

Submission to the Senate Select Committee on Measuring Outcomes for First Nations Communities

“Culture is important, because without it, I wouldn’t be me. My culture is important but I wish I had the chance to understand it more growing up in care.” Young person

*“It’s okay if it doesn’t happen in my life in care... I want it to help young people coming into the system and I want them to have a good life.”
Young person*

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About CREATE Foundation

The CREATE Foundation is the national consumer peak body representing the voices and rights of children and young people with an out-of-home care experience.

We represent the voices of over 45,000 children and young people currently in care, and many more with an out-of-home care experience who have transitioned from care, up to the age of 25 (AIWH, 2024).

We are a systems advocate and we are independent from government and non-government service providers. Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care. To do this we:

CONNECT children and young people to each other, CREATE and their community, to

EMPOWER children and young people to build self-confidence, self-esteem, and skills that enable them to have a voice and be heard, to

CHANGE the care system through self-advocacy for the improvements they seek to policies, practices and services, and increase community awareness of their experience.

We achieve our mission by delivering community-based connection, empowerment and advocacy programs for children and young people with a statutory care experience and advocating alongside them to influence system, policy and practice changes to improve their experiences and outcomes.

Introduction

Nationally, 22,908 Aboriginal and Torres Strait Islander children are living in out-of-home care, amounting to approximately 41% of all children and young people in care (AIWH, 2024; SNAICC, 2024, p.16). In keeping with our role as a consumer body and advocate, this submission outlines what CREATE has heard directly from First Nations young people about their over-representation in statutory care systems and the changes they believe will achieve progress on this. It also outlines our understanding of the body of evidence in relation to addressing over-representation, particularly Aboriginal and Torres Strait Islander knowledge and evidence.

Given the scope of CREATE's role and remit, this submission focuses exclusively on the National Agreement on Closing the Gap Outcome 12 Target, to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care arrangements by 45% by 2031.

CREATE acknowledges our positionality as a non-Indigenous organisation and the limitations of our voice in relation to conversations about Closing the Gap. CREATE is committed to working as an ally, advocating for self-determination for First Nations communities and the community-controlled sector, as the paramount guiding principle in relation to the safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and their families. CREATE acknowledges that the community-controlled sector are the experts when it comes to achieving outcomes for communities and their children and young people.

Summary of CREATE's recommendations

- Listen to Aboriginal and Torres Strait Islander children and young people and ensure their right to participate in decisions that impact them.
- Listen to community and the community-controlled sector, and implement the many Aboriginal-led system reviews, inquiries and recommendations already developed.
- Implement *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*, with full prioritisation and resourcing of the Aboriginal and Torres Strait Islander First Action Plan 2023-2026, which outlines the steps needed to reduce over-representation.

- Invest in self-determination by investing in the Aboriginal community-controlled sector, including implementation of Delegated Authority models in all jurisdictions, and investment in flexible, culturally-informed and community-led service responses to the needs of children and families.
- Ensure compliance with the Aboriginal and Torres Strait Islander Child Placement Principle and implementation of Aboriginal Family-Led Decision Making in all jurisdictions.
- Ensure all jurisdictions have a Commissioner for Aboriginal and Torres Strait Islander Children and Young People with full authority under legislation, adequate resourcing, and direct access to all relevant information to ensure an effective oversight function.
- Invest in early intervention to reduce entries into care by addressing the issues contributing to child protection involvement, including investment in family support services and family preservation.
- Address the social drivers linked to child protection involvement, including poverty, family violence, intergenerational trauma, lack of safe and affordable housing, disability related needs, substance issues and mental health.
- Act quickly. Current trends require urgent action to correct. This is critical to improve life outcomes for children and young people and avoid the grief of separation for children, families and community.
- Strengthen data reporting and public accountability, guided by principles of data sovereignty and Aboriginal knowledge and evidence.

Progress under the National Partnership Agreement

Socio-economic Outcome 12 Target: to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care

CREATE is deeply concerned about the lack of progress towards the target for Outcome 12, to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care arrangements by 45% by 2031, as reported by the Productivity Commission's (2024) *Closing the Gap Annual Data Compilation Report* (annual report), and the SNAICC (2024) *Family Matters Report* (2024).


