



North Australian Aboriginal Justice Agency

Submission to the Independent Review of the NLAP

North Australian Aboriginal Justice Agency (NAAJA)

1 November 2023

NAAJA acknowledge Aboriginal and Torres Strait Islander peoples as the First Australians and the Traditional Custodians of country throughout Australia. We pay our respect to Elders past, present and emerging, who maintain their culture, country and spiritual connection to the land, sea, and community.

NAAJA consents to:

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1 Executive Summary

The North Australian Aboriginal Justice Agency (NAAJA) is pleased to present our submission to the review of the National Legal Assistance Partnership (NLAP). NAAJA is the main provider of legal services to Aboriginal and Torres Strait Islander (Aboriginal) Territorians. NAAJA supports the recommendations of the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) submission. This separate submission provides additional context and supporting detail on legal need in the Northern Territory.

High socioeconomic disadvantage drives increased legal activity and service times

The Northern Territory (NT) has the highest proportion of Aboriginal people of any jurisdiction. Aboriginal Territorians demonstrate some of the highest rates of socioeconomic disadvantage in Australia and have greater levels of involvement in the justice system than Aboriginal people in other jurisdictions. This results in an increased need for legal assistance. High socioeconomic disadvantage, remoteness and language barriers also mean NAAJA spends a greater than average amount of time with their clients. This is not adequately captured in the approach to allocating Aboriginal and Torres Strait Islander Legal Service (ATSILS) funding, which treats all Aboriginal Australians with low income as a homogenous group.

NAAJA lacks capacity to meet legal need fully in the NT

The workload of NAAJA staff is unsustainably high across all roles, with lawyers routinely delivering an average of between 14 and 30 unpaid hours each working week. High workloads combined with low salaries limit NAAJA's capacity to recruit and retain staff and therefore further restricts NAAJA's ability to meet legal need. Inadequate funding for non-legal staff is an additional challenge, meaning NAAJA cannot deliver services in a way which makes more efficient use of lawyers' time and results in a higher quality service for clients. Even if current capacity challenges were addressed, there would still be significant unmet needs reflecting the high level of disadvantage and legal activity in the NT.

There are other operational pressures for NAAJA

NAAJA faces additional, unavoidable operational pressures. The most significant of these is remote travel, with costs increasing 32 per cent in the last year. NAAJA has also deferred critical capital investments such as infrastructure upgrades and IT systems that would increase efficiency due to limited funding. Current NLAP data collection requirements impose additional costs on the organisation.

NAAJA recommends future NLAP funding is adjusted to address legal need better

To address these identified challenges, NAAJA makes three key recommendations for the NLAP review as summarised in Table 1 below. We would be happy to discuss these recommendations further.

Table 1 | Recommendations

Recommendation	Rationale
1. Adjust year one funding to better reflect current costs and need.	To meet current workload effectively, NAAJA requires at least \$16.9 million per year (plus superannuation and other on-costs) to increase the number of lawyers and non-legal staff and raise their salaries, a further \$3 million to fund critical capital investments, and \$2.9 million per year for related operational expenses.
2. Increase the volume of funding over time to address need and known system pressures.	It is anticipated that additional increased funding will be needed over the life of the next agreement to respond to known future demand pressures and gradually address unmet need.
3. Ensure the funding model is responsive to future changes.	The future funding model should be resilient to unexpected changes due to policy changes and inflationary pressures. NAAJA suggests a review after three years.

2 About NAAJA

This section provides an overview NAAJA and its services and funding sources.

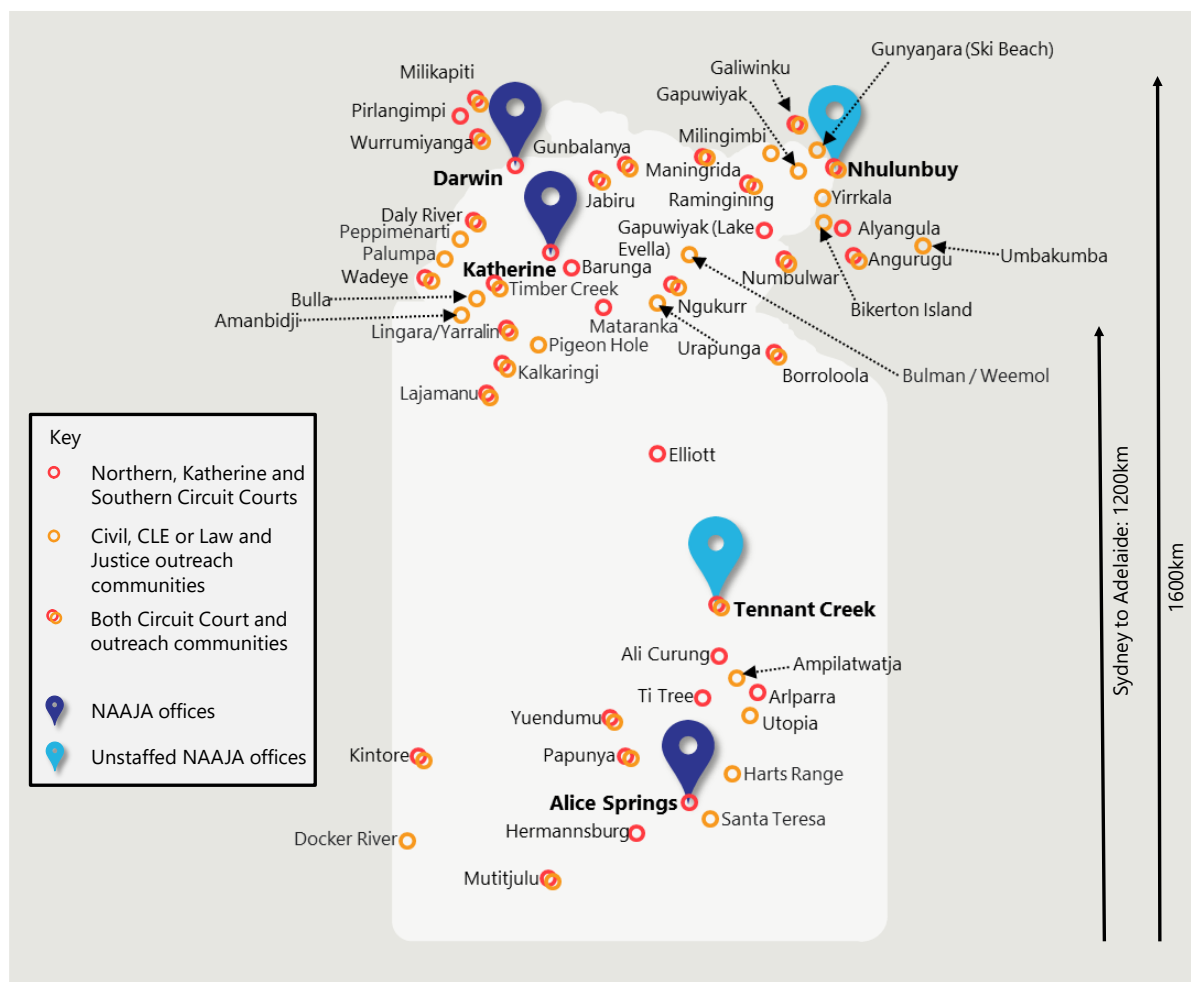
NAAJA is the NT's main provider of legal services for Aboriginal Territorians

NAAJA is the leading provider of legal services for Aboriginal people in the Northern Territory. Its purpose is to listen and empower Aboriginal people through the delivery of culturally responsive, high quality, holistic and effective law, and justice services.

NAAJA provides both criminal and civil legal advice and representation for Aboriginal Territorians, and it is also a peak body, meaning that it is responsible for conducting important non-legal services such as policy and advocacy work, community legal education, and preventative/therapeutic programs.

In 2022/23, NAAJA provided 8,560 legal services to clients. These services were delivered across the vast geographic area that is the NT. A map of NAAJA's service areas is provided in Figure 1 below.

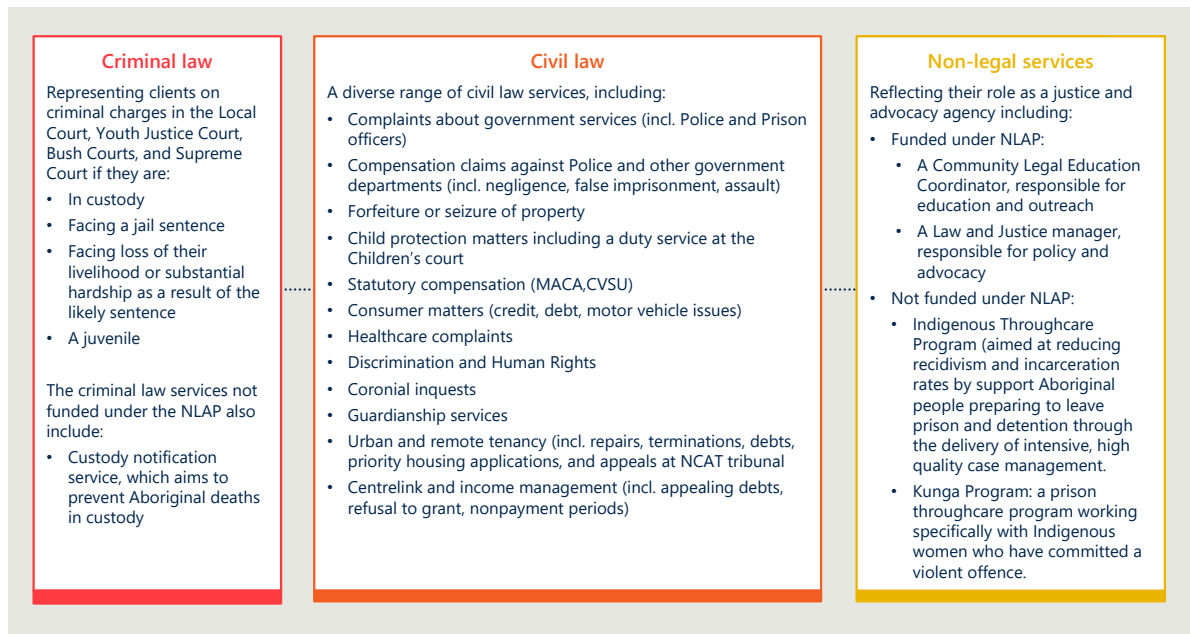
Figure 1 | NAAJA's geographic footprint



NAAJA delivers a wide scope of services

Under its current funding, NAAJA has a wide, and often variable, scope of services, the majority of which are delivered under the NLAP funding agreement. Figure 2 below shows the breadth of NAAJA's services, including those which are requirements under the funding agreement.

Figure 2 | Breadth of NAAJA services



NAAJA is highly reliant on NLAP funding

In 2022-23, NAAJA received \$15.49 million in ATSILS baseline funding under the NLAP agreement. The ATSILS baseline funding that NAAJA received was 62.3 per cent of the total funding allocated to the NT under the bilateral agreement.¹ NAAJA is the sole recipient of ATSILS funding in the NT, receiving the entirety of the ATSILS base funding allocation in 2022-23, with the remaining 37.7 per cent of NLAP funding going to five other services.² NAAJA also received a one-off injection of Supplementary Legal Assistance funding of \$3,632,000 under the NLAP in addition to the baseline funding in 2022-23.

NAAJA is overwhelmingly reliant on NLAP and other Australian Government funding, with NLAP funding representing over 93 per cent of NAAJA's regular income. The remaining portion comes from fees for services such as auspicing peak bodies such as the Aboriginal Peak Organisations Northern Territory (APONT), NATSILS and Aboriginal Housing Northern Territory (AHNT) (\$721,017), as well as funding for non-legal programs such as throughcare (\$383,536). NAAJA receives some funding from the Northern Territory government for specific programs, but not for core service delivery.

Given that NLAP funding makes up such a large portion of NAAJA's funding, the organisation is particularly vulnerable to any limitations in the funding model when applied to the NT.

¹ In 2020-21, the Commonwealth distributed an additional \$1,294,000 to the Northern Territory in ATSILS Social and Community Services supplementary funding, which became part of the ATSILS baseline funding from 2021-22 onwards.

² Darwin Community Legal Service, Katherine Women's Information and Legal Service, NT Legal Aid Commission, Central Australian Women's Legal Service, Top End Women's Legal Service

3 Disadvantage and legal needs in the NT

In this section we focus on NAAJA's client population and demand for legal services. We suggest that high levels of disadvantage in the NT result in higher rates of legal activity and greater service times for clients. This is not adequately captured in the approach to allocating ATSILS funding, leading to a situation where legal need and demand is underestimated (and underfunded) in the NT.

