

**North Australian
Aboriginal Justice Agency**

NAAJA

Submission: Inquiry into Murdered
and Not Missing First Nations
Women and Children

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Glossary

NAAJA	North Australian Aboriginal Justice Agency
NAALAS	North Australian Aboriginal Legal Aid Service
KRALAS	Katherine Regional Aboriginal Legal Aid Service
MALS	Miwatj Aboriginal Legal Service
CAALS	Central Australian Aboriginal Legal Services
NT	Northern Territory
DFSV_ICRO	Domestic, Family and Sexual Violence Domestic Family and Sexual Violence Inter-Agency Co-ordination and Reform Office

Aboriginal	Aboriginal and Torres Strait Islander
NTER	Northern Territory Emergency Response
AGD	Department of the Attorney-General and Justice
DFV	Domestic and Family Violence
DFSV	Domestic, Family and Sexual Violence
KSVP	Kungas Stopping Violence Program
CTG	Closing the Gap Agreement
NTG	Northern Territory Government

Acknowledgement of Country

The Northern Australian Aboriginal Justice Agency and the Kunga Stopping Violence Project acknowledges and pay our respects to the traditional owners of the lands on which we live and work across the Northern Territory. We pay our respects to the Aboriginal and Torres Strait Islander Elders, leaders and respected persons, past, present and future and value the immense cultural knowledge of Aboriginal contributors to both the review and our submission.

Victim-Survivor Acknowledgement

NAAJA would like to particularly acknowledge the voices of victim-survivors of domestic, family and sexual violence and the immensely important role they play in working towards a safer community for everyone. We respectfully acknowledge the service providers and advocates who continue to work tirelessly in protecting victim-survivors and their families on a daily basis and we honour all victims-survivors, those who speak out and those whose voices have been silenced.

Attribution

NAAJA acknowledges the following individuals who had provided their knowledge and expertise into this submission:

- Madeleine Toohey, Criminal Law Intern, NAAJA
- Ren Flannery, Justice Policy Partnership Policy Officer, NAAJA
- Sara Rowe, Civil Law Solicitor, NAAJA
- Rachel Neary, Coordinator – Kunga Stopping Violence Program

About NAAJA



North Australian Aboriginal Justice Agency

The North Australian Aboriginal Justice Agency (NAAJA) provides high quality, culturally appropriate legal aid services to Aboriginal people across the Northern Territory (NT). NAAJA was established in February 2006, which initially amalgamated the three top end legal services which are the North Australian Aboriginal Legal Aid Service (NAALAS), the Katherine Regional Aboriginal Legal Aid Service (KRALAS) and the Miwatj Aboriginal Legal Service (MALS). Until 2018, NAAJA only operated in the top end region until the Central Australian Aboriginal Legal Services (CAALAS) which covers the Barkly and Central Australian region of the NT then formed NAAJA. NAAJA and its earlier bodies have been advocating for the rights of Aboriginal people in the Northern Territory since their establishment. NAAJA serves a positive role contributing to policy and law reform in areas impacting on Aboriginal peoples' legal rights and access to justice. NAAJA travels to remote communities across the Top End to provide legal advice and consult with relevant groups to inform submissions.



KUNGA
stopping violence project

CHOICES. CHANGES. CHANCES.

The Kunga Stopping Violence Program

The Kunga Stopping violence program (KSVP) operates as a subset of a wider throughcare program operated by the NAAJA across the NT. 'Throughcare is defined by NAAJA as the coordinated provision of support, beginning when a person first enters prison and continuing until they are living a 'safe, fulfilling and trouble-free life back out in the community'.

KSVP is a voluntary prisoner through care program that works specifically with Indigenous female offenders in Alice Springs Correctional Centre. The program provides an intensive twenty-day therapeutic course with a focus on trauma, grief, loss, and anger, held over one month, followed by pre-release and post release support for course graduates for up to two years. The Kunga program is managed by a qualified and experienced social worker who is actively engaged with the clients and oversees the case management that is conducted in a culturally safe manner by three Aboriginal female case managers.

