NORTHERN TERRITORY
ANTI-DISCRIMINATION
COMMISSION

MAKING RACISM INVISIBLE

A Submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs

Inquiry into Racism, Hate and Violence against First Nations People

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Acknowledgement

Acknowledgement of Country

The Northern Territory Anti-Discrimination Commission acknowledges the Traditional Owners of the Country on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and rising and we acknowledge the continuing connection of Aboriginal and Torres Strait Islander people to land, sea and community.

We recognise that Aboriginal and Torres Strait Islander people are disproportionately affected by discrimination and harassment, and acknowledge our shared responsibility to prevent and address discrimination and harassment in the Northern Territory.

Acknowledgement of Lived Experience

We also acknowledge the strength, courage, and resilience of people across the Northern Territory who have experienced discrimination and other forms of harm arising from racial vilification. We recognise the lasting impacts these experiences have not only on individuals, but also on families, workplaces, and communities. People with lived experience bring powerful insight and leadership to our shared efforts to build a more inclusive Territory.

Diversity is one of the Territory's greatest strengths. The perspectives and contributions of people from all walks of life enrich our community and are vital to shaping systems that uphold human rights and equality for all. To those who have spoken out, sought change, made a complaint, or continued on despite injustice, we thank you. Your experiences matter, and your voice is central to our vision for a Territory where diversity is celebrated, people are respected, opportunities are equal, and voices are heard with compassion

OUR VALUES

- Bold
- Collaborative
- Inclusive

ACHIEVING INCLUSION TOGETHER

Commitment to Positive Duty

The Northern Territory Anti-Discrimination Commission (the ADC) is an independent statutory body responsible for administering the *Anti-Discrimination Act 1992* (NT) (the Act). The ADC's role is to promote and protect equality of opportunity across the NT through education, advocacy, complaint handling and systemic reform.

The Act prohibits discrimination across twenty-four protected attributes, including race, disability, sex, age, sexual orientation, gender identity and religious belief. It applies across seven areas of activity, including work, education, goods, services and facilities, accommodation, and the administration of laws and government programs.

Since January 2024, the ADC has exercised expanded regulatory powers and functions to administer the NT's Positive Duty obligations. Positive Duty requires all organisations, including government agencies, to take reasonable and proportionate measures to prevent and eliminate discrimination, sexual harassment and victimisation to the greatest extent possible. The duty applies across all protected attributes and areas covered by the Act, representing a significant shift from a reactive complaints-based model towards proactive prevention, organisational accountability and systems reform.

The ADC is committed to working collaboratively with Territory businesses, government agencies and community organisations to support the implementation of Positive Duty. This includes fostering workplaces and services that actively prevent race discrimination and promote cultures where all Territorians feel safe, respected and valued, with a genuine sense of inclusion, belonging and equality of opportunity.

POSITIVE DUTY

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Foreword

I have titled this submission Making Racism Invisible because one of the most persistent challenges in addressing racism is not simply its existence, but the ways institutions normalise, minimise, obscure or render it invisible.

Racism in the Northern Territory is often discussed only when it becomes impossible to ignore - after a death in custody, a public controversy, an inquiry, or a viral incident. Yet for many First Nations Territorians, racism is not episodic. It is cumulative, systemic and deeply embedded across everyday interactions with institutions, services and systems of power.

This invisibility is reinforced through under reporting, institutional defensiveness, fragmented accountability, lack of racial literacy and the absence of culturally safe pathways to raise concerns. In this environment, structural inequity can be reframed as individual failure, allowing racism to persist without being meaningfully recognised or addressed.

This submission contends that the challenge facing the Northen Territory is not only racism, hate and violence against First Nations people, but the failure of systems to adequately identify, prevent and respond to them. When institutions cannot, or will not, recognise racism as systemic, accountability weakens and harm becomes normalised.

The submission is informed by my front-line statutory roles as Northern Territory Anti-Discrimination Commissioner and Principal Community Visitor, alongside broader national developments including the Australian Human Rights Commission's National Anti Racism Framework and the Coronial Inquest into the death of Kumanjayi Walker.

Ultimately, racism becomes most dangerous when institutions no longer see it, or choose not to. Addressing it requires more than symbolic commitments. It requires racial literacy, cultural safety, truth-telling, transparent accountability and proactive institutional responsibility.

Because racism does not become invisible by accident. It becomes invisible when systems fail to name it, measure it or hold themselves accountable for it.

I acknowledge the dedication of my team at the ADC, who continue to confront systemic discrimination while working to build public confidence that racism will not be minimised, ignored or rendered invisible through institutional inaction.

Jeswynn Yogaratnam
Northern Territory Anti-Discrimination Commissioner

A. Context-setting

1. Introduction

In 2014, the late Arrernte Alyawarre Elder Rosalie Kunoth-Monks OMA said:

"I am alive, I am here and now – and I speak my language. I practise my cultural essence of me. Don't try and supress me and don't call me a problem. I am not the problem".[1]

Rosalie Kunoth-Monks describes the issue with problem or deficit framing and the ongoing denial of Aboriginal sovereignty and legitimacy. This framing is a key mechanism of systemic racism. Since colonisation, the capacity and legitimacy of Aboriginal and Torres Strait Islander people in the NT have been framed as "lacking" or "dysfunctional" and requiring help and fixing by governments and service providers who repeatedly fail to listen to and respectfully engage with Aboriginal communities.[2]

The nature, prevalence and impact of racism in the NT have been examined in numerous inquiries, inquests and investigations. These include the 1987 Royal Commission into Aboriginal Deaths in Custody, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children From Their Families (1997) and the Royal Commission into the Protection and Detention of Children in the Northern Territory (2016-17).

More recent inquires and reports have also exposed the current impacts of racism on Aboriginal and Torres Strait Islander people in the NT:

- NT Office of the Children's Commissioner's "It is up to everyone to call it out: Young people and racism in the NT" report, 2024
- Coronial Inquest into the death of Kumanjayi Walker, 2025
- The NT Ombudsman's Watch House Investigation Report, 2025

There is strong evidence that systemic racism is resulting in the over-imprisonment of Aboriginal and Torres Strait Islander people in the NT:

- The UN Committee on the Elimination of Racial Discrimination expressed serious concern that systemic racism is resulting in the persistent over-imprisonment of First Nations children and took the unusual step of urging Australian governments to combat structural racism and to fully respect its international law obligations and standards.[3]

In May 2026, the Public Health Association of Australia declared racism in Australia a public health emergency as a result of clear evidence of increasing exposure to racism causing poorer health for Aboriginal and Torres Strait Islander people. They stated that racism shapes access to education, housing, employment, and financial security. It constrains access to safe, responsive services and drives patterns of health risk behaviour which are logical responses to chronic exposure to discrimination and exclusion. These are not an individual's failures.[4]

[1] (ABC, 2014). See: https://www.youtube.com/watch?v=birnA3_tm5E.

[2] Adjunct Professor David Hollinsworth, Campaign to Combat Racism: A Report Reviewing Persistence of Racism within the Northern Territory Government and Strategies to Eliminate Racism, 2023, p 87.

[3] UN sounds alarm about systemic racial discrimination of First Nations children in Australia's justice system - Human Rights Law Centre.

[4] PHAA declares racism in Australia as a public health emergency.

Framing laws as equally applicable normalises racism and makes systemic racism invisible to those who are benefiting from it. Instead of attributing structured disadvantage and discrimination as a result of laws which knowingly disproportionately effect First Nations people, we frame these laws as a solution to the 'problems' arising from structured disadvantage (for example, increases in crime).

In September 2025, the Attorney-General stated: "Our laws apply to everyone. It is not racist to want a safer community"[5] demonstrating that despite the recommendations made through years of investigations and reviews, an intervention-style approach under the guise of neutrality has not changed.

The underfunding and underutilisation of public accountability mechanisms in the NT risks systemic racism becoming further entrenched and invisible. In the past two years, the NT has seen:

- The continued chronic underfunding of independent statutory accountability bodies
- The re-direction of funding for an independent review by the Anti-Discrimination Commission into systemic racism in NT Police Force
- A weakening of vilification laws
- Sweeping criminal justice reforms and increases in policing in the community despite calls from Aboriginal Land Councils, the United Nations, Aboriginal leaders, and clear recommendations by the NT Children's Commissioner and the NT Coroner
- The highest incarceration rates on record and in 2025, the highest number of deaths in custody since the 1980s
- A strategy to "reduce crime" through a $2.532 billion investment into NT Police Force and increasing prison capacity

The invisibility of structural racism is sustained by structural gaps in accountability and by government actions that undermine the mechanisms designed to independently investigate racial discrimination and racism. When we weaken or consolidate integrity agencies, we risk silencing the very bodies that protect our community when systems fail, and there are many examples of the system catastrophically failing Aboriginal and Torres Strait Islander people. When integrity agencies are unable to investigate structural racism, it is less likely to be exposed, examined or remedied, allowing it to persist invisibly.