We respond to the following issues identified in the NLAP review issues paper:

- disadvantaged groups
 - legal needs
 - funding model.
-

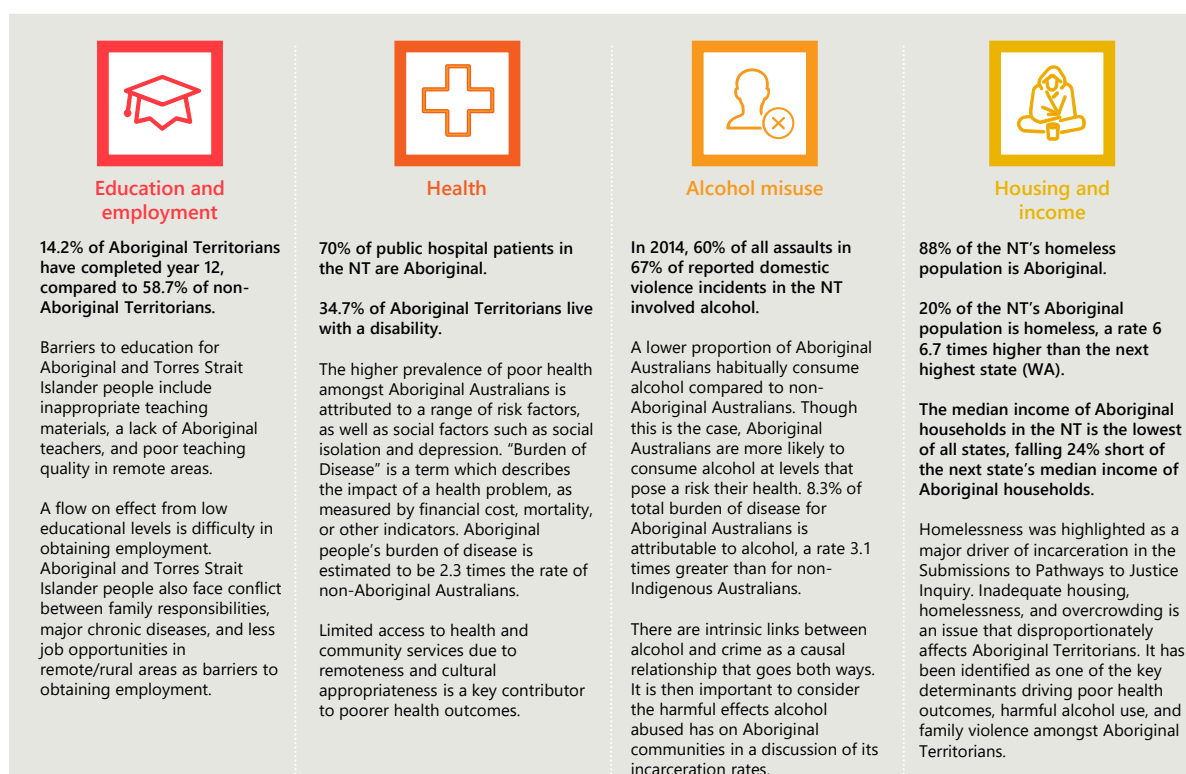
3.1 Socio-economic disadvantage in the NT

Aboriginal Territorians experience high socio-economic disadvantage

The NT has the highest proportion of Aboriginal people of any jurisdiction, and this group demonstrates some of the highest rates of socioeconomic disadvantage in Australia (such as low education and employment, poor health outcomes, substance misuse and homelessness), which drives involvement in the justice system and higher per capita demand for civil and criminal legal services, consistent with the findings of the Review of the Indigenous Legal Assistance Program in 2019.³ Figure 3 below sets out some of the key indicators of disadvantage.

³ Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Legal Assistance Program (ILAP) 2015-2020, Attorney-General's Department, pages 9, 29, 2019 (available [here](#)).

Figure 3 | Key markers of disadvantage for Aboriginal Territorians



Many of these factors have a direct influence on NAAJA work. Firstly, these markers are closely associated with services provided by NAAJA's civil legal practice, such as disputes in housing and tenancy, Centrelink and other social services, and child protection. Secondly, an undersupply of social services in the NT means that NAAJA is often involved in filling gaps in social services or performing a service navigation function for clients.

Aboriginal Territorians are over-represented in the justice system

Socioeconomic disadvantage is correlated with overrepresentation at each stage of the criminal justice system by Aboriginal Territorians, driving high demand for NAAJA's criminal services.

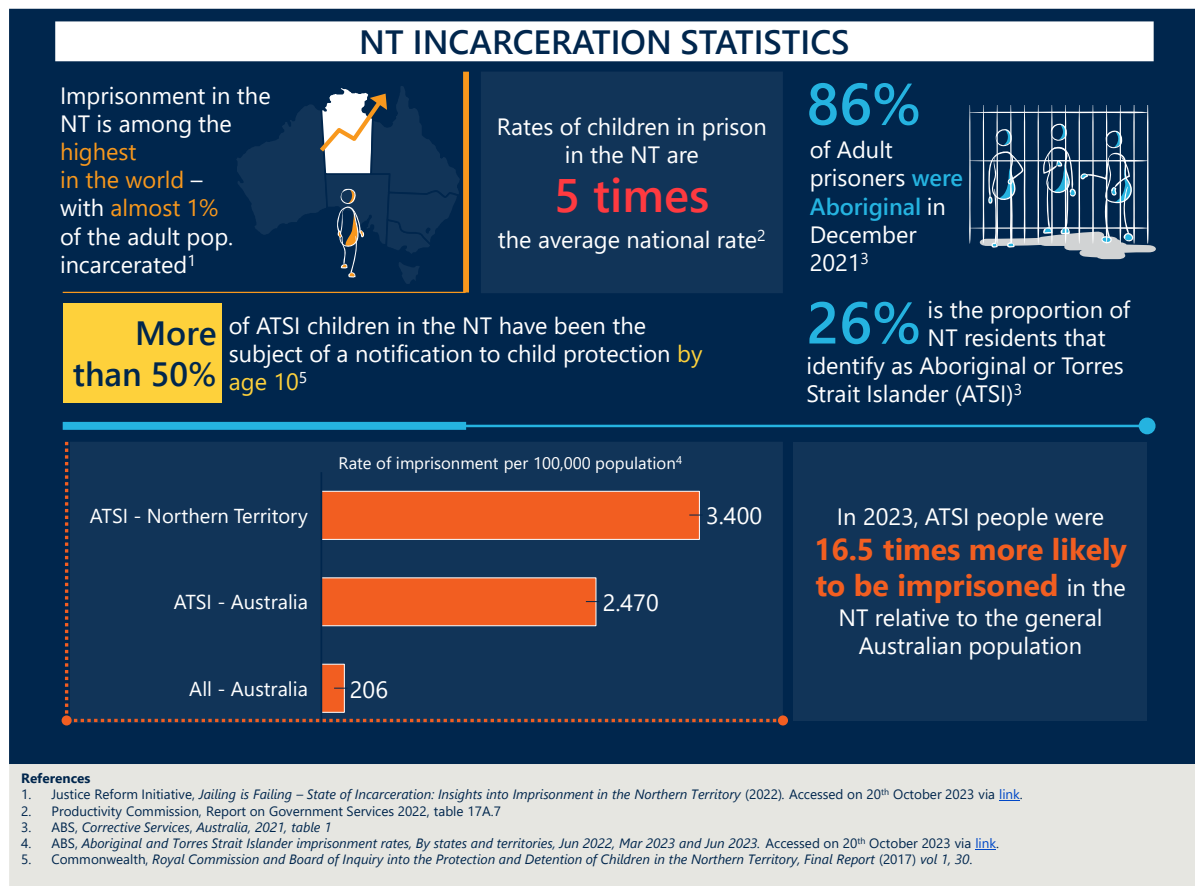
The scale of this demand is clear from rates of arrest. In 2022 NAAJA's Custody Notification Service staff conducted a total of 9,061 Custody Notification welfare checks of Aboriginal people arrested by police, in a population of approximately 61,115 Aboriginal Territorians.⁴ Following arrest, Aboriginal Territorians are much more likely to be proceeded against by police than other Territorians – data from 2016-17 shows Aboriginal Territorians were proceeded against at a rate ten times that of non-Aboriginal Territorians.⁵

Finally, Aboriginal Territorians are overrepresented in rates of incarceration – both as adults and children. Some of these statistics are shown in Figure 4 below.

⁴ This does not account for the possibility of individuals being arrested and welfare checked multiple times: Australian Bureau of Statistics, Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2021 (available [here](#)).

⁵ Pathways to the Northern Territory Aboriginal Justice Agreement, Northern Territory Government page 38 (available [here](#)).

Figure 4 | NT incarceration statistics



This overrepresentation at each phase of the criminal justice system demonstrates the systemic depth of disadvantage experienced by Aboriginal Territorians in the criminal justice system which underpins the high demand for NAAJA’s criminal and associated civil legal services (like civil actions against police), succinctly described by Western Australia Chief Justice Wayne Martin:⁶

Over-representation among those who commit crime is, however, plainly not the entire cause of over-representation of Aboriginal people. The system itself must take part of the blame. Aboriginal people are much more likely to be questioned by police than non-Aboriginal people. When questioned they are more likely to be arrested than proceeded against by summons. If they are arrested, Aboriginal people are much more likely to be remanded in custody than given bail. Aboriginal people are much more likely to plead guilty than go to trial, and if they go to trial, they are much more likely to be convicted. If Aboriginal people are convicted, they are much more likely to be imprisoned than non-Aboriginal people, and at the end of their term of imprisonment they are much less likely to get parole than non-Aboriginal people. ... So at every single step in the criminal justice process, Aboriginal people fare worse than non-Aboriginal people.

⁶ Chief Justice Wayne Martin, Indigenous Incarceration Rates: Strategies for Much Needed Reform, Speech delivered at Law Summer School, 2015.

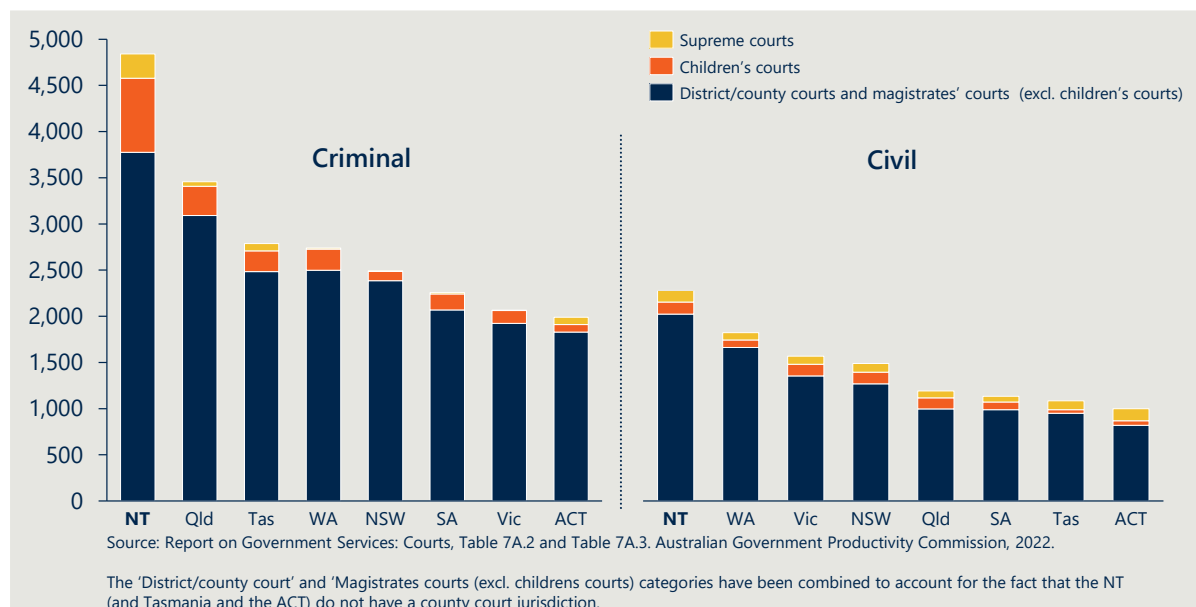
3.2 Legal needs

ATSILS funding does not account for different rates of justice sector activity between jurisdictions

ATSILS funding is currently based on the number of Aboriginal people in each state or territory. While this recognises the undisputed fact that that Aboriginal people are over-represented in justice systems across Australia, it assumes that Aboriginal people across Australia (with low personal income) generate approximately the same volume of legal need.

This is not borne out in the data. While it is difficult to definitively understand legal need, rates of legal activity in a jurisdiction are a potential proxy for need. In particular, the volume of court activity in a jurisdiction (as demonstrated in court lodgements) is a good indicator of demand for legal services. As a jurisdiction, the NT has a higher per capita rate of both civil and criminal court lodgements⁷ than other jurisdictions, indicating higher overall legal activity and need.

Figure 5 | Lodgements per 100 000 people (2021-22)



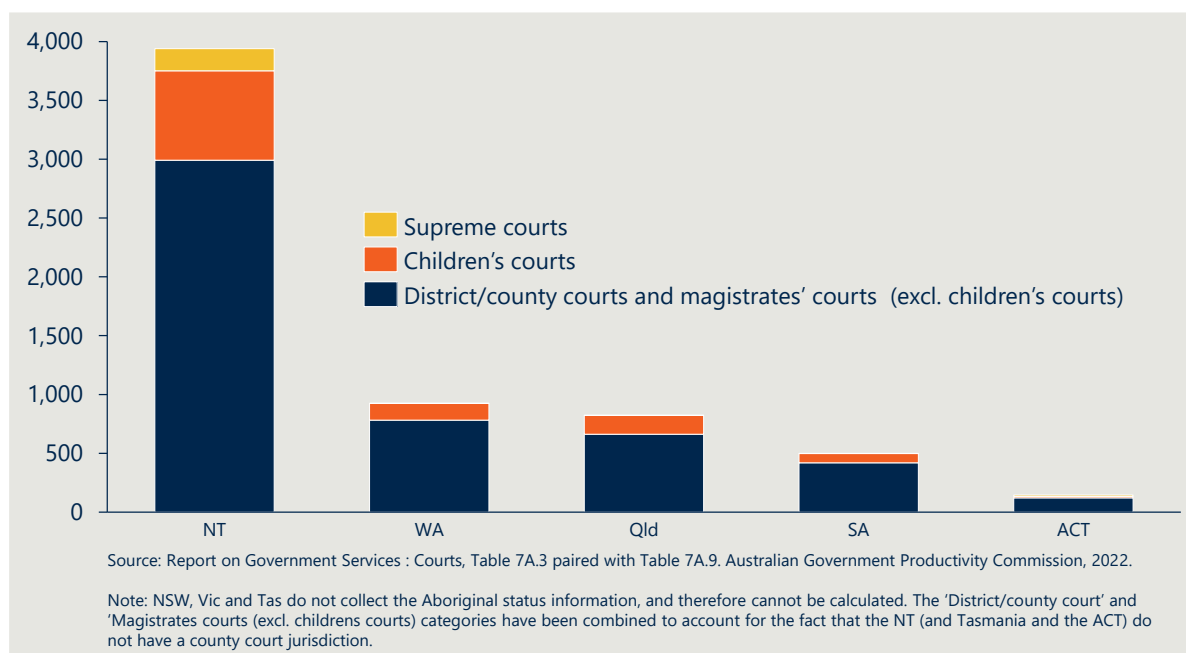
More pertinently to ATSILS-funded providers, the per capita volume of criminal lodgement in Figure 6 below involving an Aboriginal defendant is by far the highest of any jurisdiction – almost four times the next largest jurisdiction, Western Australia.⁸ The NT children's courts almost exclusively process matters involving Aboriginal people, as almost 95 per cent of lodgements involved an Aboriginal defendant.⁹ Although data demonstrating the proportion of Aboriginal people involved in civil lodgements is not available, it is likely this also involves a significant overrepresentation of Aboriginal Territorians.