The importance of language

NAAJA endorses the submission, *Murdered not Missing*¹, by Amy McQuire, Sisters Inside and the Institute for Collaborative Race Research (2022), who have jointly requested that the terms of reference of this inquiry be reframed. NAAJA endorses the four ways that the joint submission proposes to make visible the structure of disappearance.

In their joint submission they argue that "missing and murdered Indigenous women, girls and gender diverse people (MMIW) are never actually 'missing'. Aboriginal and Torres Strait Islander women do not just vanish from their homes, families and Country. In fact, they are disappeared." ²

Their submission poignantly highlights the states use of racialised stereotypes to position Aboriginal and Torres Strait Islander (Aboriginal) women and children in the passive language of "going missing", conveying that what is enacted by a perpetrator (police, individual perpetrators, media, courts, academic research, inquiries and many other colonial institutions) is something that 'just happens' or is somehow by choose and that by choosing to be vanished a 'missing' person is "complicit in their own victimisation"³. One could argue this erasure of a perpetrator in the case of Aboriginal women and children is a key driving factor behind why so many of these cases remain unsolved, with victims and their families receiving no justice outcome.

Executive Summary

In the Northern Territory (NT), Aboriginal women and children are disappeared and murdered at alarming rates and in circumstances that result from and perpetuate trauma. There are manifold instances in which Aboriginal women and children have interacted with police and government agencies. It is in these interactions that warning signs are issued and ought to be acted on to pre-empt the apparent and real exposure of Aboriginal women and children to the risk of harm causing death. And what's more, when it is too late for such action—Aboriginal women or child who are killed or disappeared—police investigations into their deaths or disappearances may appear to 'lack urgency, intent and competence', raising a quality of institutional unconcern—systemic racism—for Aboriginal women and children from the very people tasked with ensuring their safety.

¹ McQuire, A. Sisters Inside and Institute for Collaborative Race Research. (2022). *Murdered Not Missing: Reframing the terms of reference for understanding & addressing violence against Aboriginal and Torres Strait Islander women & gender diverse people*. 16 December.

² Ibid. P.5

³ Ibid. PP5-6

The *Murdered not Missing* submission (McQuire et al) examines the role of the police as perpetrators of violence within the historical context of racialised and gendered violence within a colonial structure.⁴ “This involves tracing the long-standing racial stereotypes that operate to legitimise and disappear violence against Black women. Understanding how apparently benevolent state narratives of Black victimhood and vulnerability reproduce these stereotypes.”⁵ By identifying the state as a perpetrator the *Murdered not Missing* submission aptly names the key driving offender for investigation. The submission proposes that rather than “seeking to ‘humanise’ Black women, girls and gender diverse people subject to violence”⁶ the victim is centred and made ‘present’ in a way that makes them visible in their entirety with “their identities, relationships, Country and sovereignty.”⁷ By making the victim visible in such a way it brings into focus the existence of a perpetrator and therefore a means to pursue justice.

NAAJA’s work in this area is complex. We provide high quality, culturally appropriate legal aid services, representing the women and children who are so often victims of this violence, and to whom this inquiry must benefit most. Of direct relation to this inquiry, one of NAAJA’s key roles is to represent Aboriginal women and children in coronial inquests into their deaths. In our advocacy, we aim to ensure that the voices and interests of all Aboriginal people, and particularly Aboriginal women and children, are heard, understood, and promote change for the better.

NAAJA welcomes the opportunity to provide feedback to *the Inquiry into [disappeared] and Murdered First Nations Women and Children*. This short submission has drawn on NAAJA’s expertise in addressing key systemic and systems failings that have led to the avoidable deaths of Aboriginal women and children.

Summary of recommendations

- NAAJA recommends an independent review of police practices regarding domestic, family and sexual violence responses for Aboriginal women in conjunction with the work tasked to the Domestic Family and Sexual Violence Inter-Agency Co-ordination and Reform Office (DFSV-ICRO).

