

Discussion paper on the unfinished business of the *Bringing them home* report

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Table of Contents

Acknowledgement of Country and Stolen Generations	4
Author Biographies	5
Glossary and Terminology	6
Executive Summary	7
Introduction	11
Background: The <i>Bringing Them Home</i> Report	12
Content of the <i>Bringing Them Home</i> Report	13
Key Themes of the <i>Bringing Them Home</i> report	14
Progress Against the Report's Recommendations	16
Since the Report – Advocacy Areas following the <i>Bringing Them Home</i> report	28
Report Recommendations Relating to The Healing Foundation and Stolen Generations Organisations	30
Recommendations for Next Steps	33
Conclusion	35
Appendix 1: Terms of Reference for the <i>Bringing Them Home</i> report	36
Appendix 2: List of <i>Bringing Them Home</i> Report Recommendations	37
Appendix 3: Timeline of Key Events/Reports/Initiatives Since the <i>Bringing Them Home</i> Report	48
References	52

Acknowledgement of Country and Stolen Generations

This report was produced on Ngunnawal, Ngambri and Wiradyuri Country. We acknowledge the traditional custodians of these lands, their resilience and knowledge and pay our respects to Elders past, present and future. We also acknowledge Stolen Generations survivors, their descendants, and the organisations advocating for recognition and change.

In preparing this discussion paper we became acutely aware of how much work is being done by Stolen Generations survivors and their descendants, and Stolen Generations organisations, to educate people about this part of Australia's history and its ongoing legacies, to lead healing, and to implement the recommendations of the *Bringing Them Home* report.

It is our hope that this discussion paper continues the advocacy to attract more resources, attention and heavy lifting by governments, NGOs, police and other agencies, responsible for implementing the *Bringing Them Home* report recommendations.

WARNING: *Aboriginal and Torres Strait Islander readers are warned that this Discussion Paper contains stories about and references to deceased persons.*

Author Biographies



Maureen Bates-McKay

Maureen ('Noddy') Bates-McKay is from a very large family, born and raised in the New South Wales town of Bourke, through which the Baaka (river) runs. Her people are Wilyakali/Barkindji from around Wilcannia and Broken Hill.

Maureen's Dad, along with his two small brothers, were Stolen Generations survivors from the notorious Kinchela Boys Home. Her Mum was a non-Indigenous woman from Cunnamulla.

Living on the fringes of Bourke in a tin humpy, with dirt floors and no running water, it was here that she first witnessed and experienced the racism and inequalities endured by Aboriginal people.

Maureen has since lived in Bathurst for over 30 years with her husband, three daughters and now two small grandsons. She first came to Bathurst to study at Charles Sturt University, undertaking Social Sciences, and then went on to Macquarie University to study law. She led the way for her daughters to become part of Charles Sturt University's alumni.

Maureen has spent many years working in the welfare/justice/legal areas, working across both government and non-government sectors with community, youth and families. Her interests and passion include working with community, advocacy, recognition and restoration of Aboriginal place names and helping people to 'cut through red tape'.



Alison Gerard

Alison is a third-generation settler, with English/Welsh heritage, born on the lands of the Eastern Wiradyuri peoples at Bathurst, NSW.

Alison is a Professor in Law and Criminology at the University of Canberra. Alison's research focuses on social justice and has been published in leading international and Australian journals. She is currently a Chief Investigator on an ARC Discovery Project examining 'Crimmigration' in Australia. As a legal educator, Alison has developed an emerging research program with former Charles Sturt University Indigenous Academic Fellow, Professor Annette Gainsford, now Associate Dean Teaching and Learning at UTS, on the incorporation of Indigenous perspectives in law and criminology curriculum.

Alison and Maureen co-taught into law and criminal justice degrees at Charles Sturt University. Alison founded Charles Sturt University's law program and the Centre for Law and Justice prior to coming to the University of Canberra. Alison is also on the Board of Companion House, Canberra and the Therapeutic Support Panel in the ACT.

Glossary and Terminology

Terminology

Stolen Generation(s):

The term, Stolen Generation or Stolen Generations, refers to the Aboriginal and Torres Strait Islander children forcibly removed from their families using laws, practices and policies that relied upon compulsion, duress or undue influence. Each of the terms 'compulsion', 'duress' and 'undue influence' are defined in the opening sections of the *Bringing Them Home* report. The period in which these laws applied spans from the mid-1800s to the 1970s. We note that not all people forcibly removed during this period will choose to identify as 'Stolen Generations'. In the preparation of this Discussion Paper, feedback provided to the authors by Stolen Generations survivors reiterated the importance of terminology and the distinction between children removed as part of the Stolen Generations, and those removed through legislation and policy in subsequent years and decades.

Stolen Generation Organisations:

Throughout this document where we refer to Stolen Generation organisations we are including both Stolen Generation organisations and Link-Up services.

Glossary

ACPP	Aboriginal Child Placement Principles
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AICCA s	Aboriginal and Islander Child Care Agencies
ATSIC	Aboriginal and Torres Strait Islander Commission (dissolved 2005)
Coalition of Peaks	Representative body for more than 80 Aboriginal and Torres Strait Islander community-controlled peak organisations and members
COAG	Council of Australian Governments
FOI	Freedom of Information
HREOC	Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission)
MCATSIA	Ministerial Council for Aboriginal and Torres Strait Islander Affairs
MOU	Memorandum of Understanding
NAILSS	National Aboriginal and Islander Legal Services Secretariat (now known as NATSILS – National Aboriginal and Torres Strait Islander Legal Services)
NGO	Non-government organisation
OOHC	out-of-home care
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
SNAICC	National Voice for our Children – the national non-government peak body for Aboriginal and Torres Strait Islander children and families. Referred to in the <i>Bringing Them Home</i> report as the Secretariat of National Aboriginal and Islander Child Care
TAFE	Technical and Further Education

Executive Summary

This discussion paper examines the unfinished business of *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997). It identifies key policy considerations and suggestions for next steps on policy action, advocacy and communication. It draws on the work of the original *Bringing Them Home* report (BTH report) as well as two subsequent reports by The Healing Foundation: *Bringing Them Home 20 years on: an action plan for healing* (2017); and *Make Healing Happen* (2021). The Healing Foundation will use this paper as the basis for further engagement and advocacy with the sector and governments.

Specifically, the discussion paper:

- sets out a timeline of events from the BTH report until now (Appendix 3)
- summarises key themes from the BTH report (page 12)
- identifies BTH report recommendations specifically relating to the work of The Healing Foundation and Stolen Generations organisations (page 30), and
- suggests next steps for The Healing Foundation, Stolen Generations organisations, partners and governments to continue the unfinished business of the BTH report (page 33).

Key outcomes of the *Bringing Them Home* report

The BTH report made 54 recommendations and 83 in total when all the component parts of each individual recommendation are tallied. The recommendations are set out in Appendix 2. From our desktop review and analysis of the report's 83 recommendations, we estimate that only 5 have been clearly implemented or just 6 percent. A further 12 recommendations receive a qualified pass, bringing the total that have been adopted to around 20 percent. Ten can be classified as a partial failure to implement and 45 have failed to be implemented. For ten the status is unclear. One is no longer applicable due to the abolition of ATSIC. Identifying which recommendations are most relevant to the current work of The Healing Foundation and Stolen Generations organisations in creating change for Stolen Generations survivors is paramount.

The *Bringing Them Home* report had many significant outcomes including:

- » **Truth-telling:** The BTH report was the first government inquiry leading to the documentation of the experiences of Stolen Generations survivors and the impacts of their forced removals. Stolen Generations survivors report that the role of truth-telling was one of the most important outcomes for them and their families.¹ Truth-telling 'can be a powerful tool for transforming legal thinking'.² It took a lot of trust, and questions have been legitimately asked as to whether this trust has been repaid.³
- » **Highlighting 'a gap within a gap':** The BTH report documented the impact of forced removal on individuals, families and communities and the complex needs of survivors. This impact continues with recent research conducted by the Australian Institute of Health and Welfare in 2021 showing Stolen Generations survivors and their families fare worse on a range of health and social outcomes compared to Aboriginal and Torres Strait Islander people who were not removed, as well as non-Indigenous Australians.⁴ The *Make Healing Happen* report by The Healing Foundation called for redress; trauma informed services; improved records access; strategies on healing intergenerational trauma; a whole-of-government accountability framework; a national memorial; and an end to racism.

- » **‘A missed opportunity’ and thus ongoing responsibilities for federal, state and territory governments alongside police, churches and NGOs:** The BTH report documented a core piece of Australia’s past that had been ignored. The overwhelming majority of recommendations have not been implemented, creating further ‘trauma and distress’.⁵ A report produced for The Healing Foundation by Pat Anderson and Edward Tilton to mark the twentieth anniversary of the BTH report concluded that ‘...it is clear that the failure to properly implement this vision represents a significant and missed opportunity to address trauma in Aboriginal and Torres Strait Islander communities and to provide a basis for genuine reconciliation in Australia’.⁶ The unmet recommendations place an ongoing responsibility on governments – Commonwealth, state and territory – alongside other organisations such as police, churches and NGOs, to fulfil the recommendations and ensure urgent action.

Recommendations for next steps

This section summarises suggestions for next steps for The Healing Foundation and Stolen Generations organisations, partners and governments to continue the unfinished business of the BTH report. It includes 15 recommendations for next steps across 6 areas – monitoring and accountability, acknowledgements and apology, education and training, reparations, records/family tracing and reunions, and rehabilitation.

Monitoring and accountability

1. The Healing Foundation is the obvious custodian of the BTH report and its recommendations. A decision should be made on whether this includes all the recommendations or just those relevant to the work of The Healing Foundation and Stolen Generations organisations. Additional funding is required to resource this monitoring role. The Healing Foundation website could have a purpose-built section that accounts for the recommendations and progress against them.
2. The Healing Foundation is a member of a number of government advisory and partnership bodies such as the Coalition of Peaks and can receive, review and influence reports and policy decisions prepared by federal, state and territory governments in response to Closing the Gap targets and other programs. This is an appropriate avenue for pressing accountability on relevant recommendations and on the ‘gap within a gap’ identified for Stolen Generations survivors and their descendants. Where this doesn’t occur already, Stolen Generation organisations could be built into state and territory membership of the Coalition of Peaks to ensure participation and a role in monitoring progress against relevant recommendations. To support this advocacy, the proposed First Nations Aged Care Commissioner may be briefed on Stolen Generations survivors’ needs and contemporary challenges.
3. Whilst The Healing Foundation may be the appropriate organisation to monitor all or most of the BTH report recommendations, the responsibility for implementation lies with federal, state and territory governments, NGOs and other agencies such as police forces. With the 30th anniversary of the BTH report approaching, advocacy with governments, NGOs and other agencies is critical to ensuring a commitment to implementation and bearing responsibility for gross human rights violations. Building a relationship and shared vision with the new Minister for Indigenous Australians will be essential.