We do not need further inquiries, reports and investigations into the nature, prevalence and impact of racism in the NT, we need the evidence and recommendations that have already been laid out to be funded and implemented. Integrity agencies must be properly resourced to ensure accountability, otherwise systemic racism and an intervention-style approach will become further entrenched, invisibly.

[5] https://www.abc.net.au/news/2025-09-05/nt-stateline-anti-discrimination-commissioner-government-funding/105709724.

2. NT Anti-Discrimination Commission

The Northern Territory has the laws and the tools to promote an anti-racist culture through independent statutory commissions and oversight bodies. However, these bodies are chronically underfunded and underutilised.

Utilising public accountability mechanisms is crucial where laws and policies produce disproportionate outcomes for a particular demographic of the community. Where the mechanisms in place to investigate structural racism are unable to utilise their investigatory powers, the extent that institutional racism exists cannot truly be known or remedied, rendering racism invisible.

The NT Anti-Discrimination Commission is an independent statutory body established under the *Anti-Discrimination Act 1992* (the Act), with educational, complaint management and investigatory functions.

The Act deals with unlawful discrimination in three ways:

- Individual complaints alleging prohibited conduct under the Act;
- A positive duty for all organisations in the NT to prevent and eliminate discrimination to the greatest extent possible.[6] The Commissioner has powers to investigate and report on compliance with the duty.
- Representative complaints made on behalf of a group of people affected by systemic discrimination.[7] The Commissioner has powers to investigate and report on systemic discrimination resulting from these complaints.

Individual complaints data shows that:

- There remain barriers for people outside Darwin and Alice Springs to accessing the ADC. Of the complaints made by Aboriginal and Torres Strait Islander people over the past five years, 57% were from Darwin/Palmerston, 20% were from Alice Springs, 4% from Katherine and Tennant Creek and 11% from remote communities.
- Where an Aboriginal or Torres Strait Islander person is legally represented, their discrimination complaint is more likely to settle. However, over the past five years, the rates at which complaints made by Aboriginal and Torres Strait Islander complainants have settled has significantly reduced (28% in 2021/22, 27% in 2022/23, 17% in 2023/24, 12% in 2024/25 and 7% in 2025/26).

Our positive duty laws provide an opportunity to address racism in service delivery and workplaces by requiring organisations to take proactive steps to eliminate discrimination by embedding strategies to address racism in systems and policies. Positive duty provides an opportunity for the ADC to initiate investigations where we identify trends and themes of racial discrimination through complaints data. However, the ADC's ability to carry out investigations into systemic discrimination and to remain independent is directly dependent on its resourcing.

[6] *Anti-Discrimination Act 1992*, section 18B.

[7] *Anti-Discrimination Act 1992*, sections 18C and 62A

The ADC's annual budget for 2024-25 was $925,000 to deliver a Territory-wide service. The ADC cannot meet its statutory responsibilities to ensure accessibility of our services or reach many communities across the Territory. And with the expanded regulatory functions in 2024, the lack of core funding for such functions sends a strong message of deprioritising the services.

Our education program, which is a statutory function, cannot be met through our core funding. Instead, we are required to generate a separate line of revenue by delivering a fee-for-service program. As a result, community organisations and not-for-profits are effectively prohibited from accessing education on anti-discrimination, sexual harassment and positive duty despite their need and public interest. This model not only limits the community's access to education but also places additional pressure on staff who continue to deliver far beyond their resourcing.

In contrast, the CLP's 2026/27 budget invests a record $1.73 billion to 'law and order' such as NT Police and Corrections. This includes a record increase of $79 million to NT Corrections since the CLP's election, a total budget of $524 million for corrections to address rising imprisonment numbers.

A record $46 million increase was allocated to NT Police, making their total budget $654 million. NT Police funding has increased by $82 million since 2024.

Independent Commissions must be supported by governments to operate independently. Where governments inadequately fund independent Commissions tasked with investigating systemic racism, they risk becoming dictated by the policy agenda of the government of the day, rather than independently carrying out their statutory functions. This risks eroding the public's confidence and discouraging those who experience racism within institutions like corrections and police to report it, reinforcing a cycle where harm is underreported, under-recognised and unable to be investigated and remedied.

Without independent, strong accountability mechanisms, and without protecting the capacity of bodies like the ADC to respond directly to discrimination, racism can continue to operate in ways that are pervasive, yet increasingly difficult to challenge.

3. Independent reviews into systemic racism

3.1 Kumanjayi Walker

In 2025, the NT Coroner found "clear evidence of entrenched systemic and structural racism within NT Police."[8] She found that Zachary Rolfe "worked in, and was the beneficiary of, an organisation with significant hallmarks of institutional racism."[9]
At the 2024 Garma Festival and following the death of Kumanjayi Walker, former Police Commissioner, Murphy provided an apology to Aboriginal communities stating that "[W]e need to own our past" to combat systemic racism.[10] His speech addressed:

- Historical Accountability: The Commissioner recounted significant historical events, such as the Coniston Massacre of 1928 and the 1933 disappearance of Tuckiar (Dhakiyarr) Wirrpanda, underscoring the long-standing mistrust and trauma experienced by Aboriginal communities due to police actions.
- Acknowledgement of Past Policies: The Commissioner addressed the devastating impacts of the Stolen Generations policy and the Northern Territory Emergency Response (the Intervention), acknowledging the role of the police in enforcing these policies and the resultant intergenerational trauma.
- Commitment to Change: Emphasising the need for a new relationship built on mutual respect and trust, the Commissioner outlined several key actions:
    - Implementing an anti-racism strategy within the Northern Territory Police.
    - Enhancing training on racism, history, and human rights for all police officers.
    - Setting a target of 30% Aboriginal representation across all police ranks.
    - Introducing Aboriginal language speakers in the Joint Emergency Communications Centre.
- Collaborative Efforts: The Commissioner called for partnerships with Aboriginal Territorians and community organisations to address systemic issues and improve community policing models. He also committed to working with the Aboriginal Justice Unit and the NT Anti-Discrimination Commission to eliminate discrimination and support Aboriginal leadership.

Following the handing down of the coroner's decision, Police Commissioner Dole stated that he "acknowledge[s] that all forms of racism have existed within the NT Police Force (NTPF) at various times, and that this was born out in the evidence received during the inquest. He stated:

...What was tolerated in the past will no longer be acceptable. We are committed to stamping out racism in all its forms and making this a safer, fairer organisation for everybody."[11]
At the time of the Inquest, Executive Director of Cultural Reform of NT Police, Leanne Liddle had begun developing an anti-racism strategy and action plan to tackle racism internally.[12] Leanne Liddle stated that the strategy was "not just a document," but a "practical roadmap to confront, prevent and eliminate racism in all its forms. ...It will hold us accountable to ensure that equity, respect and cultural competence are embedded across every level of the organisation."[13]

[8] Inquest into the death of Kumanjayi Walker [2025] NTLC 8, [222-224].

[9] Inquest into the death of Kumanjayi Walker [2025] NTLC 8, [212].

[10] NT Police, Fire & Emergency Services, Northern Territory Police Commissioner Delivers Apology Speech at Garma Festival (3 August 2024).

[11] (ABC, 2025). See https://www.abc.net.au/news/2025-07-08/nt-police-respond-to-kumanjayi-walker-inquest-findings/105507610.

[12] NTPF Anti-Racism Strategy 2025-2027 NT Racism Action Plan

[13] (National IndigenousTimes, 2025). See: https://nit.com.au/09-07-2025/19017/nt-police-admit-racism-in-force-needs-to-be-confronted-following-damning-coronial-findings.

3.2 The NT Aboriginal Justice Agreement 2021-2027

Upon signing the bipartisan NT Aboriginal Justice Agreement (AJU)[14] the then-NT Labor government pledged to "identify and eliminate systemic racism in government agencies ... that directly or indirectly discriminates against Aboriginal Territorians engaged in the justice system".[15]

The Department of Infrastructure, Planning and Logistics (DIPL) was the first agency selected for review under the NT AJU commitment to identify and eliminate systemic racism within government agencies and contracted service providers. The review was undertaken by the AJU using a framework developed by Professor Chris Cunneen, a nationally recognised expert in systemic racism and institutional accountability. In response to Parliamentary Written Question No. 589, the Northern Territory Government confirmed that the DIPL review had been completed and provided to the agency for consideration and comment, with public release subject to further approval.[16]

Despite this, the findings, recommendations and outcomes of the review have not been publicly released. This raises significant questions regarding transparency, accountability and the effective use of public funds, particularly given the AJU's commitment to addressing systemic racism across government. The absence of public reporting limits opportunities for community confidence, institutional learning and independent scrutiny of whether systemic issues identified through the review have been addressed. It also risks undermining the intent of the AJU itself, which was designed to build trust and accountability in government responses to structural racism. As Professor Cunneen has observed, governments must take their commitments to addressing systemic racism seriously if public confidence in these agreements is to be maintained. [17]

In June 2024, then-Labor Attorney-General and Police Minister announced that the NT ADC would carry out an independent racism review into NT Police Force and work alongside the NT Police.[18] The ADC were to be provided with $300,000 additional funding to carry out the review.