⁴ McQuire, A. Sisters Inside and Institute for Collaborative Race Research. (2022). *Murdered Not Missing: Reframing the terms of reference for understanding & addressing violence against Aboriginal and Torres Strait Islander women & gender diverse people*. 16 December.

⁵ Ibid. P.5

⁶ Ibid. P6

⁷ Ibid. P.6

- Furthermore, NAAJA recommends a cultural safety review of the NT Police end to end recruitment process, including, attraction, recruitment, assessment, training and ongoing workforce development, to be conducted in partnership with relevant Aboriginal key stakeholders.
- Evaluation of police practices must also include reviewing and developing mandatory training for all new recruits with regular renewal for ongoing staff, this could include but not limited to:
 - Cultural safety
 - Unconscious bias
 - Anti-discrimination
 - Culturally responsive trauma-informed practise
 - DFSV training
- NAAJA recommends the funding and establishment of Aboriginal identified roles across the judiciary, including:
 - Aboriginal DFSV and/or health workers to accompany police on DFSV responses
 - Aboriginal police liaison officers
 - Aboriginal DFSV court liaison officers
- NAAJA recommends the review of police practices regarding DFSV response, recruitment and training be performed in close consultation with Aboriginal-led DFSV programs, services and advocates, and that all subsequent training be co-designed with the Aboriginal community.
- NAAJA supports a systems-driven DFV Death Review process that feeds into existing coronial and criminal proceedings, including adequately funding of service providers and linkage to Aboriginal led inter-agency leadership and governance.

How many First Nations women and children are murdered?

A recent ABC Four Corners Investigation revealed that ‘at least 315 First Nations women have either gone missing or been murdered or killed in suspicious circumstances since 2000.’⁸ Given what we know about under-reporting in Aboriginal communities there are likely to be many more, however, there is currently no government or other agency keeping count. Arguably, there is a responsibility on the state’s part to ensure the safety of Aboriginal women and children from violence that is likely to cause death. It ought to be a presupposition of that responsibility to not just keep accurate data, but to collect that data in the first instance.

In the period of 2000-2020, there were 160 DFV-related homicides in the NT (101 homicides by former or current partners and 59 homicides by other family members). NT coronial findings from a similar period (2000-2019) found there were 65 Aboriginal women killed by a current or former partner, making up roughly 55% of intimate partner homicides in NT, despite Aboriginal people only accounting for 32% of the NT population.⁹

Dynamics of Policing Aboriginal Women and Children are Colonial and Gendered

It is well understood that the violence experienced by Aboriginal women and children in the present is a by-product of colonialism. An organising feature of settler colonialism was and continues to be dispossession of Aboriginal peoples of Land. To do so, police were required to assert the power of the state; deployed to enforce the state’s laws and policies of the day. Whether that was moving Aboriginal people off Land, removing children from families, incarcerating those who resisted or failed to comply, these practices and assertions of state power were intractably racialised¹⁰. So much so that police have been described as one of the most consistent points of contact between the State and Aboriginal people¹¹. When inquiring into disappeared and murdered Aboriginal women and children, it is not hard to see that this remains the case.

The level of interaction between police and Aboriginal communities shifted during the Northern Territory Emergency Response (NTER) and has resulted in an immense level of state intervention in the lives of Aboriginal people in the NT. Changes in entry powers meant that police and welfare

⁸ ABC Four Corners. (2022) ‘How Many More?’ <https://www.abc.net.au/news/2022-10-24/murdered-and-missing-indigenous-women-four-corners/101546186>.

⁹ Northern Territory Government. (20220). *Review of legislation and justice responses to domestic and family violence in the Northern Territory*. Attorney General and Justice Department. August. [Review of Legislation and the Justice Responses to Domestic and Family Violence in the Northern Territory | Department of the Attorney-General and Justice](#)

¹⁰ Buxton-Namisnyk, E. (2022) *Domestic Violence Policing of First Nations Women in Australia: ‘Settler’ Frameworks, Consequential Harms and the Promise of Meaningful Self-Determination*. 62 British Journal of Criminology 1323-1340, 1325, citing Franz Fanon 1961/2000: 29.