Acknowledgements and Apology

4. The Healing Foundation should work alongside state and territory Stolen Generations organisations and governments to urge the remaining police forces to apologise. Similarly, where it is of concern to The Healing Foundation and Stolen Generations survivors and organisations that particular churches and other NGOs have not issued an apology, work should be undertaken for this to occur. If the need to access records from these same organisations coincides then both projects can be linked together. Perhaps there is a role for Aboriginal churches in this process, through the Australian Indigenous Ministries and the National Aboriginal and Torres Strait Islander Ecumenical Commission of the National Council of Churches in Australia.
5. The Healing Foundation and Stolen Generations organisations should continue to be the custodians of National Sorry Day, promoting and providing educational resources on the significance of Sorry Day and supporting a broad range of events and commemorations.

Education and training

6. There is now a strong role occupied by Aboriginal and Torres Strait Islander leaders within the senior executive of universities across Australia. There is also a sector-wide Universities Australia Indigenous Strategy 2022–2025 and Reconciliation Action Plans. These leaders could be engaged on how universities' core business of curriculum can effectively include the history and effects of forcible removal. Relationships with TAFEs can be built with the same targeted communication.

Reparations

7. A priority for The Healing Foundation in collaboration with Stolen Generations organisations and survivors is to push for more civil claims, and reparations packages for WA and QLD. Moreover, the significant discrepancy in some packages across states and territories necessitates advocacy for closed schemes to be revisited.
8. The Healing Foundation could play a role in mediating and lending support to advocate where problems exist with reparations, capturing the lessons learned for the establishment of future reparations packages. There needs to be an urgent focus on Stolen Generations survivors on account of their age, and an ability to ensure that services supporting applicants have the requisite professional capabilities to work with, and for, Aboriginal and Torres Strait Islander peoples and provide culturally safe wrap-around support.
9. The return of land holdings by churches and NGOs of institutions and homes is a key recommendation for The Healing Foundation and Stolen Generations organisations and should continue to be pursued.

Records, family tracing and reunion

10. The Healing Foundation has an important and established role contesting institutional access to records and embedding Indigenous data sovereignty principles. This work should continue through advocacy by The Healing Foundation's Historical Records Taskforce and the 'Final Principles' it outlines.
11. Conversations with Stolen Generations survivors are critical to inform what should be done with testimonies and statements of those who have come forward to participate in redress schemes.
12. Assistance to return to country is still a key concern and within the advocacy scope of The Healing Foundation and Stolen Generations organisations. The Ambassador for First Nations People and the Minister for Indigenous Australians may be approached to identify how the needs of Stolen Generations survivors living outside Australia can be addressed, including with regard to citizenship.

Rehabilitation

13. The Healing Foundation should continue to research the effects of forcible removal, and the impact on descendants, to inform advocacy into the future.
14. The Healing Foundation is well placed to advocate that all services and programs provided to Stolen Generations survivors emphasise local Indigenous healing and well-being perspectives and be grounded in intergenerational trauma-informed healing.
15. Moving forward, consideration needs to be taken on how to best meet the unique needs of survivors, one in five of whom report living with a severe or profound disability.⁷ A similar consideration should be taken for descendants of Stolen Generations survivors.

Introduction

This discussion paper examines the Unfinished Business of *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. It identifies key policy considerations and suggestions for next steps on policy action, advocacy, and communication for The Healing Foundation and Stolen Generations organisations in supporting Stolen Generations survivors. It builds on the work of the original *Bringing Them Home* Report and two further publications by The Healing Foundation: *Bringing Them Home 20 years on: an action plan for healing* (2017) and *Make Healing Happen* (2021).

Specifically, the discussion paper:

- » sets out a timeline of events from the BTH report until now (Appendix 3)
- » summarises key themes from the BTH report (page 12)
- » identifies BTH report recommendations specifically relating to the work of The Healing Foundation and Stolen Generations organisations (page 30), and
- » suggests next steps for The Healing Foundation, Stolen Generations organisations, partners and governments to continue the unfinished business of the BTH report (page 33).

Informed by documentary research, this paper has been produced by a close review of key literature relevant to the purpose of this paper provided by The Healing Foundation and an additional literature scan. We have benefited greatly from the support and advice from The Healing Foundation and the opportunity to present to The Healing Foundation's Board, Stolen Generations Reference Group and Youth Reference Group.

There have been several key reports to draw on since the BTH report that have thoughtfully evaluated the status of recommendations and their implementation and analysed contemporary priorities. These included the *Bringing them Home Scorecard Report 2015* by John Rule and Elizabeth Rice commissioned by the National Sorry Day Committee, the *Bringing Them Home 20 years on: an action plan for healing* report from 2017 written by Pat Anderson and Edward Tilton, and the 2021 *Make Healing Happen – It's Time to Act* report by The Healing Foundation. Advocacy by Stolen Generations survivors and families, and Stolen Generations organisations and supporters, have driven the documentation project to account for what has been implemented, what remains outstanding, and where priorities should lie.

In addition to these documents, evaluations of the recommendations and their status include: the 1998 *Social Justice Report* of the Human Rights and Equal Opportunity Commission; the 2001 Senate Legal and Constitutional Affairs Committee Report *Healing: A Legacy of Generations*; a Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA) evaluation in 2003; and an evaluation of Indigenous mental health programs in 2007.⁸ To analyse progress we developed an excel spreadsheet capturing each of these evaluations and then undertook a desktop review of progress on any unmet recommendations. Stolen Generations organisations continue to advocate for the recommendations to be implemented and work in communities to address the impacts of forcible removal.

In what follows we summarise the BTH report, its content and significance. We then analyse progress against implementation of the recommendations from our desktop review and highlight areas for policy action to guide The Healing Foundation in its further engagement and advocacy with governments and the sector.

Background: The *Bringing Them Home* Report

The forced removal of Aboriginal and Torres Strait Islander children from their families and communities was common government policy across Australia from approximately the mid-1800s until the 1970s.⁹ The aim of these policies was to eliminate Aboriginal and Torres Strait Islander peoples as distinct peoples, practice which is consistent with the act of genocide as per the United Nation's *Genocide Convention*. Widespread denial of this history was the norm until the BTH report.

Indigenous agencies and communities fought for a National Inquiry to draw attention to the history of forced removal and the needs of survivors and their families, including access to services.¹⁰ Then Attorney-General, Emeritus Professor Michael Lavarch, referred the matter of forced removal to the Human Rights and Equal Opportunity Commission (HREOC), now known as the Australian Human Rights Commission, on 11 May 1995. Sir Ronald Wilson, then HREOC President, and the then Aboriginal and Torres Strait Islander Social Justice Commissioner, Professor Mick Dodson, primarily conducted the hearings.

The Terms of Reference tasked the Commissioners with inquiring and reporting on four matters in consultation with Aboriginal and Torres Strait Islander communities, NGOs, and relevant government authorities. These matters are summarised as:

- a) Tracing the content and effect of past laws, practices and policies that resulted in the separation of Aboriginal and Torres Strait Islander children from families by compulsion, duress or undue influence.
- b) Examining the adequacy of current arrangements for those peoples affected by forced removal and identifying any changes needed, including with regard to accessing family records and assisting with locating and reunifying families.
- c) Examining principles relevant to compensation for those impacted.
- d) Examining principles relevant to the contemporary 'placement and care' of Aboriginal and Torres Strait Islander children and advise on any changes especially to align with principles of self-determination by Aboriginal and Torres Strait Islander peoples.¹¹

The full extract of the Terms of Reference is available at Appendix 1.

The Commission toured each capital city and many regional centres to conduct hearings. An Indigenous Advisory Council was engaged throughout the Inquiry. People and organisations could provide evidence in public or private sessions, through written submissions or oral testimony. Over 500 Indigenous people provided evidence to the Inquiry.

The *Bringing Them Home* Report was tabled in Parliament on 26 May 1997, which from the following year was established as National Sorry Day. The BTH report concluded that forcible removal was an act of genocide, that the treatment of Indigenous people was a breach of Australian legal standards and represented 'a gross violation of human rights' such that reparations were owed to those impacted.¹²

Content of the *Bringing Them Home* report

The BTH report is an extraordinary document. It was one of the first processes of truth-telling engaged in and the first government inquiry documenting the experiences of Stolen Generations survivors and the impacts of forced removal.¹³ The Inquiry concluded that ‘between one in three and one in ten Indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970’.¹⁴ The BTH report laid a foundation for redress through its recommendations including a national apology, reparations, improved services, and principles to govern a new framework and national minimum standards, and a process of monitoring the implementation of its recommendations. As Dr Pat Anderson and Edward Tilton write:

[T]he Bringing Them Home report provided a basis for genuine reconciliation, and for addressing issues of identity, trust and the experience of racism that continue to strongly affect the relationship between Indigenous and non-Indigenous Australia today.

The report made recommendations for addressing the needs of Stolen Generations members and their families, as well as other Aboriginal and Torres Strait Islander people regarding language; culture and history; mental health; the contemporary removal of children; and self-determination. It charted a way forward based on justice, on the healing of past hurts, and of breaking the cycle of intergenerational trauma.¹⁵

The BTH report is made up of 6 parts and a total of 26 chapters. The content traces the history of laws, policies, and practices behind the forced removal of Aboriginal and Torres Strait Islander children from families and communities (Part 2) and details the consequences of removal (Part 3). It sets out a framework for reparations (Part 4) and services for those affected by removal (Part 5). It concludes with an examination of contemporary separations of Aboriginal and Torres Strait Islander children from families and communities and establishes a new framework that centres self-determination and national minimum standards (Part 6).

The BTH report set out 54 ‘head’ recommendations listed in Appendix 2. It devised principles to underpin government responses to those affected by forced removal. These principles were summarised in the *Bringing Them Home 20 years on: an action plan for healing* report as: self-determination; non-discrimination; cultural renewal; a coherent policy base; and adequate resourcing.¹⁶

Key themes of the *Bringing Them Home* report

Tracing laws, policies and practices and their impact

The BTH report detailed the legal and policy frameworks behind the forced removal of Aboriginal and Torres Strait Islander children in each state and territory. It revealed how this was operationalised legally and practically and provided the national overview of the thinking behind these laws and policies. The National Overview is provided in Chapter 2 followed by each State and Territory in Chapters 3–9.

The consequences of removal are detailed in Part 2 and include harrowing evidence received through oral and written testimony from survivors about experiences as children following forced removal, including institutional conditions, abuse, education and work. These experiences are detailed in Chapter 10. The effects of separation from families and communities and the impacts of institutionalisation and abuse, and their continued intergenerational impact, are set out in Chapter 11. The realities of reunion, its importance, the challenges, supports available or unavailable, and the impact of removal internationally, are brought together in Chapter 12.

