

Aboriginal and Torres Strait Islander Stolen Generations and Their Descendants

The purpose of this document is to collate published research, government reports and inquiries and academic commentary in relation to Aboriginal and Torres Strait Islander Stolen Generations and their descendants, and the effects that being a member of those generations may have on a person's behaviour, development, physical, mental and social well-being and contact with the criminal justice system.

The potential relevance of evidence of membership of, or being a descendant of, Aboriginal and Torres Strait Islander Stolen Generations in sentencing proceedings includes an assessment of *moral culpability*; moderating the weight to be given to *general deterrence*; and determining the weight to be given to *specific deterrence* and *protection of the community*. There may also be issues relating to the likelihood of *hardship in custody*, a finding of *special circumstances* and the shaping of conditions to enhance prospects of *rehabilitation*.

Note: In this chapter, 'Stolen Generations' refers to Aboriginal and Torres Strait Islander children removed from their families before 1972. However, the chapter also collates some material about children removed after 1972 who continue to be separated from their families.*

See also related *Bugmy Bar Book* chapters.**

Introduction

- 1 Aboriginal and Torres Strait Islander survivors of the policies of removal of children on the basis of their predetermined 'racial' characteristics – now referred to as the Stolen Generations – have to a great extent suffered dehumanising experiences in childhood which have led to lifelong effects such as mental ill-health, physical illness, poor educational and employment outcomes, problematic alcohol and other drug usage, relationship difficulties, and increased contact with the criminal justice system.¹

* See Thalia Anthony, Gemma Sentance and Lorana Bartels, 'Transcending Colonial Legacies: From Criminal Justice to Indigenous Women's Healing' in Lily George et al (eds) *Neo-Colonial Criminal Justice: The Mass Imprisonment of Indigenous Women* (Palgrave Macmillan, 2020) ch 6, 103, 111; Secretariat of National Aboriginal and Islander Child Care ('SNAICC'), *Family Matters Report* (2024); Australian Institute of Health and Welfare, *Child Protection Australia 2023–24* (Report, 27 February 2025).

** The related *Bugmy Bar Book* chapters '[Out-of-Home Care](#)' and '[Cultural Dispossession](#)' and the report *Intergenerational Trauma* (forthcoming) collate research relating to the experience of children removed after 1972 and the intergenerational trauma experienced by family members of people who were removed from their families.

¹ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 22 ('*Bringing Them Home 20 Years On Report*') 22, citing Robert F Anda and Vincent J Felitti 'Adverse Childhood Experiences and their Relationship to Adult Well-Being and Disease: Turning Gold into Lead', [National Council Webinar](#) (27 August 2012), see slides from [presentation 23 July 2013](#), Loma Linda University, CA).

- 2 Many exceptional members of the Stolen Generations have ‘demonstrated remarkable resilience’ and made outstanding contributions in spite of such adverse experiences.² A number have been nationally recognised; they include but are not limited to Arrente/Kalkadoon man Dr Charles Perrurle Nelson AO,³ Yankunytjatjara woman Dr Lowitja O’Donoghue AC CBE DSG⁴ and John Kundereri ‘Jumbana’ Moriarty AM.⁵
- 3 The Human Rights and Equal Opportunity Commission (‘HREOC’) conducted a Royal Commission into Aboriginal Deaths in Custody (1987–1991), which found that a high percentage of deaths in custody were of people who had been removed under the assimilation policies of the twentieth century.⁶ Its recommendations led to the establishment of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, resulting in the *Bringing them Home Report*.⁷ The stories and experiences of the Stolen Generations touched many lives and evoked regret, sorrow and compassion within the national psyche. Building on this awareness, researchers have developed programs for learning about Stolen Generations using trauma-informed teaching principles.⁸ On May 26, 1998, the first National Sorry Day was commemorated. The day aims to raise awareness, express remorse, and demonstrate solidarity with Stolen Generations survivors and their families.⁹
- 4 The *Bringing Them Home* Report (1997) had presented the findings of the first major national inquiry into the removal of Aboriginal and Torres Strait Islander children from their families and communities.¹⁰ It ‘described the extent of harm created for, and the burden suffered by, both those individuals who were removed, and their families and descendants’.¹¹ As the report stated:
- The histories we trace are complex and pervasive. Most significantly, the actions of the past resonate in the present and will continue to do so in the future. The laws, policies and practices which separated Indigenous children from their families have contributed directly to the alienation of Indigenous societies today.¹²
- 5 A study commissioned by the Healing Foundation (2018) quantified the specific effects of being removed from family as a member of the Stolen Generations, as well as the effects of removal on the descendants of relatives who were removed in previous generations.¹³

² Elizabeth Fernandez et al, ‘[There’s More To Be Done: “Sorry” Is Just a Word: Legacies of Out-of-Home Care in the 20th Century](#)’ (2017) 42(3) *Children Australia* 176, 176.

³ ‘[Charles Nelson Perkins](#)’, National Archives of Australia (Web page).

⁴ ‘[Dr Lowitja O’Donoghue AC CBE DSG](#)’, Lowitja O’Donoghue Foundation (Web page).

⁵ ‘[John Moriarty](#)’, Moriarty Foundation (Web page).

⁶ [Ending Aboriginal Deaths in Custody](#) (Victorian Aboriginal Legal Service Community Fact Sheet, no date).

⁷ Human Rights and Equal Opportunity Commission (‘HREOC’), [Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families](#) (Report, April 1997) (‘*Bringing Them Home Report*’).

⁸ Neil Harrison, Jackie Burke and Ivan Clarke, ‘[Stolen Generations: Teaching About the Experiences of Trauma](#)’ (2018) 6(2) *Knowledge Cultures* 51.

⁹ See website at [National Sorry Day – Reconciliation Australia](#).

¹⁰ *Bringing Them Home Report* (n 7).