⁷ A 'lodgement' is the initiation or commencement of a matter before the court: Report on Government Services: Courts, Explanatory Material. Australian Government Productivity Commission, 2022.

⁸ Indigenous status is based on self-identification by the individual who comes into contact with police, with this information transferred from police systems to the courts when the defendant's matter is lodged in the courts: Steering Committee for the Review of Government Service Provision, Report on Government Services 2023, page 57 (available [here](#)).

⁹ Steering Committee for the Review of Government Service Provision, Report on Government Services 2023. Table 7A.9

Figure 6 | Criminal lodgements per 100,000 people involving Aboriginal and Torres Strait Islander defendants (2021-22)



While ATSILS funding recognizes that Aboriginal populations (of low income) generate higher need, it does not recognize this significant disparity in legal activity within the Aboriginal population in the NT compared to other jurisdictions.

Another unique driver in the Northern Territory is the scale of police resourcing. In 2020-21, the NT had by far the highest rate of operational police staff per 100,000 people in Australia at 730 and had grown steadily since 2017-18. This rate is more than twice the rate of the next highest jurisdiction, Victoria, with 313.¹⁰ Numbers of police are driven by rates of criminal activity in a jurisdiction but are also directly correlated with the number of arrests and lodgements and therefore result in higher levels of legal activity and by extension legal needs.

ATSILS funding does not account for longer service times per client

Another dimension of demand is the average amount of time required to process a client, as this increases the amount of staff capacity required to process matters.¹¹

The structure of ATSILS funding presumes that Aboriginal clients in all jurisdictions will take approximately the same amount of time to process and does not account for higher or lower average service times in different jurisdictions.

I would say about twenty of my thirty clients need really, really intensive support.

Criminal lawyer, NAAJA

This assumption does not reflect the reality in the NT. The demographic characteristics of the Aboriginal population in the NT, which are directly reflected in NAAJA's client base (see Figure 7), suggest that average processing times are likely to be significantly higher than in other jurisdictions as NAAJA's clients are typically more time-intensive than other jurisdictions.

¹⁰ Steering Committee for the Review of Government Service Provision, Report on Government Services 2023, Table 6A.2

¹¹ NAAJA has previously reported on this dimension to the PC: NATSILS, NATSILS Submission to the Productivity Commission Indigenous Evaluation Strategy, 2019, page 21,22 (available [here](#)).

Figure 7 | NAAJA's clients are reflective of disadvantage in the NT



This increases demand on lawyers processing legal work in several ways, including having to locate clients without a fixed address, and the need to source and rely on interpreters to take instructions from clients reliably.

It also increases demand on lawyers' time as practitioners are spending significant amounts of time performing non-legal tasks which are closer to the role of a social worker than a lawyer. Examples include buying bus tickets for clients to ensure they will arrive for their hearing, phoning Centrelink to assist clients receiving means testing documentation and applying for identification documents. Although not legal work, these tasks are essential to effectively meet a client's legal needs, and to provide a service which recognises the systemic barriers to accessing legal and government services in the NT.

Clients at extreme disadvantage mean multiple appointments are needed, or appointments have to be rescheduled or changed. The factors that cause this are illiteracy, disability, remote location, lack of interpreters, lack of financial or legal literacy, lack of income of clients to complete administrative tasks etc. My estimate is that the same work with the typical NAAJA client in Central Australia takes two times as long as with clients I have provided legal assistance to in major cities in Australia.

Civil lawyer, NAAJA

4 Current capacity to meet legal need

In this section we focus on how NAAJA mobilises its workforce to meet legal need. NAAJA staff workload is unsustainably high across all roles, but this is particularly evident in legal roles. These high workloads combined with low salaries limit NAAJA's capacity to recruit and retain staff and therefore further exacerbate high workload and limit NAAJA's capacity to meet legal need. Inadequate funding for non-legal staff further restricts NAAJA's capacity to provide early intervention, wrap around services and advocacy.

Even if recruitment and retention challenges were addressed, and non-legal roles were expanded, staff workload would remain high and there would still be significant unmet need.

We respond to the following issues identified in the NLAP review issues paper:

- effectiveness
 - labour market
 - early intervention
 - wrap around services
 - advocacy.
-

4.1 High legal workload

Staff within NAAJA consistently report unsustainably high workloads, resulting in lawyers routinely working significant extra hours. As NAAJA lawyers do not record their time, NAAJA designed modelling to quantify these reports, and to better understand the relationship between the workload NAAJA receives in a typical year and the capacity the organisation has to process this workload.¹² NAAJA conducted the following modelling:

- Workload modelling to estimate the number of hours of legal services delivered by NAAJA lawyers
- Overwork model to quantify the reports of overwork by lawyers and test the results of the workload modelling
- Caseload analysis to quantify the approximate caseloads of NAAJA lawyers.

NAAJA delivers many more hours of legal services than the number of lawyers can manage

NAAJA employs approximately 22 civil lawyers and 31 criminal lawyers. The workload modelling shows that the amount of work NAAJA lawyers complete far exceeds the lawyers' time available to sustainably process that work. The results of this modelling (which is for lawyers' time only) are shown in Figure 8 below.

Figure 8 | Total available hours compared to total hours of work delivered

¹² Detailed information on this methodology, the critical assumptions and the detailed results are contained in Appendix A.



This analysis demonstrates that NAAJA lawyers delivered an average of approximately 63,000 hours of services per reporting period, with some fluctuation between periods.¹³

Quantified staff reports are consistent with workload modelling results

These figures aligned with qualitative data from discussions with NAAJA staff, who reported high levels of overwork.

To cross-check the findings of the workload modelling NAAJA conducted further overwork modelling which quantifies reports of the estimated number of staff performing extra hours and the amount of these extra hours.

Lawyers are working nights and weekends – some were wanting to stay later than 10pm and we had to kick them out because it wasn't safe.

Legal practice manager, NAAJA

Using the assumptions developed with NAAJA lawyers contained in A.3, this modelling suggests that NAAJA lawyers would have worked approximately 60,400 hours in each of the three most recent reporting periods. The results of the workload modelling suggest that NAAJA lawyers worked approximately 59,300, 60,500 and 61,300 total hours in each of the most recent reporting periods, indicating close convergence between the two approaches. This validates both the reports of

significant overwork by staff and the inputs to and findings of the workload modelling. It also reinforces the urgent need for resources to address the degree of overwork by lawyers and other staff.

¹³ The total workload combines time spent delivering services, travelling to remote communities, and supervising other lawyers' work. These assumptions are set out in A.1.2.

*I am frequently on duty five days a week from 9am – 4pm, and that leaves no time for me to work on my substantive matters ... staff [are] working from home continuously to get these gruelling tasks done which we need to do in our free time unpaid. This takes a toll on staff well-being, mental health, physical health and of course relationships with our loved ones who are stripped of our time. ... **is our moral duty to assist those less fortunate for pennies worth our health and own family?***

High workloads are also clear from lawyers' caseloads

An analysis of caseloads also demonstrates that lawyers are taking on much higher caseloads than is sustainable or reasonably manageable. The average caseload (for the 2023 Jan-Jun period) for NAAJA's civil lawyers is 58, while the average caseload for criminal lawyers is 235. These figures partly reflect the longer time taken to complete civil matters and that the civil team has capacity to reduce the scope of their services to manage their workload.

These caseloads are significantly higher than the benchmarks reported by providers of comparable legal services in the Northern Territory and interstate. While both the civil and criminal teams have file loads that are above the benchmarks reported by other providers, this is much more pronounced for NAAJA's criminal lawyers than for civil lawyers.

This information is contained in 0.

External providers

"Five-to-eight cases per working day as a general benchmark. This is probably on the lower side of some CLCs but any higher you then start running the risk of vicarious trauma, burnout, turnover."

"It's hard to put a number on caseload expectations but we might consider 60 ongoing files to be a high number."

NAAJA lawyers

"There's a rough guide of a cap of 60 files."

Civil lawyer

"With bush courts, you can get 160 new clients a day between two lawyers."

Criminal lawyer

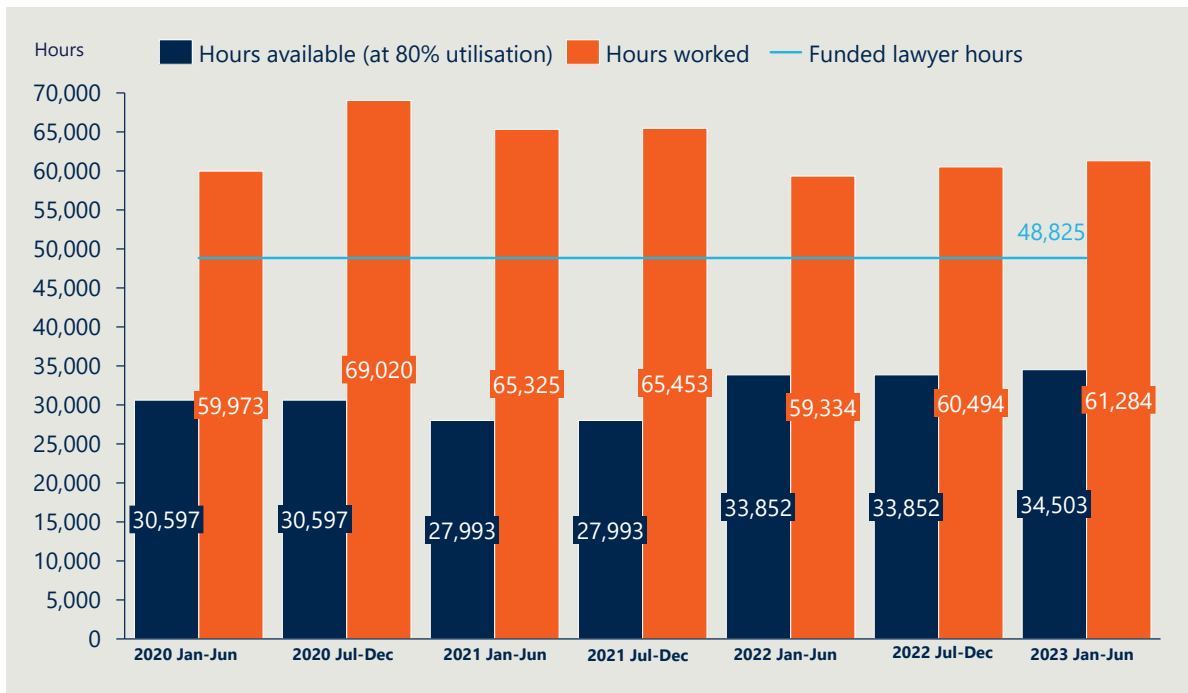
"100-150 files per lawyer at any given time."

Regional manager

4.2 Recruitment, retention, and turnover challenges

High workloads for NAAJA lawyers are driven in a large part by significant recruitment, retention, and turnover challenges. While NAAJA receives funding for 75 lawyer positions, only 53 positions are currently filled. NAAJA lawyers deliver approximately 63,000 hours of services per reporting period, relative to a funded capacity of approximately 48,500 hours. If NAAJA were able to fill all funded lawyer roles and retain staff, this would go half of the way to reducing high legal workload, but it would not address the problem entirely, as shown in Figure 9 below.

Figure 9 | Hours worked compared to actual hours available and hours funded



Low remuneration is driving recruitment and retention challenges

There's a \$17,000 gap with most positions at Legal Aid. We have lost many more staff to Legal Aid recently compared to my earlier years. It's more money for less work.

Legal practice manager, NAAJA

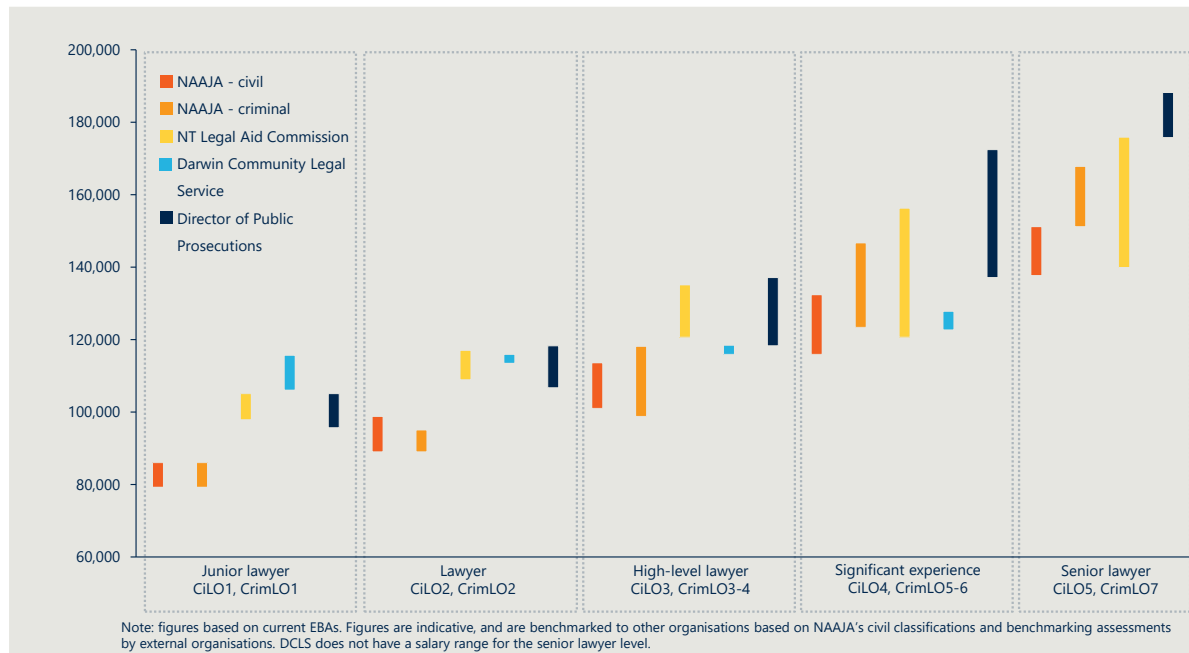
NAAJA's staff report that the organisation's remuneration package is not competitive compared to other employers in the NT. This (combined with high workload) has heavily eroded NAAJA's ability to attract and retain legal and non-legal staff.