¹¹ Ibid

officers could enter Aboriginal people's homes indiscriminately under the NTER. The paternalistic ideas of 'protection' and the safety of women and children aim to justify the police's ability to intervene in the happenings in the home.¹² However, this has meant that interactions between Aboriginal women and children and police are constant, disempowering, and perpetuate criminogenic conditions.

There is a very real and entrenched history of fear and distrust of police by Aboriginal women that cannot be ignored when reviewing the role of police in responding to domestic, family, and sexual violence (DFSV). Even today, the significant number of Aboriginal women experiencing misidentification and having their children removed as a result of reporting being victims of violence, impacts Aboriginal women's willingness to report DFSV and seek help through the judicial system.

Intimate Partner and Domestic Violence towards Aboriginal Women and Children

Interactions between police and Aboriginal women and children are unavoidably pronounced in instances of intimate partner DFSV. Police are often positioned as key responders to DFSV.¹³ The dynamics of policing are not merely colonial but are gendered. A 2021 study found that 88% of Aboriginal women killed due to intimate partner violence had previously interacted with police in relation to domestic violence.¹⁴

It is a deplorable fact and a slight on the justice system in Australia that Aboriginal people are the most incarcerated people in the world. This is particularly so in the NT, where 84% of adult prisoners are Aboriginal, and anywhere between 96-100% of children and young people in detention are Aboriginal.¹⁵ Over half of people in detention (63%) in the NT are being held for offences related to domestic and family violence (DFV)¹⁶. Aboriginal women and girls in the NT are the most victimised people of intimate violence in the world and are 40 times more likely to be hospitalised for family-violence related assaults than non-Aboriginal women¹⁷. NAAJAs clients in the Kungas Stopping Violence Program (KSVP) have been found to have exceptionally high rates of DFSV victimisation. A 2020 study on "Kungas' trauma experiences and effects on behaviour in Central Australia" found that:

¹² North Australian Aboriginal Justice Agency. (2022). *Submission: Inquiry into Community safety, community services and jobs in the Northern Territory: Justice Reinvestment*. August.

¹³ Buxton-Namisnyk, E. (2022) *Domestic Violence Policing of First Nations Women in Australia: 'Settler' Frameworks, Consequential Harms and the Promise of Meaningful Self-Determination*. 62 British Journal of Criminology 1323-1340, 1325, citing Franz Fanon 1961/2000: 29.

¹⁴ Ibid

¹⁵ Northern Territory Government. (2018). *The Northern Territory's Domestic, Family & Sexual Violence Reduction Framework 2018–2028: Safe, respected and free from violence*. P.19. [Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf \(nt.gov.au\)](https://www.nt.gov.au/dfsv/reduction-framework/)

¹⁶ Ibid

¹⁷ Northern Territory Government. (2018). *The Northern Territory's Domestic, Family & Sexual Violence Reduction Framework 2018–2028: Safe, respected and free from violence*. P.19. [Domestic,-Family-and-Sexual-Violence-Reduction-Framework.pdf \(nt.gov.au\)](https://www.nt.gov.au/dfsv/reduction-framework/)

‘Of the 53 women almost all (n=51, 96%) reported having experienced violence by an intimate partner prior to entering the prison.’¹⁸

Aboriginal women and children are disproportionately impacted by incidences of DFSV. The justice responses to Aboriginal women and children for incidences of DFSV are both as victim-survivors and as offenders. We need police responses that understand this complexity, and the interrelationship of incarceration and intimate violence. So as not to entrench cycles of victimisation and criminalisation of Aboriginal women more deeply, we require a review of police practices to ensure police responses are culturally responsive, culturally safe and trauma informed.

