

Submission to the Senate Inquiry into Measuring Outcomes for First Nations Communities

14 March 2025

About this submission

This submission gifts to the inquiry the voices and stories of members of the National Community Legal Sector First Nations Justice Network. Network membership is open to Aboriginal and Torres Strait Islander workers from the national community legal sector movement. Members of the network have created this submission collaboratively with secretariat support from Community Legal Centres Australia. The knowledge informing this submission ranges from subject matter expertise including cultural, academic and legal perspectives, to deep historical and contemporary first-hand and personal and professional experiences of what is happening in Aboriginal and Torres Strait Islander communities across this continent.

To prepare the submission, members of the National Community Legal Sector First Nations Justice Network met on five separate occasions to share stories and experiences, and to develop and refine the calls to action it contains collectively. Altogether, close to 30 network members participated in these meetings. Throughout the drafting process all members of the First Nations Justice Network, its sister network, the National Aboriginal and Torres Strait Islander Women's Network, and state-based networks of Aboriginal and Torres Strait Islander community legal sector workers in NSW and Qld, had access to and permission to edit the submission.

Acknowledgement of Country



Community Legal Centres Australia recognises that the land we work, live, and learn on is unceded Aboriginal land. Our office stands on Gadigal Land. We acknowledge Elders, both past and present. We acknowledge the First Nations workers in our sector across a great many Aboriginal lands on this continent and its surrounding islands, and we thank them for their generosity and persistence in supporting our sector to always be on a journey of learning and growth.

Endorsements

This submission has been created by:

The National Community Legal Sector First Nations Justice Network

This submission has been endorsed by:



**First Nations Women's
Legal Service Queensland**



Mob Strong Debt Help



**Dhurrawag Aboriginal
Human Rights Program
Canberra Community Law**



Victorian Aboriginal Legal Service



Queensland Advocacy for Inclusion



**First Nations Advocates Against Family
Violence**



Community Legal Centres Australia

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Introduction

This submission is a truth-telling document. It does not provide recommendations or open the door for further negotiation and dilution by governments of what we know needs to be done to improve outcomes for Aboriginal and Torres Strait Islander peoples and communities. It is a gift of cultural knowledge and expertise, and a call to action. We urge governments to listen deeply.

How many of us have been part of evaluations, research papers, providing recommendations to governments? It's so deadly that we create pieces like this, but then they shimmy back up to government and all they do is say "we don't actually have to do that because it's just recommendations."

What they do then is take the information that we have gifted to them, dissect it like a frog, take bits, move around and shift things, and then tell us that they've decided what they think is best.

So, we are no longer writing recommendations to negotiate with government. This is not negotiable. It's a call to action. You cannot dilute the cultural context around such important work, we are telling you now that these are the actions that must happen.

I'm conscious of how many times as mob we've done this. We're talking about Closing the Gap – but whose gap is it? It's not my gap. It's not our gap as Aboriginal people. It's a systemic gap and it's the government's responsibility to start owning their wrongs, misinterpretations and perceptions around how mob should be doing our business.

Lisa Warner, Yankunytjatjara Woman, Aboriginal Community Worker

The Stolen Generations never ended. The Stolen Generations – systematic removal of Aboriginal and Torres Strait Islander children from culture, and denial of self-determination – continue to this day, just driven by a slightly different legislative framework. It is this truth that underpins the worsening outcomes for First Nations communities.

The only real difference they've made today is not putting them in boys' homes, but they still have resicare, so what's the difference? I'm talking about boys' homes because that's where my pop was taken. They had girls' and boys' homes and now they just have resicare. It's the same thing; it's just got different words.

My pop was taken from Cowra Mission up to Kempsey Boys' Home, Kinchela. It's exactly the same, the stories he tells me and the stories I hear today. The only difference is there weren't reports. Very few reports are made now, but they have some kind of checking mechanism. Nothing's really changed, to be honest.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

Some would refer to regression against Closing the Gap targets as a failure in systems. However, we see the system thriving as a well-oiled machine, doing what it was initially designed to do – remove children, assimilate, and ultimately eradicate First Nations people.

We're still the cattle they're making money off. We're being used as part of a bigger system. A majority of the criminal and child protection systems are because of our people. Criminalising our people and removing our kids keeps people in jobs. Why can't we create jobs in other areas that would be more supportive rather than dealing with things at the end? We're catching it as it gets to the point where someone's committed an offence, when a parent is suffering from trauma. These things could have been prevented rather than dealing with things when they're at the worst.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

Under Closing the Gap Priority Reform 3, the Federal Government has an obligation to commit to “systemic and structural transformation of mainstream government organisations to improve accountability, and to respond to the needs of Aboriginal and Torres Strait Islander people”.¹ It is not meeting this obligation. Governments continue to drive systemic inequity.

There is no equity on the basic foundations. We are asking for commitments on structural transformation to bring equity in access to finances, access to housing, access to education. Would we be in this situation with the number of kids removed, so many of our mob incarcerated, if there was equity there? They need to give as much funding as they do to putting us in prison, into those foundational things that would prevent prison.

It'd cost less for them to do the things that keep people out of prison than they spend putting us in. But for the moment, it'd be a bit of a budget deficit, because they'd need to do the work to keep people out first, while people are still in, so they're not going to do that.

Bettina Cooper, Senior Financial Counsellor and Strategy Lead, Mob Strong

This submission shares stories from First Nations people working in communities across the continent, in relation to the removal of Aboriginal and Torres Strait Islander children, suicide rates, and adult incarceration. It explains these truths as evidence of the ongoing Stolen Generations and calls on the Federal Government to meet its obligation to deliver systemic and structural transformation for First Nations people.

There is no cure better than prevention. It feels like the government is saying 'let's create problems, and then we fix them with removal' rather than preventing these problems to start with.

**Christie Drummond, Dunghutti woman
Family Violence & Care and Protection Advocate working in the disability space**

¹ Closing the Gap, Priority Reform 3 – Transforming Government Organisations, accessed 6 March 2025, <https://www.closingthegap.gov.au/sites/default/files/files/priority-reform-3.pdf>

Aboriginal and Torres Strait Islander children in out of home care

The *Bringing Them Home* report, tabled in Federal Parliament on 26 May 1997, concluded that forcible child removal was an act of genocide and that the treatment of Aboriginal and Torres Strait Islander people represented a gross violation of human rights.² It found that between one in three and one in 10 Indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970. The report made 83 recommendations to the Federal Government including a national apology, reparations, and improved services.

A February 2025 report by The Healing Foundation, *Are you waiting for us to die? The unfinished business of Bringing Them Home*, finds that, almost thirty years on, only five of the 83 *Bringing Them Home* recommendations (or 6 percent) have been clearly implemented. The report's findings include that:

Overall, federal, state and territory government responses to the Bringing Them Home report have been woefully inadequate.