Groundwork for reparations

The Report recommended reparations (Recommendation 3) that consisted of:

- Acknowledgement and apology by parliaments and police, churches and other NGOs that played a role in the administration of forced removal, and commemoration (Recommendations 5–7);
- Guarantees against repetition through school education, professional training, Genocide Convention law reform (Recommendations 8–9, 10);
- Measures of restitution of land, culture and language as well as ‘Indigenous identification’ (Recommendations 11, 12, 13);
- Measures of rehabilitation (Recommendations 32–33, 36 and 40); and
- Monetary compensation through certain heads of compensation, recommending a national compensation fund and governance board and establishing procedural principles to be applied (Recommendations 14–20).

Recommendation 4 outlined that reparation should extend to all those who suffered because of forced removal including individuals, family members, communities and descendants who have been deprived of ‘community ties, culture and language, and links with and entitlements to their traditional land’.

Records, family tracing and reunion services

The BTH report made a series of recommendations to promote access to records, family tracing and reunion services, including for those overseas (Recommendations 30–31). This included:

- A prohibition on the destruction of records and adequate funding to preserve records (Recommendations 21–22);
- Funding for Indigenous traineeships and scholarships for archivists, genealogists, historical researchers and counsellors, and Indigenous repositories (Recommendations 28–29);
- Joint records taskforces including interstate MOUs, minimum access standards and FOI accessibility for the Northern Territory, and establishment of Indigenous Family Information Services (Recommendations 23–27, 39); and
- Making the private collections of church and other NGOs available (Recommendation 38).

Highlighting the continuation of removals and criminalisation

The BTH report examined contemporary removals of Aboriginal and Torres Strait Islander children from families and communities. It focused on juvenile justice, child welfare, adoption and institutionalisation, arguing that Aboriginal and Torres Strait Islander children are at greater risk of removal and that laws, policies and practices need to change. The BTH report found that the rhetoric put by state and territory governments around self-management 'has not been matched by practical measures'.¹⁷

The BTH report gave an analysis of the Aboriginal Child Placement Principle (ACPP) in each state and territory. It found that:

- Legislative recognition was incomplete in Tasmania, WA, ACT and Queensland;
- Funding and consultation with Aboriginal and Islander Child Care Agencies (AICCA) was inadequate and that 'inappropriate evaluation of prospective foster carers' had contributed to a lack of acceptance of Indigenous carers for Indigenous children.¹⁸ Indigenous agencies were better placed to make these assessments;
- Adoption of Indigenous children was reduced to almost zero in jurisdictions where the ACPP was in legislation and agencies are required to work with AICCA when placing children. If the ACPP was incorporated only in policy versus legislation, the BTH report found that adoption of Indigenous children continues.¹⁹

More broadly the BTH report found that 'welfare departments in all jurisdictions continue to fail Indigenous children'.²⁰

In terms of juvenile justice, the BTH report was critical of the continued use of police custody for children and young people, despite the RCIADIC recommendations which had not been adequately implemented. It noted that the 'police still have a major function in bringing about separations'.²¹ As at 1995, 40 percent of young people in custody were Indigenous. Northern Territory had the highest percentage at 69 percent, followed by WA with 61 percent.

The BTH report examined contexts across Australia and specific issues of diversion, sentencing, detention centres and deaths in custody. It expressed frustration that these 'issues had been identified and demonstrated time and time again'.²² The BTH report found underlying causes needed to be addressed and discussed these at length. It recommended a social justice package and pursuit of the recommendations of the RCIADIC that identified the underlying causes of disadvantage (Recommendation 42).

A new framework to be negotiated based on self-determination

On account of the destructive approach documented in the BTH report, a new framework was proposed that centred self-determination and the transfer of policing, care and protection and juvenile justice powers to Indigenous communities (Recommendation 43). This recommendation sought negotiation between the Council of Australian Governments (COAG) and the Aboriginal and Torres Strait Islander Commission (ATSIC), the Aboriginal and Torres Strait Islander Social Justice Commissioner, SNAICC (National Voice for our Children) and the National Aboriginal and Islander Legal Services Secretariat (NAILSS) to establish national legislation and a negotiation framework for national, community and regional implementation of self-determination concerning the well-being of Indigenous children. It set out the principles to govern these arrangements and the issues proposed for negotiation citing international experience from the US and Canada.

Progress against the report's recommendations

This section provides a contemporary update on the status of the BTH report's recommendations and their implementation. To produce this narrative, we created an excel spreadsheet which aligns the 54 recommendations with the key evaluations on progress since the BTH report was tabled in Federal Parliament in 1997. We also undertook a desktop search to check progress on any unmet recommendations. This analysis was used to generate the following section that identifies the specific recommendations that are relevant to The Healing Foundation and Stolen Generations organisations, and suggestions for next steps to shape consultation with the sector on the unfinished business of the BTH report.

The key areas of the BTH report's recommendations are set out below and each is then discussed in turn:²³

- » Consultation, Monitoring and Coordination
- » Acknowledgement and Apology
- » Education and Training
- » Reparations
- » Records, Family Tracing and Reunion
- » Rehabilitation
- » Guarantees against Repetition

Consultation, monitoring and coordination – Recommendations 2a-d

The BTH report placed great emphasis on a mechanism for monitoring implementation of its 54 recommendations after ATSIC had pushed for the Inquiry to recommend a monitoring process for the implementation of its recommendations.²⁴ Recommendation 2 comprised the Monitoring mechanism and involved COAG establishing a Working Party and an annual audit report process to account for implementation. The BTH report recommended the establishment of the National Inquiry audit unit within HREOC, which would report annually to COAG. Recommendation 2 also set out that ATSIC should fund annual submissions to the National Inquiry audit unit on the progress of implementation from peak Indigenous organisations including SNAICC, NACCHO and NAILSS. The final part of this recommendation sought for the federal, state and territory governments to provide 'detailed and complete' information to the National Inquiry audit unit annually on progress on implementation of the BTH report's recommendations.

Recommendation 2 was never implemented and accountability for the BTH report's recommendations is not clear or transparent. MCATSIA took on the task of inter-governmental coordination after the BTH report was handed down.²⁵ As detailed below, there were a series of reviews at various points on progress against the recommendations. This included:

- » HREOC (1999) [Social Justice Report](#)
- » Commonwealth Senate Standing Committee on Legal and Constitutional Affairs Committee (2001) [Healing: A Legacy of Generations – The Report of the Inquiry into the Federal Government's Implementation of the Recommendations Made by the Human Rights and Equal Opportunity Commission in Bringing Them Home](#)
- » [MCATSIA, Success Works \(2003\)](#)

- » Wilczynski A, Reed-Gilbert K, Milward K, Tayler B, Fear J and Schwartzkoff J (2007). Evaluation of Bringing Them Home and Indigenous Mental Health Programs. Canberra, Report prepared by Urbis Keys Young for the Office for Aboriginal and Torres Strait Islander Health, Department of Health and Ageing.
- » John Rule and Elizabeth Rice (2015), [Bringing them home: scorecard report 2015 commissioned by the National Sorry Day Committee](#), Canberra.
- » Pat Anderson and Edward Tilton (2017), [Bringing Them Home 20 years on: an action plan for healing](#), The Healing Foundation, Canberra.
- » The Healing Foundation (2021), [Make Healing Happen, It's time to act](#), The Healing Foundation, Canberra.

Some jurisdictions have conducted their own Inquiries and evaluations on progress against the recommendations. The NSW Government evaluated progress in the context of examining a reparations package for Stolen Generations survivors.²⁶ It came up with 35 recommendations, some of which require the NSW Government to lobby the Federal Government for implementation. As part of the truth-telling process in Victoria, the Yoorrook Commission has examined historical legacies and contemporary realities in the child protection and criminal justice system.²⁷

Overall, federal, state and territory government responses to the BTH 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.²⁸ There has been 'no systematic government response to the needs and rights of Stolen Generations survivors and their descendants'.²⁹

The Federal Government's response at the time was targeted at what it described as 'reunion, health and other services to those affected'.³⁰ According to the government, this included a \$63 million spend over 4 years on family reunion assistance, emotional and social well-being regional centres, specialist Indigenous counsellors, expanding the Indigenous parenting and wellbeing network, language and cultural centres and archive records accessibility and money for an oral history project.³¹ The Federal Government responded to the BTH report by providing funding for Link-Up services, counselling and the expansion of regional social and emotional wellbeing centres. These efforts were plagued by the insufficient targeting of resources. Poor coordination and documentation were just some of the problems relating to the funding provided. By 2015, a scorecard found that fewer than 1 in 10 *Bringing Them Home* recommendations had been fully implemented with more than half assessed as having been implemented in a limited way or not at all.³²

Acknowledgement, Apology and commemoration – Recommendations 5a-b, 6 and 7a-b

Parliaments – Recommendation 5a

All parliaments have now apologised for policies of forced removal of Indigenous children in **implementing recommendation 5a**. The content of these apologies is available on the Australian Human Rights Commission's website.³³ This occurred for each state and territory government between 1997 and 2001 with the Federal Government moving a Motion of Apology to Australia's Indigenous Peoples on 13 February 2008.³⁴

Police Forces – Recommendation 5b

Across Australia, we only found evidence of four police organisations implementing the recommendation to apologise, and two of those occurred in 2024. Our desktop review found the following:

- **Police Forces that have apologised:**
 - The NSW Police Commissioner Peter Ryan apologised on behalf of the police service and CEOs of Justice Agencies on 22 May 1998.³⁵
 - The Western Australian Police Commissioner Chris Dawson apologised on 12 July 2018.³⁶
 - The Victorian Chief Commissioner of Police Shane Patton APM delivered an Apology on 24 May 2024.³⁷
 - The Northern Territory Commissioner of Police Michael Murphy delivered an Apology at the Garma Festival on 3 August 2024.³⁸
- **Police Forces that have not yet apologised:** Australian Federal Police (AFP) / ACT Police; Queensland Police Service; Tasmania Police; South Australia Police.

Churches and other NGOs – Recommendation 6

The Social Justice Report 1998 listed a range of faith groups that had apologised but a systematic audit has never been carried out.³⁹ The 2003 MCATSIA review found that the Uniting and Catholic Churches have apologised in several states. It also stated that ‘Churches and non-government organisations are less universal in their acknowledgement of their role in the administration of the forcible removal of children and only some have issued statements of apology or regret’.⁴⁰ It is worth considering apologies and access to records together and work to implement the BTH report recommendations that relate to both.