¹¹ Australian Institute of Health and Welfare (‘AIHW’), [Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes](#) (AIHW Report No 195, August 2018) viii.

¹² *Bringing Them Home Report* (n 7) 4.

¹³ Australian Institute of Health and Welfare (‘AIHW’), [Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes](#) (AIHW Report No 195, August 2018) 2.

- 6 The study found ‘higher likelihoods of adverse outcomes’ across 38 health, socioeconomic and cultural outcomes for both members of the Stolen Generations and descendants,¹⁴ confirming that the intergenerational impacts of removal extend to children and other descendants of people who had been removed.¹⁵

Terminology*

- 7 ‘The Stolen Generations’ refers to Aboriginal and Torres Strait Islander people born before 1972 who were removed.¹⁶ The *Bringing Them Home Report*’ found that Aboriginal and Torres Strait Islander children remained ‘very significantly over-represented “in care”’,¹⁷ and children have continued to be removed since that time.¹⁸
- 8 This chapter includes evidence about children removed before and after 1972, noting that removals after 1972 were and are underpinned by different policies and ideologies than those prior to 1972 which ‘justified’ removal based on race. After 1972, under self-determination principles, Aboriginal and Torres Strait Islander people gained limited franchise status.¹⁹
- 9 The *Bringing Them Home Report* noted that the *Child Welfare Act 1947* was amended in 1976 to repeal ‘destitution’ and ‘neglect’ as grounds for removal and introduced the concept of being ‘in need of care and protection’.²⁰ The continuous thread running through removals of Aboriginal and Torres Strait Islander children from their parents, guardians and families was the notion of ‘deficit parenting’.
- 10 Prime Minister Gough Whitlam’s Labor Government came to office in December 1972 with a vast and transformative reform agenda, at the heart of which was a fundamental policy shift in Aboriginal affairs away from assimilation and toward self-determination. Whitlam described this as ‘Aboriginal communities deciding the pace and nature of their future development as significant components within a diverse Australia’.²¹ Aboriginal legal services began to represent Indigenous children and families in removal applications, which led to an immediate decline in the number of Indigenous children being removed.²²

¹⁴ Australian Institute of Health and Welfare (‘AIHW’), *Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes* (AIHW Report No 195, August 2018) xvi.

¹⁵ *Ibid* 2.

* See also the *Bugmy Bar* Book chapter ‘[Out-of-Home Care](#)’.

¹⁶ Human Rights and Equal Opportunity Commission (‘HREOC’), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) (‘*Bringing Them Home Report*’) pt 2, 31.

¹⁷ *Ibid* 372–3.

¹⁸ For later data specific to each state, see Steering Committee for the Review of Government Service Provision, *Report on Government Services 2024* (‘*RoGS 2024*’) (Productivity Commission, Report and Data tables updated to 28 May 2024) Part F Community Services, section 16 ‘*Child Protection Services*, Report 115, 138 and Data tables 16A.1–2 and 16A.35. A subsequent report, *RoGS 2025*, was released in January/February 2025. See also [Guide](#) to locating RoGS data.

¹⁹ Australian Human Rights Commission (‘AHRC’), *Self-Determination and Indigenous Peoples* (AHRC Aboriginal and Torres Strait Islander Social Justice Information for VOICE Referendum, 2023).

²⁰ *Bringing Them Home Report* (n 16) 98.

²¹ Jenny Hocking, “‘A Transforming Sentiment in This Country’”: The Whitlam Government and Indigenous Self-Determination. (2018)

²² *Institute of Public Administration Australia*, s5, s5.

²² *Bringing Them Home Report* (n 16) ch 2, ‘Self-management and self-determination’, 29.

- 11 Jurisdictions such as Victoria and Queensland were among the first to implement alternative legislation to Aboriginal children being removed.²³ In Victoria the first Aboriginal and Islander Child Care Agency (AICCA) was started offering alternatives to the removal of Indigenous children.²⁴

Description

- 12 The forcible removal of Aboriginal and Torres Strait Islander children from their families and communities originated with European occupation in Australia.²⁵ The first recognised policy of deliberate removal²⁶ was enacted in the *Aboriginal Protection Act 1869* (Vic), which ‘established the Aborigines Protection Board and set the pattern for subsequent laws applying to Indigenous people in Victoria’.²⁷ The enactment came after an 1837 House of Commons report, and the subsequent establishment of the Protector system across all Australian colonies gave government agencies power to remove Aboriginal children from their families.²⁸

- 13 In the early 1900s, the states introduced child welfare policies to enable the removal of Aboriginal and Torres Strait Islander children, and ‘children of mixed descent’, from their families, carers and communities on the basis of race.²⁹ Children of mixed descent were labelled ‘half caste’ children.³⁰

- 14 In 1936, an Aboriginal Welfare Initial Conference of Commonwealth and State Aboriginal Authorities consolidated and, in government policy terms, ‘justified’ the removal of ‘half-caste’ children with the determination that:

This conference believes that the destiny of the natives of aboriginal origin, but not of the full blood, lies in their ultimate absorption by the people of the Commonwealth, and therefore recommends that all efforts be directed to that end.³¹

- 15 The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children heard evidence of children being removed from their families under the Australian government’s assimilationist policies in the twentieth century.³² Part of the strategy was to

²³ See generally Australian Institute of Health and Welfare (‘AIHW’), *Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes* (AIHW Report No 195, August 2018) and AIHW, *Aboriginal and Torres Strait Islander Stolen Generations Aged 50 and Over: Updated Analyses for 2018–19* (AIHW Report No 267, 2021).

²⁴ Human Rights and Equal Opportunity Commission (‘HREOC’), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) (‘Bringing Them Home Report’).

²⁵ Ibid ch 2.