Case Studies – Responding to Violence

Such failings bring to light common features of police inaction, police failures to enforce and apply the law, and many instances in which government agencies had chances to respond, and either did not or did so inadequately. These key themes have emerged in the following coronial inquests. (While the Coroner was given permission to use full names, NAAJA has decided to use their initials out of respect.)

Coronial Inquest into the death of SLNG (‘KG’) [2018] NTLC 016

- KG was a young, Aboriginal woman and victim-survivor of domestic violence with two children.
- KG and her partner, RS were found ‘sleeping’ under an open sleeping bag in a public space. RS awoke and KG was stiff with no pulse, with a stab wound to her thigh.¹⁹
- Due to considerable and persistent failings of the police investigation there was not adequate evidence to lay charges, resulting in a ‘no justice outcome’ for KG’s family.
- The coroner outlined several issues – Police Investigation into KG’s death took an inordinate amount of time and was done very poorly – this started with a lack of appreciation of evidence available from the first hour of police involvement on 22 November 2013.
- Critical evidence was overlooked or undervalued by the Major Crime Unit. There were extreme and ‘totally unacceptable’ delays in investigating the deaths²⁰. Failure to properly

¹⁸ Bevis, M., Atkinson, J., McCarthy, L., & Sweet, M. (2020). *Kungas’ trauma experiences and effects on behaviour in Central Australia* (Research report, 03/2020). Sydney, NSW: ANROWS. P.27

¹⁹ A similar scenario occurred in the *Inquest into the deaths of Wendy Murphy and Natalie McCormack* [2016] NTLC 024, which was mentioned into the inquest into the death of K

²⁰ Cavanagh, G. (2018). *Inquest into the death of Sasha Loreen Napaljarri Green*. Coroners Court Alice Springs/Tenant Creek. NTLC 016 [A00592013-Sasha-Green.pdf \(nt.gov.au\)](https://www.nt.gov.au/justice/courts/coroners-court/alice-springs/tenant-creek/A00592013-Sasha-Green.pdf).

analyse evidence was highly suggestive of systemic racism towards Aboriginal women and children.

- Judge Greg Cavanagh found that massive failings and lethargy at all levels of policing led to an inadequate and protracted investigation that prevented the perpetrator being charged of any offence.²¹
- Judge Cavanagh drew comparison to a number of Aboriginal and non-Aboriginal murder victims to emphasise the discrepancies found in police investigations and highlighted the similarities in the Stephen Lawrence Inquiry that found institutional racism to have influenced police performance and failings.²²

Coronial Inquest into the deaths of FYJ, KCM and LL [2020] NTLC 022

In September 2020, the NT Coroner (at the time, Judge Greg Cavanagh) examined the deaths of 16-year-old KCM, 15-year-old LL and 17-year-old FYJ. NAAJA acted for the family of FYJ and the Aunt of LL in the coronial inquest. All three girls died in alleged suicides in 2016 and 2017, however there was evidence they had all been sexually assaulted shortly before their deaths.

FYJ

- There was evidence that FYJ (aged 17) called the Police the night before she died, concerned about being threatened by her boyfriend. The Police did not arrive until 9.55am the next day. That same day, at 3.30pm, FYJ left her house and walked into some bushland where she was later found dead, hanging from a tree.
- FYJ presented with DFSV related injuries on her regular visits to the local clinic, which Police overlooked as evidence indicating that violence was likely leading to the regularity of her visits.
- Police tasked Detective Superintendent Lauren Hill to analyse the investigation into FYJ's death. That review was critical of the initial police investigation. Some of the more significant aspects included there being no overall investigative plan to address lines of enquiry, some family, relatives and friends being reluctant to engage with police and there being no domestic violence 'lens' considered by investigators.²³

²¹ Cavanagh, G. (2018). *Inquest into the death of Sasha Loreen Napaljarri Green*. Coroners Court Alice Springs/Tenant Creek. NTLC 016 [A00592013-Sasha-Green.pdf \(nt.gov.au\)](#) PP. 15-21