Commemoration – Recommendations 7a and 7b

National Sorry Day was held for the first time on 26 May 1998 and is now an annual commemoration **in fulfilment of recommendation 7a**. Recommendation 7b involved ATSIC seeking further proposals for commemorating the individual, families and communities impacted by forced removal. ATSIC was abolished in 2005. The Healing Foundation and Stolen Generations organisations are ideally placed to support events or commemorations and promote them as per the current practice.

Education and training – Recommendations 8a-b, 9a-b, 12a-b, 34 and 35.

The National Sorry Day Committee successfully advocated for the meaningful inclusion of Stolen Generations content in national curriculum in 2011, **in fulfilment of Recommendation 8a**.⁴¹ The Healing Foundation launched a teaching resource in 2019 and produced an expanded version in 2023.⁴² Lesson plans exist for Years K-12 along with an educator guide.

Recommendation 8b had not been implemented which required that AIATSIS be funded by the Commonwealth to develop these modules. AIATSIS have other learning modules.

In terms of professional training – recommendation 9a required all professionals who work with Indigenous children, families and communities, receive in-service training about the history and effects of forced removal. Clearly **recommendation 9a has not been systematically implemented**. To take ACT as an example, the *Our Boori's Our Way Report* (2019) analysed the experiences of over 300 Aboriginal and Torres Strait Islander children involved with the child protection system in the ACT. It made recommendations similar to the BTH report around requiring training on the Aboriginal and Torres Strait Islander Child Placement Principles (ATSICPP) and what it called ‘culturally intelligent case workers’.⁴³ The latest monitoring report stated that training for all ACT staff is continuing and is therefore incomplete.⁴⁴

Recommendation 9b required all undergraduates and trainees in relevant professions to obtain this knowledge as part of core curriculum and this **has not been systematically implemented**. Progress remains uneven across the university sector.⁴⁵ There is no national requirement for legal professionals to have this training prior to admission for example and no clear evidence of implementation by

universities. The requirement for professional and undergraduate training for those in health on the history and effects of forcible removal services and programs, contained in **recommendations 34a and b, is a partial fail** but somewhat addressed by the developments in national health legislation on cultural safety.

There is now national health legislation regarding cultural safety that mandates education on cultural safety for professionals and students under the [Aboriginal and Torres Strait Islander Health Strategy](#). This strategy defines cultural safety as according to 'Aboriginal and Torres Strait Islander individuals, families and communities' – see Figure 1. Culturally safe practice is defined as 'the ongoing critical reflection of health practitioner knowledge, skills, attitudes, practising behaviours and power differentials in delivering safe, accessible and responsible healthcare free of racism'.⁴⁶

Definition of 'cultural safety'

Principles:

The following principles inform the definition of cultural safety:

- Prioritising COAG's goal to deliver healthcare free of racism supported by the National Aboriginal and Torres Strait Islander Health Plan 2013-2023
- Improved health service provision supported by the Safety and Quality Health Service Standards User Guide for Aboriginal and Torres Strait Islander Health
- Provision of a rights-based approach to healthcare supported by the United Nations Declaration on the Rights of Indigenous Peoples
- Ongoing commitment to learning, education and training

Definition:

Cultural safety is determined by Aboriginal and Torres Strait Islander individuals, families and communities.

Culturally safe practise is the ongoing critical reflection of health practitioner knowledge, skills, attitudes, practising behaviours and power differentials in delivering safe, accessible and responsive healthcare free of racism.

How to:

To ensure culturally safe and respectful practice, health practitioners must:

- a. Acknowledge colonisation and systemic racism, social, cultural, behavioural and economic factors which impact individual and community health;
- b. Acknowledge and address individual racism, their own biases, assumptions, stereotypes and prejudices and provide care that is holistic, free of bias and racism;
- c. Recognise the importance of self-determined decision-making, partnership and collaboration in healthcare which is driven by the individual, family and community;
- d. Foster a safe working environment through leadership to support the rights and dignity of Aboriginal and Torres Strait Islander people and colleagues.

Figure 1 Definition of Cultural Safety (Source: The National Scheme's Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025).

As we know, just because this has become national legislation doesn't automatically mean this education requirement is implemented by universities but there is now another layer of accountability.

The requirement that all state and territory governments institute Indigenous mental health worker training through Indigenous-run programs to ensure cultural and social appropriateness received a **qualified pass in the 2015 Scorecard**. Our desktop review found that there are organisations delivering such services (see [Indigenous Psych Services](#)) but it is not clear how this training is implemented in states and territories across Australia.

Language, culture and history centres

An expansion of funding for Language, Culture and History Centres was provided at the time of the BTH report of \$9million to ATSIC over four years. No new funding has been provided. The Federal Government contends that recommendation 12 has been implemented and the 2015 Scorecard gave this a 'working towards'. The regional commitment of this recommendation has never materialised putting this into the partial fail category.

Globally, the countries most impacted by language loss are Australia, Canada and the United States, all countries impacted by colonisation.⁴⁷ Whereas hundreds of languages were spoken prior to colonisation, only 12 are now learned from birth as the main language.⁴⁸ AIATSIS recently released a *Strengthening Australian languages: between policy and practice* report on the Language Policy Symposium held 26–27 September 2022 by Lauren W Reed, Alison L Mount and Denise Angelo.⁴⁹ It stated that:

In 2009, Australia released a national Indigenous languages policy statement. This was not supported by green papers or white papers, but rather consisted of a media release from the responsible ministers announcing a meagre \$9.3 million in funding to 'protect' Indigenous languages, along with some high-level objectives and actions. The policy statement has not been updated since then and it is no longer publicly available.

The AIATSIS report highlighted the need for different funding structures. Our desktop search found that the Office for the Arts hosts an Indigenous Languages and Arts Program Language Centres list.⁵⁰ There are 24 Language Centres on this list – see Figure 2.



Figure 2 Indigenous Languages and Arts Program – map of Indigenous Language Centre locations Source: Office of the Arts 2024.

Genocide Convention – Recommendation 10

Recommendation 10 was partially implemented in 2002. The Federal Government has historically rejected that these practices of forced removal constituted genocide,⁵¹ and was against legislating this Convention into domestic law until 2002. The catalyst for this change was the establishment of the International Criminal Court. In 2002, the Federal Government introduced the *International Criminal Court (Consequential Amendments) Act 2002* (Cth) which gave the Convention domestic application but was not applicable retrospectively. Moreover, the Attorney General has sweeping powers to quash a prosecution under the *Criminal Code Act 1995* (Cth).⁵²

Reparations – Recommendations 3, 4, 14, 15, 16a-b, 17, 18, 19, 20 and 41.

In 2001 the Federal Government's position was that 'there is no practical or equitable way of paying cash compensation' and as such this is a failed recommendation at the national level.⁵³ This meant **a failure of recommendations 14 – 19**. It also meant the diminished status of **recommendation 3** on components of reparations and **recommendation 4** on claimants.

Most states and territories have established their own reparations packages with the Territories Redress Compensation Scheme now open in the NT, ACT and Jervis Bay areas. The Victorian Stolen Generations Reparations package is also open for applications. Queensland and Western Australia have yet to establish a Stolen Generations reparations package. The states that have established schemes include Tasmania (2007-2008), NSW (2017), SA (2017), Victoria (2022), ACT/NT and Jervis Bay (2022). See Table 1 below on compensation by state and territory.

Applications are currently open until 30 June 2027 for the National Redress Scheme established in the wake of the Royal Commission into Institutional Responses to Child Sexual Abuse. This has a monetary payment up to \$150,000.⁵⁴ In terms of the Commission itself:

- 14.3 percent of survivors who attended a private session identified as Aboriginal and/or Torres Strait Islander, with three quarters reporting they were sexually abused in out-of-home care, largely in historical residential institutions (operating before 1990), such as mission dormitories or children's homes.
- In 2019-2020, 34 percent of applicants to the National Redress Scheme identified as Aboriginal and/or Torres Strait Islander. A significant proportion are likely to be Stolen Generations survivors.⁵⁵
- The following table sets out the reparations packages available across Australia. There are significant discrepancies such that Stolen Generations survivors have uneven and unequal access to reparations, including the amount of compensation, according to the state and territory in which forced removal took place. Western Australia and Queensland currently have no scheme in place and advocates continue to argue for the establishment of a reparations package.

Table 1 Summary of Stolen Generations Reparations Packages from Across Australia

State/Territory	Scheme	Notes
ACT	Territories Stolen Generations Redress Scheme is administered by the National Indigenous Australians Agency and opened on 1 March 2022 to run until 30 June 2026. Applications close 28 February 2026. The Scheme makes available: a redress payment of up to \$75,000; a healing assistance payment of \$7,000; and a personal acknowledgement.	
NSW	The Stolen Generations Reparations Scheme provided ex-gratia payments to Stolen Generations survivors at an amount of up to \$75,000. People eligible for the scheme were also eligible for the Funeral Fund that included one-off payments of \$7,000. A written apology from the Government was also provided to every survivor who received a payment. The Scheme closed for new applications on 30 June 2024. Late applications closed on 29 March 2024.	Figures as at 2018 showed that there had been 1,100 applications out of more than 8,400 estimated Stolen Generations survivors in NSW. ⁵⁶
NT	Territories Stolen Generations Redress Scheme is administered by the National Indigenous Australians Agency and opened on 1 March 2022 to run until 30 June 2026. Applications close 28 February 2026. The Scheme makes available a: redress payment of up to \$75,000; healing assistance payment of \$7,000; and a personal acknowledgement.	
QLD	No scheme.	A Path to Treaty process is reportedly underway. However, bipartisan support was recently lost.
SA	The South Australian Government allocated \$6 million for individual reparations in 2017. 'Of 449 applicants, 343 were deemed eligible by the Schemes Independent Assessor; including 28 who were removed from the Northern Territory and brought to South Australia'. ⁵⁷ In total, 312 people were awarded ex gratia payments of \$20,000 in 2018, and an additional \$10,000 in 2019 'when \$3 million of unspent community-project funding was diverted'. ⁵⁸ This scheme included Aboriginal people from the Northern Territory removed by South Australian authorities.	
TAS	In 2007–2008, the Tasmanian Government implemented a scheme where survivors received just over \$58,000. Eighty-four Stolen Generations survivors received the payment and 22 eligible children received between \$4,000 and \$5,000. ⁵⁹	This is the only scheme to make payments available to descendants of Stolen Generations survivors.
VIC	Victoria's Stolen Generations Reparations Package opened on 31 March 2022 and applications close on 31 March 2027 . Under the scheme, eligible applicants receive a lump sum payment of \$100,000, a personal apology, access to healing programs, family reunions, reconnection to Country and language programs and an opportunity to record and share their story. Additionally, a Stolen Generations Funeral Fund provides up to \$10,000 in assistance. Access to trauma-informed counselling, financial counselling, legal advice and records are facilitated under the Package according to Victorian Government information. ⁶⁰	The Yoorrook Justice Commission is currently operating in Victoria and is the first formal truth-telling process into colonisation and its ongoing impacts as experienced by First Peoples in Victoria. ⁶¹
WA	No Scheme.	Western Australia Stolen Generations Aboriginal Corporation, Bringing Them Home WA, Yokai and Kimberley Stolen Generation Aboriginal Corporation have been actively campaigning for a redress scheme. A petition was launched on 26 May 2022 to the WA Parliament calling on the government to initiate a state redress scheme. This was tabled in parliament in November 2022. ⁶²