²⁶ ‘*Aboriginal Protection Act 1869* (Vic)’, Documenting a Democracy (Museum of Australian Democracy, Founding Documents).

²⁷ Ibid 50. The Act’s long title was ‘An Act to provide for the Protection and Management of the Aboriginal Natives of Victoria 1869’. The Protection Board (formally the ‘Board for the Protection of Aborigines’) was established in 1871.

²⁸ Parliament of Great Britain, *Report from the Select Committee on Aborigines (British Settlements): With the Minutes of Evidence, Appendix and Index* (Parliamentary Papers, House of Commons, 1837).

²⁹ *Bringing Them Home* Report (n 24) 51.

³⁰ Ibid 51, 63.

³¹ ‘*A Conference of Chief Protectors and Boards Controlling Aborigines*’, held at Canberra, 21 to 23 April, 1937 (Government Printer, F1939, Conference Report digitised by IATSIS) 21.

³² Australian Institute of Health and Welfare (‘AIHW’) *Aboriginal and Torres Strait Islander Stolen Generations Aged 50 and Over: Updated Analyses for 2018–19* (AIHW Report No 267, 2021) 4 (and see generally for analysis of First and Second Stolen Generations and calculation of numbers in the population).

eliminate the need for government reserves and incorporate the removal of all children under 18 years of age from those reserves to church-led missions and institutions.³³

- 16 The *Bringing Them Home* Report states that the ‘ultimate purpose of removal was to control the reproduction of Aboriginal and Torres Strait Islander people with a view to ‘merging’ or ‘absorbing’ them into the non-Indigenous population’.³⁴ Further:

One principal effect of the forcible removal policies was the destruction of cultural links. This was of course their declared aim. Culture, language, land and identity were to be stripped from the children in the hope that the traditional law and culture would die by losing their claim on them and sustenance on them.³⁵

- 17 Children were being forced to assimilate and indoctrinated to think of themselves as white; yet when they interacted with wider society, they were routinely called defamatory, racist names. This made assimilation next to impossible and the children were deeply mentally, socially and culturally impacted by these experiences.³⁶

- 18 The National Inquiry concluded that the policies which created the Stolen Generations constitute genocide and directly contravened Australia’s international obligations:

The United Nations Charter of 1945, the Universal Declaration of Human Rights of 1948 and the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 all imposed obligations on Australia relating to the elimination of racial discrimination. Genocide was declared to be a crime against humanity by a United Nations Resolution of 1946, followed by the adoption of a Convention in 1948. The Australian practice of Indigenous child removal involved both systematic racial discrimination and genocide as defined by international law. Yet it continued to be practised as official policy long after being clearly prohibited by treaties to which Australia had voluntarily subscribed.³⁷

- 19 *Bringing Them Home* placed on record details of the racialised and violent policies facilitating these removals, and the long-term, often permanent, traumatic impacts on individuals, their families and future generations.³⁸ The report described the breadth and complexity of these impacts, observing that ‘the effects for the children removed ranged from psychological harm to loss of native title entitlements. Most suffered multiple and disabling effects.’³⁹

The children removed by the [Aborigines Welfare] Board suffered enduring loss of culture and belonging, with many suffering severe abuse and neglect. Child removals had individual and widespread impacts on families and communities. Children separated from their parents suffered trauma, as did their parents, siblings, grandparents and extended family members. This trauma has been passed down to their descendants and continues to be felt today.⁴⁰

³³ Human Rights and Equal Opportunity Commission (‘HREOC’), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) pt 2, 25–6 (‘*Bringing Them Home Report*’).

³⁴ *Ibid* 25.

³⁵ *Ibid* 175.

³⁶ See, eg, Reena Tiwari et al, ‘Commemorating Stolen Generation Experiences Through Virtual Reality’ *AlterNative: An International Journal of Indigenous Peoples* (2024) 15 (3).

³⁷ *Bringing Them Home Report* (n 33) 230–1.

³⁸ *Ibid* 4.

³⁹ *Ibid* 11.

⁴⁰ New South Wales Government, *Unfinished Business: NSW Government Response to the General Purpose Standing Committee [No] 3, Report into Reparations for the Stolen Generations* (21 March 2024) 5, responding to Legislative Council (NSW), *Reparations for the Stolen Generations in New South Wales: Unfinished Business* (Report 34, June 2016). See also Healing Foundation, *Are You Waiting For Us to Die? The Unfinished Business of Bringing Them Home* (Report, February 2025).

- 20 Babies were often removed at birth or at a few months of age and removed children were separated from their families and communities as completely as possible and placed in institutions, missions or with non-Indigenous families.⁴¹ Once removed, children were often given new names and were denied their Indigenous identity and language.⁴²
- 21 In 2018, the report *Bringing Them Home 20 Years On: An Action Plan for Healing* stated that:
- Children were moved to institutions run by churches and non-government organisations, adopted by non-Indigenous families, or placed with non-Aboriginal households to work as domestic servants and farm hands. Many children suffered very harsh, degrading treatment (including sexual abuse), limited or no contact with families, and were frequently indoctrinated to believe in the inferiority of Aboriginal and Torres Strait Islander people and cultures.⁴³
- 22 Pioneering litigant for the Stolen Generations Lorna Cubillo was removed to Retta Dixon Home, where she was subjected to physical, emotional and sexual abuse.⁴⁴ She recounted, of her removal:
- There was a lot of people crying, people were hitting themselves with hunting sticks and blood was pouring down their faces ... I'll — I'll never forget what happened to me on the day I — when I was removed.⁴⁵
- 23 More recent evidence of this harm was documented by the Royal Commission into Institutional Responses to Child Sexual Abuse, which heard disclosures by people who had been subjected to cultural, physical, emotional and sexual abuse,⁴⁶ and the Yoorook Justice Commission, which heard evidence of ongoing injustices experienced by First Peoples in Victoria.⁴⁷
- 24 Research by O'Donnell et al found that the national rate for Aboriginal children in care increased by 21% between 2012 and 2016.⁴⁸ Aboriginal children were found to be ten times more likely to be placed in out-of-home care than non-Aboriginal children, with this disparity starting in infancy.⁴⁹
- 25 Similarly, the Australian Law Reform Commission's 2017 report *Pathways to Justice* found that 'Aboriginal and Torres Strait Islander children continue to be disproportionately affected by care and protection orders and entry into the child protection system, with some describing

⁴¹ Human Rights and Equal Opportunity Commission ('HREOC'), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) ch 2 ('*Bringing Them Home Report*').