²² Ibid. citing *The Stephen Lawrence Inquiry: Report of an Inquiry* by Sir William Macpherson of Cluny. February 1999. P.23

²³ Cavanagh, G. (2020). *Inquest into the deaths of Fionica Yarranganlagi James, Keturah Cheralyn Mamarika and Layla Leering* NTLC 022. 15 December. Coroners court, Darwin, NT. P.29 PARTIES: ——— (nt.gov.au)

- The clinic where FYJ lived failed to consider domestic violence as a factor in her regular clinic presentations, nor did they make any Police reports. Territory Families closed open cases for FYJ and the Department of Education did not follow up her non-attendance at school. Combined, these non-responses demonstrate how systemic failures across all areas of FYJ's life eventually led to her death at the age of 17.
- The Coroner commented: "There were many missed opportunities throughout the last four years of [FYJ's] life. The government agencies knew the details of her life and the trauma she was suffering. They understood that she had likely been sexually assaulted from the age of 13 years. That she had been held against her will by an older man and assaulted and likely raped. Nothing was done to alleviate or assist with that trauma."²⁴

KCM

- KCM (aged 16), who lived in a remote community, was not attending school and no government agency was engaged with her or her family to encourage school attendance. She hadn't attended the clinic for monthly penicillin injections for close to four months and there was no follow up from the clinic.
- Police stuck to a case theory of suicide regarding KCM's death, which meant crime scene investigators closed the crime scene the same day they arrived and headed back to Darwin. The next day, KCM's family cleaned the house and took a number of items to the dump or burnt them. These included window louvers that may have been used to access KCM's room, which Police later went to the dump to find.
- The Forensic Pathologist who conducted KCM's autopsy found significant vaginal injuries. A doctor from the Sexual Assault Referral Centre determined that the injuries were most likely the result of sexual assault

LL

- Regarding the death of LL (aged 15), Police did not declare a crime scene when investigating her death. Superintendent Lauren Hill conducted a review and found at the time "on the ground" the investigation into LL's death was not sufficient.²⁵

²⁴ Cavanagh. G. (2020). *Inquest into the deaths of Fionica Yarranganlagi James, Keturah Cheralyn Mamarika and Layla Leering NTLC 022*. 15 December. Coroners court, Darwin, NT. P.29 [PARTIES: — \(nt.gov.au\)](#)

²⁵ Cavanagh. G. (2020). *Inquest into the deaths of Fionica Yarranganlagi James, Keturah Cheralyn Mamarika and Layla Leering NTLC 022*. 15 December. Coroners court, Darwin, NT. [PARTIES: — \(nt.gov.au\)](#)

- A relative of LL's recounted finding her hanging from a tree after having "sex" with her inside a house nearby. That account was not consistent with evidence that the alleged "sex" had happened outside as foliage was found in LL's underwear.

Coroner's comments and recommendations

- The Coroner commented:
 1. "The most unsettling aspect of this inquest has been the blindness of the government agencies to the obvious trauma suffered by these girls. All of the usual red flags were there including sexual exploitation, STI's, suspicious injuries, behavioural issues, disengagement from school and notifications to the child protection agency. Failing to recognise trauma cannot be isolated to the failure of training or induction, the misapplication of a policy or lack of resources. It is more than that."²⁶
 2. "Sexual abuse appeared the most difficult aspect for the agencies. Indeed, there seemed little capacity of the services to assist in relation to protecting the girls from sexual predation. In [FYJ's] case, where sexual abuse was most evident, the issue was never tackled and open cases relating to sexual abuse were quickly diverted by allegations of parental violence or overzealous discipline."²⁷
- In the case of all three girls, they were prescribed birth control and treated for STIs while they were 12-14. They also sought pregnancy tests. Emeritus Professor Valerie Atkinson commented "it is hard to contextualise the prescription of birth control for a thirteen-year-old without checking to see what is happening in her life. There is, in my opinion criminal negligence when it is felt easier to write a prescription for birth control without checking on the physical-sexual wellbeing of the child who has multiple sexually transmitted diseases."²⁸
- The Coroner also referred the deaths to the DPP and Police as he believed offences were committed in connection with the deaths
- The Coroner also made recommendations that a Multi-Agency Community and Child Safety Framework (to guide multi-agency teams that meet to discuss concerns for children and families) be established. Territory Families are still working on this.