Shine Lawyers launched a class action for compensation for Stolen Generations survivors from the Northern Territory. In April 2023 the Supreme Court of NSW approved \$50.45 million and a Settlement Distribution Scheme which covers more claimants than the Territories Redress Scheme.⁶³

The report recommended (recommendation 20) that proposed statutory reparations should not displace common law rights for survivors to seek damages through the courts. The 2015 scorecard noted that in 2007 the South Australian Supreme Court awarded Bruce Trevorrow \$525,000 as compensation for injuries and losses suffered after being separated from his parents when a baby, and as damages for his unlawful removal and false imprisonment, plus a later additional payment of \$250,000 as a lump sum in lieu of interest. It noted, as had many others, that this forces claimants to endure a lengthy court process, possibly incurring costs that most members of the Stolen Generations could not hope to meet. It said the alternative and preferable approach was to set up a non-judicial tribunal to make compensation payments to all Stolen Generations. **Recommendation 20 was given a partial fail** by the 2015 scorecard.⁶⁴

More support is required for Stolen Generations survivors in jail who face delays and many challenges in accessing reparations.

The return of land holdings by churches and NGOs is considered a fail although progress against this is noted for some sites of former institutions such as Kinchela Boys and Cootamundra Girls. **Recommendation 41 is thus a fail.**

Records, family tracing and reunion – Recommendations 1, 11, 13, 21, 22a-b, 23-31, 38a-c, 39.

Oral testimonies

The 2003 MCATSIA review found that the following had been put in place by the Federal Government:

- \$11.25 million for Link-Up services
- \$2 million for Australian Archives for file indexing, copying and preservation, and
- \$1.6 million to the National Library for an Oral History Project.⁶⁵

State and territory governments have reportedly established 'Family History or Information Services, records taskforces and oral history projects'.⁶⁶ Recommendation 1 has therefore received a qualified pass. Yet more can be done to consult with Stolen Generations survivors on what they would like done with testimonies and statements of those who have come forward to participate in reparations.

Assistance to return to Country

Assistance to return to Country in **recommendation 11 has not been implemented**. The Federal Government argued that the \$11.25 million allocated over four years, discussed above, was dedicated towards this recommendation as well targeting Indigenous identification (Recommendation 13) and the establishment of family tracing and reunion services (Recommendation 30) through expanding existing Link-Up services. The Government also suggests additional funding has been provided to AIATSIS for family tracing support. The MCATSIA evaluation stated that 'states and territories have also enhanced or introduced similar initiatives'.⁶⁷

Indigenous identification

Indigenous identification in **recommendation 13 was listed as partial fail** by the 2015 Scorecard as the limited funding available to these organisations makes progress slow. The Scorecard states that through the Stolen Generations Working Partnership, 'Stolen Generations without links to Land Councils have advocated for a central agency to assist them with proof of identity such as through AIATSIS'.⁶⁸

Records

On access to records, **recommendations 21 and 22 were given a pass or qualified** pass by the 2015 scorecard. Most jurisdictions assist Stolen Generations survivors with family history services and/or access to historical records. The Federal Government contends that the Joint Records Taskforce vision has been implemented but the recommendation establishing and funding a Joint Records Taskforce under **recommendation 23 has not been implemented**. The 2003 MCATSIA report stated that Records Taskforces have been established in Victoria, Tasmania, NSW, Western Australia and QLD.⁶⁹ The 2003 report called for 'a national policy to provide unhindered access to records for Indigenous people' and a partnership approach between federal, state and territory governments.

Interstate enquiries on records, **recommendation 24, is considered to be in progress** and minimum access standards to records which constitutes **recommendation 25 is said to have achieved a qualified pass. Recommendation 39 on application of these standards to churches and NGOs is considered a fail in the 2015 Scorecard**. FOI requirements for the Northern Territory were passed in 2002 **making recommendation 26 implemented**.

By contrast, NGOs and churches have made some records available 'whilst others have refused to open their files'.⁷⁰ The 2003 MCATSIA evaluation reported that South Australian churches had been reluctant to respond to the BTH report recommendations and even denied involvement in forcible removals. It went on to state that some 'churches are not forthcoming with information and make it difficult to gain access to records'.⁷¹ In the 2003 evaluation, respondents in Victoria also reported considerable barriers to accessing records 'due to fear of litigation and high monetary costs'.⁷² The Catholic Church in Darwin was also reportedly refusing access to records.

In 2018, The Healing Foundation held a Knowledge Circle around improving access to records for Stolen Generations survivors and organisations. Out of this came the recommendation that The Healing Foundation establish a Historical Records Taskforce with four priorities:

1. Improve access to Birth, Death, and Marriage records.
2. Trauma informed training for record holders and decision makers.
3. Identify how to access privately held collections.
4. Support state and territory-based records forums.⁷³

The Stolen Generations Historical Records Taskforce has been established to 'promote healing for Stolen Generations survivors and descendants by collaborating to improve access to and management and preservation of Stolen Generations records'.⁷⁴ A set of Final Principles guides this work that include: national consistency; permissive access; trauma-aware and healing-informed access and release; and acknowledgement of intergenerational trauma.

Indigenous Family Information Service

The 'first stop shop' Indigenous Family Information Service was considered generally addressed by the Commonwealth but the 2015 Scorecard gave this **recommendation 27 a fail**, as they had not been instituted. Similarly, no traineeships or scholarship for Indigenous archivists, genealogists, or historical researchers are apparent meaning that **recommendation 28 is also a fail**.

Indigenous repositories

Indigenous repositories under **recommendation 29 received a qualified pass** in the 2015 Scorecard noting the funding challenges for AIATSIS.

Family tracing and reunion services

The establishment of family tracing and reunion services in all regional centres has not eventuated making **recommendation 30 a fail**. Where they do exist, Link-Up organisations perform this role.

Return of those removed overseas

The Federal Government claims that **recommendations 31a and 31b** that pertain to citizenship rights and special visas for those forcibly removed and taken overseas are already provided for under existing laws. Under current citizenship law, anyone born in Australia prior to 1986 is automatically an Australian citizen.⁷⁵ Indigenous Australians automatically became Australian citizens with the passing of the *Nationality and Citizenship Act 1948* (Cth), but there was a difference between status and rights for Aboriginal and Torres Strait Islander peoples.⁷⁶ In terms of the recommendations around returning those removed overseas, the *International Transfer of Prisoner Act 1997* (Cth) was amended in June 1997 making **recommendation 31c a pass**. In terms of recommendation 31a and 31b, despite the Federal Government's assertions that this is already provided for, the reality for Russell Moore and family was that his transfer was not settled prior to his tragic passing.⁷⁷ There are Aboriginal and Torres Strait Islander people caught up in visa cancellation and more is required to determine access to Australian citizenship for those Stolen Generations survivors, and descendants, taken or placed overseas and unable to return. Recommendations 31a–b are therefore better characterised as unclear as to implementation status.

Private collections

Recommendation 38 on private collections (churches and NGOs) has not been implemented as the regional Indigenous language, cultural and history centres have not been funded, although some states have provided access.

Rehabilitation – Recommendations 32, 33a–c, 36 and 40.

Research and consultations on impacts of forced removal, **recommendation 32, received a working towards** status in the 2015 Scorecard. The Indigenous well-being model **in recommendation 33 also received a working towards** but the 2015 Scorecard noted that negotiations had stalled so this is instead categorised as **unclear as to implementation of recommendation 33**.

In a submission to the Senate Legal and Constitutional References Committee Inquiry into the Stolen Generations in 2000, the then Minister for Aboriginal and Torres Strait Islander Affairs, Senator John Herron, stated in relation to progress on Recommendations 32 and 33 that:

Dept of Health and Family Services given \$17.25m over 4 years for: the expansion of the current network of Regional Centres which provide training, research and clinical support; the development of the Mental Health Education Program for undergraduate clinical students; and for the promulgation of National Health and Medical Research Council good practice and clinical care guidelines. \$16m over 4 years for an additional 50 counsellors to be based at Indigenous community-based health services to deal with the ongoing effects of family separations.⁷⁸

The 2003 MCATSIA review found that counselling support was provided through Commonwealth funding and included the original \$16 million supplemented to provide for 'over 100 full time positions'.⁷⁹ Additionally, \$5.9 million that was initially provided for Indigenous family support and parenting programs, and administered by Department of Family and Community Services, was now reportedly ongoing with \$1.9 million allocated in 2003–04. **Recommendation 36 on parenting skills was not implemented**. The MCATSIA evaluation stated that at issue with such programs was the lack of cultural appropriateness, inaccessible programs, inadequate promotion and no evidence that parenting programs were targeting Stolen Generations members or their children specifically.⁸⁰

Recommendation 40 on counselling services was considered a qualified pass although the 2015 Scorecard also noted funding challenges for these organisations providing such programs.

Guarantees against repetition – Recommendations 37, 42–50, 53 and 54

Recommendation 37 on prisoner services has not been implemented. This recommendation required COAG to ensure adequate funding to Indigenous health and medical services and family well-being programs to establish preventative mental health programs in prisons and detention centres.