⁴² *Ibid.*

⁴³ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 22 ('*Bringing Them Home 20 Years On Report*') 7.

⁴⁴ *More Than Our Childhoods* (website), part of a larger research project, Care Leaver Activism & Advocacy: From Deficit Models to Survivor Narratives.)

⁴⁵ *Cubillo v Commonwealth of Australia* (2000) 174 ALR 97, [423]–[444].

⁴⁶ Australian Institute of Health and Welfare ('AIHW'), *Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes* (AIHW Report No 195, August 2018) 1.

⁴⁷ See [Yoorook Commission website](#); see also Yoorook for Justice Commission, *Yoorook for Justice: Victoria's Child Protection and Criminal Justice Systems* (Final Report, August 2023) ('*Yoorook Final Report*').

⁴⁸ Melissa O'Donnell et al, 'Infant Removals: The Need to Address the Over-representation of Aboriginal Infants and Community Concerns of Another "Stolen Generation"' (2019) 90 *Child Abuse & Neglect* 88, 91.

⁴⁹ *Ibid* 92.

- this as *a new stolen generation*'.⁵⁰ For example, 'On 30 June 2022, First Nations children were 11.8 times as likely as non-Indigenous children to be in out-of-home care.'⁵¹
- 26 The 54 recommendations identified in the *Bringing Them Home Report*⁵² have not been fully implemented and the removal of Aboriginal children is 'not just an issue of the past. It is happening today'.⁵³
- 27 The 2024 *Report on Government Services* noted that rates of Indigenous child removal had since increased.⁵⁴ In 2023 the *Family Matters Report* recorded '22,328 Aboriginal and Torres Strait Islander children in out-of-home care in Australia, the highest number ever recorded',⁵⁵ with a likelihood of 10.5 times more than non-Indigenous children to be in out-of-home care.⁵⁶ The 2024 report recorded 'year on year increases' (to 22,908 children, and a 10.8 times greater likelihood of being in care).⁵⁷
- 28 A key focus of the *Family Matters Report 2024* is the need for increased support for services supplied by Aboriginal and Torres Strait Islander community-controlled organisations ('ACCOS'), with the report calling for increased funding for ACCO-led prevention programs across the spectrum of support services: 'Each year, the Family Matters Report has consistently identified that changing the trajectory will require a comprehensive approach.'⁵⁸

Prevalence

- 29 The *Bringing Them Home Report* concluded that, nationally, between one in three and one in ten Indigenous children were forcibly removed from their families and communities in the period between approximately 1910 and 1970. In certain regions and in certain periods the figure was undoubtedly much greater than one in ten. In that time, it seems that no Indigenous family escaped the effects of forcible removal (a view confirmed by representatives of the Queensland and Western Australian Governments in evidence to the Inquiry).⁵⁹
- 30 The *Bringing Them Home 20 Years On Report* found that, as a result:
- Most Aboriginal and Torres Strait Islander people have been affected by the Stolen Generations. The resulting trauma has been passed down to children and grandchildren, contributing to many of the issues faced in Indigenous communities, including family violence, substance abuse and self-harm.⁶⁰

⁵⁰ Australian Law Reform Commission ('ALRC'), *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 27 March 2018) 74 [2.71] ('*Pathways to Justice Report*') (emphasis added).

⁵¹ Australian Institution of Health and Welfare, *Aboriginal and Torres Strait Islander Health Performance Framework* (Summary Report, August 2024) 68, 69 (Figure 5.7).

⁵² Human Rights and Equal Opportunity Commission ('HREOC'), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) ('*Bringing Them Home Report*').

⁵³ See generally AIATIS, '[The Stolen Generations](#)' (Web page).

⁵⁴ Steering Committee for the Review of Government Service Provision, *Report on Government Services 2024* ('*RoGS 2024*') (Productivity Commission Report and Data to June 2023, released January/February 2024) Part F, Community Services, table 16A.2. A subsequent report, *RoGS 2025*, was released in January/February 2025. See also [Guide](#) to locating RoGS data.

⁵⁵ Secretariat of National Aboriginal and Islander Child Care ('SNAICC') et al, *Family Matters* (Report, 2023) 5 (based on 2022 figures).

⁵⁶ *Ibid* 7.

⁵⁷ SNAICC et al, *Family Matters* (Report, 2024) 16 (based on 2023 figures).

⁵⁸ *Ibid* 14.

⁵⁹ *Bringing Them Home Report* (n 52) ch 2.

⁶⁰ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 22 ('*Bringing Them Home 20 Years On Report*') 4.

