

Excludes 8 missing cases; N=76. This number exceeds those that indicated they had already completed a will. This may indicate that those with a will would like advice to complete a new will, or possibly the data entered incorrectly by those participants who already had a will.

Table 3.4 Number and Percentage of Focus Group Participants Identifying a Dispute Over Deceased Estate After Death

	Focus Group Participants					
Dispute Over Deceased Estate	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	8	19.0	4	10.5	12	15.0
No	34	81.0	34	89.5	68	85.0
Total	42	100.0	38	100.0	80	100.0

Excludes 4 missing cases; N=80

4. VICTIMS COMPENSATION

Table 4.1 Number and Percentage of Focus Group Participants Identifying as A Victim of Violent Crime

	Focus Group Participants					
Victim of Crime	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	2	4.9	0	0.0	2	2.4
No	39	95.1	43	100.0	82	97.6
Total	41	100.0	43	100.0	84	100.0

N=84

5. STOLEN GENERATIONS / STOLEN WAGES

Table 5.1 Number and Percentage of Focus Group Participants Identifying as a Member of the Stolen Generations

	Focus Group Participants					
Stolen Generations	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	2	4.7	0	0	2	2.4
No	41	95.3	41	100	82	97.6
Total	43	100.0	41	100.0	84	100.0

N=84

Table 5.2 Number and Percentage of Focus Group Participants Identifying as Being Entitled to Trust Fund/Stolen Wages Compensation

	Focus Group Participants					
Aboriginal Trust Fund	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No**	**%**
Yes	3	7.0	2	4.9	5	6.0
No	40	93.0	39	95.1	79	94.0
Total	43	100.0	41	100.0	84	100.0

N=84

6. EMPLOYMENT

Table 6.1 Number and Percentage of Focus Group Participants Identifying An Employment Dispute or Problem

	Focus Group Participants					
Employment	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	7	16.7	2	5.0	9	11.0
No	35	83.3	38	95.0	73	89.0
Total	42	100.0	40	100.0	82	100.0

Excludes 2 missing cases; N=82

Table 6.2 Reason Identified for Employment Dispute or Problem

Type	No.
Not paid or not paid enough	4
Superannuation	2
Job service provider (unspecified details)	1
Total	7

Seven individuals identified a total of 7 reasons for employment disputes or problems

7. SOCIAL SECURITY AND CENTRELINK

Table 7.1 Number and Percentage of Focus Group Participants Identifying Receipt of Centrelink Allowance

	Focus Group Participants					
Allowance	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	37	86.0	37	90.2	74	88.1
No	6	14.0	4	9.8	10	11.9
Total	43	100.0	41	100.0	84	100.0

N=84

Table 7.2 Number and Percentage of Focus Group Participants Identifying Centrelink Payments Subject to Income Management

	Focus Group Participants					
Income Management	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	29	78.4	29	78.4	58	78.4
No	8	21.6	8	21.6	16	21.6
Total	37	100.0	37	100.0	74	100.0

N=37

Table 7.3 Number and Percentage of Focus Group Participants Receiving Benefits who Identified a Dispute or Problem With Centrelink in Relation to Payments

	Focus Group Participants					
Centrelink	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	17	45.9	8	22.2	25	34.2
No	20	54.1	28	77.8	48	65.8
Total	37	100.0	36	100.0	73	100.0

Excludes 1 missing case; N=73

Table 7.4 Reason Identified for Dispute or Problem with Centrelink

Type	No.
Cut off benefits	9
Overpayment	7
Access to Centrelink	2
Underpayment	1
Can't access emergency payment	1
TOTAL	21

Nineteen participants provided 21 reasons for their Centrelink dispute or problem

8. CHILD PROTECTION AND FAMILY LAW MATTERS

Table 8.1 Number and Percentage of Focus Group Participants Identifying a Dispute or Problem in Relation to Children's Residence/Contact and/or Child Support

	Focus Group Participants					
Residence/ Contact and/or Child Support	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	4	9.3	5	12.2	9	10.7
No	39	90.7	36	87.8	75	89.3
Total	43	100.0	41	100.0	84	100.0