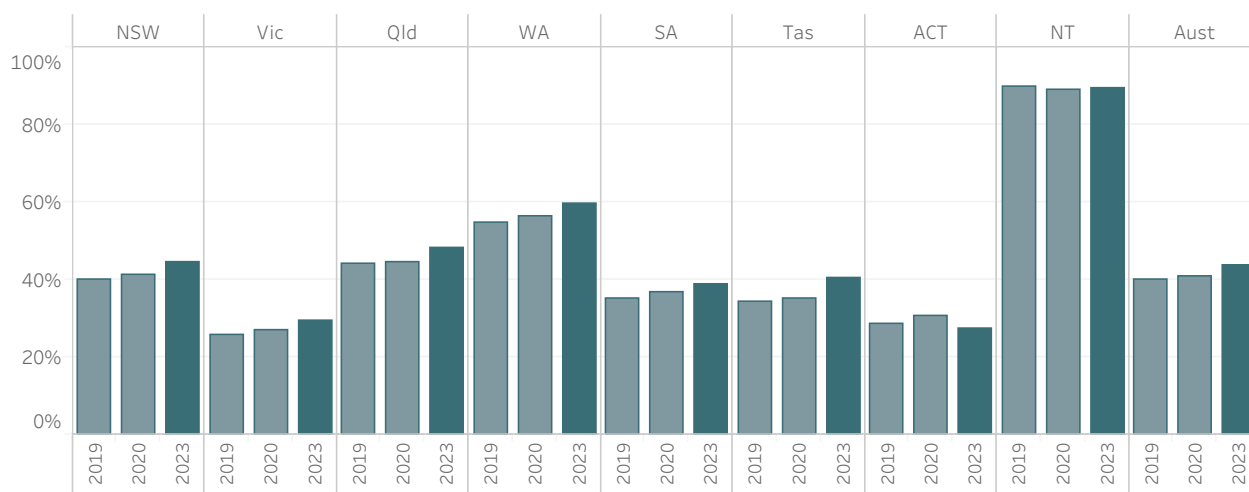
The 2003 MCATSIA review found that:

Most jurisdictions have established a range of initiatives to support the care and wellbeing of Indigenous people in prison and juvenile justice. Over-representation of Indigenous people in these settings remains a major concern.⁸¹

A recent review of the health of people in Australian prisons found that few prisons have Aboriginal Community Controlled Health Organisations involved in the delivery of health care.⁸² Funding shortages mean that such services are often over-stretched. Australia does not have a national coordinated approach to assess and support the health needs of Aboriginal and Torres Strait Islander people in custody.⁸³ Whilst the Royal Australian College of General Practitioners have produced a *Standards for health services in Australian prisons*, a submission on their review in 2022 by NACCHO asserted that they ‘do not adequately address the issues of delivering healthcare in prisons, nor the significant overrepresentation of Aboriginal and Torres Strait Islander people in the Australian system’.⁸⁴

The **Social Justice Package under recommendation 42 is a fail** and the rates of removal for Indigenous children have increased. The BTH report used statistics from 1993 and 1996 showing that despite comprising only 2.7 percent of Australian children, Aboriginal and Torres Strait Islander children were 20 percent of those in care in 1993. As at 2023, 43.7 percent of children (0–17 years) in OOHC were Aboriginal and Torres Strait Islander children. Aboriginal and Torres Strait Islander children represented 6 percent of the total population of children (0–17 years).⁸⁵ As shown in Figure 3 below, the highest percentage of Aboriginal and Torres Strait Islander children in OOHC was in NT (89 percent), followed by WA (59.6 percent) and Queensland (48 percent).

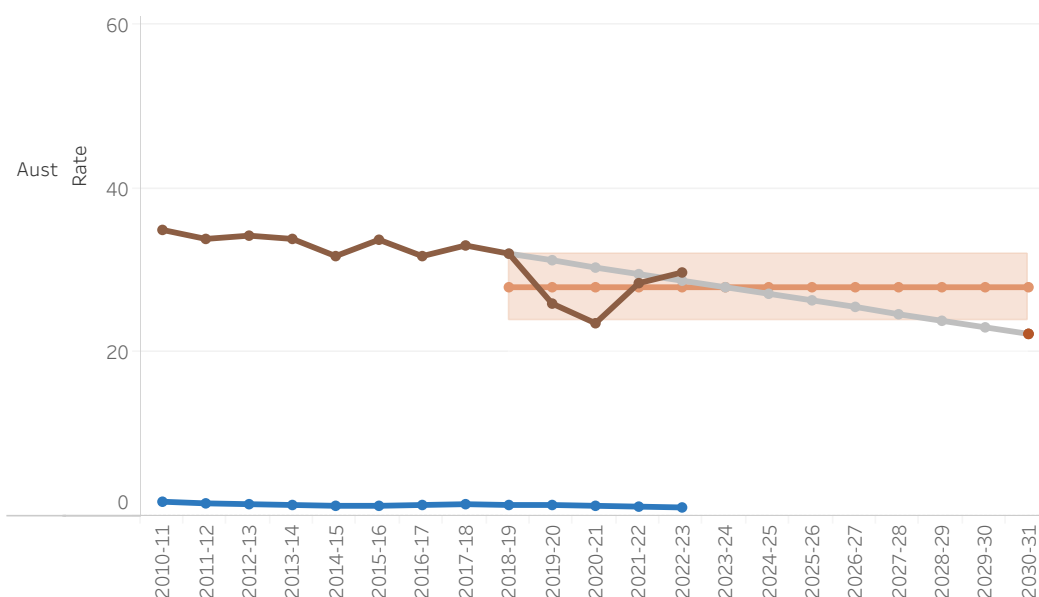
By jurisdiction, by year



Source: Productivity Commission, Closing the Gap dashboard, table SE12b.1

Figure 3 Proportion of children in OOHC who were Aboriginal and Torres Strait Islander: Source: Productivity Commission 2024.

As of 2022–2023, the rate of Aboriginal and Torres Strait Islander young people in detention on an average day was 29.8 per 10,000 young people. This was an increase from the previous three years but a decrease from 2018–2019.⁸⁶ Disaggregated by sex, the rate for Aboriginal and Torres Strait Islander males was 49.4 per 10,000 and 6.3 for Aboriginal and Torres Strait Islander females.



Source: Productivity Commission, Closing the Gap dashboard, table CtG11A.1

Figure 4 Young people in detention on an average day in Australia. Rate per 10,000 young people. Source: Productivity Commission 2024.

It is not clear from available statistics how many of the Aboriginal and Torres Strait Islander people who make up 33 percent of the Australian prison population in 2023, are members or descendants of the Stolen Generations. Tragically, there have been 545 Indigenous deaths in custody between July 1991 and June 2023.⁸⁷ In 2022-23 there were 21 Aboriginal and Torres Strait Islander deaths in prison custody, the highest number since 1979-80. In terms of police custody, 10 Aboriginal and Torres Strait Islander people lost their lives in 2022-2023, also the highest number recorded since 2004-05. The Royal Commission into Aboriginal Deaths in Custody investigated 99 individual cases of those who had died in police and prison custody, finding that state intervention was a familiar pattern, including forcible removal from families and communities.⁸⁸ The lack of available data prevents a complete picture of the experience of Stolen Generations survivors and their descendants in the criminal justice system.

Self-determination in recommendation 43 is a fail and was previously actively rejected by governments.

National Standards on the treatment of Indigenous Children in **recommendation 44 received a qualified pass** by the 2015 Scorecard. The comprehensive National Standards for Indigenous Children under State, Territory or shared jurisdiction set out in **recommendations 45-53 are a fail** and the situation has worsened dramatically. Perhaps this is an area that The Healing Foundation and Stolen Generations organisations can rely on SNAICC and other justice-health organisations to take forward.

Changes to the *Family Law Act 1975* (Cth) received a **qualified pass for recommendation 54**.

Since the report – advocacy areas following the *Bringing Them Home* report

We prepared a timeline of key events/reports/initiatives since the BTH report based on what we noted from our desktop review were the central developments relating to the BTH report and its recommendations. This is available at Appendix 3.

The failure to systematically implement the BTH report's recommendations and comprehensively respond to the needs of Stolen Generations survivors and their families has exacerbated intergenerational trauma, causing more pain and distress across Aboriginal and Torres Strait Islander communities.⁸⁹ Ongoing experiences of racism and institutional racism compound existing traumas and are potentially 'retraumatising and can become a barrier to healing'.⁹⁰ The legacies of dispossession, exclusion and discrimination are present within the ongoing challenge of securing change and resources for Stolen Generations survivors and their families. Concerns have been raised about funding moving away from the specific needs of the Stolen Generations in favour of initiatives to support the wider social, emotional and wellbeing needs of Aboriginal and Torres Strait Islander community.⁹¹ At the national Knowledge Circle in February 2018:

Stolen Generations survivors reported that carrying a burden of chronic illness and trauma, and their need to care for grandchildren, often made it difficult to gain employment. This creates a reliance on unemployment benefits and further economic disadvantage that many find undignified and retraumatising.⁹²

Stolen Generations survivors are at least 50 years-of-age and over, making the urgency of acting even more compelling.⁹³ Further, Stolen Generations survivors include Veterans who have served their country, and are aging, and for whom reparations are a matter of urgency. Those Stolen Generations survivors in states without any reparations will have had no redress thus far, in contrast with survivors in other states and territories. This is manifestly unjust.

This year marks the 16th anniversary of The Healing Foundation, an organisation that has become the national leader of evidence-based survivor-led intergenerational healing. The Healing Foundation elevates the voices of Stolen Generations survivors to enable them to lead their healing journeys. In 2024, The Healing Foundation will allocate around \$900,000 in Collective Healing Grants aimed to meet the unique healing needs and aspirations of Stolen Generations survivors.

The following action areas have been drawn from The Healing Foundation reports in 2017 and 2021 and recent budget submissions. They are extracted here for this discussion paper. Beginning with the latest document, the Pre-Budget submission 2024-2025 stated the following priority areas:

- **Redress for survivors and their families:** requiring the Federal Government to work with states to secure redress for Stolen Generations survivors in WA and Queensland and address unfairness within closed reparations schemes where significant discrepancies exist.
- **Boosting organisational capacity:** The Healing Foundation has received the same level of government funding since it was established in 2009. A boost would enable The Healing Foundation to monitor the BTH report recommendations, respond to gaps, build and grow healing activities and establish training packages on trauma and healing for the benefit of Stolen Generations survivors.
- **Build a sustainable healing sector:** Funding is needed for programs that happen outside clinical settings but that 'are locally driven, incorporate traditional and collective healing initiatives, respond to the impacts of colonial and intergenerational trauma, build community capacity, and are proactive in making healing happen for survivors and their communities'.⁹⁴
- **Effectively support an aging Stolen Generations survivor population:** All Stolen Generations are now aged 50 and over and one in five reported living with a severe or profound disability.⁹⁵ The Healing Foundation is well placed to deliver best practice models and training packages for the sector to respond to the unique needs of survivors.

- **Records and access management:** Funding and targeted policy and advocacy work is urgently needed to build sector capacity and embed Indigenous data sovereignty principles into records access.

The 2021 report *Make Healing Happen, It's Time to Act* called for four action areas and 7 priorities within them:

- **Action 1: Redress for Stolen Generations survivors and their descendants**

Priority 1: All Australian governments, in collaboration with Stolen Generations survivors, co-design a universal, safe and culturally appropriate redress scheme for living and deceased Stolen Generations survivors and their descendants.

Priority 2: The Australian Government urgently addresses reparations for Stolen Generations survivors removed in Commonwealth territories (NT, ACT, Jervis Bay).