*The requirement for a 'whole-of-government policy response with immediate targets, long-term objectives and a continuing commitment' has not eventuated. There has been 'no systematic government response to the needs and rights of Stolen Generations survivors and their descendants'.*³

It notes that in the almost thirty years since the *Bringing Them Home* report was tabled, 'both the removal of Aboriginal and Torres Strait Islander children into child protection systems, and the mass incarceration of Aboriginal and Torres Strait Islander people, have increased dramatically.'

As of 2024, Aboriginal and Torres Strait Islander children were 5.6 times more likely than non-Indigenous children to be subject to a child protection notification, but 10.8 times more likely than non-Indigenous children to be in out-of-home care or subject to a third-party parental responsibility order.⁴ In just four years from 2019-2023, the rate of Aboriginal and Torres Strait Islander children in out-of-home care rose from 54.2 to 57.2 per 1,000 Aboriginal and Torres Strait Islander children. The Productivity Commission estimates that by 2031 the rate will be 63 per 1,000 children.⁵

For these reasons and more, we understand the contemporary Australian legislative framework with respect to First Nations people as a continuation of the Stolen Generations. We share below some of our experiences of the ways current frameworks drive this continuation, in relation to the overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care.

² Human Rights and Equal Opportunity Commission 1997, *Bringing Them Home – report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Commonwealth of Australia, Canberra.

³ Ibid.

⁴ SNAICC National Voice for our Children, *Family Matters*, 2024, accessed 6 March 2025, <https://www.snaicc.org.au/our-work/child-and-family-wellbeing/family-matters/>

⁵ Ibid.

Government workers often work against First Nations families

Child safety officers regularly fail to meet their legal obligations to families, particularly when the families involved are Aboriginal and Torres Strait Islander families. Often, parents are not served with documents or provided copies of relevant paperwork, which leaves them unable to access help from Legal Aid. That is, parents are not provided with the material they are entitled to in relation to the matter, and that they need to access help. Some families we work with have been involved with a child safety process for a year, 18 months, even three or more years, without ever having been told that they can speak to a lawyer or provided with their documents by government workers.

I've caught child safety in lies. They say they have served the client. I say that they should serve me, as the client's lawyer. Then, they say that they haven't drafted the papers yet. People should be getting served on time, with documents in the form that they need to be in.

Amelia, Bundjalung Woman, Solicitor

Parents with disabilities are regularly denied due process. First Nations parents with disabilities are often not even informed that there is a child safety investigation until it is far too late for them to access assistance. Some are only informed when there is already a presumption that the child will be removed, or when the children are being removed from them. At this stage, it is impossible for services like community legal centres to put supports in place to help these families. In our experience, this is one of the greatest barriers to keeping families safe at home together.

There are also early intervention processes that aren't shared or utilised, meaning clients only see us when an order has been made, and it is too late to materially change anything.

Amelia, Bundjalung Woman, Solicitor

There's a young mum at the moment who only found out about the safety assessment the day of the safety assessment. Two days later, the child was assumed into care. We could've done so many more things over the 9-month period before removal to help her, if that had been an option.

**Christie Drummond, Dunghutti Woman
Family Violence & Care and Protection Advocate working in the disability space**

The Stolen Generations mentality endures, and the system is set up to be adversarial, not supportive. When it comes to First Nations children, we understand that governments' goal right from the start is to remove children. The actions government workers take through the process serve the interests of this goal rather than the best interests of children, parents or communities.

I've had a few mums meet their goals, only to then hear further excuses beyond that. They can meet their goals, gain housing, and then the goalposts are shifted.

Every single word you say to a social worker is noted down. You think that they're there to help you. We're a trusting mob. But then, you read their notes at court and find that they were only trying to build a case against us. They're unforgiving.

We need to be clear with our people on what the role of a social worker is, what they're there to help us with and not help us with. Whose interests are they for?

**Christie Drummond, Dunghutti woman
Family Violence & Care and Protection Advocate working in the disability space**

When children are removed, parents must have clear and reasonable reunification goals set out to them and then be supported to meet them. There should be independent Aboriginal organisations funded to work with parents to advocate for them, help them understand the process, and to support them to achieve their goals.

The overall goal is meant to be prevention first, before removal. The idea is the parents sign an Intervention with Parental Agreement (IPA) safety plan and go through a process to keep the kids in the home.

The biggest break in my current matters is that this hasn't been done properly. They will do a quick IPA with a parent, not explain it properly, and not be clear about what it means.

Parents get heightened concerns because child safety is on their doorstep. I had one client who got so scared, they left the state, so the kids got removed that day.

If a lawyer from the office was available for the process of signing the IPA, explaining it to the client, making it not adversarial or scary, then that leads to a different outcome for the client.

There is no consistency around offering a lawyer. They might ask once as a throwaway. There needs to be a real opportunity for parents to get legal advice at that point in time – the earliest point possible. If it waits until they're going to court, then the child's been removed, maybe has been for months.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

Parents must be able to access legal advice before removal. Legal advice and advocacy must be provided for families at the earliest point possible, as soon as child safety has first contacted the parent. This must be free, regardless of income and assets, independent and culturally appropriate, and it must cover pre-natal cases.

Decision-making about the removal of First Nations children from their families is not culturally appropriate

The decision to remove an Aboriginal or Torres Strait Islander child from their family is a decision to strip that child of their culture and identity. It can be a decision that traumatises a child for life. It can be a decision that removes a child from their Country for many years. It is life-altering, and its impact is profound and far-reaching.

Different jurisdictions empower different organisations or individuals with the final decision-making authority as to removal of First Nations children. In no jurisdiction is this process culturally appropriate, and in no jurisdiction do decision-making processes result in safe and equitable outcomes for children and their families.

In some jurisdictions, like NSW, the final decision ultimately comes from the government department. Even where organisations working closely with families recommend that the child should remain at home, the department can and often does intervene to override this recommendation and remove the child.

In other jurisdictions, there are frameworks to provide First Nations people with delegated authority to make these decisions. The new system of delegated authority in Queensland positions one Indigenous CEO as the delegated authority with final decision-making power over the future of Aboriginal and Torres Strait Islander children in a given area.

While it is preferable for our people to be making decisions about our communities, there are still problems with this approach. In some cases, the CEO tasked with making these life-altering decisions for Palm Island children and families is based in Townsville. Palm Island has a population of approx. 5,000 Aboriginal and Torres Strait Islander people. In some cases, a CEO tasked with making these decisions may be young, inexperienced, or not connected with culture. It is inappropriate to place this responsibility on one person – it is too much power and authority, and can cause harm, including to the person making the decisions.

Where there is no delegated authority in place, decisions about the safety of First Nations children should be made by a collective group of senior, respected Elders and senior people from the local First Nations community. These people should be very informed of policy, processes, as well as cultural and kinship knowledge. Elders in the community know the history of the families, know about the wider kinship network, and are in a position to identify people in the wider kinship network who may be able to become a carer.