CREATE notes that the overall trend has been an increase in the number of Aboriginal and Torres Strait Islander children in contact with child protection systems in Australia across the last decade, despite commitments under the National Partnership Agreement coming into effect in 2020. CREATE is particularly concerned about the lack of action and investment to implement the changes required to reduce over-representation, which have been well documented in numerous inquiries and system reviews over many years. Without intensive and transformative action and investment, Australian Governments will continue to fail in acting on their commitments under Closing the Gap and will not make progress towards Target 12.

CREATE's recommendations for action

Listen to Aboriginal and Torres Strait Islander children and young people

"Culture is important, because without it, I wouldn't be me. My culture is important but I wish I had the chance to understand it more growing up in care."

Aboriginal and Torres Strait Islander children and young people have a deep insight and lived expertise in relation to their safety, wellbeing and cultural rights. It is crucial to listen to the children and young people as a critical element of child safety. Their lived experience also provides an



important source of evidence about the effects of systems, policies and practices. Additionally, children and young people have the right to be engaged in decision-making about their lives, and they are critical partners in designing system reform to improve the experiences and outcomes of children and young people into the future.

CREATE often hears from young people once they are living in care that:

- They wish to be reunified with family and kin.
- They feel a strong longing for culture and a sense of loss and disorientation when they are not connected to culture.
- They want to have a voice and choice in relation where they live and who they live with, including the choice to live with siblings.
- They want to remain connected with family, kin, culture, Country and community while living in care.
- They want to enact their rights to self-determination, participation and connection to culture.
- Most of all, young people tell us that they want their culture to be respected, and for this respect to underpin all engagements with them, their families and community.

“They [the department] disconnected me from my ancestry. It was culturally rich with my family.”

“I was supposed to be connected with my past and culture. They cut me off from my background.”

“They're my people, of course I want to know about it.”

“I would like to be more connected with my culture. I don't know what that looks like though.”

“I want to help other kids that have been in care re-connect to their family, country and culture.”

“Listen to us about how we are feeling and how we want to change something or see something. Just listen and sit there.”

CREATE strongly recommends the development of community-based youth participation models as part of commitments to shared decision making under the National Agreement, that respect culture and create opportunities to listen to and act on what children and young people have to say.

Listen to community and the community-controlled sector

CREATE acknowledges that Aboriginal and Torres Strait Islander communities are the experts when it comes to achieving outcomes for community and for their children and young people, building on 60,000 years of growing kids strong.

The knowledge on how to address over-representation is there. There have been numerous Aboriginal-led system reviews of child protection and care systems since *Bringing Them Home* (1997), including *Family is Culture* in New South Wales (2019), the Yoorrook Justice Commission's report on injustice in the child protection system in Victoria (2023), and SNAICC's annual *Family Matters* report, among many others. The actions needed to reduce over-representation of First Nations children in care are well documented. They simply haven't been implemented and resourced. As a priority, all Australian Governments need to urgently implement the recommendations of these reports.



Implement Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026

Australian Governments also need to implement and resource the actions under the *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026*. The lack of progress to date on Target 12 reflects a failure to implement these actions. As the key national approach expressly designed to reduce over-representation, the Action Plan addresses actions to:

- Implement Delegated Authority models.
- Resource the community-controlled sector.
- Enact data sovereignty.
- Build a sustainable workforce across the community-controlled sector.
- Ensure accountability in relation to the Aboriginal and Torres Strait Islander Child Placement Principle.
- Ensure access to legal supports for Aboriginal and Torres Strait Islander children and families interacting with child protection systems.
- Ensure the appointment of a Commissioner for Aboriginal and Torres Strait Islander Children and Young People in all jurisdictions.
- Address the social determinants that drive over-representation of First Nations children in care.

Unfortunately, to date many actions have stalled due to a lack of dedicated investment at both Commonwealth and state and territory levels. It is imperative that this Action Plan is implemented as a national priority if Australian Governments are serious about children's safety and wellbeing.


Invest in self-determination by investing in ACCOs

Although 41% of children and young people in OOH nationally are Aboriginal and Torres Strait Islander, only 6% of child protection funding goes to ACCOs (SNAICC, 2024). For progress to be made in addressing the over-representation of Aboriginal and Torres Strait Islander children in care, Governments need to adequately and proportionately resource the community-controlled sector. This requires Governments to transfer resources and decision making to community.

Evidence shows that the community-controlled sector is best placed to address the needs of First Nations children, young people and their families, through community-based and culturally safe service responses. In order to reverse trends in over-representation of First Nations children in care, investment is needed in flexible service models designed and delivered by community-controlled organisations to meet local needs, underpinned by culturally safe and culturally rich practice.