Following its election in August 2024, the CLP government withdrew the allocation of funding to the ADC to carry out an independent racism review.[19] It stated that a review was no longer necessary due to NT Police's internal anti-racism strategy.

Systemic racism must be investigated through an independent body, not through internal investigations. When the government can influence the direction of resources of an independent statutory body, or underfund it to the extent that it cannot fulfil its statutory responsibilities, particularly in directing it against reviews that align with its political or reputational interests, it blurs the line between oversight and management.

[14] Northern Territory Aboriginal Justice Agreement 2021 – 2027

[15] (ABC, 2025). See https://www.abc.net.au/news/2025-06-17/nt-police-racism-review-legal-aid-government-departments/105422892.

[16] Legislative Assembly of the Northern Territory, Question No. 589 oAnswer-to-Written-Question-589-Aboriginal-Justice-Unit.pdf

[17] NT government making slow progress in broad review into systemic racism - ABC News

[18] Anti-Discrimination Commission, Media Statement, Update: NT Police Racism Review, 15 August 2024

[19] NT Police, Fire and Emergency Services, Media Statement, Northern Territory Police Commissioner Delivers Apology Speech at Garma Festival, 3 August 2024.

3.3 Operation Beauford - Office of the Independent Commissioner Against Corruption (OICAC) and NT Police Force investigation

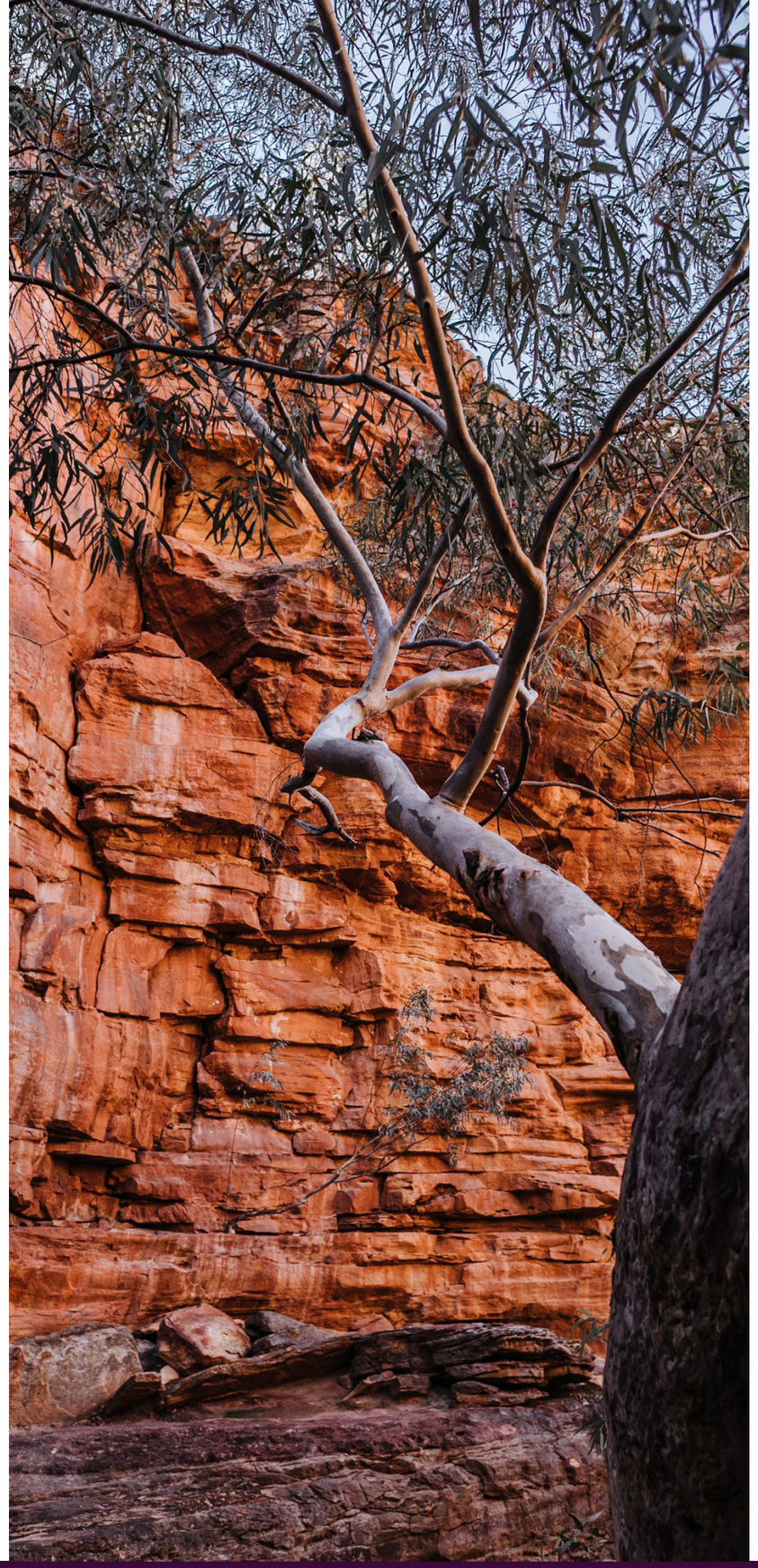
While giving evidence in the Coronial Inquest into the death of Kumanjayi Walker, Zachary Rolfe made allegations of racism within the Territory Response Group (TRG) of NT Police. He alleged that the TRG handed out annual "Noogadah awards" (or "Coon of the Year" awards) which featured racist, offensive content towards Aboriginal and Torres Strait Islander people. Five senior police officers swore affidavits refuting those allegations. The OICAC and NT Police executed a joint agreement to investigate the truthfulness of those affidavits (Operation Beaufort).

OICAC released a brief six-page report in November 2024. The report noted the lack of resources made available to carry out the investigation. It found that:

- The awards were racist and disgraceful;
- The investigation brought to light historic behaviour in NT Police between 2007-2015 which is now acknowledged to be unacceptable;
- The OICAC does not have the resources to conduct a further wide-ranging investigation into racism within any unit of NT Police, nor is it necessary given the formal apology by Commissioner Murphy and the appointment of Leanne Liddle to drive reform internally;
- It is plain from the fact that the commencement of this investigation required the ICAC to execute a joint agreement with the NTPF that the OICAC is not resourced to conduct an ongoing wide-ranging investigation into racism within the NTPF
- After a thorough police investigation which included analysis of a huge quantity of data stored on the NTPF there has been no further evidence of any racist material produced after 2015
- The investigation fulfilled one of its objectives by highlighting historical evidence of racism within the TRG.

The report did not investigate or make a finding about the prevalence of systemic racism in NT Police Force, yet the Chief Minister told the ABC that the report "confirmed her government's belief that there was no systemic racism in the police force and it [ended] a chapter."[20]

[20] (ABC News, 2025). See https://www.abc.net.au/news/2024-11-14/icac-report-nt-police-racism-investigation-concluded-/104600312.



3.4 The role of the NT Auditor-General's Office

In January 2026, the NT Independent Auditor-General's Office was found to be the least independent of government auditors in Australasia following a review conducted by the Australasian Council of Auditors-General (ACAG).[21]

The Productivity Commission's 2025 Closing the Gap Annual Data Compilation Report found the NT was the worst-performing jurisdiction in the country, with gaps between Indigenous and non-Indigenous outcomes widening on key measures including incarceration and youth detention.[22] According to the data, more targets in the NT are going backwards than improving, reflecting deep and persistent disadvantage.

In January 2026, NT Indigenous Business Network CEO Naomi Anstess stated that the findings of the ACAG assessment that the Territory's audit system is highly vulnerable to government influence reveal how governments evade accountability over Closing the Gap failures.[23] When audit independence is weak, governments can avoid scrutiny for failing Closing the Gap outcomes, while Aboriginal organisations are left carrying the blame for programs they didn't design or control. She stated the fractured audit system has real-life, devastating impacts for Aboriginal people across the NT, with programs designed to address systemic injustice left underfunded. Those results are often misread as failures of Aboriginal community-controlled organisations, rather than potential government misspending when auditing processes are weak.

[21] (National Indigenous Times, 2026). See https://nit.com.au/29-01-2026/22382/Weak-NT-audits-hide-Closing-the-Gap-failures-Indigenous-leader-warns.

[22] Closing the Gap Annual Data Compilation Report 2025. See: https://assets.pc.gov.au/2025-10/closing-the-gap-annual-data-compilation-july2025.pdf?VersionId=9X7LLZW8iMzuSBI2bw8hblQodXZD108C.