**Florence Onus, Community Development Worker and Cultural Advisor
Birrigubba, Bidjara, Kairi and Jagalingu Descendant**

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak provides further information on the system of delegated authority in place in that jurisdiction.⁶

⁶ Queensland Aboriginal and Torres Strait Islander Child Protection Peak, *Delegated Authority*, <https://www.qatsicpp.com.au/our-work/delegated-authority/>

Over-criminalisation of First Nations communities creates systemic barriers to kinship care

First Nations people are too often not given the option of kinship care when a child is removed. It is common for many family members to put their hands up, but to be denied kinship care because of barriers to being approved. Instead, Aboriginal and Torres Strait Islander children are removed from family, community and culture, continuing the Stolen Generations.

Every state and territory has its own system and legislation surrounding the check it conducts to determine whether the state deems a person an unacceptable risk to children. In most jurisdictions this is called a 'Working with Children Check' ('WWCC'), or some close variant. For the purposes of this submission, we use the Queensland term 'Blue Card' as most of the knowledge shared in this section is from Queensland-based workers.

A person must have a current Blue Card to have children in their care. In addition, all adult members their household must have one, too. This means that if one household member, such as the partner or adult child of a prospective kinship carer, cannot get a Blue Card, then the child cannot be placed with their family. Blue Card checks look far back into a person's history, and there is a huge range of things that can disqualify a person. Blue Card checks include pending and non-conviction charges and other disciplinary records – they go beyond what is checked in the Nationally Coordinated Criminal History Check.

We've come across lots of family willing to take these kids on. The kids should be given the right to live with their family, but Blue Cards are a barrier. Instead, kids are taken from their hometowns and communities, put into residential care, forced to live with strangers. They're leaving everything they know.

They lose their identity, their culture, and that can cause a whole lot of harm into the long term. They can experience behavioural problems that don't get addressed in care, leading to youth crime and then adult incarceration.

**Naomi, Paralegal, Townsville Qld
Kalkadoon Decedent**

As a population subjected to extreme over-policing and over-criminalisation, many First Nations people cannot get a Blue Card. For example, Aboriginal women that police misidentify as a respondent in a domestic violence situation then become ineligible for a blue card as a result while they are named as respondent, as well as into the future.

The problems filter on from domestic violence to out-of-home care. If a mother has been mistakenly identified as the perpetrator of domestic violence by QPS they are no longer eligible for a Blue Card. Which creates an entire intersection of mob who 'do not qualify' to help keep our kids with family and in kinship care.

Amelia, Bundjalung Woman, Solicitor

Sometimes people have a police record from when they were children. They're now in their 60s, but it may be a barrier to them getting a Blue Card, so they can't become a kinship carer.

My sister and I were members of the Stolen Generations. My sister ran away to look for our family and was given a criminal record as a child. She found out years later that she had a criminal file. It's this type of thing that gets in the way of people getting blue cards and other opportunities.

**Florence Onus, Community Development Worker and Cultural Advisor
Birrigubba, Bidjara, Kairi and Jagalingu Descendant**

We want people with lived experience looking after our kids. In some roles, lived experience will be more beneficial than professional qualifications. Someone who's studied 6 years at university won't know what people who've lived the same upbringing as those kids will about what's best for them.

I've heard stories of people sleeping outside on the doorsteps of where their kids or grandkids are living in out-of-home care, for that protection that they wished they had as a kid.

I used to run a program for formerly incarcerated people from Bundaberg to Ballina, but only 20% of the participants knew which Country they came from. Identity was taken through removal from home life, kinship ties. It's all intertwined and linked.

So, the Blue Card system needs to be reviewed, and special exemptions made for kinship care, so people can take on young ones and keep them connected to family and Country.

First Nations worker in the community legal sector

The Blue Card system should be reviewed, and special exemptions made for kinship care, perhaps with some kind of probationary period or other First Nations self-determined protective measures. There should also be consideration made for roles where lived experience of the problems harming our communities, like criminalisation, will be more beneficial than professional qualifications. The current system is based on the western worldview, and this contributes to assessments of First Nations families being made incorrectly. There is not enough emphasis on the cultural benefits of children being placed with kin.

Children's safety is of primary importance, and kids must be kept in safe homes. The current system is not doing this. Governments must not keep removing First Nations children from their Country and stripping them of their culture because racist systems target and criminalise our people.

First Nations children are not kept safe and healthy in out-of-home care

In our experience, many children in out-of-home care do not receive health assessments. Many of these children have physical and mental health problems. They may have complex issues or developmental delay, have suffered foetal alcohol spectrum disorder (FASD), or have mental health illnesses, disabilities, and significant and complex trauma. Supports for these issues are lacking in out-of-home care, particularly when children are not even assessed. Child safety officers are often not informed of these issues or provided with appropriate professional development to support children with these complex needs. Health assessment is very important so that children's physical, emotional and social developmental needs are identified, and they can be given all the support they need.

Aboriginal kids with complex issues are put in the 'too hard' basket with an expectation and handed over to the Indigenous workers to deal with them. However, the residential workers may not have the right training and do not have capacity. They are young and may not have received trauma informed practice training to support the residents.

Florence Onus, Community Development Worker and Cultural Advisor
Birrigubba, Bidjara, Kairi and Jagalingu Descendant

Regularly, we see First Nations children removed from their homes and families because of allegations that the parents are not managing the child's health needs. Then, in foster care, the child's health needs remain unmet. In many cases, the child is given over to a carer but then receives no dentist, doctor, or other specialist appointments. We see kids getting no form of medical follow-up after being removed because of health concerns. We see parents advocating for their child's health needs but having no power to take steps to address these needs because their child has been given to someone else.

We've seen this several times over. There's a child in foster care who has serious health needs. They were removed because of allegations of these health needs being unmet, but once in foster care the needs remain unaddressed. The kid could have had that very same health problem but living at home with their parents – and support given to the family to meet the child's health needs.

Amelia, Bundjalung Woman, Solicitor

First Nations workers and children experience cultural harm in residential out-of-home care

First Nations children often do not receive culturally appropriate care in residential facilities. In many cases, there are not enough First Nations workers to meet the needs of the children and young people in care. This can drive poorer outcomes for the children and young people whose cultural and spiritual needs are not being considered or prioritised and raise a range of problems for the workers. For example, young Aboriginal men working in out-of-home care have told us of being asked to address the needs of, and work closely alone with, teenage girls who have significant trauma and behavioural issues. This is a totally inappropriate situation to place both the workers and the children in.

The expectations non-Indigenous staff often place on First Nations workers are often entirely unreasonable. First Nations workers often have unmanageably high workloads, are expected to work with the highest-needs children, are subjected to greater levels of vicarious trauma and stress and are regularly asked to work far above their professional skill and training level just because the child in question is Aboriginal or Torres Strait Islander. This places an unreasonable and unsafe cultural load on First Nations workers. Instead, First Nations workers should be provided with professional development and support, and the work given to them must be appropriate to their professional experience, training, compensation and grading.

There is a lack of real accountability for mainstream service providers and non-Indigenous staff who place First Nations workers and children in unsafe environments. Many First Nations workers are leaving because of the cultural inappropriateness of most out-of-home care settings, and the harm this inflicts on children. Professional development and training should also be provided to non-Indigenous staff on worldviews, cultures and customs of First Nations people, which are often harshly judged by western approaches.