These reports are validated by a recent salary benchmarking analysis, which compared NAAJA salaries with other legal employers in the Northern Territory including NT Legal Aid Commission, the Darwin

Community Legal Service, and the Director of Public Prosecutions. Figure 10 below shows that lawyers at all levels are generally being paid less than their peers, although this is most significant at the junior level. These findings are consistent with findings reported by the Independent Review into the Legal Assistance Program in 2019,¹⁴ and reflect longstanding sector-wide inequity in remuneration arrangements, in particular for staff of ATSILS.

¹⁴Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Legal Assistance Program (ILAP) 2015-2020, Attorney-General's Department, pages 130, 2019 (available [here](#)).

Figure 10 | NT legal salary benchmarks (including superannuation)



This low remuneration and difficulty with recruitment is also challenged by a broader reliance in the NT labour market on being able to attract professionals to the NT from interstate, which is particularly challenging in regional areas of the NT.

Although NAAJA lawyers, no doubt like many other ATSILS lawyers, are prepared to accept lower-than-market salaries to do meaningful work aligned with their values, persistently uncompetitive remuneration arrangements (combined with very high workloads) are impacting NAAJA's ability to recruit and retain staff, and to effectively process the organisation's workload.¹⁵

Low salaries and high workloads drive high staff turnover and associated costs

The rate of staff turnover at NAAJA in 2021 was 36 per cent: nearly double the estimated national average for law firms.¹⁶ This is consistent with the finding of the Review of the Indigenous Legal Assistance Program that efficiency is impacted by a high turnover of ATSILSs staff, particularly legal staff.¹⁷ This turnover imposes significant costs on the organisation, including:

- The direct financial resources involved in advertising and recruiting for roles
- The staff resources involved in advertising and recruiting for positions
- Lost productivity where staff cannot be replaced before departing
- Lost productivity for new staff (who will not perform to expected utilisation while they are being trained) and staff involved in delivering training (who will need to set aside time to train and support new staff).

¹⁵ This is consistent with findings across the ALS sector by NATSILS and recommendations being proposed by NATSILS in its submission to the Review: NATSILS, NATSILS Submission to the Productivity Commission Indigenous Evaluation Strategy, 2019, page 10, (available [here](#)).

¹⁶ The Australasian Legal Practice Management Association's Australian Legal Industry HR Issues and Salary Survey estimated that average turnover for law firms in 2021 was approximately 21%: The 2022 Australian ALPMA HR Issues & Salary Survey, Australasian Legal Practice Management Association, 2019, (available [here](#)).

¹⁷ Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Legal Assistance Program (ILAP) 2015-2020, Attorney-General's Department, page 61, 2019 (available [here](#)).

As an illustrative example of the scale of these costs, by reducing turnover from 30 per cent to 15 per cent for 50 staff NAAJA could reduce lost productivity involved in training new staff from a total of around 1,815 hours to around 907 hours per year. This example is outlined in Appendix A.5.

The most important and sustainable way for NAAJA to reduce high rates of turnover are to reduce staff workloads (by hiring more staff or reducing the scope of services) and to improve remuneration conditions for existing and future staff.

4.3 Non-legal work

Workload modelling was not conducted for non-legal roles, including legal support, personal assistants, Client Support Officers, paralegals, and policy and advocacy roles. However, staff report there are similar challenges with high workload and understaffing (increasing pressure on lawyers). More importantly, adequately resourcing these roles would enable NAAJA to provide more holistic and wrap around services to clients and support earlier intervention.

Funding assumptions do not reflect the required FTE to meet demand for non-legal support roles

Non-legal staff play an important role in supporting lawyers (allowing lawyers to use their time more efficiently) and providing a more effective, quality service for clients.

Non-legal staff report having very high workloads and demand relative to the number of staff available. This is driven primarily by the needs of NAAJA's client population. In 2022, NAAJA employed 35 non-lawyer support roles, primarily including:

- **Administrative staff:** these roles support lawyers to process legal work in the same way as most law firms, including helping with filing, scheduling, booking travel and preparing documents for hearings.
- **Client Support Officers (CSOs):** these roles provide support and assistance to clients as a personal support person and cultural broker, provide practical assistance, assist with intake of new clients, and make referrals and facilitate remote outreach trips. In practice, this often involves social work such as assisting with banking applications, acquiring identification for clients, and helping to communicate with other services such as Centrelink to obtain documentation.
- **Caseworkers:** caseworkers maintain their own files for clients separate to their legal files and provide more intensive support to clients than CSOs. For example, Child Protection caseworkers support parents to develop a support plan, engage with the legal process, engage with other support processes, engage in care team and reunification planning meetings, and generally address the child protection concerns.

In 2022, NLAP funding allowed NAAJA to hire around 30 FTE in non-legal support roles, despite staff failing to meet demand with 35 staff.

Under-resourcing in non-legal roles has a flow-on effect for lawyers, who report that they spend approximately 30 per cent (criminal lawyers) or 60 per cent (civil lawyers) of their time doing tasks that could be completed by non-legal staff if properly resourced, namely:

- Administrative work that could be completed by non-legal administrative staff and paralegals, noting that NAAJA does not employ any paralegals and no NLAP funding is allocated specifically for paralegals
- Outreach work that could be completed by a client support officer, and
- Work could be completed by social workers.

Staff report that greater resourcing for non-legal staff would free up significant capacity of lawyers, as well as promoting a higher quality and more holistic wrap around service for clients, as these staff have a

better capacity to meet clients non-legal needs and support them to access other critical non-legal services.

Reunification planning with 'Helen'

NAAJA worked with Helen to get a protection order for her daughter and develop a reunification plan. Both Helen and her daughter have complex disabilities, and Helen required an interpreter. Helen also needed assistance working effectively with the Department of Territory Families, Housing and Communities (the Department), developing clear expectations on the conditions for reunification and support to secure disability-focused parenting supports.

By including assistance from a case worker, NAAJA was able to provide intensive support on developing and implementing a reunification plan with the Department, including attending reunification, professional and family meetings with Helen.

The case worker and solicitor were able to negotiate a 12-month plan (rather than 22-months) and identify a pathway to reunification, as well as regularly monitoring and supporting plan progress.

NAAJA cannot fill vacancies for policy, advocacy, and Community Legal Education roles to meet the current scope of services

An important area of service delivery for NAAJA is to promote important, preventative systemic outcomes through Community Legal Education and through Law and Justice initiatives. This work is important in addressing the underlying drivers of legal need, however, the volume of work it generates for NAAJA is substantial.

The Community Legal Education (CLE) work involves delivering legal education (primarily in remote communities) and providing indirect legal support (for example, working with community leaders to prepare reference letters. In the 2022-23 financial year, the work involved around 73 days in remote communities and 200 hours on the road to deliver 156 CLE sessions and 123 support activities and produced 11 reference letters with remote community members in relating to Aboriginal defendants.

NAAJA's CLE work is performed by one staff member. Funding for this role is provided under the NLAP, but other CLE roles are funded under multiple funding agreements. There is not only insufficient staff capacity to deliver the work that is needed, but the reliance on multiple streams of funding generates substantial overlapping reporting requirements which create a high administrative burden. NAAJA has also been unable to recruit all available positions and has two vacancies in Alice Springs which have been unsuccessfully advertised three times in the last 12 months.

The Law and Justice team is dedicated to advocacy and policy reform, requiring significant time engaging, coordinating, and working constructively with key stakeholders to realise crucial law and policy reforms. Although it is difficult to quantify the amount of Law and Justice work conducted by NAAJA, the breadth and depth of NAAJA's engagement activities is indicative. NAAJA's Law and Justice Manager:

There is an important role in building relationships and trust in communities, which teams (for example, the criminal team) will then use. The Community Legal Education team is the glue between the different teams – when going into communities, lawyers will ask who is the best person to speak to because CLE holds those relationships.

Manager, NAAJA

Commission and Central Australian Youth Justice, NT Aboriginal Justice Agreement (AJA) Executive Action Committee, AJA Community Courts Working Group, and NT Justice Policy Partnership (Co-Chair) and others.

- **Shares information and helps coordinate input and direction from across NAAJA on policy and legal issues:** gather and disseminate sector intelligence on systemic issues impacting the rights and interests of Aboriginal clients and communities
- **Contributes to major partnerships and progress in delivering on commitments through APO NT:** policy and advocacy input into NT RAI, NTECCA, Generational Strategy, Tripartite Forum, Partnership Working Group, and related work.
- **Prepares policy and position papers, reports, and submissions:** lengthy and considered reports on

In other States, you're just a rep and don't do the drafting and consultation. Here, the whole burden goes to us – NAAJA gets invited to participate in everything, and if we aren't there it creates a huge gap. The pay is crap, but we're here because we care and want to make a difference, so we work weekends, do trips and work till 10pm. ...

We advertised for two roles but got no applicants. If we had two more policy roles, we would have the capacity to be a bit more strategic – but at the moment, we're running on empty.

Manager, NAAJA

- **Leads and coordinates meetings with external stakeholders:** these include representatives of partner and stakeholder organisations such as NTLAC, Northern Territory Council of Social Services, Aboriginal Resource and Development Services, Larrakia Nation, Office of Children's Commissioner NT, Department of Attorney-General and Justice, Department of Chief Minister and Cabinet, Director of Public Prosecutions, NT Police, Judicial Officers, and legal organisations amongst others.

- **Represents NAAJA in working groups, forums, and partnership arrangements:** these include the Children Courts Stakeholder Forum, Criminal Justice Forum, quarterly Director of Public Prosecutions/NAAJA/NTLAC meetings, monthly meetings with Office of Children's

Commission and Central Australian Youth Justice, NT Aboriginal Justice Agreement (AJA) Executive Action Committee, AJA Community Courts Working Group, and NT Justice Policy Partnership (Co-Chair) and others.

- **Shares information and helps coordinate input and direction from across NAAJA on policy and legal issues:** gather and disseminate sector intelligence on systemic issues impacting the rights and interests of Aboriginal clients and communities
- **Contributes to major partnerships and progress in delivering on commitments through APO NT:** policy and advocacy input into NT RAI, NTECCA, Generational Strategy, Tripartite Forum, Partnership Working Group, and related work.
- **Prepares policy and position papers, reports, and submissions:** lengthy and considered reports on government policy, including submissions to inquiries, reviews, and legislative committees and in many cases advice to government via confidential communications on systemic issues which may not be made public. For example, the NAAJA submission to Legal and Constitutional Affairs Committee's inquiry into a Process to Review Bills for their Impact on First Nations Territorians.

Demand for this work is not only substantial, but it is highly responsive and variable. The key drivers of demand are changes in government policy requiring an advocacy response and invitations by government to collaborate and enhance important initiatives (such as Closing the Gap).¹⁸ In this respect, NAAJA provides an important service to Northern Territory government policymaking. This work is currently delivered by one staff member.

Like CLE, NLAP funding only covers the Law and Justice Manager roles, while other Law and Justice roles are funded through other sources

¹⁸ This is also noted in NATSILS' submission to the Review. NATSILS, NATSILS Submission to the Productivity Commission Indigenous Evaluation Strategy, 2019, (available [here](#)).

(such as via Supplementary Legal Assistance Funding, NIAA's Night Patrol Funding, and project-specific funds provided by the Northern Land Council).

The current allocation of staffing is appropriate to meet the current scope of these services, although the funding arrangements could be consolidated. Like the trend for lawyers, however, NAAJA has struggled to fill vacancies in these roles, owing mainly to low remuneration and workplace conditions in remote areas, suggesting a need to also adjust remuneration for these roles.

4.4 Unmet need

If NAAJA were to address the challenges identified above in this section (including addressing remuneration challenges, filling recruitment gaps for legal and non-legal roles, and increasing staffing to deliver additional services) this would enable current workload to be delivered more by staff in a more sustainable manner. However, there would still be substantial areas of unmet need, due the high overall level of overall legal need in the NT.

There is unmet need within currently delivered scope of services

Due to very high staff workload, both civil and criminal teams are not currently able to meet need within the core service categories they deliver.

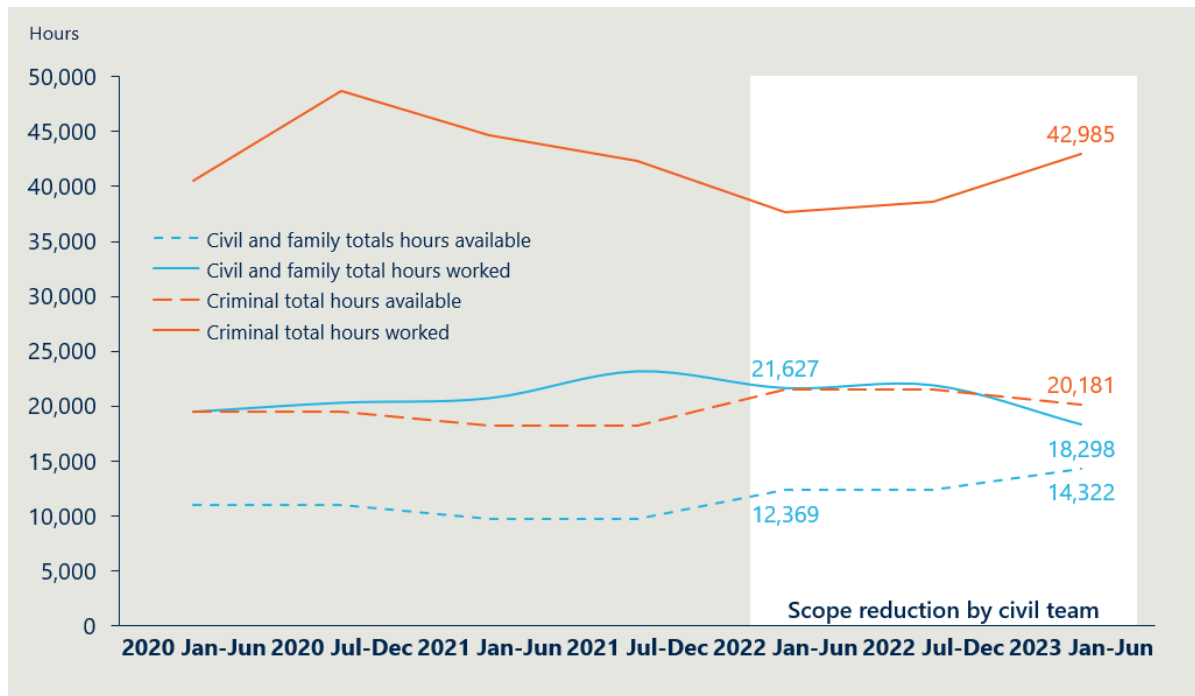
The NAAJA civil team has managed workload by reducing intake in some areas. This is an undesirable but necessary way to manage lawyers' workloads, and if capacity was available to support clients with these needs there may be a significant early intervention benefits.