[23] (National IndigenousTimes, 2026). See https://nit.com.au/29-01-2026/22382/Weak-NT-audits-hide-Closing-the-Gap-failures-Indigenous-leader-warns.

4. Federal Human Rights Protections

Between 2019 and 2024, the Australian Human Rights Commission (AHRC) examined Australia's human rights framework. The outcome was a proposed framework to better protect the rights of all people in Australia. At the centre of the framework is a Federal Human Rights Act to provide governments a clearer guide for making fair and accountable decisions, while giving people and communities a meaningful way to raise concerns and seek justice when public systems fall short. This would offer a stronger foundation for trust, accountability, and better outcomes for everyone.

The national Human Rights Act as proposed by the AHRC Framework would require governments and public servants to properly consider and act compatibly with human rights when making decisions, delivering services and developing laws and policies. It's built on international agreements that protect people's basic rights, such as freedom of speech, access to education, and the right to health and housing. It also includes protections for groups who often face additional barriers, like children, people with disabilities, and First Nations people.

The ADC supports a national Human Rights Act and the role it would play in ensuring human rights are considered in policy and decision-making, and in allowing oversight bodies to examine whether those obligations were properly complied with and provide individuals with enforceable avenues to challenge breaches. Such a framework would strengthen accountability and oversight in the NT.

On 26 November 2024, the government passed an amendment that removed the requirement for bills to be presented at First Reading to be tabled with a signed human rights compatibility statement [15th Assembly Sessional Order 13.3(1) of Legislative Assembly of the NT]. This meant that the First Reading of a bill in the NT no longer requires human rights compatibility statements similar to the Commonwealth parliamentary scrutiny process within the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth). Arguably, this may be seen as an extension of the act of the previous government that introduced new rules in 2020 to remove the cross-party Legislation Scrutiny Committee. While the NT Legislative Scrutiny Committee can still raise human rights compatibility matters, there is no statement of compatibility required.

In the absence of a Human Rights Act both nationally and in the NT, it is a major concern that the legislative process is disarmed from such an important parliamentary transparency and accountability mechanism. Arguably, this may be seen as an extension of the act of the previous government that introduced new rules in 2020 to remove the cross-party Legislation Scrutiny Committee.

The amendment means that the NT government may pass laws without being compatible with the 7 international human rights treaties that Australia is a party to:

- Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- Convention on the Elimination of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of Persons with Disabilities (CRPD)

Importantly, this has led to reduced opportunities for comprehensive consultation on human rights compatibility of future bills which in itself impacts the integrity of the law-making process and quality of deliberations via parliamentary committees.

Since then, the NT Government have passed a suite of new laws and legislative amendments to pursue its "tough on crime" agenda, which disproportionately impact Aboriginal and Torres Strait Islander Territorians.

B. Perceptions of Prevalence of Racism

5. Spotlight on other deaths in custody

In August 2025, Kumanjayi Walker's family provided an open letter to the NT government calling for the adoption of the recommendations made by the Coroner, to independently review all deaths in custody to eliminate conflicts of interest and to prevent future deaths at the hands of Northern Territory police.[24] Over 20 organisations, including the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) and Northern Australia Aboriginal Justice Agency (NAAJA) signed the open letter.

Since Kumanjayi Walker's avoidable death in 2019,[25] 130 Indigenous people have died in custody in Australia.[26]

Despite the Coroner's findings in the Inquest into Kumanjayi Walker's death, internal NT police investigations of four recent deaths in custody have been deemed appropriate despite calls from the community and families for independent investigations.

5.1 Kumanjayi White

On 27 May 2025, 24-year-old disabled Warlpiri man Kumanjayi White died in police custody after he was restrained by two plain-clothed police officers inside a Coles supermarket. The NT Chief Minister ruled out an independent investigation, informing the media that an internal police investigation was "entirely appropriate" and that "people can have full confidence in the Northern Territory Police Force to do their job … I urge everyone to respect the process".[27]

The local and National community sought an arms-length, transparent investigation of his death. NT Police refused to release CCTV footage to the family. No criminal charges were laid against the NT Police officers involved. The Director of Public Prosecutions (DPP) advised that the legal threshold for prosecution was not met.

5.2 Kumanjayi Demsey

On 27 December 2025, Kumanjayi Dempsey, 44, collapsed in the Tennant Creek watch house almost two days after being arrested on Christmas day. Kumanjayi Dempsey took medication for rheumatic heart disease. Despite significant funding being allocated to police and corrections, the Tennant Creek watch house does not have a custody nurse position funded, despite that being a recommendation of a 2012 coronial inquest, which resulted in all other watch houses in the NT's urban centres receiving a nurse.

24 National Aboriginal and Torres Strait Islander Legal Services, Media Release (14 August 2026). See https://www.natsils.org.au/wp-content/uploads/2025/08/MR-2508-No-more-Aboriginal-deaths-at-the-hands-of-police.pdf.

25 Inquest into the death of Kumanjayi Walker [2025] NTLC 8, [17].

26 New South Wales Council for Civil Liberties, Deaths in Custody Tracker. https://www.nswccl.org.au/deaths_in_custody_tracker.

27 (ABC, 2026). See https://www.abc.net.au/news/2026-04-02/nt-police-update-kumanjayi-white-death-in-custody-investigation/106525980.

With over 600 deaths since 1991, concerns exist that police and custodial agencies cannot impartially investigate themselves, arguing for bodies free from systemic bias to ensure accountability.

The role of systemic racism in the of deaths of Aboriginal and Torres Strait Islander people in custody can become invisible where deaths are attributed to "a few bad apples" or deaths are investigated as individual, unrelated incidents. Where the deaths of Aboriginal and Torres Strait Islander deaths in custody are reviewed internally by NT Police, the prevalence and role of systemic racism is unable to be analysed on an institutional level. Internal investigations lack accountability as findings and reports are not made public. They also undermine the trust that community places in police and creates doubt of any finding of their investigations, despite its thoroughness.

In July 2025, Senator Lidia Thorpe moved a motion in Federal Parliament calling for a national, independent body with the power to investigate Aboriginal deaths in custody. It called for the tracking and implementation of the recommendations from the 1991 Royal Commission into Aboriginal Deaths in Custody. The motion received support from Labor and the crossbench.

6. Criminal justice reforms

The death toll of Aboriginal and Torres Strait Islander people in custody is rising in the context of a country experiencing a mass imprisonment crisis, with skyrocketing numbers of people in prisons. The Royal Commission into Deaths in Custody report published in 1991 made 339 recommendations to address systemic issues leading to high Indigenous incarceration rates, including treating imprisonment as a last resort, improving prison medical and support services and fostering self-determination. However, between 1 July 2024 and 30 June 2025, we saw the largest number Aboriginal and Torres Strait Islander deaths in custody since 1979–80 and almost double the average since 1989–90.[28] The Report highlighted that over-representation in custody was the primary cause of deaths, calling for reforms in policing, justice and social policy.[29]

The Report identified that Aboriginality played a significant role in their being in custody and dying in custody.[30] The NT incarceration rate is second only to El Salvador.[31] Our recidivism rate is the highest in the country, with six out of ten people returning to prison within two years of release.[32] This figure far exceeds the national average of 42.7%. Our prison population comprises 84-88% Indigenous people. Our youth prison population, at times, is 100% Aboriginal and Torres Strait Islander people.

On 1 May 2026, Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission Katie Kiss called on the NT government to urgently address the number of Indigenous deaths in custody. [33]

"This includes reviewing its 'tough on crime' policies which are increasing the Indigenous incarceration rate, overcrowding correctional facilities and heightening the risk of deaths in custody"

[28] Australian Institute of Criminology, Deaths in Custody in Australia 2024-25 (Statistical Report 57, 2025) 49.

[29] Review of the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody, Deloitte 2018.

[30] Royal Commission into Deaths in Custody Report (1991).

[31] (ABC, 2025). See https://www.abc.net.au/news/2025-03-14/abs-data-shows-nt-prison-numbers-at-record-high/105040914.

[32] (ABC, 2025). See https://www.abc.net.au/news/2025-03-14/abs-data-shows-nt-prison-numbers-at-record-high/105040914.

[33] (About Time, 2026). See https://www.abouttime.org.au/news-and-investigations/three-first-nations-people-have-died-in-custody-in-two-weeks.

"We also renew our calls for Indigenous deaths in custody to be investigated independently. Investigations must be conducted by organisations and individuals who have no potential or perceived conflicts of interest."