Governments' double-punishment policy when a child is removed prevents restoration with families

Government policies economically punish parents whose kids are removed, and this sets parents up to fail in their efforts towards restoration. When a child is removed, the Family Tax Benefit is stripped from the parent and instead paid to the (government, or government funded) out-of-home care provider taking custody of the child. This gives governments a financial incentive to remove children. At the same time, suddenly slashing parents' income hinders their ability to take the steps governments require of them to have their children returned.

I've got a matter where the mother was doing absolutely everything she could to get the children home, and then she had to disclose to Services Australia that she no longer had the kids in her care. This happens very often and really just kicks the clients back to having to start all over again. They were already fighting something that was obscene, and then they're kicked down to an even lower level, starting again from scratch.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

In some cases, when a child is removed from a mother living in public housing, she can then have her access to a multi-bedroom home revoked and be moved to a smaller home. Later, she can be told by child safety officers that the reason she cannot have her children returned to her is that her housing is not fit for them, while also being told by the public housing provider that as her household is just one person, she is ineligible for a larger home.

In 50-70% of the cases I see, one of the main concerns is the state of the house or if it's stable. If they've fled DV and they're couch-surfing or staying with family, then that is considered neglect of the kids. If the option were available for people to be able to just get stable housing, then that would address this concern.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

Governments must remove the double punishment policy surrounding child removal: parents whose children are removed should not be immediately financially punished. Governments destine parents to fail by taking away their money and homes as soon as a child is removed. With one hand, governments give parents goals for restoration; with the other they remove the resources parents need to meet those goals. This is demoralising and cruel.

Governments should sustain and maintain the level of payment and housing that parents need to support their children's needs for at least 6 months following removal, or up to 12 months where the parent is engaging with the reunification plan. This would incentivise First Nations parents and families to continue pursuing the reunification pathway and help get kids returned to stable homes.

Punitive child removal systems enable domestic and family violence to continue

In a 2021 submission to the NSW Joint Select Committee on Coercive Control, Wirringa Baiya Aboriginal Women's Legal Centre writes:

A particular form of coercive control that is especially pertinent to Aboriginal women is the constant threat to take children away or report them to the Department of Communities and Justice as abusive or negligent mothers. This is a threat that many perpetrators know is especially powerful when in a relationship with an Aboriginal woman. Many of our clients advise that they have stayed longer in abusive relationships for fear of losing their children.⁷

Governments must stop being a party to domestic violence. Perpetrators' threats to call in government agencies to remove children from an Aboriginal mother's care are very real and terrifying.

If the system was not so intent on removing First Nations children from their families, this threat would have fewer teeth. Perpetrators would lose one tool of control they have over victim-survivors of domestic and family violence. Government policies and practices should not lend themselves to being made a weapon of harm by domestic abusers.

⁷ Wirringa Baiya Aboriginal Women's Legal Centre Inc., 19 February 2021, Submission: Coercive Control in Domestic Relationships, accessed 6 March 2025, <https://www.parliament.nsw.gov.au/ladocs/submissions/70669/Submission%20-%20142.pdf>

Adult incarceration

First Nations people in Australia are the most imprisoned people in the world.⁸

In the September quarter 2024, there were 15,711 Aboriginal and Torres Strait Islander people in prison in Australia. This is an increase of about 300 people compared to the previous quarter (June 2024), and an increase of over 1,500 people compared to the same quarter in the previous year (September 2023).⁹ As of the September quarter 2024, the number of Aboriginal and Torres Strait Islander people in prison had more than doubled since 2009.¹⁰

In early 2024, academics Thalia Anthony and Kristopher Wilson wrote in *The Conversation*:

In 2023, First Nations people accounted for 33% of the prison population¹¹ – an all-time high.

This mass incarceration is highly disproportionate: Indigenous people make up only 3% of the country's population, yet they are 17 times more likely than non-First Nations people to be imprisoned. We refer to this as "hyperincarceration".

This situation is the culmination of centuries of racism, punitive policy and persistent failures to listen to Aboriginal and Torres Strait Islander people.

...

Challenges that ought to be dealt with through public health measures (the effects of trauma, mental illness and addiction) are instead criminalised. Coupled with systemic racism in criminal law processes, the state has created a perfect storm for increased First Nations imprisonment.¹²

We understand adult incarceration to be driven by trauma, poverty and over-policing, all of which are disproportionately experienced by First Nations communities and driven by systemic racism.

We also understand adult incarceration to be another mechanism that strips First Nations people of their culture and denies them autonomy and self-determination. These are hallmarks of the ongoing Stolen Generations approach governments direct at Aboriginal and Torres Strait Islander peoples.

⁸ Anthony, T., and Wilson, K. May 2024, 'First Nations imprisonment is already at a record high. Unless government policy changes, it will only get worse', *The Conversation*, viewed 3 March 2025
<https://theconversation.com/first-nations-imprisonment-is-already-at-a-record-high-unless-government-policy-changes-it-will-only-get-worse-226612>

⁹ Australian Bureau of Statistics, *Corrective Services, Australia: National and state information about adult prisoners and community-based corrections, including legal status, custody type, Indigenous status and sex*, Reference period September Quarter 2024, viewed 6 March 2025,
<https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release>

¹⁰ Anthony, T., and Wilson, K.

¹¹ Note: as of the September quarter 2024, this had risen to 35%.

¹² Anthony, T., and Wilson, K.

Governments' insistence on criminalising young children is driving increased adult incarceration

The overrepresentation of First Nations people in prisons is even more stark when it comes to children and young people. In 2022-23, First Nations children were 28 times more likely to be incarcerated than non-Indigenous children. Almost two thirds of all children under youth justice supervision were First Nations children. On an average day in 2022-23, 83% of First Nations young people in detention were unsentenced, as compared to 76% of non-Indigenous children.¹³

Governments' relentless law-and-order agenda when it comes to children is driving adult incarceration. In all jurisdictions but one, the age of criminal responsibility is just 10 years old. This means kids as young as 10 can be detained, charged, and jailed.

In August 2023, the Northern Territory became the first jurisdiction to increase the age of criminal responsibility from 10 to 12. However, following the 2024 Territory election, the new government is walking back that change so that kids as young as 10 will again be locked up.¹⁴

In the ACT, the age of criminal responsibility increased to 12 in 2023, and the government has approved legislation to raise the age to 14 by 2025.

The Victorian Government previously committed to raising the age to 12 by the end of 2024 and 14 by 2027, but in mid-2024 walked back those commitments.

The Tasmanian Government has committed to raising the age to 14 by 2029.

The South Australian Government has expressed some interest in increasing the age of criminal responsibility to 12.

Governments in Queensland, New South Wales and Western Australia have shown no interest in raising the age of criminal responsibility.¹⁵

Kids belong in community, not in jail.