- 31 In the period 2018–19, some 33,600 people were estimated to be members of the Stolen Generations born before 1972. This represented 21% of the Aboriginal and Torres Strait Islander population aged 46 years and over.⁶¹ In the same period, the estimated number of descendants over 18 years of age was 142,200, including 13,200 people who were children who had themselves been forcibly removed.⁶²
- 32 The 2024 *Report on Government Services* had found that 23,728 Aboriginal and Torres Strait Islander children were placed in out-of-home care at least once during the year 2022–23, from a total of 55,854 children placed in such care during this time.⁶³ In 2025, these figures were similar (23,956 and 55,267 respectively).⁶⁴
- 33 Further only 53.5% of Aboriginal and Torres Strait Islander children in out-of-home care were placed with relatives or kin in 2021.⁶⁵ However, despite the acknowledged importance of the principle that child placements should ‘maintain and strengthen connections with family, culture and country [and] are important to nurture and support a child’s wellbeing, spirituality and identity’,⁶⁶ as at 30 June 2024, the rate of kin placements had reached only 54%.⁶⁷

Potential Impacts and Links to Criminal Justice System

- 34 The *Bringing Them Home* Report stressed that ‘attachment occurs in infancy and that disruption to the process of attachment at this stage is most damaging’:⁶⁸

The biological ‘purpose’ of an infant’s instinct to form an attachment is ‘to provide emotional security and social autonomy’. The relationship between an infant and his or her primary carer has been described as ‘a secure base (a) from which to explore and learn about the world and (b) to which the infant can retreat when ‘danger’ in the form of novelty, fatigue, illness or other distress threatens ...’⁶⁹

- 35 The Inquiry concluded that ‘[t]he effects of forcible removal and institutionalisation persist into adulthood, appearing indeed to be lifelong’,⁷⁰ citing expert evidence brought before it that individuals often:

⁶¹ Australian Institute of Health and Welfare, *Aboriginal and Torres Strait Islander Stolen Generations aged 50 and Over: Updated Analyses for 2018–19* (Report, 2 June 2021) 18.

⁶² Ibid 21, 22 (table 5), 23.

⁶³ Steering Committee for the Review of Government Service Provision, *Report on Government Services 2024* (‘RoGS 2024’) (Productivity Commission, data to June 2023, updated 28 June 2024) Part F, Community Services, table 16A.2. See also [Guide](#) to locating RoGS data.

⁶⁴ *Report on Government Services 2025* (Productivity Commission, data to June 2024, released January/February 2025) (‘RoGS 2025’) Part F, Community Services, table 16A.2.

⁶⁵ RoGS 2024 (n 63) table 16.A22.

⁶⁶ *Report on Government Services 2025* (Productivity Commission, data to June 2024, released January/February 2025) 139 (‘RoGS 2025’).

⁶⁷ Ibid 139, figure 16.8a and table 16A.22. The RoGS 2025 Report cautions that this is an approximate, proxy figure: ‘Identification of Aboriginal and Torres Strait Islander status may lead to data quality issues for this indicator, in particular, high rates of unknown or not stated status are likely to affect results’ (at 139).

⁶⁸ Human Rights and Equal Opportunity Commission (‘HREOC’), *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) (‘Bringing Them Home Report’) 159.

⁶⁹ Ibid, quoting Australian Association of Infant Mental Health submission No 699, 2.

⁷⁰ Ibid 164.

lack a sense of personal identity, personal worth and trust in others. Many have formed multiple unstable relationships, are extremely susceptible to depression, and use drugs and alcohol as a way of masking their personal pain ...⁷¹

36 The 2018 AIHW study found that, compared with Aboriginal and Torres Strait Islander people who were not removed, members of the Stolen Generations *born before 1972* were:

- 3.3 times as likely to have been incarcerated in the last five years
- 2.2 times as likely to have ever been formally charged by police
- 2 times as likely to have been arrested in the last five years
- 1.8 times as likely to have government payments as their main income source
- 1.7 times as likely not to be the owner of a home
- 1.7 times as likely to have poor self-assessed health
- 1.6 times as likely to be currently not employed
- 1.6 times as likely to have experienced homelessness in the last 10 years
- 1.6 times as likely not to have ‘good health’
- 1.5 times as likely to have experienced discrimination in the previous 12 months
- 1.5 times as likely to have poor mental health.⁷²

37 The 2018 AIHW Report also states that, of members of the Stolen Generations born before 1972:

- two-thirds reported that they lived with a disability or restrictive long-term condition;
- 52% reported having poor self-assessed health;
- 42% had experienced homelessness at least once in their lifetime (and 20% in the last 10 years);
- 26% reported being a victim or actual or threatened physical violence in the last 12 months;
- 22% had been incarcerated at least once in their lifetime; and
- 50% had been formally charged by police in their life-time.⁷³

Impacts on descendants of the Stolen Generations

38 The 2018 [AIHW study](#) found that, compared with Aboriginal and Torres Strait Islander people who did not experience any type of removal, including being removed themselves or having a family member removed, descendants of members of the Stolen Generations are:

- 2 times as likely to have experienced discrimination in the last 12 months
- 2 times as likely not to speak an Indigenous language
- 1.9 times as likely to have experienced violence in the last 12 months
- 1.6 times as likely not to have ‘good health’
- 1.5 times as likely to have been arrested in the last five years
- 1.5 times as likely to have a low level of trust in the general community
- 1.4 times as likely to have ever been formally charged by police
- 1.4 times as likely to have poor self-assessed health

⁷¹ Human Rights and Equal Opportunity Commission (‘HREOC’), [Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families](#) (Report, April 1997) 164 (‘Bringing Them Home Report’) quoting Dr Brent Waters, Submission No 532, 2.

⁷² Australian Institute of Health and Welfare (‘AIHW’), [Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes](#) (AIHW Report No 195, August 2018) xiv.

⁷³ Ibid 27.