Priority 3: The Australian Government, with contributions from all jurisdictions, establishes a funding stream for investing in healing. The funds will be used to expand support and resources for Stolen Generations organisations and other organisations nominated by Stolen Generations survivors, to deliver co-designed healing programs focused on the specific needs of Stolen Generations survivors and their families.

- **Action 2: Meeting the complex needs of Stolen Generations survivors**

Priority 4: All governments resource programs and policies across Australia that are co-designed with Stolen Generations survivors to holistically address their specific needs, prioritising aged care, disability, health (especially mental health) and housing.

- **Action 3: Healing intergenerational trauma and preventing new harm**

Priority 5: All governments resource and implement a national intergenerational healing strategy for addressing intergenerational trauma developed with Stolen Generations survivors and descendants.

Priority 6: That collective healing programs co-developed with local Stolen Generations organisations are established in WA and SA as a high priority. This recognises the high proportion of adult Stolen Generations descendants in WA and SA, who experience disproportionate levels of disadvantage.

- **Action 4: Sustainable and robust monitoring and accountability**

Priority 7: The Australian Government resources a national accountability framework to monitor and report progress towards achieving better outcomes for Stolen Generations survivors and their descendants, including annual/biennial reporting to parliament and the establishment of a web-based monitoring and reporting tool.

A report by The Healing Foundation in 2017 and authored by Pat Anderson and Edward Tilton made three recommendations:

1. A comprehensive assessment of the contemporary and emerging needs of Stolen Generations members, including needs-based funding and a financial redress scheme.
2. A national study into intergenerational trauma to ensure that there is real change for young Aboriginal and Torres Strait Islander people in the future.
3. An appropriate policy response that is based on the principles underlying the 1997 *Bringing Them Home* Report.⁹⁶

The 2017 report found that:

Despite progress in some areas, there has never been a collaborative and systematic attempt to address the recommendations the report made. Most have never been implemented.⁹⁷

Stolen Generations survivors and organisations have embarked upon many initiatives to advocate for the implementation of the BTH report recommendations and initiatives to support healing. Whilst these are too many to list here, we were introduced to several such projects throughout our preparation of this discussion paper.⁹⁸

Report recommendations relating to The Healing Foundation and Stolen Generations Organisations

In preparing this discussion paper we were asked to highlight relevant BTH report recommendations relating specifically to the work of The Healing Foundation and Stolen Generations organisations. This section categorises the BTH report recommendations into areas that: are already implemented; other organisations might be better placed to take forward; are specifically within the remit of The Healing Foundation and Stolen Generations organisations; and what we are not sure is still a current priority for Stolen Generations survivors.

Bringing Them Home Report recommendations already implemented:

Recommendation	Summary of Content of Recommendation
5a	Apology by Federal, State and Territory Parliaments.
7a	Annual commemoration of National Sorry Day.
21	Prohibition on the destruction of records.
26	Freedom of Information reforms in the Northern Territory.
31c	Implementation of the <i>International Transfer of Prisoners Act 1997</i> (Cth).

Report recommendations that other organisations may be better placed to take forward:

In analysing the BTH report's recommendations and the remit of other organisations in the sector, we propose that the following recommendations might better align with organisations other than The Healing Foundation. These recommendations are still relevant to the work of The Healing Foundation, yet other organisations may be considered better placed to take them forward:

Recommendation	Summary of Content of Recommendation
10	Amendments to implement the Genocide Convention.
12a-b	Commonwealth funding for Indigenous language, culture and history centres.
33b-c	Employment and funding for Indigenous preventive and primary mental health well-being services.
34	Training for health professionals on the history and effects of forcible removal. Perhaps the Healing Foundation can support this with resources available for this purpose..
35	Ensuring all governments institute Indigenous mental health worker training.
36	Ensuring adequate funding to Indigenous organisations for parenting and family well-being programs.
37	Ensuring adequate provision of health and wellbeing programs to those in prison and detention.
43-53	National Standards implementation of self-determination in relation to Indigenous children in care and protection systems and juvenile justice systems.

Report recommendations that specifically relate to The Healing Foundation and Stolen Generations organisations:

Recommendation	Summary of Content of Recommendation
1	Recording testimonies: Ensuring there is adequate funding available to appropriate agencies to record, preserve and administer access to the testimonies of Indigenous people affected by forcible removal who wish to provide their histories in audio, audio-visual or written form.
2	Monitoring and accountability: The procedure for implementation recommended in the Report that tasked federal, state and territory governments with monitoring and accountability for implementation of the recommendations was ignored. The Healing Foundation may assume this role but needs adequate funding to be able to effectively monitor implementation and ensure governments and other agencies are accountable and still perceive themselves as responsible for implementation.
3	Components of reparations: Continue to argue for reparations and its component parts.
5b, 6	Acknowledgement and Apology: Police, churches and other agencies: Continue to pursue churches, NGOs and police for apologies and acknowledgements.
7a-b	Commemoration: Continue to be a custodian for National Sorry Day and fund and promote events.
8	School education: Continue to consult with schools on curriculum and ensure quality.
9	Professional training: Working with universities and training institutes to ensure the histories of forced removal are taught to students.
11	Assistance to return to country: To lobby governments to enable assistance to return to Country.
13	Indigenous identification: Consider that a central agency could assist with Indigenous identification which is a slight modification of this recommendation.
14-19	Monetary compensation and funding: a) States without reparations packages establish them – WA and QLD b) That these schemes operate according to best practice principles c) That any delays and challenges be mediated by The Healing Foundation advocating with Stolen Generations organisations and for Stolen Generations survivors d) That unfairness in closed schemes be addressed e) That the definition of 'claimants' be broad in alignment with recommendation 4 of the Report.
20	Civil claims: Support to those pursuing civil claims for forced removal.
21-22	Destruction of Records Prohibited and Record Preservation: Advocacy for records to not be destroyed and be preserved.
23	Joint records taskforces: That Joint Records Taskforces exist and failing that, that The Healing Foundation continues its central role.
24	Interstate enquiries: That MOUs for interstate queries are operational.
25	Minimum standard requirements: That minimum access standards to records exists.
27	Indigenous Family Information Service: That even if the 'first stop shop' Indigenous Family Information Services did not eventuate, that something exists in its place.
28	Training: Advocating for funding for Indigenous archivists, genealogists, historical researchers and counsellors.
29a-b	Indigenous repositories: Ensuring that Indigenous repositories have capacity and are protected.
30a-b	Establishment of Family Tracing and Reunion Services: Ensuring funding to Family Tracing and Reunion Services.
31a-b	Return of those removed overseas: Support to those Aboriginal and Torres Strait Islander people removed overseas who seek to return.
32	Research: Research on the effects of forcible removal.

Recommendation	Summary of Content of Recommendation
33a	Indigenous wellbeing model: Ensuring that all services and programs provided for survivors emphasise local Indigenous healing and well-being perspectives.
38a-c	Private collections: Making sure private collections are not destroyed and an organisation has custody of them.
39	Application of minimum standards and common guidelines: That churches and other NGOs apply minimum standards set by state and territory governments.
41	Land holdings: That churches and other NGOs review their land holdings to identify land acquired or granted for the purpose of accommodating Indigenous children forcibly removed from their families and, in consultation with Indigenous people and their land councils, return that land.
42	Social justice: This might guide or frame advocacy by The Healing Foundation and Stolen Generations organisations. This recommendation is not yet implemented and is still pressing – includes implementation of RCIADIC recommendations.

What we are not sure is still current priority for Stolen Generations survivors:

Recommendations 40a-b refer to counselling services and supports provided by churches and other NGOs and ensuring their cultural appropriateness. Our desktop review was not able to determine whether they have been adequately implemented and the desire or appetite for this to be a continued focus of The Healing Foundation and Stolen Generations organisations.

Recommendation	Summary of Content of Recommendation
40a-b	Counselling Services: Ensuring the cultural appropriateness of counselling and support services provided by churches and NGOs to those affected by forcible removal.

Recommendations for Next Steps

This section outlines 15 recommendations for suggested next steps for The Healing Foundation, Stolen Generations organisations, partners and governments to continue the unfinished business of the BTH report. It is understood that The Healing Foundation will use these suggested next steps as the basis for further engagement and advocacy with the sector and governments.

Consultation, monitoring and accountability (BTH report recommendation 2):

1. The Healing Foundation is the obvious custodian of the BTH report and its recommendations. A decision should be made on whether this includes all the recommendations or just those relevant to the work of The Healing Foundation and Stolen Generations organisations. Additional funding is required to resource this monitoring role. The Healing Foundation website could have a purpose-built section that accounts for the recommendations and progress against them.
2. The Healing Foundation is a member of various government advisory and partnership bodies such as the Coalition of Peaks and can receive, review and influence reports and policy decisions prepared by federal, state and territory governments in response to Closing the Gap targets and other programs. This is an appropriate avenue for pressing accountability on relevant recommendations and on the 'gap within a gap' identified for Stolen Generations survivors and their descendants. Where this doesn't occur already, Stolen Generation organisations could be built into State and Territory membership of the Coalition of Peaks to ensure participation and a role in monitoring progress against relevant recommendations. To support this advocacy, the proposed First Nations Aged Care Commissioner may be briefed on Stolen Generations survivors' needs and contemporary challenges.
3. Whilst The Healing Foundation may be the appropriate organisation to monitor all or most of the BTH report recommendations, the responsibility for implementation lies with federal, state and territory governments, NGOs and other agencies such as police forces. With the 30th anniversary of the BTH report approaching, advocacy with governments, NGOs and other agencies is critical to ensuring a commitment to implementation and bearing responsibility for gross human rights violations. Building a relationship and shared vision with the Minister for Indigenous Australians will be essential.

Acknowledgements and Apology (BTH report recommendations 5b and 6):

4. The Healing Foundation should work alongside state and territory Stolen Generations organisations and governments to urge the remaining police forces to apologise. Similarly, where it is of concern to The Healing Foundation and Stolen Generations survivors and organisations that particular churches and other NGOs have not issued an apology, work should be undertaken for this to occur. If the need to access records from these same organisations coincides then both projects can be linked together. Perhaps there is a role for Aboriginal churches in this process, through the Australian Indigenous Ministries and the National Aboriginal and Torres Strait Islander Ecumenical Commission of the National Council of Churches in Australia.
5. The Healing Foundation and Stolen Generations organisations should continue to be the custodians of National Sorry Day, promoting and providing educational resources on the significance of Sorry Day and supporting a broad range of events and commemorations.

Education and training (BTH report recommendations 7, 8, 9, 12, 28, 34, 35):

6. There is now a strong role occupied by Aboriginal and Torres Strait Islander leaders within the senior executive of universities across Australia. There is also a sector-wide Universities Australia Indigenous Strategy 2022–2025 and Reconciliation Action Plans. These leaders could be engaged on how universities' core business of curriculum can effectively include the history and effects of forcible removal. Relationships with TAFEs can be built with the same targeted communication.