Karina Hawtrey, Gamilaroi woman and solicitor at the National Justice Project says:

As a human rights lawyer, I have seen the lifelong impact of incarceration on First Nations kids as young as 11, who have been in and out of youth detention and now adult prison. They have been kept in cells for up to 23 hours a day, denied access to schooling, time outside, interaction with other young people, psychologists and First Nations support workers, and they have been diagnosed with serious mental health conditions including PTSD.

These kids come out of prison more harmed than when they went in.

¹³ Australian Institute of Health and Welfare, *Youth justice in Australia 2022-23*, last updated 28 March 2024, viewed 6 March 2025, <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-annual-report-2022-23/contents/detention>

¹⁴ Hawtrey, K., 30 August 2024, 'Lowering the age of criminal responsibility will not solve anything', *National Justice Project*, viewed 6 March 2025, <https://www.justice.org.au/lowering-the-age-of-criminal-responsibility-will-not-solve-anything/>

¹⁵ Ibid.

The statistics show that the younger a child is the first time they're locked up, the more likely they are to be further criminalised as they get older.¹⁶

How are we setting up a framework to lower rates of reoffending if we're putting kids into watchhouses with adults, or even into youth detention centres? Looking at the trend in youth crime over the past 10 years, where restorative justice policies were in place, this was going down. Now, with laws counteractive to effective practices, this is reversing.

First Nations community legal centre worker based in Queensland

The regression in relation to youth detention will contribute to increased adult incarceration. Reversing the regression on adult incarceration rates requires setting up culturally informed and safe frameworks that support young people at risk of, or engaged with, the justice system or in out-of-home care.

¹⁶ Victorian Government Sentencing Advisory Council, December 2016, *Reoffending by Children and Young People in Victoria*.

Incarceration rates of First Nations women are increasing

First Nations women are the fastest-growing group of people being sent to prison in Australia. As Florence Onus told ABC News in July 2024 while visiting the Townsville women's correctional centre with Elders for Change:

A lot of the women shouldn't be here. Some women are here for unlicensed driving or ... unpaid speeding fines. A lot of the women are in here because of poverty and because of systemic oppression and unresolved intergenerational trauma, grief and pain.

While we're giving the support here, we're continually advocating to government about what the needs are in the community. And building more prisons and incarcerating more people is not the answer to resolve these issues.¹⁷

The overrepresentation of Aboriginal and Torres Strait Islander women in the justice system is driven by systemic racism, punitive environments, and marginalisation. The four most common offences for which First Nations women are imprisoned are acts intended to cause injury, burglary, offences against justice, and robbery. A significantly larger proportion of Aboriginal and Torres Strait Islander women are incarcerated for assaults that did *not* result in injury than non-Indigenous women.

There is a growing problem of First Nations victims-survivors of domestic and family violence being misidentified by the justice system as perpetrators and then being criminalised, rather than protected from abuse. New laws criminalising forms of domestic violence, such as coercive control, when introduced without critical analysis of the criminal justice system's systemic inequities, can cause immense harm.

As set out by the Victorian Aboriginal Legal Service in its 2022 policy paper, 'Addressing Coercive Control Without Criminalisation: Avoiding Blunt Tools that Fail Victim-Survivors':

Any proposal to increase the use of criminal charges in the family violence system needs to grapple with the fact that, with alarming frequency, police and courts take action against victim-survivors instead of the people who have committed the abuse.

Misidentification is a very serious problem with multiple causes. Police often believe the account of a person who has committed abuse over that of a victim-survivor, and a focus on isolated incidents can lead to arrests for minor defensive violence while ignoring the real pattern of abuse. Vulnerable victim-survivors with complex mental health needs, outstanding warrants or criminal records are particularly vulnerable to being misidentified as an aggressor.

...

VALS has experience of cases in which Family Violence Intervention Orders have been taken against the wrong party and Aboriginal women have been imprisoned for sending text messages in breach of these orders, when the overall relationship history clearly showed that they were not the aggressor.

When misidentification occurs even in clear-cut cases of extreme physical abuse, there is grave reason for concern about how police would implement a coercive control offence. The complexity of coercive control means there is great potential for police to misinterpret self-defensive actions or coping mechanisms as forms of abuse. Refusing to talk to someone who

¹⁷ Fryer, B., 22 July 2024, 'First Nations women are the fastest-growing group of people being sent to prison', ABC News, viewed 6 March 2025, <https://www.abc.net.au/news/2024-07-22/first-nations-women-fastest-growing-group-in-prison/104118174>

*persistently emotionally degrades you or verbally abusing someone in reaction to their long running abuse, could be misidentified by police as tactics of coercive control. Aboriginal women are significantly more likely to be misidentified, and increasing the risk of misidentification in general will inevitably have disproportionate impacts on Aboriginal victim-survivors.*¹⁸

Imprisoning First Nations women has significant impacts not just on the women incarcerated but also on the broader community, through disrupting care relationships and increasing the numbers of First Nations children in out-of-home care.

In 2003, the Speak Out Speak Strong Project conducted comprehensive research on the experiences of Aboriginal women in prison in NSW. The project sought to identify the causes of imprisonment of Aboriginal women, the experiences of Aboriginal women in the criminal justice system and to identify their needs once incarcerated.

It found that most of the Aboriginal women in prison were single mothers with between 2 and 4 children and were also responsible for care of children other than their own biological children. Many of the Aboriginal women in prison were also responsible for the care of older family members such as parents, uncles or aunts.

The project also found that 60% of the women surveyed had been convicted of a criminal offence as a child, with at least 36% having been first convicted at between 11 and 12 years old. 98% of the women had prior convictions as adults, with 75% having been sentenced to full-time prison before.

The project demonstrated the clear connection between imprisonment, experiences of violence and drug use:

- 70% of the women surveyed had been sexually assaulted as children, and most had also suffered other types of childhood abuse
- 78% of the women had been victims of violence as adults, and 44% had been sexually assaulted as adults
- 68% of the women surveyed were on drugs at the time of their last offence. Only 18% of the women were neither drug nor alcohol affected at the time of their offending.
- 90% of the women who were sexually assaulted as children stated that they have a drug problem, and most equated their drug problem to their experiences of violence and inability to get help with it.¹⁹

First Nations women victims of abuse are being criminalised and locked up at ever-increasing rates, further traumatising these women and impacting the people who rely on them. Two decades ago, the Speak Out Speak Strong Project found that Aboriginal and Torres Strait Islander women made up 31% of women in prison, and that this constituted an increase of 14% in the 8 years since 1995. In 2024, Aboriginal and Torres Strait Islander women made up 47% of women in prison.²⁰

¹⁸ Victorian Aboriginal Legal Service, 2022, *Addressing Coercive Control Without Criminalisation: Avoiding Blunt Tools that Fail Victims-Survivors*, accessed 6 March 2025, <http://www.vals.org.au/wp-content/uploads/2022/01/Addressing-Coercive-Control-Without-Criminalisation-Avoiding-Blunt-Tools-that-Fail-Victim-Survivors.pdf>

¹⁹ Lawrie, R., 2003, *Speak out speak strong: researching the needs of Aboriginal women in custody*. Sydney: Aboriginal Justice Advisory Council.