The most urgent areas where NAAJA struggles to meet the need for civil legal assistance (which have the most detrimental impact on NAAJA's client base) are:

- **Child Protection:** there is a substantial demand for child protection lawyers in the Northern Territory. There is both a high volume of these matters, and they are typically very intensive for both lawyers and non-lawyers to meet, meaning NAAJA cannot meet demand within current funding.
- **Mental Health Review Tribunal and Adult Guardianship:** NAAJA Alice Springs lawyers appear in two-to-six matters a week due to urgent need, although NAAJA is not funded to do so, and there is further need in this area.
- **Disaster response:** NAAJA has provided legal assistance to communities in response to disasters, such as flooding, and evacuations associated the Daly region floods in March 2023. These responses often result in major, unanticipated, and urgent demand which is extremely difficult to respond to in addition to other capacity constraints.
- **Family law expertise:** NAAJA has a limited family law practice (distinct from child protection) and refers clients with family law needs to North Australian Aboriginal Family Legal Service (NAAFLS), Northern Territory Legal Aid commission (NTLAC) or Top End Women's Legal Service, Central Australian Women's Legal Service (CAWLS) or Katherine Women's Information & Legal Service (KWILS). However, family law matters (like child protection) require multiple services to represent multiple parties including parents, children and other relevant family members and there is a greater need for NAAJA's limited family law services than it can currently meet.

The criminal team has less ability to turn clients away, given the ethical implications of doing so and the severe consequences for clients who would otherwise go without representation. The impact of scope reductions by the civil team to manage workload, and the impact of the criminal team's inability to reduce its scope, are clear from Figure 11 below, which shows a reduction in hours worked by the civil team while the criminal team workload remains high.

Figure 11 | Hours available compared to hours worked in the civil and criminal teams



However, given the very high caseload of 6,381 to 7,285 cases in the last three periods, the criminal team’s ability to provide the desired comprehensive level of support to all clients is limited. While they are likely reaching the majority of clients, they are providing services for as little as 15 minutes and struggle to provide the depth of service for many clients who need more support. There are further areas of unmet need beyond the scope of current service delivery.

All the above assumptions and analysis are based on the current scope of NAAJA’s services. However, despite the breadth of NAAJA’s services, there remain additional services that NAAJA is unable to deliver with its current resources.¹⁹ There are many areas of civil law, such as deceased estates, superannuation, native title disputes, general torts and more, where there are no available services for NAAJA’s client base, either because there is no free legal aid or community legal service providing the service, or because it is not commercially viable for a private firm to provide the assistance because of the costs of litigation. Particular areas of civil need include:

- Civil youth lawyers:** there is currently no effective system for ensuring children subject to child protection proceedings are represented by an independent, trauma informed and culturally competent legal service. These services are currently provided by a mix of non-specialist private providers, funded by the Northern Territory government. Every child over ten (and children under ten in appropriate cases) should be adequately represented and have access to general civil law services, however NAAJA does not have the resources to effectively meet this demand.

¹⁹ Although NAAJA has previously supported efforts to determine unmet need, it is beyond the scope of this Submission to attempt to quantify the degree of this need in the Northern Territory, however previous studies have explored this issue and other jurisdictions have tested methods for the community legal sector to conduct quantitative demand planning. See, for example:

Access to Justice in the Barkly: A Review of the Justice Too Far Away Report on Tennant Creek and Barkly, Fiona Allison and Chris Cunneen, 2020 (available [here](#)); An analysis of Legal Aid service data: two Jurisdictional Profiles, Law and Justice Foundation of NSW, 2022; Legal Australia-Wide Survey: Legal Need in the Northern Territory, Law and Justice Foundation, 2012; Sector planning: a framework for legal needs assessment and place-based planning, Khoi Cao-Lam and Jessica Bird (available [here](#)).

- **Superannuation and Deceased Estates:** NAAJA receives many queries about superannuation death benefits and deceased estates, particularly from remote clients. There is no other legal service in the Northern Territory providing assistance with these matters at no cost to the client.
- **Redress schemes:** NAAJA receives many requests for assistance regarding the current Redress schemes relating to the Stolen Generation and institutional child sexual abuse. Many of these victims are from remote and regional areas and are particularly reliant on having access to culturally appropriate services to notify potential clients of their eligibility and guide them through the application process.

There are also specific areas of need that the criminal team cannot meet due to funding constraints, including representing respondents in proceedings for breaches of Domestic Violence Orders, prohibition order applications and serious sex offender registration applications.

5 Operational pressures

In this section we focus on the other operational costs and pressures for NAAJA, including travel, infrastructure, and data collection.

We respond to the following issues identified in the NLAP review issues paper:

- regional, rural, and remote
 - efficiency
 - data.
-

5.1 Operational costs

NAAJA's remote service delivery imposes large and growing travel costs

The nature of NAAJA's jurisdiction and client base imposes substantial travel costs. While the NLAP funding model makes some allowance for remoteness, these assumptions are not fully reflected in how funding is structured and distributed. Unless the funding model has assumed that hundreds of regional flights and thousands of kilometres travelled by road are typical costs for a legal service, these costs will not be reflected in NAAJA's funding.

In the 2022-23 financial year, NAAJA spent \$1,084,262 (about 23 per cent of all non-salary costs) on travel and accommodation to deliver legal services and outreach, as well as spending approximately 6,000 hours of staff time on travel. NAAJA handles the overwhelming majority of remote Circuit Court matters, except where it has a conflict of interest.²⁰ Travel assumptions have also not kept up with recent inflation; NAAJA has observed a substantial increase in these costs associated with airfares, fuel, and accommodation. To account for this, NAAJA has budgeted for its travel costs to increase to \$1,434,283 – a 32 per cent increase on the previous financial year.

A large component of this travel involves driving significant distances on unsealed roads, which takes a significant toll on vehicles over time – in 2022-23 NAAJA spent a further \$149,000 on vehicle running costs, and \$72,000 on a vehicle purchase.

NAAJA has deferred critical capital investments

The funding model does not make adequate allowance for essential infrastructure.²¹ For this reason NAAJA has deferred several critical capital investments required by the organisation given its services and geographic footprint. These include:

- **Office upgrades:** NAAJA's offices in Alice Springs and Darwin must be either heavily renovated or relocated to comply with building regulations. NAAJA's Tennant Creek office, which is unstaffed due to an inability to recruit to that office, nevertheless requires some capital upgrades to avoid deterioration.
- **Vehicles:** NAAJA's vehicle fleet covers long distances on unsealed roads, and the organisation expects that wear and tear will result in growing costs of maintenance or replacement.
- **Technology systems for HR, finance, and data collection:** these systems will help the organisation to run more effectively, use staff time more efficiently, and increase the quality of its data and reporting.

²⁰ In these instances, matters will be referred to the NT Legal Aid Commission, which resulted in approximately 619 referrals in 2020-21, however the NT Legal Aid Commission cut these services in 2022: Melissa Mackay, Remote residents left to represent themselves, as Legal Aid stops accepting bush court files, ABC NEWS, 2022 (available [here](#)).

²¹ This is also noted in NATSILS' submission to the Review. NATSILS, NATSILS Submission to the Productivity Commission Indigenous Evaluation Strategy, 2019 (available [here](#)).

However, due to under-resourcing NAAJA has been unable to make investments in these systems, leading to poor user experience, inefficiency, poor quality of crucial business intelligence.

5.2 Administrative burden

Data collection obligations impose uncompensated costs

Although NAAJA welcomes the NLAP's efforts to introduce evidence-driven service delivery to legal services funding, current data collection and reporting obligations are burdensome, do not provide clear guidance about desired outcome, and create some perverse incentives. Providers are obliged to report performance data to NLAP every six months as part of a jurisdictional performance report consistently with the National Legal Assistance Data Standards Manual and National Legal Assistance Data Strategy.

Firstly, the current reporting requirements impose a significant administrative cost on NAAJA which is not recognised in funding. Data collection imposes a burden on lawyers and non-legal staff who are already significantly overworked, while collation within the requirements of the Data Standards Manual requires NAAJA to employ a full time Data Advocacy and Strategy Coordinator. Although NAAJA is required to collect and report substantial amounts of data to NLAP, the organisation is not funded to invest in technology systems which will help gather this information more easily, compounding this reporting burden. This sentiment is consistent with reports to the Review of the Indigenous Legal Assistance Program by ATSILS providers that performance, monitoring and data reporting requirements to consume significant time and resources.²² Better resourcing to support providers with their data collection not only results in higher quality data being provided to NLAP, but helps providers generate their own valuable data products which can help them to work more effectively.

Second, although regularly reporting on the volume of services, these requirements do not provide clear guidance about broader outcomes about the legal services sector should deliver. This is particularly apparent in light of severe under-resourcing which means that providers such as NAAJA have to prioritise immediate service delivery and cannot engage effectively in important outreach to achieve systemic outcomes.

Third, the reporting requirements incentivise providers to demonstrate a greater number of services being delivered in a reporting period. This encourages providers to provide high-volume, short duration services which are unlikely to promote meaningful assistance and sustainable outcomes. This is particularly applicable to NAAJA's clients who typically have limited ability to self-advocate and implement advice delivered in short sessions. NAAJA strives to deliver holistic legal and non-legal services which promote meaningful outcomes and are often quite intensive to deliver, however these services do not look good in the way that reporting requirements are currently framed and monitored. This is most evident in the way the civil team it has managed its workload: the team has reduced the scope of its services²³ in order to provide a meaningful, effective service for those clients which it does accept (despite still being significantly over-capacity), rather than to deliver a high volume of low impact services.

²² Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Legal Assistance Program (ILAP) 2015-2020, Attorney-General's Department, page 108, 2019 (available [here](#)).

²³ For example, the civil team has frozen its law reform work, has applied stricter merit assessments to health complaints and motor vehicle accident compensation, and has reduced the scope of practice in housing, victims of crime assistance, consumer, and guardianship matters.

6 Future state recommendations

In this section NAAJA provides a number of recommendations for consideration of the review team. These focus firstly on the resources required to meet current demand, excluding identified area of unmet demand. Demand is expected to grow over time and recommendations are also provided on how to ensure funding reflects changing demand over time.

We respond to the following issues identified in the NLAP review issues paper:

- demand over time
 - opportunities.
-

6.1 Recommendation 1: Adjust year 1 funding to better reflect current delivery costs

NAAJA has identified the funding required to process its current workload effectively to inform the first year of the next funding agreement. This would require:

- At least **\$16.9 million** per year plus superannuation and other on-costs to enable NAAJA to grow its required number of lawyers and support staff and increase their salaries to sustainable levels (this excludes commensurate increases amongst executive and corporate staff as the organisation grows)
- Approximately **\$3 million** to fund critical and long-neglected capital investments
- At least an additional **\$2.9 million** per year in related operational costs.

This increase is recommended for the first year of the funding agreement, noting that it would not reflect future demand pressures or address unmet need.

Adjust current staffing profile

To effectively meet the current level of workload demonstrated in NAAJA's workload modelling, NAAJA must change its staffing profile. Through redistribution of workload, this results in some increase to the number of lawyers but a significant increase in the number of non-lawyer staff, as below:

- **Lawyers:** An increase in the number of criminal staff while maintaining the current number of civil staff, increases lawyer FTE from 53 FTE to 69 FTE, producing a total salary cost of approximately \$6,917,142 plus superannuation and other on-costs.
- **Non-lawyers (administrative staff and paralegals; CSOs; caseworkers):** An increase in the number of staff from 35 FTE to 93 FTE of non-lawyers, producing a total salary cost of approximately \$6,934,075 plus superannuation and other on-costs.²⁴

We have a case worker and a social worker to help with our child protection matters. I can take about 25 per cent – 40 per cent more files when I have one of them involved.

Civil manager, NAAJA

The revised staffing profile will support better service delivery to clients but will also free up staff time for critical activities such as supervision and training.

The analysis underpinning these FTE figures is contained in Appendix B.

²⁴ Figures for salary uplift are derived by increasing the current salary costs by the same percentage as the increase in staff. This is indicative only. This assumes the current team structure can be scaled up without change, and does not account for changes in team structure and salaries which may be required to manage a larger, multi-disciplinary team.

Assuming there is a significant increase in the number of lawyers and non-legal staff, NAAJA will also require a commensurate increase in executive and corporate staff to manage the increased staffing complexities of the organisation, for example workforce development positions, WHS coordinators and human resources business partners. These costs are excluded from current estimates but must be re-examined in conjunction with any future increase in staffing.

