

Response to the Northern Territory Alcohol Policies and Legislaton Review Issues Paper

July 2017

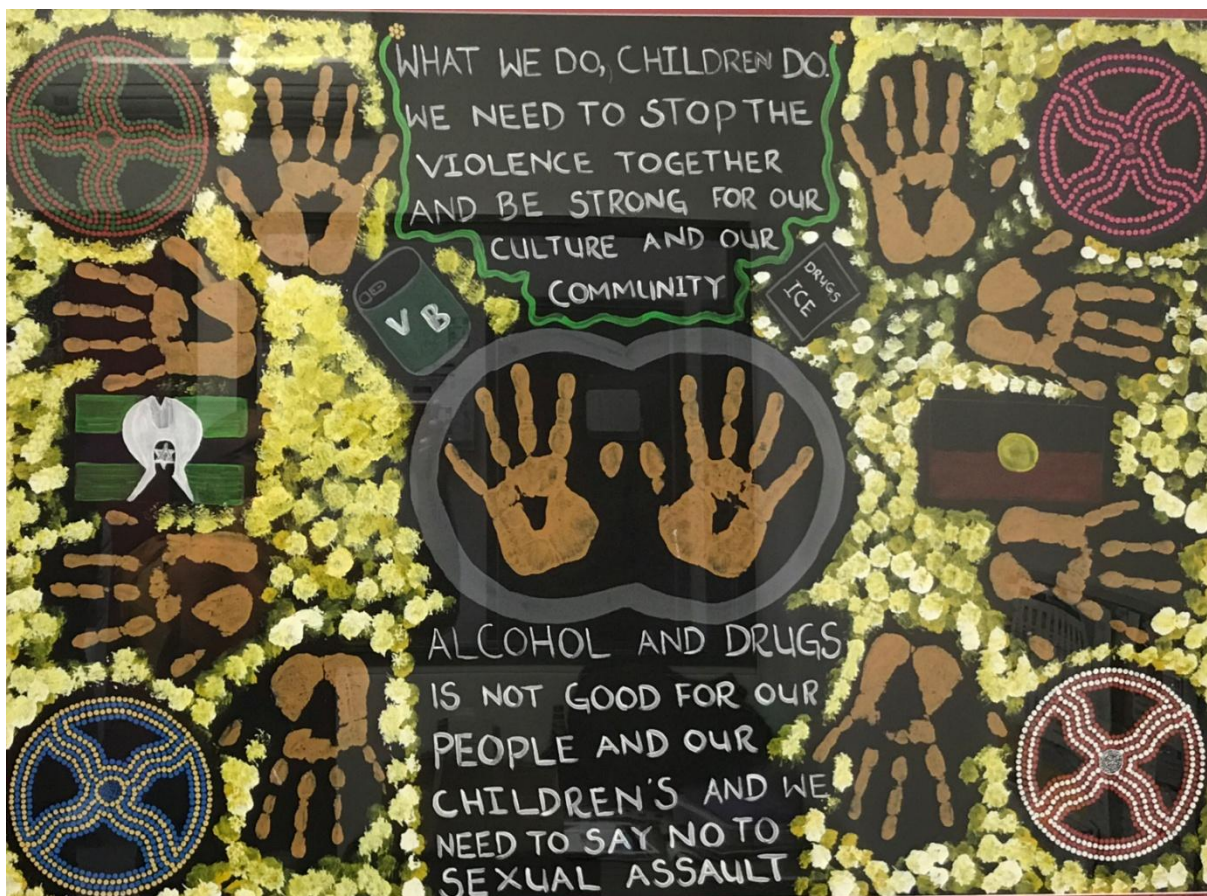


Photo: Painting by a participant of Kungas Stopping Violence Program, CAALAS. Reads, “What we do, children do. We need to stop the violence together and be strong for our culture and community. Alcohol and drugs is not good for our people and childrens and we need to say no to sexual assault.”

Acknowledgement

Central Australian Aboriginal Legal Aid Service Ltd. (**CAALAS**) appreciates the opportunity to provide a response to the Northern Territory Alcohol Policies and Legislation Review Issues Paper (the **Issues Paper**).

CAALAS thanks our Aboriginal Liaison Support Officers, led by Ms Maxine Carlton, for their invaluable support in facilitating strategic community engagement to guide this response. Without their input, this submission would lack the voice of the community.

CAALAS acknowledges that we have had the benefit of reading the submissions put forward by the Central Australian Aboriginal Congress and the Domestic and Family Violence Network. CAALAS endorses the abovementioned submissions.

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Recommendations

Recommendation 1: NT Government must commit to long-term and strong investment in education, early intervention, prevention, diversion and rehabilitation programs and strategies in the criminal justice system in the NT to address the underlying causes of offending behaviour.

Recommendation 2: NT Government must increase investment in health services, early childhood programs and education campaigns and programs to assist families and communities struggling with alcohol to seek help as early as possible.

Recommendation 3: NT Government must develop appropriate legislative diversion mechanisms for offenders whose offending is related to a cognitive impairment, and to properly resource diversion programs and services.

Recommendation 4: NT Government must legislate provisions that are fit for purpose and reconsider the arbitrary triggers leading to issuance of Banned Drinker Order under the *Alcohol Harm Reduction Bill 2017*.

Recommendation 5: CAALAS endorses the recommendations made by the Aboriginal Peak Organisations of the Northern Territory in the report released from the Central Australian Grog Summit.¹

Recommendation 6: CAALAS endorses the recommendations made by the Aboriginal Peak Organisations of the Northern Territory in relation to Foetal Alcohol Syndrome and Foetal Alcohol Spectrum Disorders.

Recommendation 7: CAALAS endorses the recommendations made by the Managing Alcohol Consumption: a review on licensed clubs in remote Indigenous communities in the NT.² CAALAS emphasises that social clubs must be established in accordance with these recommendations and in active engagement with the community members.

Recommendation 8: CAALAS endorses the recommendation made by the Domestic and Family Violence Network for the NT Government to establish trauma informed systems as a matter of urgency in recognition of the link between DFV, intergenerational trauma, alcohol misuse, addiction and trauma disorders.³

¹ Aboriginal Peak Organisations Northern Territory, 'Grog in the Territory: Central Australian summit on alcohol policy and its impacts on Aboriginal people and communities,' July 2013 <<http://www.amsant.org.au/apont/wp-content/uploads/2015/02/Central-Australian-Grog-Summit-Report-FINAL-7-November-20131.pdf>>

² Gillian Shaw, Maggie Brady and Peter d'Abbs, 'Managing Alcohol Consumption: A Review on Licensed Clubs in Remote Indigenous Communities in the NT' (Report to the Northern Territory Department of Business) 2015. <https://justice.nt.gov.au/__data/assets/pdf_file/0010/427537/D2016-0339-LR-Final-Report.pdf>

³ Domestic and Family Violence Network, Submission to Alcohol Policies and Legislation Review in the Northern Territory, 2017, Recommendation 1.