²⁰ Australian Bureau of Statistics, *Prisoners in Australia*, reference period 2024, accessed 6 March 2025, <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release#prisoner-characteristics-australia>

Prisons exacerbate trauma, and set people up to fail when they leave

The experience of imprisonment is a traumatising one. However, culturally appropriate mental health and other supports are often totally unavailable for First Nations people in prison, and they are not given appropriate supports leading up to, and after, release. For example, if a person is eligible for day release but are in a prison far away from their community, they can be denied day release and the opportunities it provides to socialise and prepare for the outside world.

For some people, who've been imprisoned since childhood, leaving prison can be a complete shock. Without support to prepare for adjust to life outside of prison, some people commit offences just to get back inside the prison, because it's all they know.

Many factors combine to set people – especially First Nations people – up to fail when they leave prison. For example, if a person has been in prison for a while, they may have ID, and their bank might have closed their accounts and mailed them a cheque. When they leave prison, they're meant to be signed up for Centrelink but can't do so without a bank account. They have no house, and no money, and are expected to take steps to secure these things without support. The history of the Stolen Generations and dispossession means many First Nations people are disadvantaged in terms of property ownership and intergenerational wealth.

There is a need for cultural care, personalised support, and access to healing processes for First Nations people both inside the prison system and as they transition out of it. Governments must implement a better approach to ensuring First Nations people who are being released from prison are supported to re-engage with their communities – including through financial support, and access to stable housing. Our people need these supports to overcome the financial harms imposed by the Stolen Generations.

Over-policing disproportionately impacts First Nations people

Police powers are unevenly applied to the detriment of Aboriginal and Torres Strait Islander people.

The NSW Police Force Suspect Targeting Management Plan (STMP) encouraged police to use ‘proactive policing’ strategies to ‘prevent crime before it occurs’.²¹ The STMP was a ‘secretive blacklist’ that included kids as young as 10 years old, who the police suspected may at some point in future commit a crime.²² When a person was put on the STMP, they received ‘proactive attention’, in the form of repeated stop and searches and home visits. Police had discretion on who to place on the list, and it was unclear exactly how a person came to be on the list or how they could have their name removed.

A 2020 Law Enforcement Conduct Commission report found the STMP often involved ‘intrusive’ policing tactics and ‘harassment’ that could increase young people’s risk of entering the justice system. It included that, ‘[m]onitoring STMP targets as recommended in the [STMP] policy can have the effect of being intrusive and disruptive to a young person’s day-to-day existence. These interactions do not appear to be diversionary in nature and might serve to increase the likelihood that a child or young person will be charged and thereby drawn into the criminal justice system.’²³

In practice, the STMP ‘targeted people for unfair and sometimes unlawful police attention, particularly young First Nations people’.²⁴ As of 2022, 71% of the young people on the STMP were Aboriginal. Ultimately, the LECC determined that the STMP ‘amounted to agency maladministration’ and ‘could possibly meet the threshold for serious misconduct’.

Following the report, and sustained community advocacy, NSW Police claimed to have stopped using the STMP in December 2023.²⁵ The STMP is one example of how police use powers granted to them to target First Nations people and increase the rates of First Nations people becoming engaged in the criminal justice system.

The ‘trifecta’ refers to the three charges of offensive language, assault police and resisting arrest. Disproportionately, police will charge Aboriginal and Torres Strait Islander people with this ‘trifecta’ of offences. Often, this occurs when police use their discretion to approach a First Nations person to charge them with ‘offensive language’, tensions escalate, and police then swiftly move to charging the person with resisting arrest and assaulting police. According to the Australian Human Rights Commission, in these circumstances the assault police charge will usually involve no harm –

²¹ Law Enforcement Conduct Commission, October 2023, *Operation Tepito – an investigation into the application of the NSW Police Force STMP policy on children and young people*, accessed 6 March 2025, <https://www.lecc.nsw.gov.au/news-and-publications/publications/operation-tepito-factsheet.pdf/@download/file>

²² Laviopierre, A., ‘Children as young as 10 on “secret police blacklist”: study’, *ABC News Radio*, accessed 6 March 2025, <https://www.abc.net.au/listen/programs/am/children-as-young-as-10-on-secret-nsw-police-blacklist/9083164>

²³ Law Enforcement Conduct Commission, February 2020, *Operation Tepito – Interim Report*, accessed 6 March 2025, <https://www.lecc.nsw.gov.au/publications/publications/operation-tepito-interim-report-january-2020.pdf>

²⁴ Justice and Equity Centre, *Ending the unfair and unlawful STMP*, viewed 6 March 2025, <https://jec.org.au/impact/our-record/ending-the-unfair-and-unlawful-stmp/>

²⁵ Ibid.

an assault occasioning no harm is the most serious offence for 9.3% of First Nations people in prison, which is twice the percentage for non-Indigenous people in this category.²⁶

The ‘trifecta’ of charges is so readily laid as a combination that many First Nations people charged with these may not have committed all offences. However, as First Nations people often have less access to the resources required to dispute charges than non-Indigenous people, they are more likely to end up with convictions for all.

Police know that they are unlikely to be held accountable for misusing their powers or wrongly charging a First Nations person. The few avenues that do exist to hold police accountable are often unavailable to First Nations people because of systemic disparity in things like income to hire lawyers.

All these factors and so many more, mean that First Nations people are more likely than non-Indigenous people to have an interaction with the police, for that interaction to be adversarial, to be charged with a crime, and to end up with a conviction for that crime.

Policies and programs that grant the police powers to profile, target, harass or enact violence upon people are disproportionately used against First Nations people. Many of the problems for which increased policing is put forward as a solution are far better solved through prevention and harm-minimisation approaches that do not have the result of driving up incarceration of First Nations people. Instead of police surveillance and profiling, we need a justice reinvestment approach that supports communities to put in place the programs and services they know will help their kids and teens thrive.

²⁶ Australian Human Rights Commission, *Indigenous Deaths in Custody: Arrest, Imprisonment and Most Serious Offence*, viewed 6 March 2025, <https://humanrights.gov.au/our-work/indigenous-deaths-custody-arrest-imprisonment-and-most-serious-offence>

People stolen from their families as children are more likely to become imprisoned as adults

Aboriginal and Torres Strait Islander people stolen from their families as children often experience trauma, disconnection from community and support, and financial inequity. All these factors can contribute to higher rates of criminalisation and imprisonment.

When a kid is taken from their family, made to grow up in residential care facilities, they can lose the respect they should have, would have, being in that family dynamic and being around mob...kids who are removed are told a lot of the time that they weren't wanted by their family, they can rebel. It continues into adulthood.

Serrina Kenny, Yuin, Wiradjuri and Dunghutti Woman, Solicitor

The modern continuation of the Stolen Generations continues to drive adult incarceration. There are many things governments can and should do to address the increasing numbers of Aboriginal and Torres Strait Islander people incarcerated as adults. However, this problem cannot be wholly resolved until governments truly commit to ending the Stolen Generations.