In 2024, the government ran on a "tough on crime" policy platform. The government have used 'trigger' moments to introduce policies and laws which disproportionately impact Aboriginal and Torres Strait Islander people. There has been a pattern of, a crime being committed in the community, new legislation and amendments urgently tabled in parliament in the proceeding days utilising urgency provisions intended for natural disaster management, bypassing community consultation and legislative scrutiny and the increase in incarceration of Aboriginal and Torres Strait Islander people. The Commission strongly supports NAAJA Chief Executive Officer Ben Grimes' assessment that as a result, the entire justice ecosystem has been destabilised by successive legislative changes introduced without properly considering planning, implementation and flow-on impacts. NAAJA has also called for an emergency intervention into the Territory's justice system, and for First Nations leaders and Commonwealth and NT authorities to address the territory's soaring incarceration rate.[34] Without intervention, we expect this situation to worsen.

The economy of incarceration is strong and evident in the NT. In the 2026/27 Budget announced in early May 2026 injects a phenomenal amount of money into increasing the capacity of prisons and NT Police to "reduce crime". It included "a record $1.7 billion in public order and safety, and $832 million in social protection to reduce crime and improve public safety through justice reform and addressing the root causes of crime."[35]

The budget provides minimal funding to only three rehabilitation programs, including the Anindilyakwa Healing Centre, the Life Skills Camp in Alice Springs and the government Circuit Breaker program. Successive governments have de-funded the following rehabilitation programs:

- Funding for Larrakia Nation's Night Patrols and Return to Country programs om
- A Mission Australia residential rehabilitation facility and sobering up shelter in Darwin were closed to make way for a new women's prison
- BushMob Residential AoD program for young people funding was cut in 2025
- Diversion programs for youths

The government's plan going forward places Aboriginal and Torres Strait Islander people at continued and increased risk. Increase in policing and restrictions placed on the community, which disproportionately impact Aboriginal and Torres Strait Islander people.

The "tough on crime" agenda has seen a significant increase in policing and restrictions on the community. These laws give the appearance of applying equally to everyone, however, have led to a dramatic increase in the surveillance, criminalisation and incarceration of Aboriginal and Torres Strait Islander people. Without human rights compatibility scrutiny at the time a bill is tabled, and inadequate resourcing of discrimination accountability mechanisms as these laws are implemented, the disproportionate and disadvantageous of these laws for First Nations people cannot be uncovered, rendering racism invisible. Without proper scrutiny of the institutions implementing and enforcing these laws, systemic racism will likely become further entrenched, invisibly.

[34] (ABC, 2025). See Prime minister 'missing in action' as Indigenouslegal services call for national cabinet on deaths in custody - ABC News.

[35] 2026-27 Budget - Budget and Regional Overview.

6.1 Blanket curfews in Alice Springs

In March 2024, the previous government enforced a three-week blanket curfew in Alice Springs CBD for all children under the age of 18.[36] Following those emergency measures which were targeted at youth, and clearly disproportionately impacted Aboriginal youth, the former Government introduced an urgent Police Administration Legislation Amendment Bill 2024.[37] The Bill which was later passed[38] authorised the Police Commissioner to make a public disorder declaration if there is a belief a riot or civil disturbance is occurring or there is an imminent risk of it occurring, and provided powers to prevent, stop or reduce the public disorder (enforce a curfew). The amendments to the Police Administration Act 1978 specifically excludes the application of the *Anti-Discrimination Act 1992* in making a public disorder declaration.[39]

The Police Commissioner is able to enforce snap, three-day curfews with options for extension up to 10 days, without the risk of legal challenges based on discrimination.

The NT Children's Commissioner raised concerns that these provisions would "increase the likelihood of curfews that "target and harm vulnerable and marginalised groups, such as Aboriginal children and young people" and "rushing through laws that could lead to unequal restrictions on certain groups and increased contact with police can have devastating consequences.[40]

At the time, NAAJA's Principal Lawyer Jared Sharp described the laws as "simply a distraction from what we should be doing, and that is investing in the underlying causes of offending".

The exclusion of the application of the *Anti-Discrimination Act 1992* makes it clear that the law, increased police contact and the consequences of failing to comply with the curfew will disproportionately impact Aboriginal people. It removes a layer of scrutiny of police treatment of young Aboriginal people by the ADC.

6.2 Police wanding in schools

In 2025, police wanding powers were expanded to allow police to wand to detect knives in public places and in schools.

Dr Mindy Sotiri of the Justice Reform Initiative stated, "There is no evidence from jurisdictions where wanding laws have been trialled to show that this deters knife carrying or reduces incidences of knife crime. Increasing police powers in this way comes with a significant risk that Aboriginal people and other populations who are already over-policed, criminalised and over-incarcerated will be targeted and more likely to be drawn into the criminal justice system."[41]

[36] Northern Territory Government, Alice Springs emergency declaration via webpage.

[37] Police Administration Amendment Bill 2024 via webpage.

[38] Police Administration Act 1978.

[39] Police Administration Act 1978, s 135(c).

[40] (ABC, 2024). See https://www.abc.net.au/news/2024-05-16/nt-government-introduces-bill-to-impose-curfews-more-easily/103852410

[41] Justice Reform Initiative, Media Release (7 October 2024). See https://www.justicereforminitiative.org.au/media_release_wanding_won_t_work_lack_of_evidence_for_latest_misstep_in_the_nt.

6.3 Public drinking offences

In late 2024, the CLP made it unlawful to drink in public places. By February 2025, 120 people had been fined, and 3 arrests had been made. Association of Alcohol and other Drug Agencies NT (AADANT) noted that the people being fined were already facing significant disadvantage in their lives and the new law may be marginalising them further.[42]

6.4 Truancy officers in schools

In November 2024, the government announced the introduction of truancy officers to patrol Northern Territory communities and issue fines of $370, prosecute parents who fail to send their children to school and refer them to income management. People on income management in the NT have some of their Centrelink payment quarantined into a separate account which can only be spent on essential items.

Minister for Education and Training Jo Hersey said: "We will also work with the Commonwealth on referring families who continue to deprive their children of an education for income management for neglecting their children.".[43]

These laws have been widely criticised for punishing families instead of addressing systemic failures.[44] Justine Davis MLA stated, "Multiple evaluations have shown it doesn't improve child outcomes, doesn't increase school attendance, and doesn't reduce disadvantage. What it does do is stigmatise families, create barriers to accessing services, and add administrative burden without addressing the root causes of non-attendance."[45]

The introduction of truancy officers to patrol remote communities is reminiscent of the NT Intervention policies, which apply to undermine the autonomy and self-determination of Aboriginal people and communities, further entrenching disadvantage, rather than improving outcomes. The school truancy program gives the appearance of applying equally to everyone, however, it will have the effect of disproportionately targeting Aboriginal and Torres Strait Islander Territorians. As a result, the disproportionate impact of these policies on Aboriginal and Torres Strait Islander Territorians is unable to be scrutinised, risking the further entrenchment of systemic racism in our education system.

[42] (ABC, 2025). See https://www.abc.net.au/news/2025-02-03/nt-nuisance-public-drinking-law-fines-clp-government/104881888.

[43] (NT Independent, 2025). See https://ntindependent.com.au/parents-to-be-fined-for-failing-to-send-kids-to-school-as-truancy-officers-on-the-beat-again/.

[44] (National IndigenousTimes, 2025). See https://nit.com.au/06-10-2025/20579/nt-government-to-refer-parents-of-truant-children-to-income-management.

[45] (National IndigenousTimes, 2025). See https://nit.com.au/06-10-2025/20579/nt-government-to-refer-parents-of-truant-children-to-income-management.

6.5 Armed police on public buses

In 2025, the government announced new legislation to create new Police Public Safety Officers (PPSOs).[46] From June, armed NT Police officers with 18 months' training will be patrolling public buses to create "community safety".[47] These laws will disproportionately impact Aboriginal and Torres Strait Islander people.

Ben Grimes, chief executive of the NAAJA, said there is "no evidence that bringing guns on to buses is needed, or that it will create safer public transport", "Bringing guns on to crowded and confined buses is inherently dangerous and unnecessary," he said. "Situations on public transport should be managed through skilful de-escalation, not through use of force. In rare situations where force may be needed, guns should not be the preferred weapon."

When the bill passed in September, Yingiya Mark Guyula, a Yolngu man and independent MLA, took to social media to warn Aboriginal people "not to go to town if they don't need to" out of concern they would be targeted by PPSOs.

Mr Guyula told Guardian Australia that giving transport and public housing officers guns was only going to "intimidate, harass and create widespread fear".

"We see community members with significant mental health and drug and alcohol issues, and young people who need programs and support," he said. "Instead of helping people to address the underlying problems, they are filling the jails, making bail impossible to get and increasing the number of guns to be used against us."

Ben Grimes suggested more visible support staff and night patrol workers, as well as culturally safe engagement and youth outreach drop-in centres would be a more effective, culturally safe, was to address anti-social behaviour.

6.6 Criminal laws

In April 2025, bail laws were again amended in an urgent one-day recall of parliament following the stabbing of a non-Aboriginal man by an Aboriginal youth. The laws prohibited Judges from granting bail unless satisfied that an alleged offender will not pose a risk to the community if granted bail. These laws apply to both children and adults.