CAALAS endorses the following recommendations of the Standing Committee on Indigenous Affairs:

Recommendation 9: That all strategies developed or funded by the Commonwealth or other governments are developed in partnership with the relevant Aboriginal and Torres Strait Islander peoples and/or their organisations.⁴

Recommendation 10: That government at all levels:⁵

- Prioritise Aboriginal and Torres Strait Islander community driven strategies to reduce the harmful effects of alcohol;
- Ensure that communities are empowered to develop the strategies that will work for their communities; and
- Cooperate and facilitate any work in Aboriginal and Torres Strait Islander communities which aims to change the liquor trading hours in their community.

Recommendation 12: That the Northern Territory Government prioritises the resourcing of voluntary alcohol treatment and rehabilitation programs in place of the Alcohol Mandatory Treatment program.⁶

CAALAS endorse the following recommendations put forward by the Central Australian Aboriginal Congress:

Recommendation 13: Addressing the harmful use of alcohol in the NT must be situated as part of a broader strategy to tackle the full range of the social determinants of ill-health including poverty, social exclusion and racism, unhealthy early childhood development, housing, education and employment.⁷

Recommendation 14: Access to evidence-based early childhood development programs is a key strategy for the primary prevention of alcohol-related harms in the future and for breaking the intergenerational cycle of the harmful use of alcohol. Sustained investment in such programs should be a foundation for addressing alcohol related harm in the NT.⁸

Recommendation 15: Given the association of the experience of racism with increased alcohol consumption:⁹

1. No program or policy designed to address the harmful use of alcohol in Aboriginal communities should be founded upon discrimination on the basis of ethnic and cultural origin; and
2. Commissioning health and wellbeing services to Aboriginal populations should explicitly recognise Aboriginal community controlled organisations as preferred providers, due to a range of inter-linked structural advantages they have in delivering

⁴ House of Representatives Standing Committee on Indigenous Affairs, Parliament of Australia, *Response to Alcohol, hurting people and harming communities – Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities* (2015), Recommendation 2.

⁵ Ibid, Recommendation 7.

⁶ Ibid, Recommendation 15.

⁷ Central Australian Aboriginal Congress, Submission to the Northern Territory Alcohol Policies and Legislation Review, 28 June 2017, Recommendation number 1.

⁸ Ibid, Recommendation number 2.

⁹ Central Australian Aboriginal Congress, Submission to the Northern Territory Alcohol Policies and Legislation Review, 28 June 2017,, Recommendation number 3.

services and hence improved health and wellbeing outcomes compared to non-indigenous services (government or private).

Recommendation 16: There are a number of treatment and support options which have evidence of effectiveness. These should be the starting point for any public policy aimed at demand reduction and harm reduction in relation to alcohol consumption in Australia, including in the Aboriginal context. They include:¹⁰

1. Well-resourced interventions from the primary health care setting, delivered by trained staff, including brief interventions and community based treatment that includes medical treatment, evidence-based psychological care, and social and cultural support.
2. Residential and community-based treatment programs which include social and cultural support for clients during and after treatment and adequate investment in infrastructure and training;
3. Sobering Up Shelters and Night Patrols.

Recommendation 17: Ensuring the maximum effectiveness of treatment and support options for Aboriginal communities requires at least:¹¹

1. Addressing cultural safety and supporting community control;
2. Providing a full range of treatment and support options;
3. Investing in Continuous Quality Improvement (CQI) approach; and
4. Providing adequate and secure resourcing (five-year block funding) to support maximum service effectiveness.

CAALAS endorses the following recommendations made by Pricewaterhouse Cooper's Indigenous Consulting with Menzies School of Health Research:¹²

Recommendation 18: NT Government must engage with social service providers in the community, current alcohol and other drugs (AOD) clients, their families, and other key stakeholders to assess the current demand for services, identify gaps and develop cross-sector capacity to deliver a range of appropriate programs and services for people based on the needs of NT communities, families and individuals.¹³

Recommendation 19: Develop future initiatives and programs based on a longitudinal model of care that includes processes that allow people to enter and exit the program multiple times, and to learn from each attempt at changing behaviour, supported by a case management or care coordination approach throughout the various episodes of treatment and aftercare.¹⁴

¹⁰ Ibid, Recommendation number 4.

¹¹ Ibid, Recommendation number 5.

¹² Pricewaterhouse Coopers Indigenous consulting with Menzies School of Health and Research, 'Evaluation of the Alcohol Mandatory Treatment Program' (Report to the Northern Territory Department of Health' January 2017.

¹³ Ibid, Recommendation number 2.

¹⁴ Pricewaterhouse Coopers Indigenous consulting with Menzies School of Health and Research, 'Evaluation of the Alcohol Mandatory Treatment Program' (Report to the Northern Territory Department of Health' January 2017, Recommendation number 11.

Recommendation 20: Engage with the Aboriginal Interpreter Service to translate educational materials for use by treatment programs and discuss how they can further assist with the effectiveness of group treatment sessions.¹⁵

Recommendation 21: Continue to invest in building culturally competent AOD workforce and increasing the number of AOD trained Aboriginal people across NT available to work in AOD prevention, early intervention and treatment services.¹⁶

¹⁵ Ibid, Recommendation number 14.

¹⁶ Ibid, Recommendation number 15.

About us

Founded in 1973 as the first Aboriginal organisation in Alice Springs, CAALAS provides high quality, culturally appropriate legal advice and representation to Aboriginal and Torres Strait Islander people living in the Barkly region and Central Australia region. Our service area spans across approximately 900,000 square kilometres of the Northern Territory (**NT**), covering sixteen autonomous Aboriginal language groups.

CAALAS provides legal service in the areas of criminal, civil, family, child protection and welfare rights law. CAALAS also advocates for the rights of Aboriginal people¹⁷ and improved social justice outcomes.

Separate to our legal casework, CAALAS houses Kungas Stopping Violence Program (**KSVP**) and Youth Justice Advocacy Program (**YJAP**). KSVP is an innovative program that supports women in custody for violent offences, seeking to reduce rates of recidivism by providing holistic case management and training in the custodial setting and post-release. YJAP provides court support, coordination and case work services to young people charged with a criminal offence.

CAALAS employs 9 Aboriginal Liaison Support Officers (**ALSOs**), of whom two speak local languages. ALSOs provide cultural brokerage with the knowledge of the local and remote communities, family groups and language.

This response draws upon the work undertaken in various practice areas, and is guided by the strategic community engagement facilitated by our ALSOs. This response focuses on the experience of Aboriginal people.

¹⁷ In this response, 'Aboriginal people' refers to Aboriginal and Torres Strait Islander people living in the Barkly region and Central Australian region.

Introduction

The review into the NT alcohol policies and legislation forms an important part of the NT Government's efforts to prevent and reduce harm associated with alcohol dependency and alcohol misuse. The Issues Paper states the main aim of the review is to improve the safety and wellbeing of Territorians to build safer and healthier community for all to enjoy.