N= 84

Table 8.2 Number and Percentage of Focus Group Participants Identifying Children Being Taken into Care; Family Taking Children and Not Returning Them; and/or Problems Relating to Fostering, Adoption or Guardianship

	Focus Group Participants					
Child Removal, Fostering Issue	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	4	9.3	3	7.3	7	8.3
No	39	90.7	38	92.7	77	91.7
Total	43	100.0	41	100.0	84	100.0

N=84

Table 8.3 Nature of Family Law Issue Relating to Children

Reason	No.
Children taken into care	6
Residence/contact issue involving family members	3
Child support	2
Foster or kinship care	1
Total reasons	12

Fourteen individuals provided 12 reasons for a issue relating to children

9. DISCRIMINATION

Table 9.1 Number and Percentage of Focus Group Participants Identifying Discrimination as an Issue

	Focus Group Participants					
Discrimination	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	26	61.9	7	17.1	33	39.8
No	16	38.1	34	82.9	50	60.2
Total	42	100.0	41	100.0	83	100.0

Excludes 1 missing case; N=83

Table 9.2 Types of Discrimination Identified

Type	No.
Police	18
Workplace / employment	5
Clubs/pubs	5
Shops	4
Other	4
Security guards (location unspecified)	2
Gender	1
Health clinic	1
Total	40

Some 30 individuals identified 40 different types of racial discrimination.

Table 9.3 Number and Percentage of Participants Identifying Discrimination as An Issue Who Sought Legal Advice or Help

	Focus Group Participants					
Legal Advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	1	4.5	1	14.3	2	6.9
No	21	95.5	6	85.7	27	93.1
Total	22	100.0	7	100.0	29	100.0

Excludes 4 missing cases; N=29

10. ACCIDENT AND INJURY

Table 10.1 Number and Percentage of Focus Group Participants Identifying Accident or Injury-Related Issue

	Focus Group Participants					
Accident/Injury	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	7	16.3	0	0.0	7	8.3
No	36	83.7	41	100.0	77	91.7
Total	43	100.0	41	100.0	84	100.0

N=84

Table 10.2 Nature of Accident/Injury-Related Issue

Type	**No.**
Work-Related Injury	3
Motor Vehicle Accident	2
Other	2
TOTAL	7

11. EDUCATION

Table 11.1 Number and Percentage of Focus Group Participants Identifying Responsibility for Young Person Attending School, TAFE or University; or Having Attended Themselves

	Focus Group Participants					
Participation in Education	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	14	32.6	18	43.9	32	38.1
No	29	67.4	23	56.1	52	61.9
Total	41	100.0	43	100.0	84	100.0

N=84

Table 11.2 Number and Percentage of Focus Group Participants Identifying Responsibility for Young Person Attending School, TAFE or University Having Attended Themselves Who Encountered Problems with Issues Such As Suspension, Bullying or Fees

	Focus Group Participants					
Education Issue	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	4	28.6	8	44.4	12	37.5
No	10	71.4	10	55.6	20	62.5
Total	14	100.0	18	100.0	32	100.0

N=32

Table 11.3 Nature of Education-Related Issue

Type	**No.**
Bullying	6
Suspension	4
Fees and charges	1
Other	1
TOTAL	12

12. CREDIT AND DEBT

Table 12.1 Number and Percentage of Focus Group Participants Identifying a Problem with Paying a Bill or Loan or Other Debt Where Lender Has Threatened or Taken Out Legal Action

	Focus Group Participants					
Bill or Loan	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	9	20.9	17	41.5	26	31.0
No	34	79.1	24	58.5	58	69.0
Total	43	100.0	41	100.0	84	100.0

N=84

Table 12.2 Number and Percentage of Focus Group Participants Identifying a Problem or Dispute in Relation to Credit Reference Rating; as Guarantor for Another's Loan; and/or in Relation to Bankruptcy

	Focus Group Participants					
Credit Reference, Bankruptcy	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	0	0.0	3	7.5	3	3.6
No	43	100.0	37	92.5	80	96.4
Total	43	100.0	40	100.0	83	100.0

Excludes 1 missing case; N=83

Table 12.3 Reason Identified for Credit/Debt Related Issue

Type	**No.**
Phone bills and plans	5
Housing Debt	5
Centrelink debt	3
Unspecified loan issue	3
Utilities Bills	2
Bank issue	2
Tax debt	2
Motor vehicle related debts	1
Hire purchase debt	1
Other	1
Total	25

Some 21 individuals specified a total of 25 credit/debt related issues.