Increase salaries

To deliver services effectively, NAAJA must not only change its staffing profile to meet current workload but must adjust salaries to meet reasonable expectations in the labour market. NAAJA's benchmarking and previous analysis by other stakeholders²⁵ shows that NAAJA's salaries are approximately 20 per cent lower than salaries offered by the Northern Territory Legal Aid Commission. At a minimum, salaries for NAAJA's lawyers and non-lawyers should be raised to this amount to address inequity and high rates of turnover. If adopted, this would result in:

- **Lawyers:** An increase in average salary of these employees by 20 per cent, from the staff-increased total of approximately \$6,917,142 to \$8,300,571 plus superannuation and other on-costs.
- **Non-lawyers (administrative staff and paralegals; CSOs; caseworkers):** An increase in average salary of these employees by 20 per cent, from the staff-increased total of approximately \$6,934,075 to \$8,320,890 plus superannuation and other on-costs.
- **Non-lawyers (CLE and Law and Justice staff):** An increase in average salary of these employees by 20 per cent, from a total of approximately \$258,000 to \$309,600 plus superannuation and other on-costs.

NAAJA recognises that salaries for ATSILS lawyers have remained below the industry standard for several years and this is a challenge that extends beyond the Northern Territory, driving high turnover and inequity for these providers. The Review should therefore also consider whether salaries for lawyers in these services should be protected by benchmarking salaries to a fair and relative minimum standard and continually assessing this over time to ensure the disparity between ALSs and other providers does not re-emerge in the future.

Fund other critical investments

NAAJA's current funding is not sufficient to support other critical investments required by the organisation. This absence of funding has resulted in NAAJA postponing several major capital and operational investments amounting to \$2,959,000. These include:

- **Technology systems: \$1,709,000.** NAAJA's systems for HR, finance, file management and data collection are severely outdated and no longer fit for purpose. On both a revenue and per employee basis, NAAJA spends significantly less on IT systems than industry benchmarks for professional services firms²⁶: 4.3 per cent of revenue compared with 5.4 per cent, and \$8,400 per FTE compared with \$14,808. This proposed budget for 2023-24 is \$1,709,000. The highest priority items are print services, Teams and remote work systems, and network upgrades.
- **Office renovations: \$1,250,000.** This includes renovations to the Darwin office to meet building regulations (\$600,000), and significant renovations to the Tennant Creek office notwithstanding it is unstaffed (at least \$200,000), renovating the Alice Springs office (\$450,000). If NAAJA receives the desired additional staffing, it may also need to consider expansions on existing offices to accommodate a large number of new staff.

Adjust funding for important operational costs

Remote travel is the largest non-staff operational expense NAAJA bears, and this cost is rising significantly. Funding should be adjusted to account for NAAJA's true operational costs, including:

²⁵ Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Attorney-General's Department, page 130, 2019 (available [here](#)). Change the Record Federal Budget Submission 2022-23, 2022, page 9 (available [here](#)).

²⁶ This analysis was produced by an external technology contractor for NAAJA.

- **Remote travel:** recognise and fund remote travel as an operational cost for \$1,434,283 in 2023-24 including increases for rising costs in future years.
- **Staff development and wellbeing:** NAAJA aims to invest 2.5 per cent of its total payroll budget in staff wellbeing, and a further 2.5 per cent of its total revenue in staff training and professional development. 5 per cent of the new total salaries for lawyers and non-legal staff (excluding executive and corporate staff) would equate to an additional \$2,872,636 per year.
- **IT systems:** NAAJA expects to require approximately \$341,800 per year (being 20 per cent of the budgeted \$1,709,000 set-up costs) in operational costs to maintain its IT systems.
- **Additional office leases:** NAAJA requires an additional office space in Alice Springs and has been quoted \$250,000 per year. If NAAJA receives the desired additional staffing, it may also need to consider expansions on existing offices to accommodate a large number of new staff.

6.2 Recommendation 2: Grow the volume of funding over time to address need and known system pressures

While the costs outlined for the first year of the funding agreement are sufficient to deliver current workload, they do not account for known future pressures and unmet need. NAAJA estimates that an increase of approximately 5-10 per cent per year will be required to address these pressures and gradually meet unmet demand.

Demand for NAAJA's current services is likely to increase significantly in the current and next funding periods

The level of demand for legal services is variable over time, driven by economic, policy and demographic changes in a jurisdiction. Although it is impossible to reliably predict how future demand for services will

Since my return [in June 2023, after spending six years in Victoria] I have observed a disturbing resurgence in punitive and discriminatory responses to Aboriginal children and their families, doubling down on law-and-order tough on crime responses and overflowing prisons. Now more than ever, there is great need for NAAJA's leadership and voice on these issues and clear direction on reforms that will see better outcomes that improve the health and wellbeing of Aboriginal Peoples and improve safety in our communities.

Manager, NAAJA

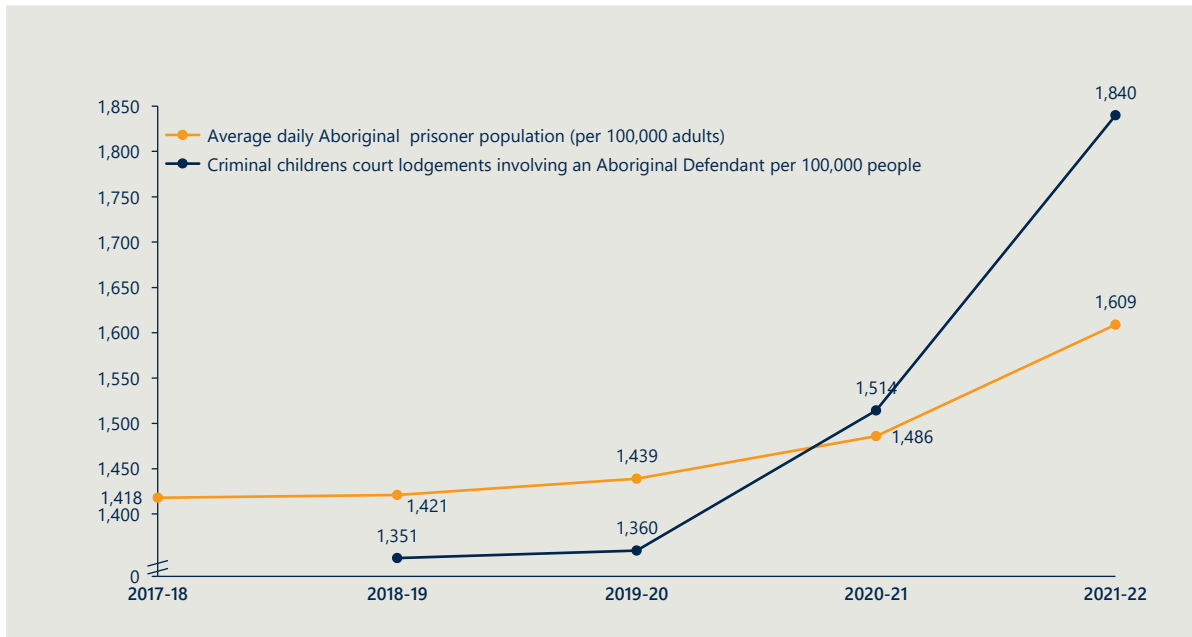
change, NAAJA expects that demand for its current services will rise substantially in the short to medium term based on several key drivers - consistent with the finding of the Review of the Indigenous Legal Assistance Program that providers such as NAAJA face significant service delivery pressures which appear to be growing over time.²⁷

Firstly, poverty is a major driver of NAAJA's civil and criminal work in the Northern Territory. The ongoing cost of living crisis will continue to compound rates of disadvantage in the Northern Territory, and may have latent, lagging effects.

Secondly, NAAJA has observed a growing trend towards 'tough on crime' politics in the Northern Territory characterised by indicators such as more resources for police and more arrests, more stringent bail legislation and defendants on remand, and a growing number of defendants in prison, which NAAJA expects to accelerate. These observations are borne out in some of the Northern Territory data set out in Figure 12, which show 19 per cent and 30 per cent increases.

²⁷Review of the Indigenous Legal Assistance Program (ILAP) 2015-2020, Assistance Program (ILAP) 2015-2020, Attorney-General's Department, page 61, 2019 (available [here](#)).

Figure 12 | The number of Aboriginal Territorians in prison and criminal children’s court lodgements involving an Aboriginal defendant



Thirdly, significant changes in court processes under the Northern Territory Aboriginal Justice Agreement are expected to place much greater demands on lawyers’ time. For example, while the Community Courts initiative is welcome and aims to reduce the amount of Aboriginal people involved in the justice system in the long term, in the short term this initiative will dramatically increase processing times and the demand on practitioners’ time. Currently, lawyers are able to process around five pleas in 30 minutes and two lawyers can process around 20-40 matters on a circuit court sitting day (which is not to suggest this is sufficient). Under the more time-intensive Community Courts model, lawyers anticipate they will be able to process two to three matters over one or two sitting days. Similarly, sentencing reforms such as introducing Law and Justice groups and the removal of mandatory minimum sentences are a welcome development, but increase processing times as lawyers must identify and argue for alternative sentencing arrangements and therapeutic programs for clients.

Fourthly, other capacity challenges in the existing court system can create additional demands on lawyers’ time. For example, matters are often adjourned on the day of hearing due to high caseloads or unavailability of interpreters, requiring multiple hearings to process matters where one would only be required in a fully resourced court system. Local court data demonstrates a steady increase in listings required to finalise matters, pending workload, adjournments, and the number of prisoners on remand²⁸ – all indicating a court system struggling to meet capacity, and the spillover costs this imposes on service providers.

Increased funding is also required to gradually meet unmet demand

As identified in Section 4 there is significant unmet demand at present. While there would be benefit in increasing funding to meet this demand from the first year of the new funding agreement, NAAJA will already be under pressure to recruit new staff and will not be in a position to immediately recruit to this extent.

A phased increase in funding is a pragmatic way to grow NAAJA’s staffing profile and measure the impact of gradually increasing service delivery. The review should also consider national mechanisms to quantify the level of unmet legal need.

²⁸ NT Local court and youth statistics to end of August 2023, 2023 (available [here](#)).

6.3 Recommendation 3: Ensure the funding model is responsive to future changes

Even if recommendation 2 is accepted and the level of funding gradually increases, it is difficult to predict the future and the next NLAP should contain a mechanism to review the level of funding and reassess its appropriateness after three years. Implementing a dynamic funding model will enable funding to be responsive to major changes in cost and demand.

The future funding model must be responsive to major changes in costs

The current NLAP funding agreement distributes a fixed level of funding to NAAJA across the five-year agreement. This approach is not responsive to the dynamic costs or levels of need to which providers must respond.

The current funding agreement accounts for a growth in costs of just over one per cent per year,²⁹ which has been significantly outpaced by inflation rates of 6.1 per cent and 6 per cent in 2022 and 2023 respectively³⁰. This discrepancy between static funding and growing cost of service delivery is unsustainable for both the organisation and for staff, as uncompetitive salaries have been further eroded by cost-of-living increases. Furthermore, the cost of travel which makes up almost a quarter of NAAJA's non-salary costs has increased significantly. A dynamic funding model is necessary to enable NAAJA to be adequately funded to manage changes in the costs associated with service delivery.

Any review of funding appropriateness should reflect dynamic demand for services

In addition to adjusting for factors such as inflation, the review of funding after three years should seek to understand changing legal needs as a result of policy changes. This can be undertaken by considering the rate of increase in legal activity. NAAJA proposes that the proportion of lodgements involving Aboriginal people provides a fair and ready metric for jurisdictions where this data is available. Any sustained and significant increase in legal activity should result in increased legal assistance funding.

²⁹ National Legal Assistance Partnership – Multilateral Signed, Table 4: Estimated NLAP financial contributions to the State – multilateral.

³⁰ Australian National Bureau of Statistics, CPI rose 0.8 per cent in the June 2023 quarter, 2013 (available [here](#)).

Appendix A Modelling method and assumptions

A.1 Workload modelling

The purpose of the workload modelling was to compare the total hours of work delivered by NAAJA's lawyers in a given period against the total hours of staff working time available. Importantly, the scope of this modelling considers lawyers' time only and is confined to services actually delivered – it does not account for large areas of unmet need and demand for more services.

This modelling therefore represents:

$$\text{Total workload} = [\text{Total lawyer hours available}] - [\text{total hours of work delivered}]$$

A.1.1 Lawyer capacity

The first important component of the modelling is the capacity of NAAJA's lawyers.

This can be expressed as:

$$\text{Individual lawyers' regular annual capacity (in hours)} = [52 \text{ weeks} - \text{public holidays} - \text{annual leave}] \times [\text{utilisation rate}]$$

and

$$\text{Total lawyers' regular annual capacity (in hours)} = [\text{Individual lawyers' capacity}] \times [\text{number of lawyers employed}]$$

The assumptions adopted to estimate capacity are described in Table 2 below.

Table 2 | Assumptions about staff capacity

	Assumption	Value	Rationale
1.	Non-working days	6 weeks A/L, 13 public holidays	Staff are not expected to work 100% of the year, and capacity is reduced during this time.
2.	Full time working week	37.5 hours	NAAJA's EBA sets a regular full time working week at 37.5 hours.
3.	Total annual available working hours	1627.5 hours	This is the total annual available staff time based on the assumptions above.
4.	Utilisation	80%	Staff will not spend 100% of their time engaged in processing legal work, as some of this will be spent on paid breaks, internal meetings, and training. This is a reasonable figure for most professional services.
5.	Utilisation-adjusted total annual available working hours	1302 hours	This adjusted figure represents the total amount of time a full-time staff member can spend processing legal work based on an 80% utilisation rate.
6.	Total staff	As set out in Table 3 below.	The total amount of civil and criminal lawyers available to process work is based on staff data.

The assumptions about staffing are described in Table 3 below.

Table 3 | NAAJA's actual staff numbers during reporting periods

	Jan-Jun 2020	July-Dec 2020	Jan-June 2021	July-Dec 2021	Jan-June 2022	July-Dec 2022	Jan-June 2023
Lawyers*	47	47	43	43	52	52	53
<i>Criminal</i>	30	30	28	28	33	33	31
<i>Civil</i>	17	17	15	15	19	19	22
CSOs and administrative support	44	44	37	37	35	35	35
<i>Criminal</i>	33	33	26	26	23	23	21
<i>Civil</i>	11	11	11	11	12	12	14
Executive and corporate staff	15	15	18	18	26	26	55
CLE and Law and Justice staff	1	1	1	1	1	1	2
Total FTE	107	107	99	99	114	114	145

* Hours of work delivered by lawyers was the only staff input for modelling, and therefore only the highlighted staff figures represent modelling inputs

A.1.2 Workload delivered

The total amount of hours of services delivered by NAAJA lawyers comprises time taken to complete matters, travel time to remote communities, and time spent supervising other lawyers' work.