As noted in our previous submission to the inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities,¹⁸ the strong link between alcohol and violent crime is well-established. Whilst alcohol is not an excuse for violence, nor is it necessarily the root cause of violence, however, it does impact significantly on the prevalence and severity of violence and must be addressed. Reducing the harmful use of alcohol in Central Australia won't eliminate violence completely, but the body of research on alcohol-related crime and our own experience provides strong grounds for predicting that reducing the harmful use of alcohol will reduce the amount of violence we see in our community.

It is well known that reliance on alcohol and increased consumption within the community forms part of a much larger and complex narrative intertwined with social determinants including:¹⁹

- homelessness;
- poverty;
- access to education;
- lack of appropriate employment opportunities;
- racism and discrimination leading to perpetuation of unfounded negative stereotypes, social exclusion, and alienation;
- intergenerational trauma and ongoing sense of grief and loss;
- mental health; and
- access to health care.

In line with extensive, cross disciplinary evidence, CAALAS believes that instead of criminalising alcohol dependency and alcohol misuse, the NT Government must invest in addressing the underlying causes through culturally appropriate and sensitive health care and social initiatives. CAALAS believes that the rights of Aboriginal people are prejudiced by the current legislative plexus surrounding alcohol dependency and alcohol misuse harm reduction.

¹⁸ Central Australian Aboriginal Legal Aid Service, Submission No. 56 to the House of Representatives Standing Committee on Indigenous Affairs, *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander Communities*, 17 April 2014.

¹⁹ World Health Organisation, *Evidence-based strategies and interventions to reduce alcohol-related harm* (2007) < http://www.who.int/substance_abuse/msbabcstrategy.pdf>; Pricewaterhouse Coopers Indigenous consulting with Menzies School of Health and Research, 'Evaluation of the Alcohol Mandatory Treatment Program' (Report to the Northern Territory Department of Health' January 2017; House of Representatives Standing Committee on Indigenous Affairs, Parliament of Australia, *Response to Alcohol, hurting people and harming communities – Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander communities* (2015) as reported in, MinterEllison, 'Stronger Futures in the Northern Territory Act: Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm', (Report to the Department of Prime Minister and Cabinet) 2015.

NT Government's treatment of alcohol dependency and alcohol misuse perpetuates stigmatisation and continuation of negative stereotypes which has contributed significantly to disempowerment and loss of trust within the general community. The use of phrases like, 'problem drinkers' and 'problem drinking' is unnecessary and unfair sensationalism at the expense of people who suffer from serious health issues.

The seriousness of this health issue is undermined when alcohol dependency and alcohol misuse are treated in such a way. Such treatment takes away from the attention that the health issue deserves. It also opens the gates for others to treat the issue in a similar manner. By way of example, reproduced *verbatim* following is an abstract of a paper presented by the Deputy President of Alcohol Mandatory Treatment Tribunal at the Northern Territory Bar Association 2016 Conference in Dili, Timor Leste.

*"The Alcohol Mandatory Treatment Tribunal is a world first as a pathway to assist chronic alcoholics. Much maligned by the chattering classes this, therapeutic Tribunal deserves some better understanding of its work and its powers. This paper attempts to do that. The people coming before the Tribunal are the most vulnerable in our community. Mostly aboriginal, chronic alcoholics, suffering severe, untreated medical conditions, often cognitive impairment, these are the people who we look away from as we step over them lying in the streets of the Northern Territory. Many are homeless women who bash themselves with rocks outside our hospitals so they can get a safe bed for the night. Moving between protective custody, prison and short term emergency ward treatment, they are unwelcome in our homeless shelters because of their disruptive behaviours. They are nobody's responsibility. The Tribunal provides a pathway for treatment, training, housing and jobs for these vulnerable people."*²⁰

"We have been marginalised and covered with an image of 'drunk – always causing problem" – Community member

If the NT Government wishes to engage with the community in good faith, then this institutional sensationalist culture, as exemplified in the Deputy President's comments above which perpetuate unfounded negative stereotypes needs to change.

It must be emphasised that issues stemming from alcohol dependency and misuse not only affect the Aboriginal community, but the whole community. As noted in the Issues Paper a whole-of-community effort to change is required to reduce the harms associated with alcohol dependency and misuse of alcohol.

For any strategy to work, it must be based on a "ground-up" model, rather than a "top-down" model. It is imperative for the government agencies to work with the community members, community sector organisations, and health service providers to come up with a strategy addressing the alcohol dependency and alcohol misuse. This coordination and collaboration

²⁰ Human rights, addiction and the most vulnerable people: The Territory Alcohol Mandatory Treatment reforms; Sally Gearin, Deputy President, Alcohol Mandatory Treatment Tribunal, 2016 paper at Northern Territory Bar Association Conference < <http://ntba.asn.au/wp-content/uploads/Northern-Territory-Bar-Association-Dili-Conference-Programme-5-May-2016.pdf>>

will ensure innovative responses informed by the users, i.e. community members, and the front line community-based services with local knowledge and efficient use of resources leading to improved outcomes.

NT's current alcohol policies and legislation, their implementation and effectiveness

The Issues Paper seeks to analyse and assess the NT's current alcohol policies and legislation, their implementation and effectiveness. We note that the effectiveness, within the scope of the Issues Paper, must be judged against how effective the current alcohol policies have been to address alcohol dependency and alcohol misuse leading to alcohol fuelled crime and violence.

The following discussion is guided by the first hand experience of CAALAS' clients and the strategic community engagement facilitated by CAALAS' Aboriginal Liaison Support Officers.

For the purpose of this response, we will focus on the following pieces of legislation:

- *Liquor Act*,
- *Stronger Families in the Northern Territory Act (Cth)*;
- *Police Administration Act*,
- *Alcohol Protection Orders Act*; and
- *Alcohol Mandatory Treatment Act*.

Liquor Act

Under the *Liquor Act* certain specified areas of land can be declared as general restricted areas or public restricted areas.

Pursuant to section 75, a person who possesses, consumes, sells or brings alcohol into a restricted area may be guilty of an offence and liable to a maximum penalty of 100 penalty units or six months imprisonment. Pursuant to section 95, police officers can search and seize where they are satisfied that there are reasonable grounds for suspecting an offence has been, is being, or is likely to be committed. Section 101U makes it unlawful to drink alcohol in a public place or an unoccupied private land within 2 kilometres of licensed premises.

The *Stronger Futures in the Northern Territory Act (Cth)* amends the *Liquor Act* to the extent of changing the 'general restricted area' classification under the *Liquor Act* to 'alcohol protected areas'. Under this legislation, it is an offence for a person to bring, possess or consume alcohol in an alcohol protected area. It also makes it an offence for a person to supply liquor in an alcohol protected area, including transporting or possessing with an intent to supply. Both of these offences carry a maximum penalty of 100 penalty units or six months imprisonment.