²⁶ Ibid. P.59

²⁷ Ibid. PP.78-79

²⁸ Ibid. P.68

- These case studies make apparent the persistent failures of police and Government agencies to support Aboriginal women, and the real and entrenched fear and distrust of police by Aboriginal women. In relation to KG's death, the coroner remarked that "There is a time when apologies are no longer sufficient. The community is not only entitled to expect better investigations, it is entitled to expect that the Police Force will learn from its mistakes."²⁹

Systemic failings

Whilst all four case studies resulted in no conviction of a perpetrator, they highlight two very important considerations when addressing the contributing factors that have more broadly led to so many 'Disappeared and Murdered First Nations women and children' being left unresolved.

1. The data on murdered Aboriginal women and children in the NT does not even come close to depicting the dark truth that many cases are simply not investigated as homicide (for instance, in the case of the three girls deaths ruled as suicide), despite leading evidence indicating a history of violent and sexual abuse.
2. The enormity of the systemic failings and entrenched racism that has directly led to the death of many Aboriginal women and children at the hands of the state, therefore requiring investigation of the state as the perpetrator.

In the case where negligence across multiple government agencies led to the death of three very young women in state care, we see the denial of the existence of a possible perpetrator from the beginning, as though a young Aboriginal woman's sexual and physical ill-health is of her own doing.

Transforming Government agencies

The current National Closing the Gap (CTG) agreement recognises four major priority reforms essential to achieving the 17 socio-economic targets laid out in the agreement³⁰.

1. Priority reform one: Formal partnerships and shared decision-making
2. Priority reform two: Building the community-controlled sector
3. Priority reform three: Transforming government organisations

²⁹ Cavanagh, G. (2018). *Inquest into the death of Sasha Loreen Napaljarri Green*. Coroners Court Alice Springs/Tenant Creek. NTLC 016. P.26 [A00592013-Sasha-Green.pdf \(nt.gov.au\)](#).

³⁰ Australian Government. (2020). National Agreement on Closing the Gap. July. [Home | Closing the Gap](#)

4. Priority reform four: Shared access to data and information at a regional level³¹

The Aboriginal Peak Organisations of the NT (APO NT) submission to the Productivity Commissions review of the CTG agreement (2022) highlights that the four priority reforms cannot be realised without first achieving Priority Reform Three: Transforming Government Organisations.³² It's imperative to recognise this whole of government commitment when assessing potential solutions to this devastating inquiry.

The shocking revelations of a culture of violence, racism, misconduct and cover up entrenched in the NT police force that has been exposed by the ongoing coronial inquest into Kumanjayi Walker's death has emphasised an urgent need to address police practises and accountability, in particular when it comes to policing Aboriginal communities in the NT. The NT has been facing the largest increasing population of Aboriginal people in incarceration for the last decade to the point where we have reached levels of overcrowding in the prisons that inevitably breach any number of human rights. Without transforming government organisations, the NT will not achieve the socio-economic targets agreed to in the CTG, and this must start with the first responders to DFSV, i.e., the police.

The transient nature of the NT that leads to low retention rates and recruitment challenges, in particular to remote areas, needs to be addressed in a complete review and overhaul of the NT Police end-to-end recruitment. Zachary Rolfe was banned from applying to the Queensland police under an integrity breach for failing to disclose violent behaviour and disciplinary action when a member of the Australian Army³³, yet not only did he succeed in passing his application to the NT police force he was deployed to a remote Aboriginal community. In order to address the failed responses leading to the deaths of the women outlined in this submission it is paramount that a thorough review of police practices, recruitment and training is conducted in partnership with the Aboriginal DFSV sector and communities predominately impacted by the policing of DFSV in the NT.