This global total can be expressed as:

$$\text{Total workload delivered (in hours)} = [\text{total file work}] + [\text{total supervision time}] + [\text{total travel time}]$$

Total file work time

NAAJA lawyers do not record the time they work, making it difficult to easily determine the amount of hours worked by lawyers and other staff. The method NAAJA adopted to determine this figure was to multiply:

- The number of NLAP services (excluding non-legal support, information services and referral services) delivered by NAAJA in a given period based on data reported to the NLAP; and
- The weighted average number of hours spent by a lawyer to deliver a NLAP service. This figure was estimated by NAAJA's lawyers in a survey, which is contained in Appendix D.

The number of NLAP matters and estimated average times to complete them are contained in Appendix C.

This sub-total can be expressed as:

$$\text{Total file work (in hours)} = ([\text{number of ABC matters}] \times [\text{weighted average time to complete 1 ABC matter}]) + ([\text{number of XYZ matters}] \times [\text{weighted average time to complete 1 XYZ matter}]) \dots$$

Supervision time

The staff survey asked lawyers to only estimate the time which they spent completing matters, and not account for the involvement of other legal staff. The most important additional input is from other lawyers providing supervision, which is relative to the volume of the file work.

This sub-total can be expressed as:

$$\text{Total supervision (in hours)} = [\text{Total file work}] \times [\text{Supervision value}]$$

The relevant supervision value is contained in Table 4 below.

Table 4 | Assumptions about workload completed

	Assumption	Value	Rationale
1.	Supervision	20%	Staff were not asked in the survey to include the involvement of other people in their estimates – only their own time. The most important additional time is that of supervisors on files. This figure has been estimated based on consultation with senior NAAJA stakeholders.

Travel time

A substantial amount of NAAJA lawyers' time is spent travelling to remote communities to represent clients in bush courts or to deliver outreach services. In the survey to staff, respondents were asked to exclude travel time to remote locations from their survey estimates.

The travel time was based on a sample of travel time derived from a sample of travel allowances for travel conducted over three months between July to September 2023 showing how many lawyers travelled to different communities within this period, including additional time for factors like breaks from driving and time spent checking in and disembarking from flights. This sub-total can be expressed as:

$$\text{Total travel time per reporting period (in hours)} = ([\text{travel time from regional NAAJA office to Community 1}] \times [\text{number of times this trip was completed by staff}]) + ([\text{travel time from regional NAAJA office to Community 2}] \times [\text{number of times this trip was completed by staff}])$$

This analysis suggests the civil team spends around 1,208 hours every 6 months in travel, and 1,737 hours for the criminal team.

A.2 Funded capacity

While the workload modelling above shows the amount of work delivered by NAAJA lawyers, there is a disparity between the staff capacity NAAJA actually has compared with the staff capacity it is funded to have due to a large number of staff vacancies.

The funded capacity can be expressed as:

$$\text{Total funded lawyers' annual capacity (in hours)} = [\text{Individual lawyers' capacity}] \times [\text{number of FTE lawyer positions funded by NLAP}]$$

The inputs to determine the funded capacity are set out in Table 5 below.

Table 5 | NAAJA's funded staff under NLAP and NIAA during reporting periods

	Jan-June 2022	July-Dec 2022	Jan-June 2023
Total FTE	123 + some casual staff	123 + some casual staff	123 + some casual staff
Lawyers	75	75	75
<i>Criminal</i>	50 (44 NLAP, 6 SLA)	50 (44 NLAP, 6 SLA)	50 (44 NLAP, 6 SLA)
<i>Civil</i>	25 (19 NLAP, 6 SLA)	25 (19 NLAP, 6 SLA)	25 (19 NLAP, 6 SLA)
Administrative staff and CSOs	30	30	30
<i>Criminal</i>	18	18	18
<i>Civil</i>	12	12	12
Executive and corporate staff	14 + some casual staff	14 + some casual staff	14 + some casual staff
CLE and Law and Justice	4	4	4

A.3 Overwork modelling

To cross-check the 'top down' assumptions built into the workload modelling, NAAJA conducted a second layer of 'bottom up' modelling by quantifying reports from staff that they were routinely working a large number of extra hours.

This modelling can be expressed as:

$$\text{Total staff hours generated} = [\text{Total lawyers' regular annual capacity from A.1.1}] + ([\% \text{ of staff working extra hours}] \times [\text{Total amount of extra work hours}])$$

The inputs to determine the overwork modelling are set out in Table 6 below.

Table 6 | Assumptions for overwork modelling

	Assumption	Value	Rationale
1.	Lawyers routinely working extra hours	95% of the relevant figures in Table 3	Stakeholders in both the civil and criminal teams estimated that 95% of lawyers worked the additional hours described below.
2.	Extra criminal lawyer hours	30 hours	This figure is based on estimates provided by NAAJA lawyers.
3.	Extra civil lawyer hours	14 hours	This figure is based on estimates provided by NAAJA lawyers.
4.	Lawyers routinely working regular hours	5% of the relevant figures in Table 3	The remainder of lawyers are assumed to work the standard 37.5-hour utilisation-adjusted week.

A.4 Caseload analysis

Caseload analysis provides an additional method by which to assess staff workload. This is an imperfect but indicative metric which does not account for significant variation from file to file. It has been calculated based on the staffing information provided.

It is expressed as:

$$\text{Caseload} = [\text{number of matters}] / [\text{number of lawyers}]$$

Table 7 | Caseload analysis

	Jan-Jun 2020	Jul-Dec 2020	Jan-Jun 2021	Jul-Dec 2021	Jan-Jun 2022	July-Dec 2022	Jan-Jun 2023
NLAP services per criminal FTE	229	278	270	253	193	186	235
<i>Criminal FTE</i>	30	30	28	28	33	35	31
<i>Criminal NLAP services</i>	6876	8342	7566	7083	6381	6524	7285
NLAP services per civil FTE	91	88	113	113	73	74	58
<i>Civil FTE</i>	17	17	15	15	19	19	22
<i>Civil and family NLAP services</i>	1539	1499	1691	1697	1383	1403	1275

A.5 Turnover

Staff turnover is an important metric which helps organisations to quantify the rate at which staff leave an organisation.

It is expressed as:

$$\text{Turnover rate} = [\text{number of staff who leave during a period}] / [\text{number of employees at the beginning of that period}]$$

NAAJA's turnover, and an illustrative example of the impact of high turnover, are presented below.

Table 8 | Rates of total staff turnover

	2020	2021	2022	Jan-June 2023
<i>Total FTE</i>	107	99	116	145
<i>Departing staff</i>	51	36	34	31
Turnover	48%	36%	29%	21%

Table 9 | Illustrating the impact of turnover on staff utilisation

	Current state	Improved state
Rate of turnover: New staff / total staff	30%: 15/50	15%: 7.5/50
Total available working hours per FTE in 3 months	403.1	403.1
Available hours per 80% utilised FTE in 3 months	322.5	322.5
Available hours per reduced 70%-utilised FTE to train others in 3 months	282.1	282.1
Total reduction for trainers	$(322.5 \times 15) - (282 \times 15)$ = 605	$(322.5 \times 7.5) - (282 \times 7.5)$ = 302
Available hours per reduced 60%-utilised new staff member in 3 months	242	242
Total reduction for new starters	$(322.5 \times 15) - (242 \times 15)$ = 1209	$(322.5 \times 7.5) - (242 \times 7.5)$ = 605
Total reduced hours for 30 affected staff members	1,815	907

Appendix B Staffing recommendations

Lawyers

The workload modelling shows that NAAJA's lawyers are significantly over-capacity. However, lawyers have reported that a large proportion of the current casework (but not the travel or supervision) is work which could be transferred to legal assistants and paralegals, Client Support officers, and caseworkers in equal amounts: 60 per cent for the civil team and 30 per cent for the criminal team. This demonstrates a clear opportunity to manage workloads by redistributing current work and investing in non-legal staff.

Criminal

The workload modelling suggests that NAAJA's criminal lawyers delivered approximately 81,598 hours of legal services in 2022-23, consistent with a longer-term average. To deliver this work effectively based on the capacity assumptions in A.1.1, the way work is currently structured and the current scope of services, NAAJA would require about 63 FTE of criminal lawyers. If 30 per cent of this work were effectively restructured and transferred to non-lawyer roles, this would result in:

- Approximately 62,067 total hours of work which is properly performed by a criminal lawyer in a year requiring about 48 FTE of criminal lawyers
- Approximately 19,531 hours of work in a year which can be transferred to non-lawyer roles requiring an additional 15 FTE.

Civil

The workload modelling suggests that NAAJA's civil lawyers delivered approximately 40,180 hours of legal services in 2022-23, consistent with a slight decline on the longer-term average. To deliver this work effectively based on the capacity assumptions in A.1.1, the way work is currently structured and the current scope of services, NAAJA would require 31 FTE of civil lawyers. If 60 per cent of this work were effectively restructured and transferred to non-lawyer roles, this would result in:

- Approximately 21,298 total hours of work which is properly performed by a civil lawyer requiring 16 FTE of civil lawyers
- Approximately 18,882 hours of work which can be transferred to non-lawyer roles requiring an additional 15 FTE.

It is important to observe that these assumptions have been generated based on modelling that occurred after NAAJA reduced the scope of civil services to manage workload. Therefore, although the figure of 16 FTE of lawyers is less than the approximately 20.5 FTE civil lawyers employed in 2022-23, this should not be taken to mean that NAAJA should reduce the number of civil lawyers it hires: rather, maintaining the current FTE of civil lawyers will allow NAAJA to return to or expand the previous scope of its civil services.

Non-lawyer staff

The scope of workload modelling does not allow NAAJA to model the current required number of non-lawyer staff, however, NAAJA assumes that:

- Current non-lawyer staff were equally as over-capacity in 2022-23 as the team of lawyers they supported, and
- Work can be restructured to transfer workload from lawyers to non-lawyer staff in the amounts described in the section above, and
- The total amount of non-lawyer work should be distributed in equal amounts to:
 - Legal assistants and paralegals
 - Client Support officers
 - Caseworkers.

Criminal

Assuming this is the case, current FTE would need to be increased from approximately 22 FTE staff to 43 FTE to address being at around 196 per cent capacity, as well as approximately 15 FTE to process the approximately 19,531 hours workload transferred from lawyers to non-lawyers. These 58 non-lawyer staff required by the criminal team would comprise:

- Approximately 19 FTE in legal assistants and paralegals
- Approximately 19 FTE in Client Support officers
- Approximately 19 FTE in caseworkers.

Civil

Assuming this is the case, current FTE would need to be increased from approximately 13 FTE staff to 20 FTE to address being at 152 per cent capacity, as well as approximately 15 FTE to process the approximately 18,882 hours workload transferred from lawyers to non-lawyers. These 35 non-lawyer staff required by the civil team would comprise:

- Approximately 12 FTE in legal assistants and paralegals
- Approximately 12 FTE in Client Support officers
- Approximately 12 FTE in caseworkers.

Appendix C Data tables

C.1 Weighted average hours required to deliver NLAP services

	Problem type	Service type	Simple matter (20%)	Typical matter (60%)	Difficult matter (20%)	Weighted avg hours
Civil and family matters	Housing	Legal Advice	1.3	3.4	6.2	3.5
	Housing	Representation	5.3	20.5	62	25.8
	Injury compensation	Legal Advice	1.1	2.5	4.1	2.5
	Injury compensation	Representation	5.4	20.8	61.1	25.6
	Consumer	Legal Advice	1.4	3.2	5.9	3.4
	Consumer	Representation	4.3	11.4	37.8	15.3
	Child protection	Legal Advice	1.8	4	6.8	4.1
	Child protection	Representation	10	44	114	51.2
	Child protection	Duty lawyer service	1.8	3.8	8.4	4.3
	Victim compensation	Legal advice	1.1	2.3	3.9	2.4
	Victim compensation	Representation	4.6	13.6	38	16.7
	Social security	Legal advice	1.2	3.3	6	3.4
	Social security	Representation	5	18.7	50.5	22.3
	Mental health law	Legal advice	1.3	3	5	3.1
	Mental health law	Representation	3.5	11.3	25.7	12.6
	Will and estates	Legal advice	0.74	1.5	3.1	1.7
	Police complaint	Legal advice	1.3	2.8	5.6	3
	Police complaint	Representation	6.3	19.3	79.2	28.7
	Prison complaint	Legal advice	2.3	6.2	19.3	8
	Prison complaint	Representation	8.3	21.4	99.8	34.5
	Youth justice complaint	Legal advice	3.6	8.8	27	11.4
	Youth justice complaint	Representation	8.8	27.3	74.8	33.1

	Problem type	Service type	Simple matter (20%)	Typical matter (60%)	Difficult matter (20%)	Weighted avg hours
Criminal matters	Assumed all other civil and family law matters: All other civil or family law matters are assumed to be the average of civil and family law matters based on survey data collected					14.38
	Acts intended to cause injury	Duty lawyer service	1.3	3.3	12	4.6
	Acts intended to cause injury	Representation	2.8	6.7	11.3	6.8
	Domestic and family violence	Duty lawyer service	2	4	6.4	4.1
	Domestic and family violence	Representation	2	3.3	8.6	4.1
	Offences against government procedures, government security and government operations	Duty lawyer service	2	3	10	4.2
	Offences against government procedures, government security and government operations	Representation	3	4	20	7
	Property damage	Representation	3.6	4.3	9.4	5.2
	Dangerous or negligent acts endangering persons	Duty lawyer service	2.2	5	8.8	5.2
	Traffic and regulatory offences	Duty lawyer service	2.5	1.8	3.4	2.2
	Property damage	Duty lawyer service	1.9	2.4	5.8	3
	Theft and related offences	Duty lawyer service	2.1	3.3	10.25	4.4
	Theft and related offences	Duty lawyer service	2.4	4	10.5	5
	Assumed all other criminal matters: All other criminal law matters are assumed to be the average of criminal law matters based on survey data collected					4.65