- 1.4 times as likely to have a low level of satisfaction with their lives
 - 1.3 times as likely to have poor mental health.⁷⁴
- 39 The 2018 report provided statistics demonstrating the high prevalence of adversity experienced by descendants. Among descendants:
- 75% had experienced stress in the past 12 months
 - 48% had experienced discrimination in the last 12 months
 - 41% had ever been charged by police
 - 34% had poor mental health
 - 34% engaged in short-term risky alcohol consumption in the last 12 months
 - 31% had used substances in the last 12 months.⁷⁵
- 40 *Pathways to Justice* referenced reports recognising the correlation between forced removal of Indigenous children and their involvement with the criminal justice system:

The RCIADIC (Royal Commission into Aboriginal Deaths in Custody) noted that almost 43 of the 99 Aboriginal and Torres Strait Islander people whose deaths were reviewed had experienced childhood separation from their families...and made a number of recommendations directed at welfare, youth justice services and police aimed at breaking the cycle of incarceration for Aboriginal young people. The *Bringing Them Home* Report highlighted the relationship between being placed in out-of-home care and the increased likelihood of coming into contact with the criminal justice system, through an examination of the lasting effects of institutionalisation on Aboriginal and Torres Strait Islander children.⁷⁶

- 41 The *Bringing Them Home 20 Years On* Report commented on the negative impact of failure to implement the previous recommendations:

[T]he majority of the *Bringing Them Home* recommendations have not yet been implemented. For many Stolen Generations members, this has created additional trauma and distress. Failure to act has caused a ripple effect to current generations. We are now seeing an increase in Aboriginal people in jails, suicide is on the rise and more children are being removed.⁷⁷

Parents and families

- 42 Anthony, Sentance and Bartels highlight the harm and trauma experienced by the removal of children by their mothers:

Decades after the official laws of the Stolen Generations discontinued, Indigenous women, children and others left behind continued to experience ‘immense pain, grief and anguish’ ... Indigenous mothers felt ‘hurt’, ‘shamed and humiliated’ and were made to ‘feel [like] failures; unworthy of loving and caring for their own children’ ... Consequently, they ‘judge themselves harshly, never forgiving themselves for losing their children’ ... While in care, many Aboriginal children suffered institutional abuse, including sexual abuse, which aggravated the injustice.⁷⁸

⁷⁴ Australian Institute of Health and Welfare (‘AIHW’), *Aboriginal and Torres Strait Islander Stolen Generations and Descendants: Numbers, Demographic Characteristics and Selected Outcomes* (AIHW Report No 195, August 2018) xvi.

⁷⁵ Ibid 51.

⁷⁶ Australian Law Reform Commission (‘ALRC’), *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 27 March 2018) 74 [2.71] (‘*Pathways to Justice* Report’) 73–4.

⁷⁷ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) (‘*Bringing Them Home 20 Years On* Report’) 4.

⁷⁸ Thalia Anthony, Gemma Sentance and Lorana Bartels, ‘Transcending Colonial Legacies: From Criminal Justice to Indigenous Women’s Healing’ in Lily George et al (eds) *Neo-Colonial Criminal Justice: The Mass Imprisonment of Indigenous Women* (Palgrave Macmillan, 2020) ch 6, 103, 109 (references omitted).

43 Indigenous child-rearing practices differ from non-Indigenous practices:

A study exploring the first year of life in remote northern Australian communities observed Aboriginal families' belief in children's ability to make their own decisions, and how they acted to support children's autonomy ... Additionally, studies of Anangu, Yapa, Nunga and Anbarra childrearing practices observed that caregivers actively sought to model collectivist social values for children ... Such collectivist values within Aboriginal communities ... may include a focus on 'interdependence, group cohesion, spiritual connectedness, traditional links to the land, community loyalty, and interassistance' ... This reflects a function of attachment to provide the basis for developing social competence ...⁷⁹

44 Anthony, Sentance and Bartels also describe the devastating losses which flow from the removal of their children:

[L]oss of their children includes the denial 'of the opportunity to participate in growing up the next generation' and shaping 'the future of their community' (Link-Up submission, cited in the National Inquiry 1997, 185). Forcible separation meant Indigenous children lost opportunities to 'acquire cultural knowledge', develop their identity and spiritual connection to country and build their communities (National Inquiry 1997, 488). This may limit Indigenous parents and grandparents' leadership and ability to 'provide the vision, the strength and the responsibility to carry our communities forward into the future' (Link-Up submission, cited in National Inquiry 1997, 242).⁸⁰

Intergenerational trauma45 Both the Australian Law Reform Commission's *Pathways to Justice* Report and the Healing Foundation's *Bringing Them Home 20 Years On* Report found links between membership of the Stolen Generations (or being a descendant) and intergenerational trauma.⁸¹46 The *Bringing Them Home 20 Years On* Report states that traumatic experiences:

can be transferred from the first generation of survivors that have experienced (or witnessed) it directly in the past to the second and further generations of descendants of the survivors ... [this] intergenerational trauma ... is defined as the subjective experiencing and remembering of events in the mind of an individual or the life of a community, passed from adults to children in cyclic processes as 'cumulative emotional and psychological wounding'.⁸²

47 The *Bringing Them Home 20 Years On* Report also explains the impact on those affected by this intergenerational trauma:

Many people suffered by not being able to show love to their families and lost the enjoyment of accepting the love of their children. They lost the right to love their children and were frightened to accept love. Many of them suffered in silence and sacrificed their own wellbeing to keep their families together. Sometimes they stayed in more difficult circumstances, such as marriages, where there was violence, as they could not tolerate their families being broken

⁷⁹ Ashleigh Wright et al, '[Attachment and the \(Mis\)Apprehension of Aboriginal Children: Epistemic Violence in Welfare Institutions](#)' (2024) 0 (online) *Psychiatry, Psychology and the Law* 1, 12 (references omitted).

⁸⁰ Thalia Anthony, Gemma Sentance and Lorana Bartels, 'Transcending Colonial Legacies: From Criminal Justice to Indigenous Women's Healing' in Lily George et al (eds) *Neo-Colonial Criminal Justice: The Mass Imprisonment of Indigenous Women* (Palgrave Macmillan, 2020) ch 6, 103, 110.