Rates of suicide

First Nations people experience suicide deaths at a far higher rate than non-Indigenous people. This is true across all ages and genders. In 2022, suicide accounted for 4.6% of all deaths among First Nations people, with men experiencing a greater proportion of deaths from suicide than women.²⁷

Across 2018-2022, the percentage of all deaths among First Nations people that were deaths by suicide was highest among younger age groups. For First Nations people aged under 25, almost a quarter of all deaths (22%) were by suicide. Among First Nations people aged under 45, suicide rates were more than 3 times as high as those for non-Indigenous Australians.²⁸

The experiences of being removed as a child, having your own children removed, being incarcerated as a child or adult, or being in close community with people who have these experiences, cause trauma. Disconnection from Country and culture, as well as financial, housing, education and employment inequity, drive poorer mental health outcomes. Yet, mainstream mental health systems are not set up to meet the needs of First Nations people experiencing mental illness and suicidality. First Nations people are more likely to need mental health care, and less likely to be able to access it, than non-Indigenous people.

²⁷ Australian Institute of Health and Welfare, *Deaths by suicide among First Nations people*, viewed 6 March 2025, <https://www.aihw.gov.au/suicide-self-harm-monitoring/data/populations-age-groups/suicide-indigenous-australians>

²⁸ Ibid.

First Nations people are often unable to access emergency mental health treatment

The mental health system across this continent is significantly under-resourced, resulting in long wait times, improper care being provided, and people not receiving appropriate or timely care. First Nations people are disproportionately impacted by these shortcomings, as well as by the lack of culturally appropriate care. When First Nations people go to emergency departments for support, even where there are Aboriginal Liaison Officers present, they are often told they cannot get help. This results in people walking away still with suicidal thoughts.

We take them back and back, but they're told "there's nothing wrong with you, go and take your medication". I have to force them to sit for hours and hours and wait at a hospital. They're reaching out for help, which is uncommon for Black men. It's a big step to stand there and say, "I need help", but then when you actually take those steps, you still have these sorts of tragic things happen.

The wait at hospital/emergency was over 5 hours for those presenting with mental health issues and/or suicidal thoughts to harm themselves or even others. People (in this occasion, it was my brother) are told to go back to their GP who had referred them to the ED. The GP is not specialised in that area, and therefore the patient is back where they started, feeling even more helpless and worthless, and fighting the voices in their head alone. These people are not even helped to get a mental health safety plan in place.

My brother-in-law presented to ED a few years ago, his first time reaching out for help after struggling with mental health issues most of his life. He waited for hours then walked away, a few weeks later he committed suicide leaving behind 5 children, 2 grandchildren and his partner.

**Naomi, Paralegal, Townsville Qld
Kalkadoon Decendent**

We live in Sydney, and you can't get help here, so what do our people who live out in rural and remote areas, what hope do they have? Last year there was a period of time where there was a young Aboriginal person dying by suicide every month or two. There are no resources at all, even in the city.

First Nations worker at a Sydney community legal centre

I experienced first-hand trying to get assistance for a young person with mental health problems. If they're under 18, there's nothing available for them when they present to emergency. In NSW there was an incident where the boy got assessed and admitted to the children's ward. At the time, he was under the influence of a few substances, so they said they couldn't do an assessment, he had to wait, sleep off the substances. If he'd been 18, he'd have been referred to the mental health unit within the hospital. Looking at the rates of suicide, it's that age group – just prior to adulthood.

In Queensland, I had an experience where the law got involved. There were police, an ambulance came, the boy was taken to hospital. They did a mental health assessment, asked him if he was okay, and he was discharged straight back home. There's buck-passing happening. Instead of a channel from incident happening, to assessment, to treatment, there's a break there. People should be able to go straight into healthcare, not left in the grey area of a waiting room, a waiting list, or just no service available because of their age or other factors. There are these little holes in the system where a link is broken in those chains, and that is when these kinds of things happen to our young people.

First Nations worker in the community legal sector

I just recently, two months ago, had a niece of mine admitted to a mental health facility. She'd gone in herself to get help, but with a lack of checking on her, she was found gone two days later. This is inside a hospital. For someone so young, in her early twenties, who's gone into a service to find help – there were no staff that checked on her for two days.

Her parents were already on their way for a visit, from three hours away, when it happened. When the hospital rang, they said "something's happened, there's been an incident". They floored it and got there. When they arrived, they said to her parents "I'm afraid she's gone". They were confused, they asked how she'd left when she's meant to be onsite with supervision. They said that no, she'd passed away. Five minutes later they'd kicked them out of the hospital, into the carpark. There wasn't even a private space onsite to have the conversation and break the news. There should at least be appropriate conversations, from appropriate staff, and community support there. Just a little bit of respect, that's somebody's life.

It's going through a coroner's inquiry at the moment, but this sort of thing is not uncommon. A suicide in a coronial inquiry is actually marked as a death in custody. The family wanted it noted that she wasn't in custody, there was nothing to do with police, she was there voluntarily. They wanted it noted it as a death in care. Language is really important. She hadn't done anything wrong; it had nothing to do with police.

Bobbi Murray, Convenor of the National First Nations Justice Network

Suicide contagion is heightened in First Nations communities

The problem of ‘suicide contagion’ is heightened in First Nations communities, particularly for young people. Suicide contagion refers to the process whereby one suicide or suicidal act within a school, community or geographic area increases the likelihood that others will attempt or die by suicide.²⁹ Suicide contagion can lead to a ‘suicide cluster’, where other connected suicides take place after the initial death. Young people are more vulnerable to suicide contagion than older people. Suicide clusters are more prevalent amongst Aboriginal and Torres Strait Islander communities, particularly in more rural and remote areas.³⁰

Suicide rates tend to fluctuate when – especially for young people – there’s already been a suicide in the community. My nephew has tried to go a few times because of some of his mates that have committed suicide, he’s like “nah, I’m following them”. Every time it happens in our community, we hold our breath. When one funeral happens, you know you’re always waiting, who’s going to be next? That’s not a way to live.

There has to be some supports, community support when there’s a funeral or there has been Sorry Business recently. There should be mental health counsellors onsite or nearby so that the young people can have someone to talk to about how they’re feeling.

Bobbi Murray, Convenor of the National First Nations Justice Network

The prevalence of suicide contagion further increases the need for properly resourced, culturally appropriate mental health supports to be embedded in First Nations communities. It also demonstrates the need for greater government investment in preventative approaches to mental health – empowering communities with the tools to recognise signs and provide appropriate support early.