C.2 Number of services and total hours for NLAP services (January 2020 – June 2023)

	Problem type	Service type	Weighted avg hours	Jan-Jun 20		Jul-Dec 20		Jan-Jun 21		Jul-Dec 21		Jan-Jun 22		Jul-Dec 22		Jan-Jun 23	
				# of services	Total hours	# of services	Total hours	# of services	Total hours	# of services	Total hours	# of services	Total hours	# of services	Total hours	# of services	Total hours
Civil and family matters	Housing	Legal Advice	3.5	111	389	176	617	216	757	185	648	174	610	175	613	182	638
	Housing	Representation	25.8	30	773	32	825	24	618	35	902	36	928	38	979	33	850
	Injury compensation	Legal Advice	2.5	98	249	60	153	75	191	0	0	54	137	56	142	89	226
	Injury compensation	Representation	25.6	23	588	28	715	25	639	30	766	44	1124	44	1124	67	1712
	Consumer	Legal Advice	3.4	119	404	111	376	133	451	76	258	83	281	83	281	57	193
	Consumer	Representation	15.3	35	534	22	336	26	397	37	565	30	458	30	458	27	412
	Child protection	Legal Advice	4.1	101	416	109	449	107	441	104	428	71	293	74	305	63	260
	Child protection	Representation	51.2	19	973	45	2304	27	1382	38	1946	63	3226	63	3226	36	1843
	Child protection	Duty lawyer service	4.3	0	0	2	9	1	4	0	0	0	0	0	0	1	4
	Victim compensation	Legal advice	2.4	64	151	54	127	70	165	53	125	30	71	30	71	53	125
	Victim compensation	Representation	16.7	20	334	30	501	23	384	35	585	27	451	27	451	15	251
	Social security	Legal advice	3.4	50	171	43	147	76	259	66	225	45	154	45	154	40	137
	Social security	Representation	22.3	11	245	9	201	7	156	11	245	7	156	7	156	6	134
	Mental health law	Legal advice	3.1	4	12	0	0	0	0	105	320	0	0	0	0	2	6
	Mental health law	Representation	12.6	48	606	64	809	77	973	59	745	52	657	52	657	41	518
	Will and estates	Legal advice	1.7	35	58	38	63	28	47	24	40	12	20	12	20	25	42
	Police complaint	Legal advice	3	152	461	135	411	150	456	165	501	124	377	126	384	106	322
	Police complaint	Representation	28.7	16	462	19	542	15	444	30	853	29	844	29	844	24	702
	Prison complaint	Legal advice	8	51	415	46	368	51	408	56	449	42	337	43	343	36	288
	Prison complaint	Representation	34.5	5	188	6	221	5	181	10	347	10	344	10	344	8	286
Youth justice complaint	Legal advice	11.4	75	848	67	756	74	839	81	923	61	694	62	706	52	592	
Youth justice complaint	Representation	33.1	8	262	9	307	8	252	15	483	14	478	14	478	12	397	

	Problem type	Service type	Weighted avg hours	Jan-Jun 20	Jul-Dec 20	Jan-Jun 21	Jul-Dec 21	Jan-Jun 22	Jul-Dec 22	Jan-Jun 23							
Criminal matters	Assumed all other civil and family law matters: All other civil or family law matters are assumed to be the average of civil and family law matters based on survey data collected		14.38	464	6669	394	5662	473	6798	482	6938	374	5376	382	5492	299	4305
	Acts intended to cause injury	Duty lawyer service	4.6	1030	4748	1276	5882	1199	5527	1141	5260	1076	4960	1091	5030	1168	5384
	Acts intended to cause injury	Representation	6.8	751	5107	988	6718	982	6678	967	6576	762	5182	798	5426	795	5406
	Domestic and family violence	Duty lawyer service	4.1	688	2809	857	3499	848	3462	707	2887	670	2736	679	2772	864	3528
	Domestic and family violence	Representation	4.1	303	1250	374	1543	398	1642	335	1382	304	1254	311	1283	347	1431
	Offences against government procedures, government security and government operations	Duty lawyer service	4.2	673	2827	794	3335	773	3247	645	2709	585	2457	589	2474	892	3746
	Offences against government procedures, government security and government operations	Representation	7	381	2667	392	2744	347	2429	341	2387	214	1498	226	1582	326	2282
	Property damage	Representation	5.2	114	587	172	886	150	773	160	824	135	695	140	721	149	767
	Dangerous or negligent acts endangering persons	Duty lawyer service	5.2	326	1695	518	2694	315	1638	284	1477	219	1139	222	1154	339	1763
	Traffic and regulatory offences	Duty lawyer service	2.2	491	1088	653	1446	480	1063	415	919	369	817	372	824	280	620
	Property damage	Duty lawyer service	3	185	549	211	626	209	620	213	632	174	516	177	525	269	798
	Theft and related offences	Duty lawyer service	4.4	200	884	144	636	172	760	122	539	213	941	213	941	227	1003
	Theft and related offences	Duty lawyer service	5	153	762	107	533	174	867	197	981	204	1016	214	1066	229	1140
	Assumed all other criminal matters: All other criminal law matters are assumed to be the average of criminal law matters based on survey data collected		4.65	1581	7345	1856	8622	1479	6871	1550	7201	1456	6764	1492	6931	1400	6504
	Totals			8415	47523	9841	55063	9257	51984	8780	52091	7764	46991	7927	47958	8560	48616

Appendix D Staff survey

D.1 Introductory text

As you may be aware, Nous Group (Nous) has been engaged by the North Australian Aboriginal Justice Agency (NAAJA) to undertake demand modelling and prepare a Submission to the [Independent Review of the National Legal Assistance Partnership](#) (NLAP). The aim of this work is to develop a compelling Submission which outlines the unique circumstances and challenges of NAAJA and will also generate modelling of demand for and costs of NAAJA’s services, which can be used to inform NAAJA’s future strategy.

The focus of this survey is:

- To estimate the time staff contribute to completing certain types of legal matters
- To provide an opportunity to provide additional input into the NLAP Submission.

This survey should take approximately 15 minutes to complete and is anonymous.

Ref	Survey question	Responses	Go to...	Purpose	Comments
1.	What is your EBA classification?	<ul style="list-style-type: none"> • CrimLO <ul style="list-style-type: none"> • 1-7 • CiLO <ul style="list-style-type: none"> • 1-5 • PSO <ul style="list-style-type: none"> • 1-8 • N/A – other 	<ul style="list-style-type: none"> • 5 • 4 • 3 • 2 	This immediately helps us distinguish between: <ul style="list-style-type: none"> • Legal v non-legal • Civil vs criminal • Seniority (relevant to the staff mix required to complete files, and associated costs). 	
2.	What is your role?	a. Client Support Officer b. Legal Secretary / personal assistant c. Social worker d. Other: please describe	a. 3 b. 3 c. 3 d. 3	As Social Workers, Legal Assistants and CSOs have very different roles on files but all fall into the PSO category for the EBA, we will need to distinguish between them to understand the different contributions they make to files.	
3.	Do you support the legal work of the civil team, criminal team, or both?	a. Civil b. Criminal c. Both d. Neither	a. Estimating workload + civil law services b. Estimating workload + criminal law services c. Estimating workload + civil law services + criminal law services d. 6	This will help make the distinction for PSOs which is automatically done when we ask if lawyers are CrimLOs or CiLOs.	

Ref	Survey question	Responses	Go to...	Purpose	Comments
4.	Estimating workload + civil law services		a. 6		
5.	Estimating workload + criminal law services		a. 6		
6.	Is there anything else that you think should be included in NAAJA's Submission to the Independent Review of the NLAP? You may wish to consider unique factors about NAAJA or the NT, upcoming policy changes or other factors that may affect costs of and demands for NAAJA's services.	Free text		This is an opportunity for staff to give us some qualitative starting points to ensure we have captured broad based insights before the workshop.	

D.2 Estimating workload

To help NAAJA understand the current demand for its services provided with National Legal Assistance Partnership (NLAP) funding, it is vital to understand approximately how long it takes to deliver NAAJA's legal services. This information can be paired with data about the number of services NAAJA provides to estimate roughly how many hours NAAJA spends in a year delivering its services, how NAAJA should be resourced to deliver these services, and how future changes may impact NAAJA's workload.

As NAAJA does not collect data about time taken to process matters, your experienced estimate as a practitioner is the best source of this information.

In this survey, you will be asked to estimate how many hours you spend to deliver NAAJA's most common services. The survey attempts to account for some of the variation between matters due to their complexity, and for the different roles staff will play when contributing their time to a matter.

D.3 Civil law services

Please estimate the **total hours** you contribute to the different types of matters below, based on your role on these files and the complexity of the matter. The list of services below is not complete but represents the most common civil services provided by NAAJA as captured by NLAP data.

The NLAP Data Standards manual defines services as follows:

- **Representation Services** involve taking carriage of a matter in an ongoing, representative capacity. This includes dispute resolution services, Court or tribunal services, and other representation services where the provider takes carriage of a matter in an ongoing, representative capacity, but due to the nature of the matter it does not proceed to a court, tribunal, or inquiry (or is not required to proceed to one).

- A **Legal Advice Service** is the provision of fact-specific legal advice to a Service User in response to a request for assistance to resolve specific legal problems.
- **Duty Lawyer Services** are legal services provided by a duty lawyer to a Service User at a court or tribunal. This may include advice only, minor appearances, contested applications, pleas and submissions and legal assistance.

To account for complexity, consider the difference between the simplest and most difficult 20 per cent of matters. Put another way, if you think back through the last five times you completed this type of service:

- How many hours did you spend to complete the easiest one?
- How many hours did you spend to complete the hardest one?
- On average, how many hours did you spend to complete the other three?

If the average time is less than one hour, please provide a decimal value (where 0.1 represents six minutes). Please exclude any travel time to communities (which will be captured separately), but include other time spent. If you do not have experience or insight into how long a matter takes, you may leave rows blank.

You may find it helpful to review your diary, recent files or to tally up an estimate in approximate weekly hours at different phases during the file.

Civil / family problem type	Simple or straightforward (the quickest 20%)	Broadly typical (the standard 60%)	Difficult or complex (the slowest 20%)
A legal advice for housing matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for housing matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for injury compensation matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for injury compensation matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for consumer matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for consumer matters	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for child protection matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for child protection matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for child protection matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for victim compensation matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for victim compensation matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for social security matters	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for social security matters	[Response] hours	[Response] hours	[Response] hours
A legal advice for mental health law	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for mental health law	[Response] hours	[Response] hours	[Response] hours

Civil / family problem type	Simple or straightforward (the quickest 20%)	Broadly typical (the standard 60%)	Difficult or complex (the slowest 20%)
A legal advice for will and estates (referral)	[Response] hours	[Response] hours	[Response] hours
A legal advice for a police complaint/matter	[Response] hours	[Response] hours	[Response] hours
A representation for a police complaint/matter	[Response] hours	[Response] hours	[Response] hours
A legal advice for a prison complaint/matter	[Response] hours	[Response] hours	[Response] hours
A representation for a prison complaint/matter	[Response] hours	[Response] hours	[Response] hours
A legal advice for a youth justice complaint/matter	[Response] hours	[Response] hours	[Response] hours
A representation for a youth justice complaint/matter	[Response] hours	[Response] hours	[Response] hours

Additional questions

- Is there anything you would like to add? For example, tasks you find particularly time consuming or unique aspects of the work above which impact how long it takes to process this work.

D.4 Criminal law services

Please estimate the **total hours** you contribute to the different types of matters below, based on your role on these files and the complexity of the matter. The list of services below is not complete but represents the most common criminal services provided by NAAJA as captured by NLAP data.

The NLAP Data Standards manual defines services as follows:

- **Representation Services** involve taking carriage of a matter in an ongoing, representative capacity. This includes dispute resolution services, Court or tribunal services, and other representation services where the provider takes carriage of a matter in an ongoing, representative capacity, but due to the nature of the matter it does not proceed to a court, tribunal, or inquiry (or is not required to proceed to one).
- A **Legal Advice Service** is the provision of fact-specific legal advice to a Service User in response to a request for assistance to resolve specific legal problems.
- **Duty Lawyer Services** are legal services provided by a duty lawyer to a Service User at a court or tribunal. This may include advice only, minor appearances, contested applications, pleas and submissions and legal assistance.

To account for complexity, consider the difference between the simplest and most difficult 20 per cent of matters. Put another way, if you think back through the last five times you completed this type of service:

- How many hours did you spend to complete the easiest one?
- How many hours did you spend to complete the hardest one?
- On average, how many hours did you spend to complete the other three?

If the average time is less than one hour, please provide a decimal value (where 0.1 represents six minutes). Please exclude any travel time to bush courts (which will be captured separately), but include other time spent. If you do not have experience or insight into how long a matter takes, you may leave rows blank.

You may find it helpful to review your diary, recent files or to tally up an estimate in approximate weekly hours at different phases during the file.

Criminal problem type	Simple or straightforward (the quickest 20%)	Broadly typical (the standard 60%)	Difficult or complex (the slowest 20%)
A duty lawyer service for acts intended to cause injury	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for acts intended to cause injury	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for DFV	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for DFV	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for offences against government procedures, government security and government operations	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for offences against government procedures, government security and government operations	[Response] hours	[Response] hours	[Response] hours
A representation (casework) for property damage	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for dangerous or negligent acts endangering persons	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for traffic and regulatory offences	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for property damage	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for theft and related offences	[Response] hours	[Response] hours	[Response] hours
A duty lawyer service for Unlawful entry with intent/burglary, break and enter	[Response] hours	[Response] hours	[Response] hours

Additional questions

- Is there anything you would like to add? For example, tasks you find particularly time consuming or unique aspects of the work above which impact how long it takes to process this work.