The following case studies demonstrate that the current plexus of legislation has meant that the existing police powers are being used for the purposes that they were not intended; emphasising the need for provisions that are fit for purpose.

CAALAS has assisted a number of clients who have had their vehicles seized under section 95 of the *Liquor Act* when alcohol has been found in the car irrespective of whether the individual knew the alcohol was in the vehicle, owned the alcohol or was intending to stop and consume the alcohol in a protected area.

Case study: A is a middle aged non-drinker who was driving two friends around town to visit friends. Allegedly, when one of the passengers went into a friend's house, unbeknownst to A, he purchased secondary alcohol and smuggled it into the car. A's car was stopped, searched, the alcohol was discovered and the car was seized. A had no requisite intention to bring, possess or consume alcohol in a protected area. A had no intention of supplying or transporting alcohol in a protected area. CAALAS assisted A to get the car back. However there was a considerable period of time where A's freedom of movement had been detrimentally impacted through no fault of his own.

Case study: B gave a friend a lift home. On the way the friend asked if they could purchase alcohol and pick up her children, which they did. In the process of driving home the police allege they drove through a protected area and the car was seized. There was no intention to stop and drink in the protected area, and B was behaving in an established, culturally appropriate way and providing help to friends and family. There was no requisite mental intention to commit a crime.

"Hard working people of town camps cannot buy alcohol to go home and have a quiet one. Everyone should be able to enjoy a drink. Its discrimination." – Community member

The operation of these sections of the *Liquor Act* and corresponding legislation has a profoundly punitive effect often on people who are not intentionally or willingly involved in the commission of any criminal activity.

Alcohol Protection Orders

Section 6 of the *Alcohol Protection Orders Act*, the police has the power to issue an Alcohol Protection Order (**APO**) to adult charged with an offence punishable by six months imprisonment or more and police believe that the person was affected by alcohol at the time the offence was committed.

Under section 5, the person issued with an APO is prohibited from doing either or all of the following:

- possessing alcohol;
- consuming alcohol;
- entering or being in a licensed premises.

Section 23 makes it a strict liability offence with a maximum penalty of 25 penalty units or imprisonment for 3 months where someone intentionally breaches the APO.

Since the introduction of APOs, CAALAS, in its capacity as a peak Aboriginal legal organisation, has seen both direct and indirect increase in the amount of Aboriginal people in custody. This includes both police custody and prison custody. In practice, the operation of the *Liquor Act* and associated provisions in the *Police Administration Act*, disproportionately impact Aboriginal people, contributing to their overrepresentation in prison and time spent in custody.

APOs are imposed at the discretion of police with few checks and balances and a limited right of appeal which presumes people who receive these notices can read and write, understand the content, and that they should contact a lawyer if they don't understand the content or have any objections.

The time limit to make an application for reconsideration is 3 days from the date the APO was issued. We note that this is completely unreasonable, especially given the remoteness and language barriers for most of the affected people. There are also concerns that the applications for reconsideration are heard by a senior police officer. This goes against the principle of natural justice and procedural fairness, and applications should be heard by an independent Court or Tribunal.

As stated in our previous submissions²¹, CAALAS sees clients with long-term alcohol dependency being issued with APO, which then set the client up to fail. People suffering from alcohol dependency cannot simply abstain because they are issued with an order from the police stating that they must stop drinking. These clients need intensive health intervention.

Case study: C was arrested for breaching a non-intoxication domestic violence order that had been issued a few years earlier by drinking in the company of the protected person. Neither C nor the protected person realised that the non-intoxication domestic violence order was still in place. They were drinking consensually on the street. There was no allegation of violence or any argument, and no complaint had been made. Police saw them and spoke to the pair. Upon checking their names on the system, police discovered that C was subject to the non-intoxication domestic violence order and was in breach of it.

C was arrested and held in police custody over night. He was served with his first APO, which had an operational period of three months.

Later that day, the police saw C holding a cask of wine. He was arrested and taken to the watch house, where he was breath tested. He returned a positive result. The police reminded C of the conditions of his APO and C stated that, 'I left it at home but did not know how to read it'. The police said that they had explained the conditions to him but C said, 'I did not understand the conditions then'.

C was served with a second APO, with a six month operational period, cumulative on the existing APO.

²¹ Central Australian Aboriginal Legal Aid Service, Submission No. 56 to the House of Representatives Standing Committee on Indigenous Affairs, *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander Communities*, 17 April 2014.

About a week later, the police found C heavily intoxicated and arrested him for breaching his APO. C was subsequently arrested on three more occasions for breaching his APO.

As can be seen, C had a chronic alcohol dependency and the APOs were setting him up to fail and putting him on a pathway to involvement with the criminal justice system for actions that, but for an APO, would not have been criminal at all. In sentencing C, the Magistrate expressed his concern about the criminalisation of what is essentially a health problem.

As noted above, this approach of criminalisation of alcohol dependency is counterproductive to the objectives of laws enacted to reduce harm related to alcohol dependency and alcohol misuse.

Misapprehension as to why police are arresting someone whilst that person is intoxicated often leads to confusion and sometimes anger that spills into more serious charges such as resist arrest and assault police.

In CAALAS's experience, many other offences are now accompanied by issuance of an APO with the Court imposing periods of imprisonment. Although some of the period for which the APO is valid is served at the same time as other more significant sentences for serious offending, the likelihood of imprisonment increases each time a person breaches an APO. Some clients have accumulated multiple 12 month APOs with a number who have APO's that extend to 14 years into the future.

APOs were introduced as an additional law enforcement tool available to officers to respond to alcohol related crime, where the issuing of an APO would serve a deterrent function to prevent further alcohol related offending. The stated objects of the *Alcohol Protection Orders Act* are punishment and deterrence in relation to alcohol related criminal behaviour which are already achieved by the operation of criminal law. The issuing of an APO on top of the operation of the criminal law is unnecessary and inappropriate. The following case study demonstrates, amongst other issues, that the legislative provisions of the *Alcohol Protection Orders Act* can have the effect of punishing the people twice for one offence.

Case study: D was charged with 'drive medium range blood alcohol content'. D was convicted of this offence, disqualified from holding a driver's licence for a period of 15 months and fined \$700.

An APO was issued pursuant to section 6 of the *Alcohol Protection Orders Act 2013*.

CAALAS made an out of time application to reconsider the APO as D was out bush for two weeks between the time he was charged with the offence and the day he got back in town to attend the court. While out bush, D was not able to seek legal advice or assistance to challenge the APO.

The APO was issued with a condition that D is not allowed to enter a licensed premise. Issuing of the APO was inconsistent with the objectives of the *Alcohol Protection Orders Act*.

D's alcohol consumption formed an element of the offence. It was not extraneous contribution or causal factor, but rather an integral element of the strict-liability offence itself, which had been examined and punished under the criminal law. D's commission of that offence had been dealt with in the criminal legal system, where sentencing considerations

ensured that the court imposed a sentence that, amongst other things, punished D for any offending behaviour he engaged in and served to deter him and other members of the community from engaging in that conduct, i.e. drink driving.