Mandatory sentences were introduced for assaults against emergency service workers for first time offenders, and mandatory supervised order where no physical harm occurred.

Mandatory sentences of 25 years for domestic violence related deaths were introduced. Domestic violence related deaths where the victim of domestic violence kills their intimate partner following years of abuse occur in the NT and would be covered by these laws. These amendments mean that even where a long history of being subject to domestic violence warrants substantial mitigation in sentencing, the minimum sentence able to be imposed is 25 years imprisonment. After the Coronial Inquest into the deaths of four Aboriginal women who experienced domestic violence, the Coroner made 35 recommendations, including better funding for frontline services (women's shelters, Aboriginal community controlled organisations and men's behaviour change programs), changes to the way police follow up DV reports and targeted training, for police and health workers.[48] Introducing mandatory sentencing for domestic violence related deaths was not one of them.

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[46] (The Guardian, 2026). See https://www.theguardian.com/australia-news/2026/apr/09/nt-darwin-buses-soon-patrolled-armed-police-officers-ntwnfb/

[47] (The Guardian, 2026). See https://www.theguardian.com/australia-news/2026/apr/09/nt-darwin-buses-soon-patrolled-armed-police-officers-ntwnfb/

[48] Inquests into the deaths of Miss Yunupiŋu, Ngeygo Ragurrk, Kumarn Rubuntja and Kumanjayi Haywood [2024] NTLC 14.

7. Youth Justice Amendments

On 1 August 2016, the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the NT found non-compliance of the youth justice system with the human rights of young people in detention, many of the same issues remain relevant and ongoing now. Some of the recommendations included:

- The use of spit hoods should continue to be prohibited.[49]
  - Electronic monitoring conditions should only be considered when there is no other alternative to remanding a child or young person in detention.[50]
  - The Bail Act should be amended so that a youth is not denied bail unless charged with a serious offence and a sentence of detention is probable if convicted, they present a serious risk to public safety, there is a serious risk of the youth committing a serious offence while on bail, or they have previously failed to appear without a reasonable excuse. That their age, maturity and circumstances, including their home environment and their capacity to comply with conditions, be considered by police and courts. That children and young people be excluded from offence to breach bail provisions.[51]
  - That the age of criminal responsibility be increased to 12 years and that the Youth Justice Act (NT) be amended to add a qualifying condition that youth under the age of 14 years may not be ordered to serve a time of detention, other than where the youth has been convicted of a serious and violent crime against the person, presents a serious risk to the community, and the sentence is approved by the President of the proposed Children's Court.[52]

Many of these recommendations were initially implemented but have now been overturned and reverted by the current government. In some circumstances, they have become more severe than prior to the Royal Commission.

7.1 Lowering the age of criminal responsibility

In the government's first sitting week after being elected after running a tough on crime campaign, they lowered the age of criminal responsibility back down to 10 years old. This change, which was part of a pre-election commitment, triggered a strong response both domestically and internationally:

- The UN Rights of the Child committee chair wrote to Prime Minister Anthony Albanese about the Northern Territory's move to lower the age of criminal responsibility, which contravenes Australia's treaty obligations as a signatory to the United Nations Convention on the Rights of the Child.[53]
- NT Children's Commissioner Shahleena Musk warned that this would increase youth offending, fail to deliver short term outcomes for the community and entrench disadvantage and racism in the justice system. There is well-established evidence demonstrating that children of this age lack the emotional, mental and intellectual capacity for criminal responsibility.[54]

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[49] Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory 2016, Recommendation 13.1.

[50] Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory 2016, Recommendation 25.17.

[51] Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory 2016, Recommendation 25.19.

[52] Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory 2016, Recommendation 27.1.

[53] (ABC, 2024). See https://www.abc.net.au/news/2024-10-18/un-committee-chair-condemns-nt-lowering-criminal-age-law/104490784.

[54] (ABC, 2024). See https://www.abc.net.au/news/2024-10-04/nt-childrens-commissioner-shahleena-musk-on-clp-crime-age-policy/104423080.

- On 28 April 2026, Commissioner Musk gave evidence at the Senate Inquiry into Australia's Youth Justice crisis, stating that 10- and 11-year-old children are being incarcerated in the NT. On any given day, 100% of children in detention are Aboriginal or Torres Strait Islander. She called for nationally consistent, enforceable minimum standards into youth justice to prevent harm to children. The NT government failed to attend the Inquiry.[55]

7.2 Restricting access to youth diversion programs

In July 2025, the government restricted access to youth justice diversion programs for 13 additional offences under the Youth Justice Regulations 2006. The Chief Minister stated, "Offenders that commit [one or more of] 13 additional serious offences will no longer get the benefit from Labor's previous catch and release scheme."[56] The inclusion of non-violent offences such as driving stolen vehicles would see some non-violent offenders proceeding to charge and potential incarceration rather than into diversionary programs which aim to break the cycle of imprisonment and re-offending.

7.3 Declan's Law

Declan's Law refers to a suite of strict bail and crime reforms introduced from early 2025 following the murder of Declan Laverty in March 2023. The reforms included:

- A presumption against bail for violent offences, including assault, and for anyone found guilty of two or more 'serious offences' in the previous two years (including stealing, drug possession and escaping lawful custody')
- Mandatory electronic monitoring for repeat 'serious offenders'
- Reinstates breach of bail conditions as a criminal offence, including for youths
- Increased police powers to wand to detect knives in public places and in schools

The thresholds for violent offences and serious offences are low, including stealing and assaults.

These laws:

- Reintroduced spit hoods in youth justice detention centres
- Lowered the threshold for the use of force by officers against children in youth detention centres
- Broadened the methods of force that can be used, including dogs.

The Australian Lawyers for Human Rights, Mindy Sotiri, executive director of the Justice Reform Initiative; Karly Warner, the chair of the National Aboriginal and Torres Strait Islander Legal Services; and the NT Children's Commissioner, Shahleena Musk, raised concerns regarding the impact this would have oxn children, the likelihood that these measures would further traumatise children and the risk that it would exacerbate the rates of youth crime.[57]

The evidence shows that reacting to children who offend with violence increases the chances that their offending behaviour will escalate.[58]

[55] (ABC, 2026). See https://www.abc.net.au/news/2026-05-01/nt-government-snubs-youth-justice-incarceration-inquiry-crime/106623086.

[56] https://nit.com.au/04-07-2025/18942/first-nations-advocates-alarmed-at-nt-government-restricting-access-to-youth-justice-diversion-programs.

[57] (ABC, 2025). See https://www.abc.net.au/news/2025-08-02/nt-clp-government-lia-finocchiaro-rhetoric-against-critics/105602380; ALHR Media release July 31, 2025.

[58] (The Guardian, 2025). See The NT's newest youth justice law changes will heap more trauma on to traumatised kids while worsening youth crime | Russell Marks | The Guardian.

7.4 Spit hoods

In December 2025, the Coroner released findings in relation to the deaths of two disabled Aboriginal brothers whose health deteriorated over a number of years spent homeless in Alice Springs. They both had significant cognitive impairments and were under the care of the Office of the Public Guardian. Big Brother lay dying was twice restrained with a spit hood by NT Corrections while in a hospital setting before his death. Although the Coroner did not find the spit hood caused his death, she did find no evidence which justified the continued use of spit hoods.[59]

Generic spit hood policies, procedures and subsequent actions which do not make any accommodations for specific groups of people, particularly people with disabilities, or Aboriginal and Torres Strait Islander people, may fail to accommodate a special need and amount to prohibited conduct under the *Anti-Discrimination Act 1992*.

8. Flow on impacts of "tough on crime" reforms

8.1 Conditions in custody

In November 2025, the NT Ombudsman released a report following an own motion investigation into conditions for Territory prisoners in NT Police watch houses. The report found that people kept in NT Police watchhouses were, as a result of severe overcrowding in prisons, kept in conditions that were unreasonable and oppressive."[60] Findings included severe overcrowding in cells, people sleeping on thin mattresses on floors next to exposed toilets, constant artificial lighting, almost no time outside, limited access to shower and clean clothing and stays lasting weeks to even months.[61] The Ombudsman formed the view that the conditions were "unreasonable and oppressive" and impacted people's mental and physical health. The report describes conditions including:

- Severe overcrowding, with up to 17 people sharing a single cell.
- Open-air, exposed toilets with next to no privacy, often right next to where people slept.
- Drinking water available only from taps fixed above frequently used toilets
- Weeks without access to fresh air, sunlight, or recreation, and very minimal time outside of cells.
- Very limited access to showers, hygiene items or clean clothing.
- Lack of privacy and dignity for women, particularly in relation to menstruation.
- Constant artificial lighting causing sleep deprivation and impacting mental health.
- Very limited access to family contact or visits.
- Extended stays, including for women, for weeks at a time in facilities never designed for long-term detention.
- Where there is severe physical or mental suffering, some conditions described may amount to cruel, inhumane or degrading treatment under The Optional Protocol to the Convention Against Torture (OPCAT), and in extreme cases could potentially meet the threshold of torture.