²⁹ Headspace, June 2015, *Suicide Contagion*, headspace School Support resource, <https://headspace.org.au/assets/School-Support/Suicide-contagion-web.pdf>

³⁰ Headspace, *Suicide contagion for Aboriginal and Torres Strait Islander young people*, headspace School Support resource, <https://headspace.org.au/assets/School-Support/Suicide-contagion-for-Aboriginal-and-Torres-Strait-Islander-young-people-web.pdf>

We don't have enough skilled workforce, community mob, to deal with a lot of this stuff. There are a few hours' sessions on suicide prevention training for the workforce, but what about the wider community? Often the only program available is very expensive, so you need a lot of money to access it.

Government needs to provide more access to resources for community mob, young people. If a young person has a friend with suicidal tendencies, how do they identify that their friend is suicidal, what types of conversations do they need to have with their friend or family member, and how do they get help for that person?

It's about upskilling community mob, it's all about prevention. Young people will often talk to their friends or young family about how they're feeling – but if the other young person isn't skilled on those conversations, next steps and how to seek help, it can lead to suicide. There's not enough resources in the community to help upskill our people how to identify all the early signs and how they can help that person in the community. People want to know how they can help prevent someone in their community from taking their life.

**Florence Onus, Community Development Worker and Cultural Advisor
Birrigubba, Bidjara, Kairi and Jagalingu Descendant**

The mental health system can drive child removals and incarceration

Many First Nations people are wary of approaching mainstream mental health services because of the – historical and contemporary – mistreatment of Aboriginal and Torres Strait Islander people by these services.

Aboriginal and Torres Strait Islander parents, especially mothers, may fear seeking mental health treatment because of an unfortunately well-founded fear that their children will be removed if they admit they need help. Left untreated, their mental health may deteriorate, leaving them more vulnerable to suicide. Alternatively, if a mother struggling with her mental health does access treatment, and has her children removed as a result, the trauma associated with this loss can also lead to poorer mental health outcomes and suicide. Her children's mental health can then also be profoundly impacted by this experience, potentially leading to the cycle repeating. The system is using the trauma that it has inflicted on First Nations people as an excuse to continue stealing children.

We have also had clients present to ED reaching out for help, but then child safety gets involved and removes their children.

I have a brother that struggles with mental health become a threat to himself and others because his coping mechanism is drugs. ED releases him the same day because he admits to taking drugs and the doctor uses the drugs as an excuse to send him home, assuming he will continue to use.

There needs to be a better way and solution for those presenting with mental health issues. Drugs and alcohol are a major issue and cause so many problems. It's harmful for our mob and a risk factor – it affects how you think, feel, and behave. People use drugs and alcohol as a coping mechanism due to these factors, this causes trauma and is a continued cycle. Drugs and alcohol are ruining lives and families, causing problems like domestic violence, overdose, suicide, homelessness, depression and anxiety, mental health issues and long-term health issues.

**Naomi, Paralegal, Townsville Qld
Kalkadoon Decendent**

First Nations people who are using criminalised substances as a coping mechanism for their mental ill-health or trauma may be arrested and punished instead of provided with mental health support. Even the threat or potential for criminal charges are huge barriers to reaching out for mental health help. The stigma associated with criminalised substances combined with systemic racism means that some medical professionals refuse to treat, or provide poorer treatment to, First Nations people who use drugs.

Aboriginal and Torres Strait Islander communities need to access healing

All First Nations people should have access to a culturally supported safe space they can go to if they are experiencing mental health issues, have a family member contemplating suicide, or following a suicide. These healing spaces should co-locate trauma specialists, cultural counsellors, and Elders. They should be places where people and whole families can get the holistic care and support they need to heal from the traumas they have experienced.

All of these things will continue to regress if there is not a focus on healing for Aboriginal and Torres Strait Islander people. We need to put more funding into healing, not into criminalising.

People feel like they've got nowhere to go. Families often won't take people to the mental health unit because of the stigma and the knowledge of past deaths at these facilities caused by staff with no accountability. Aboriginal people contemplating suicide often won't go to mainstream services to access mental and spiritual health and wellbeing.

**Florence Onus, Community Development Worker and Cultural Advisor
Birrigubba, Bidjara, Kairi and Jagalingu Descendant**

The Healing Foundation is a national Aboriginal and Torres Strait Islander organisation that works with communities to provide an environment for Stolen Generations survivors and their families to tell their stories and to take charge of their own healing. They describe healing centres as follows:

Healing centres are spaces that support healing for Aboriginal and Torres Strait Islander people. They are community owned and operated, with activities developed by Aboriginal and Torres Strait Islander communities in response to their own healing needs.

Healing centres incorporate traditional and western practices, operate with Aboriginal and Torres Strait Islander spirituality and culture at their core and may be situated on custodial land or a site of local significance.

Over the last seven years, since the Healing Foundation started, our healing centre projects have involved over 700 community members—including the development and design of healing strategies and healing frameworks within local communities.

Internationally, healing centres are recognised for their effectiveness in addressing intergenerational trauma, improving wellbeing and reducing rates of suicide, incarceration, domestic and family violence and drug and substance abuse.³¹

Out-of-home care strips First Nations kids and adults of their identity and culture. Prisons do the same. Access to a healing centre can help First Nations people recover from these traumas. Governments must ensure First Nations people in every community across the continent has access to a healing centre.

³¹ The Healing Foundation, *Healing Centres*, viewed 6 March 2025, <https://healingfoundation.org.au/community-healing/healing-centres/>

Calls to action

First Nations people have provided governments with hundreds of specific recommendations over many decades³² to reduce the numbers of our kids being stolen and placed in out-of-home care, reduce the rates of adults being incarcerated, and prevent suicides. And yet, governments consistently and systematically refuse to follow these recommendations, and we see these problems worsening.

We know the solutions, and so do governments. We are seeing regression on these Closing the Gap targets not because we don't yet know the solutions, but because governments choose to pursue policies and practices that we and they know will worsen these problems.

We call on governments to meet their Closing The Gap obligations by delivering systemic and structural transformation for First Nations people.

We call on governments to finally end the Stolen Generations, and to respect Aboriginal and Torres Strait Islander peoples' autonomy and self-determination.

Governments must act now to:

- Support First Nations families to keep kids at home, in community and on Country by ensuring they have access to:
 - Safe and stable homes
 - Equity in employment, finances, healthcare and education
 - Community-controlled and self-determined prevention, support, and healing services
 - As many kinship care options as possible, through culturally appropriate reform of blue card and working with children check systems
 - Free, culturally appropriate and independent legal advice from the point of first contact with child protection systems, guaranteed via legislation
- End the care to prison pipeline
 - Raise the age of criminal responsibility to at least 16 across all jurisdictions
 - Decolonise prison, policing and child protection systems
- Support and adequately resource community-controlled healing centres in all communities
- Commit to truth-telling and treaties.

Further information

Thank you for considering our submission. To speak with members of the National Community Legal Sector First Nations Justice Network, please contact Emily Hamilton, Advocacy & Communications Manager at Community Legal Centres Australia, on emily.hamilton@clcs.org.au.

³² To name just a few, see the 1991 report of the Royal Commission into Aboriginal Deaths in Custody, the 1997 Bringing Them Home report, and the Australian Law Reform Commission's 2018 Pathways to Justice Report.