The APO did not act as a deterrent beyond any punishment that had already been imposed by the Court in relation to drink driving. In D's case, an APO was not appropriate as he had been convicted of the drink driving charge in relation to which the APO was issued. D was fined and disqualified from holding or obtaining a driver's licence for a period of 15 months. Disqualification had the desired effect for which the APO was issued, i.e. to prevent recidivism.

CAALAS successfully made an application to revoke the APO.

In his second reading speech, Mr Giles, in his then capacity as Minister for PFES outlined that the aim of the *Alcohol Protection Orders Act* was to take, '*... aim against people abusing alcohol and then committing criminal behaviour*'²², to deal with alcohol related criminal offending and to provide a means of reducing it. As demonstrated by the above case studies, it is our position that the issuance of an APO is inappropriate in circumstances where:

- 1) The offence was punished and deterred through sentencing;
- 2) The offender is not a person with alcohol abuse issues or a person whose alcohol consumption lead him to engage in criminal behaviour; and
- 3) There is no evidence to suggest that the issuing of APO is likely to reduce alcohol related criminal offending in any way.

Unfortunately, this is not borne out in practice, and we frequently see APOs being issued in duplicitous circumstances where the issuance of the APO does not further the stated objectives of the *Alcohol Protection Orders Act*.

Alcohol Mandatory Treatment

Under section 128A of the *Police Administration Act*, adults taken into police protective custody at least three times in two months for being intoxicated in public can be referred to the Alcohol Mandatory Treatment Tribunal.

Under the *Alcohol Mandatory Treatment Act*, a person can be legally held against their will for up to 9 days pending the decision of the Alcohol Mandatory Treatment Tribunal whether or not the person meets the criteria for a mandatory treatment order.

In the second reading speech of the *Alcohol Mandatory Treatment Bill* 2013, it was noted that:

"... upholding the right to drink alcohol to the extent that you are taken into police protective custody three times in a two-month period is not a behaviour or outcome that should be

²² Northern Territory, *Parliamentary Debates*, Northern Territory Legislative Assembly, 16 October 2016, Second Reading Speech Alcohol Protection Orders Bill 2013 (Adam Giles, Police, Fire and Emergency Services) <http://www.austlii.edu.au/au/legis/nt/bill_srs/apob2013288/srs.html>

highly valued or protected. Evidently, people in these circumstances need intervention. They may not be in a functional position to seek it for themselves."²³

The police-pathway approach into a health program with little to no consideration to address the underlying causes and the social determinants coupled with a reactionary approach to the increase in demand of rehabilitation services has meant that the intersecting legislative schemes have failed to achieve the desired result.

The foundations of this approach of treatment of alcohol dependency and alcohol misuse are based on public visibility of people and they set Aboriginal people up to fail. Aboriginal people disproportionately consume alcohol in public places rather than in bars and pubs. There are any reasons for this including:

- Homelessness;
- Often being denied entry;
- Being subject to ridicule and shame;
- Being subject to racism and discrimination;
- Feeling unwelcome.

As noted above, under the *Liquor Act* and *Stronger Futures in the Northern Territory Act* (Cth) town camps and remote communities are restricted or prescribed areas making it illegal for Aboriginal people to consume alcohol in their own homes. This means that aboriginal people drink in public parks, on the fringes of town, or in contravention of these laws.

As a result of this type of drinking, Aboriginal people are highly visible to the police, and subject to a kind of social policing through legislation that is designed to remove them from the public arena.²⁴

One case that highlights this effect both clearly, and tragically, is the death of the Kumunjaya Langdon in custody after being arrested under the paperless arrest scheme for drinking in Spillet Park in Darwin.

The Coroner found in his inquiries into Kumunjayi's death that:²⁵

"The new laws create a system where a large portion of the population drinks freely in pubs and taverns using sections of the public footpath that have been fenced off for outdoor drinking. Just one street away, Aboriginal people (some of whom have come in from remote communities that are under federal fiat banning alcohol, and will choose to live outdoors in the long grass) are being detained for drinking in a designated public place, even if they are enjoying peaceful, quiet time with family and friends. That deprivation of liberty and the differential treatment it results in is unacceptable"

The coroner is referring to the paperless arrest scheme which allows for the detention of a person for up to four hours for drinking in a designated area. In this case, Kumunjayi, was

²³Northern Territory, *Parliamentary Debates*, Northern Territory Legislative Assembly, Second Reading Speech Alcohol Mandatory Treatment Bill 2013 <http://www.austlii.edu.au/au/legis/nt/bill_srs/ambt2013299/srs.html>

²⁴ Northern Territory, *Parliamentary Debates*, Legislative Assembly, 26 November 2014 (The Hon John Elferink, Attorney-General).

²⁵ Inquest into the death of Perry Jabanangka Langdon [2015] NTMC 016 <http://justice.nt.gov.au/data/assets/pdf_file/0009/208962/d00752015-perry-langdon.pdf>

drinking in a park with family. The police agree that there was unruly behaviour and that Kumunjayi was complaint at all times. Tragically, Kumunjayi died in custody away from his family and friends because of the laws in the NT.”

In reference to section 123 of the *Police Administration Act* which provides the offence of drinking alcohol in a regulated place in a designated area pursuant to section 101U of the *Liquor Act*, the Coroner noted:²⁶

“That increase in the numbers of indigenous people in custody is likely to lead to a proportionate increase in the numbers of Aboriginal people dying in custody. This has led me to recommend that the law should be repealed.”

An interview with an alcohol mandatory treatment centre worker reveals a darker reality behind alcohol dependency and alcohol misuse in our communities. The treatment centre worker noted that, ‘*Some of the women tell me they will drink again when they leave here as they know they will be hurt again when they leave here and drinking helps them to not feel the pain.*’²⁷

Pricewaterhouse Cooper and the Menzies School of Health’s evaluation of the alcohol mandatory treatment program in 2017 found that the data available to measure improvement in social functioning was, ‘*The AMT program cannot currently easily track behavioural change or changes in social functioning over time.*’²⁸ The evaluation also found that, ‘*...participation in the AMT program has no impact on restoring or increasing capacity to make decisions about alcohol use, as indicated by ongoing apprehension into protective custody.*’²⁹

From the outset, CAALAS and other services expressed their concerns about the operation of the scheme as a whole and problems with the integrity and quality of assessment and decision-making processes. As noted in our previous submissions,³⁰ the punitive law-and-order, non-evidence based approach of criminalisation of public drinking by Aboriginal people. This approach is contrary to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, was misguided, and has led to further marginalisation and harm to the community.