Watch houses are not prisons. They were never designed to hold people for days, let alone weeks. Territorians sleeping shoulder-to-shoulder beside open toilets, drinking

[59] Inquest into the deaths of Ted Ptjara and Tim Ptjara [2025] NTLC 21, [25].

[60] Watch House Investigation Report, NT Ombudsman, November 2025. p 6.

[61] Ombudsman report; NAAJA Ombudsman report exposes "unreasonable and oppressive" watch house conditions (2025).

from taps above those toilets, and going without fresh air for weeks is not just a catastrophic failure of systems, it is a failure of our shared humanity. These conditions disproportionately punish Aboriginal Territorians and raise serious questions under OPCAT, the *Anti-Discrimination Act 1992* (NT) and the Racial Discrimination Act 1975 (Cth). Race is a protected attribute under this legislation and subjecting one group to unreasonable and oppressive conditions in far higher numbers raises concerns about the discriminatory outcomes of such policies and practices. The report exposes systemic harms created by rushed laws, poor planning and inadequate investment in justice systems. The "tough on crime" political messaging must not be used to justify oppressive treatment. Many people held in these conditions were on remand and had not been found guilty of any offence. The Government cannot trade away one group's human dignity and right to presumed innocence under the guise of protecting others.

8.2 Barriers to getting out of custody

The increase in the incarceration rates has increased the amount of lockdowns in prison, impacted the ability of prisoners to participate in rehabilitation and educational programs while in prison and created substantial barriers to achieving conditional release from prison.

The NT has the lowest success rates for completing a period of supervised release on parole, and it is the last remaining jurisdiction that does not permit prisoners to count time spent on parole ('street time') towards their sentences, resulting in prisoners remaining in prison well beyond the sentence originally imposed. In 2023, 116 parole orders were revoked in the NT, resulting in over 36 years of street time not being credited.[62] The Australian Law Reform Commission recommended that this law be amended due to the unfair prejudice against Aboriginal and Torres Strait Islander people and its contribution to the incarceration rates of Aboriginal and Torres Strait Islander people.[63]

9. The effect of online platforms

9.1 "It's up to everyone to call it out" report

In September 2024, the NT Children's Commissioner, Shahleena Musk released a report 'It's up to everyone to call it out,' which found that 80 percent of the 284 children and young people onsulted, had experienced or observed racism.[64] The report reflected children's voices and included reports of shame, hurt and humiliation sometimes leading to a desire to retaliate. One youth made the comment, "wasn't even stealing, but then I thought, you wanna see stealing? I'll show ya" and "racism makes people angry and not want to behave well."

Children and young people identified school, public places like urban streets and recreation spaces, shops, social media and online as the main environments where they have seen or experienced racism.

The report makes it clear that children feel that security guards and police already target them. Young people said "security follows black kids and it escalates", "police sling young fellas to the ground" "police just assume we are doing something wrong" "[police] are quick to pull over Indigenous people" "being bag searched when I'm with friends who are people of colour." 31% of responses identified school as the primary environment where racism occurs, with 29% identifying general public settings

[62] Parole Board of the Northern Territory, Annual Report (2023).

[63] Australian Law Reform Commission, Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (2017).

including urban streets, public pools, libraries and recreation space, 11 % identified social media and online, 22% identified shops.

The report made 5 recommendations which came directly from children and young people:

1. Stopping racism in the first place – better education and awareness raising initiatives. Embedding the importance of cultural education, local Aboriginal knowledge and languages, and an accurate account of the impact of colonisation into the school education curriculum.
2. Changing the narrative about children and young people in the community – the current negative, intimidating and discriminatory narrative in the community undermines the positive and important way that children contribute.
3. Supporting children and young people to respond to racism safely
4. Systemic whole of Government reform that urgently listens to the voices of children and young people with lived experience.
5. Creating safer spaces for children and young people.

Commissioner Musk said "we all have a duty to prevent racism. We must listen, we must act and we must work together to call it out and stamp it out."[65]

9.2 Alice Springs Facebook groups

Local Facebook groups in the NT have led to allegations of racism and vigilantism.

The group called Alice Springs residents who have had enough say it is a petition for government action against crime, property damage and drunken abuse by Aboriginal people. The group identified Aboriginal people as the cause of all anti-social behavioural problems in Alice Springs. The group was ultimately taken down, however in 2020, another group was established called Action for Alice 2020, which again fuelled racism targeting youth crime in Alice Springs.

The page posts photographs and videos showing what it deems alleged crimes or anti-social behaviour in the community. First Nations people are predominantly the subjects of security camera footage or shaky videos taken by bystanders that are posted to the page. The identity of those filmed, including children, is not obscured by blurring, and the footage is likely posted without their consent. [66]

Racism and explicit calls to violence are rife in the comments sections of these accounts, as well as the prediction of violent reprisals by vigilantes. For example:

- When a video was posted showing two underage children being allegedly caught stealing a pack of gum, the most popular comment was "Stolen generation. Everything they have is stolen";

  An ABC news segment was posted about the Alice Springs town meeting with the caption: "One attendee advocated for a 'lynching'. Who could blame them?"
- "It will take just one person to make a stand. Sadly, they will be the one that ends up in jail."
- Memes featuring fictional Wolf Creek murderer Mick Taylor and the words "I heard Alice Springs needs my help".

The prevalence of crime in Alice Springs is not a problem that is defined by, or due to race, yet social media fuels a violent, racist response in the community which perpetuates hate, crime and racism.

[64] NT Office of the Children's Commissioner, It's Up to Everyone to call it out – Children and young people's experience of racism in the Northern Territory: Consultation summary report, September 2024.

[65] Office of the Children's Commissioner, Media Release, 'Report launch – "It's up to everyone to call it out"', 26 September 2024

[66] (Crikey, 2023). See https://www.crikey.com.au/2023/02/10/action-for-alice-2020-facebook-page-concerns/..

10. Ideologically motivated extremism

10.1 Amendments to vilification laws

Following extensive consultation and expert advice over many years, the NT's *Anti-Discrimination Act 1992* was amended to include vilification provisions, effective July 2023, similar to the federal racial vilification provisions but broader in scope by applying to all protected attributes.

The vilification provisions made it unlawful to do an act that would reasonably likely "offend, insult, humiliate or intimidate" another person based on an attribute, for example, race.[67] It included an exemption if what was said was said reasonably or in good faith in certain circumstances.[68]

The types of racial discrimination complaints that were accepted by the ADC under these provisions included:

- A store owner refusing to serve an Aboriginal person by stating that he would not sell groceries to her "kind".
- A store placed a sign up with a photo of a person of colour and scribed "don't hassle for further discounts".
- A police officer drove past an Aboriginal person on the street and said "Fuck off".
- A staff member of a venue asked to see an Aboriginal patron's identification, while they observed non-Aboriginal patrons not being asked for ID. The manager yelled at her and kicked her out of the venue. The manager said that it was his land, that he fought for it and told the person to get off his land, although she was a Traditional Owner of the land they were on. He used the phrase "typical black cunts".
- An Aboriginal person was refused alcohol due to liquor licensing regulations despite being served at the same time on a different day. She asked to speak to a manager. The manager told her to "fuck off or he would call the police".
- A community member posted to a public Facebook page linking a person's race with their car crash. The post incited racist comments from the public.

In June 2025, during the Estimates, the NT Attorney-General noted that the word "offensive" is being removed because it is a subjective term. She justified the change using an analogy, that she might be offended by a glass of water but others may not be.[69]

The government proposed to change the provision to make it unlawful to do an act that is reasonably likely to, in all the circumstances, "incite hatred towards, serious contempt for or severe ridicule of a person or group of people" based on at attribute. This changes the test. Irrespective of expert opinions on the law, [70] the changes were made the came into effect in October 2025.

[67] *Anti-Discrimination Act 1992* as in force 2 January 2024, section 20A.

[68] *Anti-Discrimination Act 1992* as in force 2 January 2024, section 20B.

[69] Transcript, Estimates Committee – Monday 16 June 2025, 16 June 2025.

[70] NTCOSS, Briefing Note 'NTCOSS' position on the Anti-Discrimination Amendment Bill 2025', August 2025.

The amendments create a risk where individual instances of racism, which no longer meet the threshold of vilification, will not be able to be assessed by the ADC though would be accepted as 'race' discrimination when assessed under the Act. Where experiences for vilification as those noted above are reported to the ADC but are declined for further action as it no longer meets the threshold for vilification, this could impact public perception on NT's tolerance to hate speech, rendering such racist hate speech invisible in the eyes of the law.