As reflected in numerous reports (e.g. Lawrie 2024), non-Indigenous child protection practice and decision-making can be culturally unsafe for Aboriginal and Torres Strait Islander children and families, and can perpetuate biases and structural racism. For example, mainstream child protection practice and assessment tools can perpetuate a culture of heightened surveillance of First Nations families, confuse poverty with neglect, and not take account of complex kinship systems and collective approaches to caring for children in communities, leading to more notifications to child protection and more intrusive interventions (SNAICC 2024).

Additionally, at CREATE we hear from First Nations young people about their strong preference for culturally safe ACCO-led services, and placement with Aboriginal carers. Young people also express that they want to be involved in decision making about their care, and they want their family and community involved in decision-making. In this context, CREATE recommends the full implementation of Aboriginal Family-Led Decision Making nationally, led by ACCOs. This should be complemented by stronger compliance and oversight of operationalisation of the Aboriginal and Torres Strait Islander Placement Principle in all jurisdictions.



Finally, CREATE strongly urges Governments to fully implement Delegated Authority models nationally, underpinned by legislative reform and supported by adequate resourcing and backbone funding. This will be major step in Government genuinely handing over decision making power and resources to Aboriginal communities. It will lead to better outcomes for children and their families, and it will significantly progress efforts towards Target 12, given that transfer of authority leads to increased family preservation and reunification, thereby reducing over-representation (SNAICC, 2024).

Invest in early intervention

In 2022-2023, only 15.4% of child protection expenditure nationally went to family support services, including intensive supports; the remaining 84.6% went towards statutory interventions and out-of-home care (SNAICC, 2024). The very high rates at which children are removed from their families, necessitate an urgent need to shift investment to ensure Governments and community are mobilised to do everything they can to support families and communities before children enter care. Investment to support family functioning should be directed to culturally-led prevention, family support, family preservation, and early intervention programs. Funding increases in family support services will stem child removals by supporting families earlier and addressing the conditions resulting in child safety concerns.

Investing in ACCOs to deliver culturally safe early intervention will not only achieve improved outcomes for children and families by reducing entry to care and reducing the grief of separation for children, families and communities. It will also achieve savings for state, territory and federal Governments. Economic modelling shows significant avoided costs for Governments through investing in early intervention, amounting to billions of dollars each year (Social Ventures, 2020).

Finally, in addition to investing in early intervention, CREATE recommends an increased investment in culturally-led reunification programs to reduce the length of time Aboriginal and Torres Strait Islander children and young people spend in care.

Address the social drivers


Aboriginal and Torres Strait Islander communities are disproportionately exposed to social and economic disadvantage. Child protection reforms in isolation will not address the social, cultural and structural conditions that result in Aboriginal and Torres Strait Islander children, young people and families becoming involved with child protection systems. These conditions include poverty, housing instability, family violence, mental health, unsupported disability needs, and intergenerational trauma.

Efforts to reform child protection systems must be supported by comprehensive and resourced approaches across multiple service platforms. This includes implementing critical reforms such as work under Our Ways – Strong Ways – Our Voices: National Aboriginal and Torres Strait Islander Plan to End Family, Domestic and Sexual Violence, which will support efforts to reduce the number of First Nations children in care.

Act quickly. This is urgent.

Although child protection systems are designed with a view to remove children from harm and provide safe care when they cannot live with biological parents, it is important to note that children living in out-of-home care are not always safe and well. They can experience adversity while in the child protection and care systems.

Additionally, children and young people with a care experience are exposed to risk factors impacting on their wellbeing and life outcomes. This is clear when considering the high levels of criminalisation of young people in care, especially residential care. In 2022-23, 65% of those under youth justice



supervision had interacted with a child protection system in the last 10 years (AIHW, 2024). CREATE is also concerned about experiences of housing and homelessness among young care leavers. One young person in the Northern Territory told CREATE:

“You know what’s funny? They took me out of a homeless shelter when I was younger and when I left care they put me back in one.”

Most worrying, children can also experience harm while in care, as reflected in AIHW data on substantiations of abuse in care. In 2022–23, around 1,200 children in Australia were the subject of a substantiation of abuse in care. Of these children, 51% (630) were Aboriginal and Torres Strait Islander (AIHW 2024; SNAICC 2024, p.35).

Governments need to urgently act to reduce rates of child removal because the right supports, provided at the right time, in the right way could prevent this outcome for many families.