Income management provisions

The income management provisions under the *Alcohol Harm Reduction Bill 2017* mirrors the provisions under the *Alcohol Mandatory Treatment Act*. To avoid duplicity, the issues with

²⁶ Inquest into the death of Perry Jabanangka Langdon [2015] NTMC 016 [12]

http://justice.nt.gov.au/_data/assets/pdf_file/0009/208962/d00752015-perry-langdon.pdf

²⁷ Pricewaterhouse Coopers Indigenous consulting with Menzies School of Health and Research, ‘Evaluation of the Alcohol Mandatory Treatment Program’ (Report to the Northern Territory Department of Health’ January 2017, p33

²⁸ Ibid, p53.

²⁹ Ibid, p55.

³⁰ Central Australian Aboriginal Legal Aid Service, Submission No. 56 to the House of Representatives Standing Committee on Indigenous Affairs, *Inquiry into the harmful use of alcohol in Aboriginal and Torres Strait Islander Communities*, 17 April 2014, p 12; Central Australian Aboriginal Legal Aid Service, Northern Australian Aboriginal Justice Agency, Northern Territory Legal Aid Commission, Women’s Legal Service and Darwin Community Legal Service, Submission No. 72 to the Northern Territory Government, *Inquiry into Six Month Review of the Alcohol Mandatory Treatment Act (NT)*, February 2014.

the income management provisions will be discussed below under the 'proposed changes to the NT alcohol policies' heading.

Proposed Changes to the NT alcohol policies

The *Alcohol Harm Reduction Bill 2017* reintroduces the banned drinkers register (**BDR**). The Issues Paper states that the BDR model has been streamlined and improved to provide a health focussed approach to reduce the harms of problem drinking for the person, their family and the community.

The roots of the rationale behind issuance of a banned drinker orders (**BDO**) can be traced back to the provisions under *Alcohol Protection Orders Act* and *Police Administration Act*. The Issuance of BDO under this proposed legislation amalgamates the provisions governing issuance of APO and the police-pathway approach to referral to alcohol mandatory treatment.

Under section 10 of this proposed legislation, a police officer can issue a BDO, amongst other reasons, if someone who is taken into alcohol-related protective custody:

- has been taken into alcohol-related protective custody at least twice within the previous 2 years, or
- has been given alcohol-related infringement notice at least twice within the previous 2 years; or
- has been taken into alcohol-related protective custody at least once and given an alcohol-related infringement notice at least once within the previous 2 years.

For reasons already outlined and discussed in detail above, Aboriginal people will continue to be disproportionately affected under this proposed legislation. For convenience, we note again that this is because Aboriginal people consume alcohol in public places rather than in bars and pubs for various reasons including:

- Illegality of drinking at home and in community;
- Homelessness;
- Often being denied entry;
- Being subject to ridicule and shame;
- Being subject to racism and discrimination;
- Feeling unwelcome.

Section 3 of the proposed legislation states the objectives to be, '*...to reduce harm associated with the misuse of alcohol and improve the health, safety and wellbeing of people in the Territory...*'. For the reasons outline above, CAALAS strongly believes that being taken into 'alcohol-related protective custody' is not an indicator of alcohol dependency and alcohol misuse. CAALAS urges the NT Government to reconsider the indicators of alcohol dependency and alcohol misuse and arbitrary triggers leading to issuance of BDO. To save from unintended consequences, as demonstrated by the case studies noted above, NT Government must legislate provisions that are fit for purpose.

Income management provisions

In CAALAS' experience, the Alcohol Mandatory Treatment Tribunal, upon making of a mandatory treatment order imposes a 12 month income management order of 70%. As noted in our previous submission,³¹ this constitutes an unjustifiably arbitrary exercise of power.

This imposes significant hardship on participants, including their freedom of movement. For example, a person who wishes to move to a different location in order to secure a job will find it difficult to save money for moving expenses with access to only 30% of their Centrelink payment as cash.

We consider it to be unfairly oppressive for income management orders are to remain in force for a period of 12 months pursuant to section 28(b) of the proposed legislation. As it stands, there is no requirement on the BDR Registrar to give written reasons explaining by they consider 12 months income management order to be necessary.

We also note that it is inappropriate for the purposes of the BDR Registrar to tie income management orders to the person's partner's eligibility for a welfare payment.

While there is the ability for a participant to seek a review of an income management decision, a participant is unlikely to do so unrepresented. As noted above, remote participants are likely to face additional barriers to seeking review.

Australian Council of Social Service in their Income Management Policy analysis referred to a leading evaluation which found little evidence of widespread behavioural change:

*“There is little evidence to date that income management is resulting in widespread behavioural change, either with respect to building an ability to effectively manage money or in building ‘socially responsible behaviour’ beyond the direct impact of limiting the amount that can be spent on some items.”*³²

Accordingly, we strongly urge the NT Government to reconsider section 27(c) and section 28(b) of the proposed legislation.

Outcome of strategic community engagement

The following suggestions to some of the matters raised in the Issues Paper are informed by the responses collected by CAALAS' Aboriginal Liaison Support Officers during strategic community engagement.

Matters raised in Issues Paper	Community Response
Strategies and approaches to promote cultural change in relation to drinking behaviour to influence	<ul style="list-style-type: none"> • Collaboration with elders, community members with health implications arising from alcohol dependency and alcohol

³¹ Central Australian Aboriginal Legal Aid Service, Northern Australian Aboriginal Justice Agency, Northern Territory Legal Aid Commission, Women's Legal Service and Darwin Community Legal Service, Submission No. 72 to the Northern Territory Government, *Inquiry into Six Month Review of the Alcohol Mandatory Treatment Act (NT)*, February 2014.

³² Australian Council of Social Service, 'Compulsory Income Management: A flawed answer to a complex problem' September 2014
 <http://www.acoss.org.au/images/uploads/Income_management_policy_analysis_September_2014.pdf>

<p>community norms to more responsible drinking and to develop community support and commitment for such a change</p>	<p>misuse, such as kidney failure, to educate others about the harmful impact of heavy consumption of alcohol.</p> <ul style="list-style-type: none"> • Banning people from getting intoxicated is not the ultimate solution. Education is the key. • Create worthwhile employment to give sense of dignity. • “Dob-in-a-Seller” approach. • Indigenous surveillance officers placed in the community to check up on people on a daily basis. These officers should be employed from within the community. • Any education program must be developed with the community members and community based organisations and delivered by community leaders throughout the community and schools. • Targeted media campaigns to be developed with the community members. • Many programs are informed by European perspectives, and there needs to be greater partnering with Indigenous organisations to develop programs. The challenges faced in the NT make us very different from other jurisdictions, and programs need to be locally responsive. To be effective, the strategy must acknowledge the complexity of these social determinants, and include sound approaches for overcoming cultural and language barriers.
<p>Perceived level of success of the range of treatment services available in the NT</p>	<ul style="list-style-type: none"> • The community members agreed that there is a need of culturally appropriate treatment and rehabilitation and aftercare programs. • The community members agreed that the treatment services that are available are under resourced and under funded. • There is a gap in follow up services for people who relapse.
<p>Strategies to increase the ability of people with alcohol problems to access therapeutic support more easily? What kind of support is needed and what services should make such assistance available?</p>	<ul style="list-style-type: none"> • Underlying causes of offending behaviour and social determinants must be addressed in the first instance. • Investment in community-led development of early intervention programs. • Investment in and encouragement to participate in voluntary assessments and voluntary treatment and rehabilitation programs. • Investment in treatment centres at the communities. • Community leaders led facilitation of voluntary participation • The Government needs to assist people in getting reintegrated back into the