⁸¹ Australian Law Reform Commission ('ALRC'), *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, 27 March 2018) 74 [2.71] ('*Pathways to Justice* Report'); Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 22 ('*Bringing Them Home 20 Years On* Report').

⁸² *Bringing Them Home 20 Years On* Report (n 81) 22, quoting Judy Atkinson, '[Trauma-Informed Services and Trauma-Specific Care for Indigenous Australian Children](#)' (Australian Institute of Health and Welfare Resource Sheet No 21, July 2013) 5.

up again, their children growing up without a mother and a father. This also meant that many did not seek support for any of their problems, including their own mental health for fear of being judged unfit parents and their children being taken. Men often missed out on being fathers as they sought to use any means to dull the pain such as alcohol use.⁸³

- 48 Intergenerational trauma related to Stolen Generations processes can sometimes manifest indirectly:

Indigenous children may ... experience a range of distressing life events including illness and accidents, hospitalisation or death of close family members, exposure to violence, family disintegration (with kin networks fragmented due to forced removals, relationship breakdown and possibly incarceration) and financial stress ... [I]t can be difficult to distinguish between direct and indirect trauma for Aboriginal and Torres Strait Islander communities, where there is an ongoing reality for many of 'dislocation, dispossession, deprivation and discrimination'. These sources of trauma are historical and multigenerational ...⁸⁴

- 49 The Yoorook Justice Commission found 'that trauma and fear can make First Peoples families reluctant to engage with child protection'.⁸⁵ The Commission heard that:

[Y]ou don't actually want to talk to them because you are so scared that it's going to happen to you, what happened to our ancestors, what happened to our Elders, what might have happened to your mum or your grandma or your dad. That trauma kicks off this kind of response where you are so fearful that you don't really want to have child protection in your home, you don't really want to cooperate. Child protection actually then put[s] that as a risk factor, 'Unwilling to cooperate.' ... It doesn't understand how the history continues to impact the present, how it actually impacts our families right now.⁸⁶

- 50 Other evidence of this harm was documented by the *Royal Commission into Institutional Responses to Child Sexual Abuse*, which heard disclosures by people who had been subjected to cultural, physical, emotional and sexual abuse.⁸⁷

Treatment and Healing*

- 51 In its 1997 *Bringing Them Home* Report, the Human Rights and Equal Opportunity Commission ('HREOC') made 54 recommendations, summarised in the *Bringing Them Home 20 Years On* Report.⁸⁸ A number of the recommendations included important systemic and policy responses, including the following recommendations relating to individuals:

- records, family tracing and reunion services to help families reconnect;⁸⁹

⁸³ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 21 ('*Bringing Them Home 20 Years On* Report').

⁸⁴ Annette Jackson et al, *Taking Time: A Literature Review – Background for a Trauma-Informed Framework for Supporting People with Intellectual Disability* (NSW Department of Family and Community Services, 2015) 62–3 (references omitted).

⁸⁵ Yoorook for Justice Commission, *Yoorook for Justice: Victoria's Child Protection and Criminal Justice Systems* (Final Report, August 2023) ('*Yoorook* Final Report') 154.

⁸⁶ Ibid, quoting Department of Justice and Community Safety (Vic), 'Pregnancy and Childcare in Prison', in *Being in Prison* (Corrections, Prisons & Parole Web page, reviewed 12 November 2024).

⁸⁷ *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, 15 December 2017, 17 vols).

* See *Bugmy Bar* Book, 'Cultural Dispossession Experienced by Aboriginal and Torres Strait Islander Peoples', Treatment and Healing section.

⁸⁸ *Bringing Them Home 20 Years On* Report (n 83) 11.

⁸⁹ Ibid. See also LinkUp NSW Aboriginal Corporation, 'Reunification' (Web Page).

- rehabilitation for survivors of forcible removal, including local healing and wellbeing approaches;⁹⁰
 - guarantees against repetition, including the implementation of self-determination approaches to the well-being of Indigenous children and young people.⁹¹
- 52 *Bringing Them Home 20 Years On* recommended three areas for action, the first being a comprehensive response to Stolen Generations members, which involves ‘ensuring the holistic needs of the Stolen Generations are met, including dedicated needs-based funding and a universal, culturally safe and trauma-informed financial redress scheme.’⁹²
- 53 The report emphasised that ‘appropriate support for Stolen Generations members and their descendants cannot be provided without a good understanding of the historical and living trauma that they are experiencing.’⁹³ It stated that existing training for police, welfare services, health and mental health providers and institutions did not respond effectively to the increasing distress that Stolen Generations members and their descendants might experience by coming into contact with these services, which were often agents of harm from their past.⁹⁴ Further, as the Yoorook Inquiry noted, the available trauma-informed training was not culturally informed.⁹⁵
- 54 The second recommended area for action related to healing intergenerational trauma:
- Addressing the serious, widespread, and worsening effects of unresolved intergenerational trauma arising from the processes of colonisation and from the forcible removal of children, as the driver of many health, social and wellbeing issues affecting Aboriginal and Torres Strait Islander peoples including the Stolen Generations, their families and descendants.⁹⁶
- 55 The 1997 *Bringing Them Home* Report found that treatment and healing must emphasise Indigenous healing and wellbeing perspectives.⁹⁷
- Our principal finding is that self-determination for Indigenous peoples provides the key to reversing the over-representation of Indigenous children in the child welfare and juvenile justice systems of the States and Territories.⁹⁸
- 56 The Inquiry concluded that ‘[o]nly Indigenous peoples themselves are able to comprehend the full extent of the effects of the removal policies.’⁹⁹
- 57 The Kinchela Boys Home Aboriginal Corporation (‘KBHAC’) is an Aboriginal community-controlled organisation ‘established to help restore and reconstruct the identity, dignity and integrity of Aboriginal men who were forcibly removed from their families and put into the

⁹⁰ Aboriginal and Torres Strait Islander Healing Foundation, *Bringing Them Home 20 Years On: An Action Plan for Healing* (Report, 2018) 11 (‘*Bringing Them Home 20 Years On* Report’).