Strengthen reporting and enact data sovereignty

CREATE supports a review of outcomes measures and indicators, guided by principles of:

- Aboriginal and Torres Strait Islander knowledge and evidence.
- Data sovereignty for First Nations communities.
- Aboriginal and Torres Strait Islander led evaluation approaches under Closing the Gap.

Considerations for data capability, reporting and progress indicators under Target 12 should include:

- The development of an Aboriginal-led evaluation strategy for the Priority Reforms, as recommended by the Productivity Commission.
- Setting investment and commissioning targets for the proportion of funding for child protection and family support services that is directed towards ACCOs, proportionate to the population of Aboriginal and Torres Strait Islander children involved with child protection systems.
- Establishing targets related to the proportion of investment directed to early intervention programs and services, as opposed to statutory interventions and care services, supplemented by measures related to access to intensive family support services.
- Implementing the range of measures included in the Aboriginal and Torres Strait Islander First Action Plan under the Safe and Supported framework.
- Data sovereignty and resourcing of data capability for Aboriginal and Torres Strait Islander communities, underpinned by Indigenous data governance, as noted by the Productivity Commission (2024).
- Indicators for cultural health and wellbeing, as cultural connection is a protective factor for children, families and communities.
- Strengthening national counting rules for children in care, ensuring national data reporting includes children on permanent care orders to provide a true reflection of the number of children living in care arrangements. Nationally, 73% of Aboriginal and Torres Strait Islander children in OOHC in 2021–22 were on long-term Guardian and Custody Orders and Third Party Parental Responsibility Orders (SNAICC, 2024, p. 37). Exclusion of these arrangements from counting rules makes the children and young people under these orders invisible and results in effective under-reporting of the number of children removed from their families and living in care arrangements.
- Uplifting public transparency and accountability through regular public reporting by all Governments, including data dashboards outlining progress on all relevant measures, indicators and targets.



Conclusion

Thank you for the opportunity to make a submission to the Senate Select Committee Inquiry on Measuring Outcomes for First Nations Communities. CREATE Foundation strongly urges all Australian Governments to engage in transformative action and invest in self-determination for Aboriginal and Torres Strait Islander communities. It is urgent for Governments to act now and invest in self-determined approaches to addressing the needs of First Nations children and families to ensure current trends are interrupted. This will save lives and save families, support healing for communities, and improve experiences and outcomes for generations of children and young people.

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Contact

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References

Australian Human Rights Commission (1997) *Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, Australian Human Rights Commission, Sydney.

bth.humanrights.gov.au/sites/default/files/documents/bringing_them_home_report.pdf

Australian Institute of Health and Welfare (2024) Child protection Australia 2022–23, Supporting children. <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2022-23/contents/insights/supporting-children>

Commonwealth of Australia (2020) *National Agreement on Closing the Gap*.

https://www.closingthegap.gov.au/sites/default/files/2022-09/ctg-national-agreement_apr-21-comm-infra-targets-updated-24-august-2022_0.pdf

Davis, M (2019) *Family is Culture: Independent Review into Aboriginal Out-of-Home Care in NSW*.

<https://dcj.nsw.gov.au/documents/children-and-families/family-is-culture/family-is-culture-review-report.pdf>

Productivity Commission (2024) Closing the Gap Annual Data Compilation Report July 2024, Canberra. <https://www.pc.gov.au/closing-the-gap-data/annual-data-report>

Lawrie A (2024) *Holding on to Our Future: Final Report of the Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children and young people in South Australia*, Commissioner for Aboriginal Children and Young People South Australia. https://cacyp.com.au/wp-content/uploads/2024/06/CACYP-Inquiry_Final-Report_14052024.pdf

SNAICC (2024) *Family Matters – Strong communities. Strong culture. Stronger children*.

<https://www.snaicc.org.au/our-work/child-and-family-wellbeing/family-matters/>

Social Ventures Australia (2020) *Keeping families together through COVID-19: the strengthened case for early intervention in Victoria's child protection and out-of-home care system*.

<https://www.socialventures.org.au/wp-content/uploads/2024/07/Keeping-families-together-through-COVID-Full-Report-2020.pdf>

Yoorrook Justice Commission (2023) *Yoorrook For Justice Report: Report into Victoria's Child Protection and Criminal Justice Systems*, Parliament of Victoria.

<https://yoorrookforjustice.org.au/wp-content/uploads/2023/08/Yoorrook-for-justice-report.pdf>