	<p>community.</p> <ul style="list-style-type: none"> Such services must be community owned and operated. This ensures culturally appropriate program development, program implementation and service delivery.
Has there been an increase in secondary supply of alcohol in remote communities?	<ul style="list-style-type: none"> There has been an increase in secondary supply of alcohol in remote communities and town camps. People are getting innovative in the ways they get sly grog.
	<p><i>“People take grog out to community because there is big money to be made” – community member</i></p>
	<ul style="list-style-type: none"> The community members reported that the people who are bringing alcohol in town camps or supplying alcohol to resident of protected areas are not getting attention drawn as they are not ‘visible’, i.e. not Aboriginal. The community members reported some members of the community may be engaging in transactional sex in exchange for alcohol.
	<p><i>“Men in cars, vans drive around town picking Aboriginal people up and give them alcohol in exchange for sex” – community member</i></p>
Best way to foster community participation in regional planning to reduce alcohol related harm	<ul style="list-style-type: none"> Listen to people that the community trusts: <ul style="list-style-type: none"> Elders and community leaders; Aboriginal organisations around town; Organisations based in the community bases organisations. <p>The above people will facilitate community participation.</p>

Alcohol service provision and management in remote communities

One of the suggestions that came out of the strategic community engagement facilitated by Aboriginal Liaison Support Officers at CAALAS, was for there to be social clubs in the community. We note that this suggestion had an overwhelming amount of support within the community. The community members supported the idea for there to be strictly regulated social clubs with canteens catering nutritious food and green area. The community members noted that this would ensure:

- Aboriginal people had a safe place to drink responsibly;
- The placement of the social clubs within the community would mean that people would enjoy drinking within the safety and security of their own community;
- This may have an impact on the prevalence of sly grog in the community;
- The social club staff would be able to intervene before a patron got heavily intoxicated with responsible service of alcohol;

- The elders of the community will keep a check on and educate people with alcohol dependency and alcohol misuse; and
- Profit from the social clubs can be directed back to developing the community.

Managing Alcohol Consumption: A review on licensed clubs in remote Indigenous communities in the NT³³ noted that, ‘...the clubs in this study offer an environment in which alcohol consumption is effectively managed, and can be seen as a tool for harm minimisation.’ The review also found that the communities with clubs did not experience markedly higher alcohol-related harms than those without clubs.

The community members noted that before any such social clubs are operational in communities, there needs to be robust community discussion followed by delivery of education programs in schools and community. The community members also noted that these education programs in schools and community must continue once the social clubs are operational.

Relevant factors to be considered in designing a new strategy

Key principles to guide development of strategies

National Indigenous Drug and Alcohol Committee (**NIDAC**), lists the following five key principles as underpinning effective alcohol and other drug treatment of Aboriginal and Torres-Strait Islander peoples.³⁴ CAALAS firmly believes that these key principles are equally applicable to designing a new strategy to address harms related to alcohol dependency and alcohol misuse.

Evidence-based and evidence-informed approach

Due to the demographic and geographic uniqueness of the NT, for any evidence-based strategy to work, it must be tailored to the communities.

NIDAC notes that an evidence-informed approach involves, ‘*integrating existing evidence with professional expertise to develop optimal interventions, including new innovative approaches in a given situation.*’³⁵ This open conversation between the service users and those responsible for service delivery allows for innovative, practical and tailored response to unforeseen issues that may arise during the implementation and delivery of the strategy.

For any strategy to be successful there needs to be constant monitoring and evaluation through regular check-points throughout the implementation and delivery of the strategy. Appropriate data must be captured at these check-points which will allow for timely response to any issues requiring further tailoring of the strategy.

Cultural competency, safety and security

Following the recommendations of NIDAC recommends, CAALAS notes that for any treatment to be successful, NT government must:

³³ Gillian Shaw, Maggie Brady and Peter d’Abbs, ‘Managing Alcohol Consumption: A Review on Licensed Clubs in Remote Indigenous Communities in the NT’ (Report to the Northern Territory Department of Business) 2015. https://justice.nt.gov.au/__data/assets/pdf_file/0010/427537/D2016-0339-LR-Final-Report.pdf

³⁴ National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014.

³⁵ Ibid, page 11.

- Develop a framework for the service delivery professionals to:³⁶
 - Recognise and respect the culture and identity of Aboriginal and Torres Strait Islander people and communities;
 - Promote social and emotional wellbeing; and
 - Interagency collaboration based on mutual respect.
- Foster cultural change in the environment free from assault, challenge or denial of a person's identity of who they are and what they need.
- Actively ensure that cultural needs are met for Aboriginal and Torres Strait Islander people and communities. This can be done by incorporating cultural values into the design, delivery and evaluation of services.³⁷

Family and community involvement

The important role of family and community relationships within the Aboriginal and Torres Strait Islander communities is well known. NIDAC, noting the pivotal role played by the involvement of family and community members in achieving the best outcomes, emphasises this involvement of family and community members, with the consent of the person being assessed, at the time of assessment, and treatment planning.³⁸

Aboriginal and Torres Strait Islander ownership of solutions

This key principle has been highlighted time and again in various stakeholder engagements conducted by the NT Government and various reports and submissions put forward by the Aboriginal Peak Organisations of the Northern Territory.³⁹

NIDAC identifies that Indigenous ownership of solutions needs to not only occur at the inception and planning, it also needs to occur during implementation and delivery of the strategy, and during the monitoring and evaluation of solutions.⁴⁰

Integrated services and partnerships

Any approach to address alcohol dependency and alcohol misuse within the community needs to be holistic in collaboration with wrap around services. This interagency collaborative approach will ensure that the people suffering from alcohol dependency and alcohol misuse have various points of entry. This will also mean that necessary support can be provided in a timely manner.

Trauma informed approach

As acknowledged above, CAALAS has had the benefit of reading the submissions put forward by the Domestic and Family Violence Network. CAALAS would like to draw attention to the trauma informed approach illustrated in the attachment A of the abovementioned

³⁶ National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014.

³⁷ Australian Human Rights Commission, 2011, as reported in National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014, p12.

³⁸ National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014, p12.

³⁹ Aboriginal Peak Organisations Northern Territory, 'Grog in the Territory: Central Australian summit on alcohol policy and its impacts on Aboriginal people and communities,' July 2013 < <http://www.amsant.org.au/apont/wp-content/uploads/2015/02/Central-Australian-Grog-Summit-Report-FINAL-7-November-20131.pdf>>

⁴⁰ National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014, p13.

submissions. CAALAS strongly emphasises the importance of any strategy developed from the review to follow this trauma informed approach.