The Death Review Process

In addition to the lack of data, an analysis of the review processes into the deaths of Aboriginal women and children will crystallise the common features of these tragic circumstances. A 'worrying' and 'disturbing' featured in NT coronial inquests of murdered Aboriginal women, is the abject failure of police and multiple government agencies. In the 2018 coronial inquest into KG's death NT Coroner

³¹ Ibid. P.3.

³² Aboriginal Peak Organisations of the NT. (2022). *Submission to the Productivity Commissions review of the CTG agreement*. November.

³³ Collard. S. (2022). *Zachary Rolfe failed to declare 'violent' behaviour when applying to join police, court documents show*. The Guardian. 18 October. [Zachary Rolfe failed to declare 'violent' behaviour when applying to join police, court documents show | Northern Territory | The Guardian](#)

Judge Greg Cavanagh found considerable failings and 'lethargy at all levels of police'³⁴ led to an investigation so inadequate and protracted that prosecution of the perpetrator was made impossible, leaving the grieving family with no justice outcome or resolution. This reveals a concerning disjunct in the ways deaths of Aboriginal women and children are reviewed in contrast with non-Aboriginal women and children. As NAAJA wrote in our *Submission into the Department of Attorney General and Justice's (AGD) Review of legislation and justice response to domestic and family violence*, these findings emphasise the discrepancies found in police investigations and highlight the institutional racism that results in police performance and failings³⁵.

If there is potential for a systems-driven DFV Death Review, as proposed by the AGD Review, NAAJA would support this change to bring parity for Aboriginal victims and ensure procedures are performed in a timely manner. For full effectiveness this would need to be implemented into existing coronial and criminal proceedings to avoid unnecessary duplication that could result in a drain on resources. Appropriately funding and linking the DFV Death Review Process to inter-agency leadership and governance would strengthen the potential success of a systems-driven DFV Death Review process if the approach is inclusive of consulting existing partnerships with the Aboriginal service sector and community³⁶.

Concluding Statement

The conditions which see Aboriginal women and children having high interactions with police ought to mean that there is a strong obligation on police to ensure Aboriginal women and children are understood, believed, and made safe. As NAAJA has recommended, this requires a cultural safety review of the NT Police end to end recruitment process, including, attraction, recruitment, assessment, training and ongoing workforce development, to be conducted in partnership with relevant Aboriginal key stakeholders. Police practices must also be evaluated, reviewing and developing mandatory training for all new recruits with regular renewal for ongoing staff.

Furthermore, positioning police as key responders to DFV requires an independent review of police practices regarding domestic, family and sexual violence responses for Aboriginal women in conjunction with the work tasked to the DFSV-ICRO.

³⁴ Cavanagh, G. (2018). *Inquest into the death of Sasha Loreen Napaljarri Green*. Coroners Court Alice Springs/Tenant Creek. NTLC 016. P.15 [A00592013-Sasha-Green.pdf \(nt.gov.au\)](#)

³⁵ North Australian Aboriginal Justice Agency. (2022). *Submission: Review of the legislation and justice response to domestic and family violence*. November. P.46

³⁶ Ibid, citing Stephen Lawrence, The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, February 1999, 23.

Repeat coronial inquests, repeated findings, and repeated lack of substantial action will only mean repeat disappearances and murders of Aboriginal women and children. Such continual trauma has a compounding effect on the suffering of families grieving the tragic loss of a loved one³⁷. These failings inevitably lead to a no justice outcome for victims and victim-survivors, their families and communities, in which perpetrators are not prosecuted and continue to go free. Families receive no closure and are left to carry their grief and trauma which becomes intergenerational. Such systemic failings are a big contributing factor to the cause of gendered violence towards Aboriginal women and children and perpetuate cycles of violence towards Aboriginal women and children.

³⁷ Cavanagh, G. (2011). *Inquest into the death of KR NTMC 011, a young child of Borroloola*. NTLC 016