⁹¹ Ibid.

⁹² Ibid 26.

⁹³ Ibid 30.

⁹⁴ Ibid 26.

⁹⁵ Yoorook for Justice Commission, *Yoorook for Justice: Victoria’s Child Protection and Criminal Justice Systems* (Final Report, August 2023) (‘*Yoorook* Final Report’) 20.

⁹⁶ *Bringing Them Home 20 Years On* Report (n 90) 26.

⁹⁷ *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) (‘*Bringing Them Home* Report’).

⁹⁸ Ibid 15.

⁹⁹ Ibid 277.

Kinchela Boys Home (KBH).¹⁰⁰ KBHAC provides culturally safe, trauma-informed and holistic support and casework services for the KBH community.¹⁰¹

58 The Kinchela Practice Framework acknowledges:

that the trauma of KBH survivors and other Stolen Generations survivors is not just their trauma but is also shared with their families and communities, who are also survivors. This means that addressing one person's trauma means also addressing the trauma of their families and communities. Healing is collective and happens through relationships and connections.¹⁰²

59 The Yoorook for Justice Commission, a formal truth-telling process, reported on experiences of injustices by First Nations people since colonisation and made recommendations to the Victorian Government. Truth telling is the 'act of sharing and acknowledging the historical and current experiences, perspectives, and truths of marginalised or oppressed groups including First Peoples'.¹⁰³ The Commission conducted yarning circles, *wurrek tyerrang* (public hearings), community roundtables and on-Country site visits and engaged in a *nuther-mooyoop* (submissions) process.¹⁰⁴

60 The *Connection to Community* Report (Dudgeon et al) emphasises the benefits of truth telling as an agent for treatment and healing in 'building identity and community connections'.¹⁰⁵

Truth-telling has long been identified as an evidence based mechanism for individual and collective healing within Indigenous communities ... Ground-breaking work by the Hunkpapa/Oglala Lakota psychiatrist Marie Yellow Horse Brave Heart has provided an evidence base for the therapeutic benefits of truth-telling in healing unresolved grief and loss (historical trauma) caused by colonisation ...¹⁰⁶

61 Peeters, Hamann and Kelly emphasise the need for reconnection with family, culture and country,¹⁰⁷ the importance of Aboriginal counsellors in the healing process,¹⁰⁸ and conclude that healing requires a holistic approach:

The pathway to recovery involves mind, body and spirit and is holistic in that culture, identity and reconnecting with family, community and country are central to the healing journey. ... For us, healing involves mind, body, spirit, spirituality, family, culture and sometimes (if we are lucky) country. It is about finding our 'belonging place', whatever that might mean to each of us. How we were removed, and the diverse experiences we had following removal, have created unique individuals, and the 'belonging place' we find for ourselves will reflect this diversity.¹⁰⁹

¹⁰⁰ Kinchela Boys Home Aboriginal Corporation ('KBHAC') [Practice Framework 2](#).

¹⁰¹ Ibid 4.

¹⁰² Ibid 8.

¹⁰³ Yoorook for Justice Commission, [Yoorook for Justice: Victoria's Child Protection and Criminal Justice Systems](#) (Final Report, August 2023) ('Yoorook Final Report') Glossary, 410.

¹⁰⁴ Yoorook for Justice Commission, [Yoorook with Purpose](#) (Interim Report, June 2022) ('Yoorook Interim Report') 13, 18–19.

¹⁰⁵ Pat Dudgeon et al, [Connection to Community](#) (AIHW Report, 25 March 2022) 13.

¹⁰⁶ Ibid (references omitted).

¹⁰⁷ Lorraine Peeters, Shaan Hamann and Kerrie Kelly, '[The Marumali Program: Healing for Stolen Generations](#)' in Pat Dudgeon, Helen Milroy and Roz Walker (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Commonwealth of Australia, 2nd edn, 2014) pt 6, ch 29, 493, 502.

¹⁰⁸ Ibid 503.

¹⁰⁹ Lorraine Peeters, Shaan Hamann and Kerrie Kelly, '[The Marumali Program: Healing for Stolen Generations](#)' in Pat Dudgeon, Helen Milroy and Roz Walker (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Commonwealth of Australia, 2nd edn, 2014) 498, 503.

62 Anthony, Sentance and Bartels, in research focused on Indigenous women, highlight that ‘healing involves not only individuals, but communities’.¹¹⁰ Further, they acknowledge that programs which are self-determined, ‘strengths-based and holistic’, ‘support the strengths, resilience and resistance that exist within community’.¹¹¹

63 Black, Federico and Bamblett stress the healing power of cultural connection:

Cultural healing works, it returns what was taken; this is healing. Strengthening and practicing culture is itself healing. Cultural healing is based on thousands of years of wisdom and the potential power of cultural healing needs to be acknowledged and amplified.¹¹²

¹¹⁰ Thalia Anthony, Gemma Sentance and Lorana Bartels, ‘Transcending Colonial Legacies: From Criminal Justice to Indigenous Women’s Healing’ in Lily George et al (eds) *Neo-Colonial Criminal Justice: The Mass Imprisonment of Indigenous Women* (Palgrave Macmillan, 2020) ch 6, 103, 118.

¹¹¹ *Ibid* 120.

¹¹² Carlina Black, Margarita Federico and Muriel Bamblett, ‘Healing through Connection: An Aboriginal Community Designed, Developed and Delivered Cultural Healing Program for Aboriginal Survivors of Institutional Child Sexual Abuse’ (2019) 49(4) *British Journal of Social Work* 1059, 1077.