Minister for Justice Dr Peter Toyne has reaffirmed the Government’s position on Customary Law in response to the Jeremy Anthony case.

“The government’s position is very clear on this issue, the law says you can’t be released on bail to face physical payback, and we won’t change that law,” Dr Toyne said.

“The Government will continue to rely on the existing Supreme Court decision concerning bail releases for payback.”

“Payback is an area of customary law that will be further addressed in the development of localised Aboriginal Law and Justice Plans, with the view to advance forms of payback that do not breach the criminal or general law, such as monetary payments,” he said.

The Territory Government is committed to implementing the bulk of the NT Law Reform Committee’s Inquiry into Aboriginal Customary Law – ‘Towards Mutual Benefit’.

The Inquiry was established to find some mutual benefit in areas including but not limited to governance, social well-being, law and justice, and economic independence, to support and sustain Aboriginal customary law in areas that do not contravene the Criminal Code.

The Recommendations to be implemented by Government include:

- Providing cross-cultural training to Judges, Magistrates, court officials and others working in the justice system.

- Increasing access to video conferencing facilities in the remote parts of the Territory for use in Court hearings and appearances.

- Ensuring the relevance of Aboriginal customary law is taken into account in the delivery of services to Aboriginal communities and improving the capacity of Government agencies to work respectfully and effectively with Aboriginal communities.

- Assisting communities to develop law and justice plans that can be used to address individual law and order or justice issues.

- Developing and trialling a model to allow community input into the sentencing of some offenders where appropriate.

- Working on strategies to increase Aboriginal participation in the justice system.

- Ensuring that the development and review of legislation considers possible discriminatory impacts on Aboriginal customary law,
subject to the overriding protections offered by International treaties and the NT general law including the Criminal Code.

- Referring the NT Statehood Conference resolution that Aboriginal Customary Law be recognised as a “source of law” to the Northern Territory Standing Committee on Legal and Constitutional Affairs for consideration as part of its reference on the examination of appropriate relationships that should exist between Indigenous peoples and communities, the Northern Territory Government and the wider Territory community.

- Committing to Aboriginal consultation and advice at a local level through the implementation of law and justice plans with broader or more targeted consultation and input in relation to the implementation of the Inquiry’s recommendations as appropriate.

- Improved communication and education about policy and legislation concerning traditional marriages.

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