Addressing underlying cognitive impairment

The current legislative plexus surrounding alcohol dependency and alcohol misuse harm reduction does not provide for ways of addressing the underlying cognitive impairments.

As noted above, and supported by cross-disciplinary evidence, harm related to alcohol dependency and alcohol misuse cannot be fully addressed without appropriate attention to the underlying causes of the behaviour.

CAALAS has seen an overwhelming number of clients going through the criminal justice system with hearing impairment without the benefit of appropriate assistance.

Foetal Alcohol Syndrome (**FAS**) is part of the spectrum of Foetal Alcohol Spectrum Disorders (**FASD**) which describes a range of neurodevelopmental disorders that may result from prenatal alcohol exposure. As noted in the Aboriginal Peak Organisations of the Northern Territory submission to the Northern Territory Select Committee, in a national FAS survey, prevalence rates amongst the Aboriginal population were 14 times higher than for the non-Indigenous population in Australia.⁴¹

The devastating impact of FASD has on people have been extensively discussed in:

- Joint submission of CAALAS and North Australian Aboriginal Justice Agency⁴²
- Aboriginal Peak Organisations of the Northern Territory submission to the Northern Territory Select Committee⁴³

Both of the above submissions have made extensive recommendation relation to:

- Prevalence and screening of FASD;
- Diagnosis of FASD;
- Prevention of FASD;
- FASD and criminal justice system, in particular mental impairment and fitness to plea, sentencing and alternatives to incarceration; and
- The need for culturally safe and therapeutic programs.

NT Government must develop appropriate legislative diversion mechanisms for offenders whose offending is related to a cognitive impairment, and to properly resource diversion programs and services. CAALAS also urges the NT Government to commit to long-term invest in education, early intervention, prevention, diversion and rehabilitation programs and strategies in the criminal justice system in the NT to address the underlying causes of offending behaviour.

⁴¹ Elliot EJ, Payne J, Morris A, et al, Foetal Alcohol Syndrome: a prospective national surveillance study. *Arch. Dis. Child* 2008, 93, as reported in Aboriginal Peak Organisations of the Northern Territory, Submission to the Northern Territory Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder, June 2014.

⁴² Central Australian Aboriginal Legal Aid Service and Northern Australian Aboriginal Justice Agency, Submission to the Northern Territory Government, *Inquiry into Foetal Alcohol Syndrome Disorders (FASD)*, May 2014.

⁴³ Aboriginal Peak Organisations of the Northern Territory, Submission to the Northern Territory Select Committee on Action to Prevent Foetal Alcohol Spectrum Disorder, June 2014.

Community run and controlled services

There is support for Aboriginal and Torres Strait Islander community-run and controlled services. Research has shown that these services are more successful in improving health outcomes as compared to mainstream services due to various reasons including:⁴⁴

- These services are based on cultural perspectives and needs to the community;
- They provide better access to care;
- They make the health care provided more appropriate; and
- They provide a holistic approach to better serve the people with complex needs relevant to the particular community.

Demand reduction

Reducing demand for alcohol through taxation is one of the most cost-effective strategies to reduce and prevent alcohol related harm.⁴⁵

The National Draft Drug Strategy 2016-2025 notes that under evidence informed approach and strategies, demand can be reduced through:⁴⁶

- Price mechanisms through excise tax increases, volumetric tax increases and minimum floor price;
- Building community knowledge and changing acceptability of use through social marketing strategies, including campaigns as part of a comprehensive response;
- Restrictions on promotion of alcohol through enforced advertising standards and restrictions, regulation of price promotion, promotion of point of sale and promotions aimed at young people; and
- Crackdown and stringent restrictions on secondary supply; and
- Addressing underlying social, health and economic determinants of misuse.

Need for reliable data

An independent review regarding the effectiveness of laws in reducing alcohol-related harm to Aboriginal people in the NT found that:⁴⁷

In conducting this review we have been unable to identify sufficient data and evidence that would allow a proper baseline to be established regarding the extent of harm caused by alcohol misuse to Aboriginal people in the Northern Territory at the commencement of the Stronger Futures Act, nor sufficient data and evidence to properly establish the extent of alcohol-related harm at the conclusion of the three year period since commencement of the Act.

⁴⁴ National Indigenous Drug and Alcohol Committee, Alcohol and other drug treatment for Aboriginal and Torres Strait Islander peoples, June 2014, p10.

⁴⁵ World Health Organisation, *Evidence-based strategies and interventions to reduce alcohol-related harm* (2007) < http://www.who.int/substance_abuse/msbabcstrategy.pdf>

⁴⁶ Intergovernmental Committee on Drugs, 'National Drug Strategy 2016 – 2015, for public consultation' October 2015 < [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/73E3AD4C708D5726CA257ED00050625/\\$File/draftnds.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/73E3AD4C708D5726CA257ED00050625/$File/draftnds.pdf)>

⁴⁷ MinterEllison, 'Stronger Futures in the Northern Territory Act: Independent review of the effectiveness of Northern Territory and Commonwealth laws in reducing alcohol-related harm', (Report to the Department of Prime Minister and Cabinet) 2015.

Reviews of any evidence based strategy implemented by the government need reliable baseline data. This is imperative and will be instrumental in knowing whether the strategy is working in our communities. A system needs to be in place by which similar data is captured to measure the outcomes. This will inform, amongst other things:

- Whether the strategy is work in the community;
- Whether the strategy needs a bit more tailoring depending on the community response;
- What facets of the strategy are working/not working;
- Whether the mode of implementation of the strategy needs to be altered;
- Whether there needs to be a complete overhaul of the strategy.

Conclusion

CAALAS submits that it is improper for people with alcohol dependency issues to be managed through the criminal justice system and subject to lengthy periods of imprisonment. The punitive law-and-order, non-evidence based approach prejudices rights of Aboriginal people. These characteristic are matters to be addressed and managed within the health, rather than the criminal justice system.

Social determinants of health must be addressed within the strategy including approaches to enhance social and emotional health and wellbeing, and reduce health inequalities. Encouragement and enhancement of family and community support during the implementation and delivery of strategy is imperative.

NT Government must invest in and facilitate greater diversion into community based culturally appropriate and sensitive health interventions from the criminal justice system.

CAALAS recommends a 'ground-up', rather than 'top-down', strategy and commends the NT Government's approach and emphasises the importance of consulting with the community members and community based organisation. CAALAS strongly believes that such an approach will assist in the development of recommendations and sound community-based strategies that are culturally appropriate, responsive, and practical. As identified by NIDAC Indigenous ownership of solutions needs to not only occur at the inception and planning, it also needs to occur during implementation and delivery of the strategy, and during the monitoring and evaluation of solutions

CAALAS submits that for any strategy to be successful it not only has to be theoretically culturally sensitive, it must also incorporate cultural values into the design, delivery and evaluation of services.

We thank you for the opportunity to provide feedback, and are available for further discussion on any of the points raised. We look forward to hearing the outcome of the review.