10.2. Policy on transgender prisoners

There has been a trend in the United States and now in Australia of ideologically motivated extremism towards transgender people.[71] In October 2025, the Chief Minister announced that the prison's policy would be changed to prevent transgender prisoners from being housed in the sectors associated with their self-identified gender. At the time of the announcement, transgender prisoners were already being housed based on their biological sex, including a number of Sistergirls being housed in the male sectors. On Territory-wide radio, the Chief Minister clarified that transgender women shouldn't be held in female facilities, because "at the end of the day, if you are born a bloke, you are going to a men's prison".[72]

This policy is inconsistent with international human rights standards for the treatment of transgender prisoners, which state that the placement of transgender prisoners should be based on self-identified gender.[73] In the NT, this policy disproportionately impacts Aboriginal and Torres Strait Islander Sistergirls and Brotherboys.

It has been widely recognised that transgender people are more likely than the general population to experience assault and self-harm, and that these vulnerabilities are magnified when transgender persons are incarcerated.[74] International research shows that transgender people who also experience racism are at increased risk of imprisonment, in part driven by 'disproportionate experiences of discrimination, violence and victimisation'.[75]

There is a legal duty to prevent and eliminate discrimination against transgender prisoners.

[71] Kurt Sengul and Barrie Shannon, 'Mainstreaming LGBTQIA+ hate: The far-right's anti-gender countermovement in Australia', Australian Journal of Political Science, 11 December 2025. See also: Elise Thomas, 'A Year of Hate: Anti-Drag Mobilisation Efforts Targeting LGBTQ+ People in Australia', 2024, The Institute of Strategic Dialogue; S. Elizabeth Corredor, 'Unpacking "gender ideology" and the global right's antigender countermovement', Signs: Journal of Women in Culture and Society, 2019, 44(3): 613–638; T.J. Billard, '"Gender-Critical" Discourse as Disinformation: Unpacking TERF Strategies of Political Communication', Women's Studies in Communication, 2023, 46(2): 235–243; Roman Kuhar and Rok Smrdelj, 'The Rise of Anti-Gender Mobilizations', in Rok Smrdelj and Roman Kuhar (eds), Anti-Gender Mobilizations in Europe and the Feminist Response, Palgrave Macmillan, Cham, Switzerland, 2025: 1–5; Juliana Martínez, Ángela Duarte and María Juliana Rojas, 'Manufacturing Moral Panic: Weaponizing Children to Undermine Gender Justice and Human Rights', 2021, The Elevate Children Funders Group and Global Philanthropy Project (GPP); Michael Burke and Matthew Klugman, 'Trans* Athletes in Sport: Not Ceding to the Sex/Gender Binary of Gender Critical Feminism', Sociology of Sport Journal, 2025, 42: 270–279.

[72] Chief Minister Lia Finocchiaro on Mix 1049 to speak with host Katie Woolf on Monday 13 October 2025.

[73] The Yogyakarta Principles (2006/2017); the Nelson Mandela Rules.

[74] 'Resilient Individuals: Sexual Orientation Gender Identity & Intersex Rights: National Consultation Report', Australian Human Rights Commission, 2015: 69.

75 . A. Clark, A. Brömdal, T. Phillips, T. Sanders, A.B. Mullens and J.M.W. Hughto, 'Developing the "oppression-to-incarceration cycle" of Black American and First Nations Australian trans women: Applying the intersectionality research for transgender health justice framework', Journal of Correctional Health Care, 2023, 29(1): 28.

C. Moving Forward

11. Conclusion

This submission has outlined a consistent pattern across the NT. The issue is not a lack of evidence. The issue is what happens after the evidence is produced.

Over decades, inquiries, coronial inquests, royal commissions, audits, independent reviews and community voices have repeatedly identified the drivers of racism, discrimination and disproportionate harm experienced by First Nations people. Yet many of the same issues continue to reappear across policing, youth justice, corrections, education, child protection and public administration.

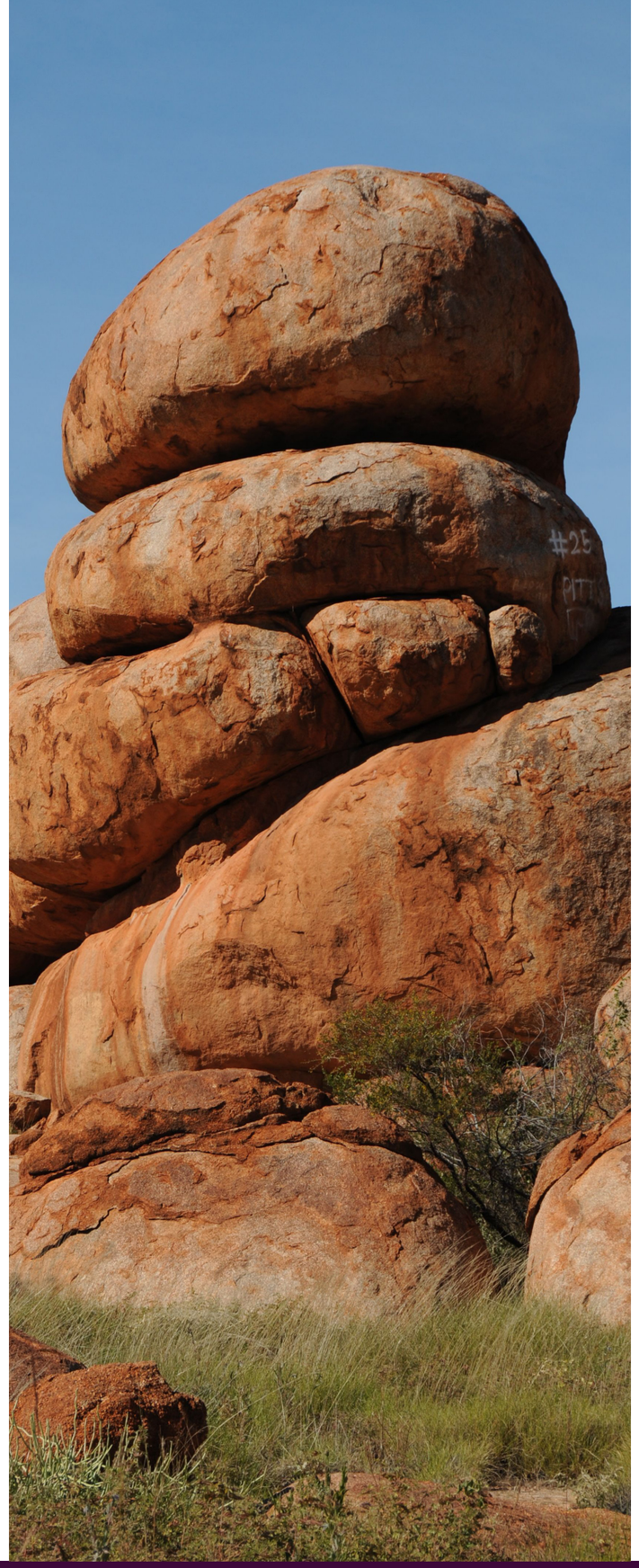
The cumulative effect is not simply policy failure. It is the normalisation of outcomes that would otherwise be unacceptable. When recommendations remain unimplemented, when oversight bodies are critically under-resourced, when scrutiny mechanisms are weakened, and when institutions are permitted to investigate themselves, accountability diminishes and public confidence erodes.

The NT demonstrates that racism does not need to be overt to be harmful. It can operate through systems, priorities, funding decisions, legislative choices and institutional cultures. It can be present in outcomes even when absent from public discourse or even when unintentional.

The challenge before this Committee is therefore not whether racism exists. The evidence overwhelmingly demonstrates that it does. The challenge is whether governments and institutions are prepared to act on what is already known.

Making racism visible requires more than acknowledgement. It requires bi-partisan commitment, true consultation and co-design, sustained investment in accountability, independent oversight, community leadership and the implementation of reforms that have already been identified through decades of inquiry and lived experience.

The measure of our commitment to justice will not be the number of reports we commission, but whether future generations inherit systems that have learned from them.



12. Recommendations

The ADC make the following recommendations:

(1) Adequately resource independent accountability bodies, including the ADC, to conduct independent reviews into systemic racism.

(2) Introduce a federal mechanism for independent investigations of all Aboriginal and Torres Strait Islander deaths in custody, which tracks and implements the recommendations from the 1991 Royal Commission into Aboriginal Deaths in Custody. The mechanism should include a pathway to refer and fund state and territory-based investigations by anti-discrimination and independent accountability bodies, where structural issues are identified.

(3) The Federal Government should urgently review the Territory's justice system through an Aboriginal-led model, in collaboration with First Nations leaders, Commonwealth and NT authorities to address the territory's soaring incarceration rate.

(4) Amend the Racial Discrimination Act 1975 (Cth) and insert a Positive Duty against race discrimination in all areas of activity where racial discrimination occurs.

(5) The Federal Government adopt and implement recommendations from the National Anti-Racism Framework.

(6) Introduce a Federal Human Rights Act.

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