13. CONSUMER

Table 13.1 Number and Percentage of Focus Group Participants Identifying a Problem Accessing or Finding Superannuation, or a Dispute with Bank or Other Financial Institution

	Focus Group Participants					
Superannuation or Financial Institution	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	10	23.3	4	9.8	14	16.7
No	33	76.7	37	90.2	70	83.3
Total	43	100.0	41	100.0	84	100.0

N=84

Table 13.2 Number and Percentage of Focus Group Participants Identifying a Problem with Insurance

	Focus Group Participants					
Insurance	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	3	7.0	1	2.4	4	4.8
No	40	93.0	40	97.6	80	95.2
Total	43	100.0	41	100.0	84	100.0

N=84

Table 13.3 Number and Percentage of Focus Group Participants Identifying a Problem with 'Scams' or Contracts (Funeral Funds, Used Cars, Etc.)

	Focus Group Participants					
Scam	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	2	4.7	8	19.5	10	11.9
No	41	95.3	33	80.5	74	88.1
Total	43	100.0	41	100.0	84	100.0

N=84

Table 13.4 Number and Percentage of Focus Group Participants Identifying Other Problem Where Participants Didn't Get What They Paid For

	Focus Group Participants					
Didn't Get What Paid For	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	1	2.3	6	14.6	7	8.3
No	42	85.4	35	97.7	77	91.7
Total	43	100.0	41	100.0	84	100.0

N=84

Table 13.5 Reason Identified for Consumer Problem

Type	**No.**
Superannuation – Access and Entitlements	10
Shop costs on community	6
Telephone Contract Dispute or Other Unspecified Phone Issue	5
Insurance	2
Scam	2
Motor vehicle issue	2
Tax return issues	2
Door to Door /Telephone Sales	1
Other: not getting what paid for	1
TOTAL	31

Twenty-four individuals provided 31 reasons for their consumer related dispute or problem.

14. Other Non-Criminal Legal Problems

Table 14.1 Number and Percentage of Participants Identifying Other Non-Criminal Legal Problem

	Focus Group Participants					
Non-criminal Legal Problem	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	2	4.7	3	7.3	5	6.0
No	41	95.3	38	92.7	79	94.0
Total	43	100.0	41	100.0	84	100.0

N=84

15. Criminal Law Matter

Table 15.1 Number and Percentage of Participants Identifying Criminal Law Issue Experienced or Having Been Charged With a Crime

	Focus Group Participants					
Criminal Law Issue	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	15	36.3	1	2.5	16	19.8
No	26	63.4	39	97.5	65	80.2
Total	41	100.0	40	100.0	81	100.0

Excludes 3 missing cases; N=81

Table 15.2 Type of Criminal Law Issue

Type	**No.**
Driving offences	9
Banned Drinkers Register	3
No details given (arrest, court and/or custody noted)	2
Unpaid fines (detail not specified)	1
Public drunkenness	1
TOTAL	16

Sixteen individuals provided details of criminal issues experienced or that formed the basis of a criminal charge.

Table 15.3 Number and Percentage of Participants Identifying Criminal Law Matter Who Accessed Legal Advice or Help

	Focus Group Participants					
Legal Advice	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	8	-	1	-	9	-
No	5	-	0	-	5	-
Total	13	100.0	1	100.0	14	100.0

Excludes 2 missing cases; N=14

Table 15.3 Number and Percentage of Participants Identifying Criminal Law Matter Who Thought Outcome Was Fair

	Focus Group Participants					
Fair Outcome	**Male**		**Female**		**Total**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Yes	5		1		6	
No	7		0		7	
Total	12	100.0	1	100.0	13	100.0

Excludes 3 missing cases; N=13