Reparations (BTH report recommendations 3, 4, 14–20 and 41):

7. A priority for The Healing Foundation in collaboration with Stolen Generations organisations and survivors is to push for more civil claims, and reparations packages for WA and QLD. Moreover, the significant discrepancy in some packages across states and territories necessitates advocacy for closed schemes to be revisited.
8. The Healing Foundation could play a role in mediating and lending support to advocate where problems exist with reparations, capturing the lessons learned for the establishment of future reparations packages. There needs to be an urgent focus on Stolen Generations survivors on account of their age, and an ability to ensure that services supporting applicants have the requisite professional capabilities to work with, and for, Aboriginal and Torres Strait Islander peoples and provide culturally safe wrap-around support.
9. The return of land holdings by churches and NGOs of institutions and homes is a key recommendation for The Healing Foundation and Stolen Generations organisations and should continue to be pursued.

Records, family tracing and reunion (BTH report recommendations 1, 11, 13, 21–25, 27–31, 38, 39):

10. The Healing Foundation has an important and established role contesting institutional access to records and embedding Indigenous data sovereignty principles. This work should continue through advocacy by the Historical Records Taskforce and the 'Final Principles' it outlines.
11. Conversations with Stolen Generations survivors are critical to inform what should be done with testimonies and statements of those who have come forward to participate in redress schemes.
12. Assistance to return to Country is still a key concern and within the advocacy scope of The Healing Foundation and Stolen Generations organisations. The Ambassador for First Nations People and the Minister for Indigenous Australians may be approached to identify how the needs of Stolen Generations survivors living outside Australia can be addressed, including with regard to citizenship

Rehabilitation (BTH report recommendations 32–33, 36 and 40):

13. The Healing Foundation should continue to research the effects of forcible removal, and the impact on descendants, to inform advocacy into the future.
14. The Healing Foundation is well placed to advocate that all services and programs provided to Stolen Generations survivors emphasise local Indigenous healing and well-being perspectives and be grounded in intergenerational trauma-informed healing.
15. Moving forward, consideration needs to be taken on how to best meet the unique needs of survivors, one in five of whom report living with a severe or profound disability.⁹⁹ A similar consideration should be taken for descendants of Stolen Generations survivors.

Conclusion

Whilst the *Bringing Them Home* report and the testimonies of the Stolen Generation survivors left an enormous legacy, progress against its recommendations has been woeful. It is hard to conceive that gross human rights violations, documented and bravely retold by survivors in public forums, can be met with systematic inaction in so many areas. Yet that is the confronting reality that exists in Australia.

Since the BTH report was tabled, both the removal of Aboriginal and Torres Strait Islander children into child protection systems, and the mass incarceration of Indigenous peoples, have increased dramatically.¹⁰⁰ These unmet calls for action are evident in the continued work of campaigns including [Family Matters](#) and [Change the Record](#), and other policy advocacy and reform work being led by Aboriginal and Torres Strait Islander community controlled organisations such as SNAICC and NATSILS. While justice and child protection are not necessarily remit areas for The Healing Foundation and Stolen Generations organisations, there are potential advocacy and partnership opportunities to reinforce the BTH report recommendations to governments and organisations working in those areas.

There is some movement in the Territories Stolen Generations Redress Scheme, and the Closing the Gap categories on youth justice and OOHC, but a 2024 Productivity Commission report has found the gap targets are worsening and that the whole agreement will fail without fundamental changes.¹⁰¹ It criticised what it said was a 'disregard' for representation by Indigenous communities and the 'little effort' undertaken to address institutional racism in justice and health.¹⁰²

Targeted advocacy by The Healing Foundation alongside Stolen Generations organisations is more important than ever. There is a collective approach needed to ensure the recommendations of the BTH report are fully implemented. Action from governments and those agencies and institutions responsible for delivering progress against the BTH report recommendations is urgent. We cannot wait another generation.

Appendix 1

Terms of Reference for the Bringing Them Home report¹⁰³

Terms of Reference

I, MICHAEL LAVARCH, Attorney-General of Australia, HAVING REGARD TO the Australian Government's human rights, social justice and access and equity policies in pursuance of section 11(1)(e), (j), and (k) of the Human Rights and Equal Opportunity Commission Act 1986, HEREBY REVOKE THE REQUEST MADE ON 11 MAY 1995 AND NOW REQUEST the Human Rights and Equal Opportunity Commission to inquire into and report on the following matters:

To:

- a) trace the past laws, practices and policies which resulted in the separation of Aboriginal and Torres Strait Islander children from their families by compulsion, duress or undue influence, and the effects of those laws, practices and policies;
- b) examine the adequacy of and the need for any changes in current laws, practices and policies relating to services and procedures currently available to those Aboriginal and Torres Strait Islander peoples who were affected by the separation under compulsion, duress or undue influence of Aboriginal and Torres Strait Islander children from their families, including but not limited to current laws, practices and policies relating to access to individual and family records and to other forms of assistance towards locating and reunifying families;
- c) examine the principles relevant to determining the justification for compensation for persons or communities affected by such separations;
- d) examine current laws, practices and policies with respect to the placement and care of Aboriginal and Torres Strait Islander children and advise on any changes required taking into account the principle of self-determination by Aboriginal and Torres Strait Islander peoples.

IN PERFORMING its functions in relation to the reference, the Commission is to consult widely among the Australian community, in particular with Aboriginal and Torres Strait Islander communities, with relevant non-government organisations and with relevant Federal, State and Territory authorities and if appropriate may consider and report on the relevant laws, practices and policies of any other country.

THE COMMISSION IS REQUIRED to report no later than December 1996.

Dated 2 August 1995

MICHAEL LAVARCH

Appendix 2

List of Bringing Them Home Report Recommendations

BTH report recommendation number	BTH report theme	BTH report recommendation
1	Recording testimonies	That the Council of Australian Governments ensure the adequate funding of appropriate Indigenous agencies to record, preserve and administer access to the testimonies of Indigenous people affected by the forcible removal policies who wish to provide their histories in audio, audio-visual or written form.
2a	Procedure for implementation	That the Council of Australian Governments establish a working party to develop a process for the implementation of the Inquiry's recommendations and to receive and respond to annual audit reports on the progress of implementation.
2b		That the Commonwealth fund the establishment of a National Inquiry audit unit in the Human Rights and Equal Opportunity Commission to monitor the implementation of the Inquiry's recommendations and report annually to the Council of Australian Governments on the progress of implementation of the recommendations.
2c		That ATSIC fund the following peak Indigenous organisations to research, prepare and provide an annual submission to the National Inquiry audit unit evaluating the progress of implementation of the Inquiry's recommendations: Secretariat of National Aboriginal and Islander Child Care (SNAICC), Stolen Generations National Secretariat, National Aboriginal Community Controlled Health Organisation (NACCHO) and National Aboriginal and Islander Legal Services Secretariat (NAILSS).
2d		That Commonwealth, state and territory governments undertake to provide fully detailed and complete information to the National Inquiry audit unit annually on request concerning progress on implementation of the Inquiry's recommendations.
3	Components of reparations	That, for the purposes of responding to the effects of forcible removals, 'compensation' be widely defined to mean 'reparation'; that reparation be made in recognition of the history of gross violations of human rights; and that the van Boven principles guide the reparation measures. Reparation should consist of: 1. acknowledgment and apology, 2. guarantees against repetition, 3. measures of restitution, 4. measures of rehabilitation, and 5. monetary compensation.
4	Claimants	That reparation be made to all who suffered because of forcible removal policies including: 1. individuals who were forcibly removed as children, 2. family members who suffered as a result of their removal, 3. communities which, as a result of the forcible removal of children, suffered cultural and community disintegration, and 4. descendants of those forcibly removed who, as a result, have been deprived of community ties, culture and language, and links with and entitlements to their traditional land.

BTH report recommendation number	BTH report theme	BTH report recommendation
5a	Acknowledgment and apology – Parliaments and police forces	That all Australian Parliaments 1. officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal, 2. negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for official apologies to Indigenous individuals, families and communities and extend those apologies with wide and culturally appropriate publicity, and 3. make appropriate reparation as detailed in following recommendations.
5b		That State and Territory police forces, having played a prominent role in the implementation of the laws and policies of forcible removal, acknowledge that role and, in consultation with the Aboriginal and Torres Strait Islander Commission, make such formal apologies and participate in such commemorations as are determined.
6	Acknowledgment and apology – Churches and others	That churches and other non-government agencies which played a role in the administration of the laws and policies under which Indigenous children were forcibly removed acknowledge that role and in consultation with the Aboriginal and Torres Strait Islander Commission make such formal apologies and participate in such commemorations as may be determined.
7a	Commemoration	That the Aboriginal and Torres Strait Islander Commission, in consultation with the Council for Aboriginal Reconciliation, arrange for a national 'Sorry Day' to be celebrated each year to commemorate the history of forcible removals and its effects.
7b		That the Aboriginal and Torres Strait Islander Commission, in consultation with the Council for Aboriginal Reconciliation, seek proposals for further commemorating the individuals, families and communities affected by forcible removal at the local and regional levels. That proposals be implemented when a widespread consensus within the Indigenous community has been reached.
8a	School education	That State and Territory Governments ensure that primary and secondary school curricula include substantial compulsory modules on the history and continuing effects of forcible removal.
8b		That the Australian Institute of Aboriginal and Torres Strait Islander Studies be funded by the Commonwealth to develop these modules.
9a	Professional Training	That all professionals who work with Indigenous children, families and communities receive in-service training about the history and effects of forcible removal.
9b		That all under-graduates and trainees in relevant professions receive, as part of their core curriculum, education about the history and effects of forcible removal.
10	Genocide Convention	That the Commonwealth legislate to implement the Genocide Convention with full domestic effect.
11	Assistance to return to country	That the Council of Australian Governments ensure that appropriate Indigenous organisations are adequately funded to employ family reunion workers to travel with clients to their country, to provide Indigenous community education on the history and effects of forcible removal and to develop community genealogies to establish membership of people affected by forcible removal.
12a	Language, culture and history centres	That the Commonwealth expand the funding of Indigenous language, culture and history centres to ensure national coverage at regional level.
12b		That where the Indigenous community so determines, the regional language, culture and history centre be funded to record and maintain local Indigenous languages and to teach those languages, especially to people whose forcible removal deprived them of opportunities to learn and maintain their language and to their descendants.

BTH report recommendation number	BTH report theme	BTH report recommendation
13	Indigenous identification	That Indigenous organisations, such as Link-Ups and Aboriginal and Islander Child Care Agencies, which assist those forcibly removed by undertaking family history research be recognised as Indigenous communities for the purposes of certifying descent from the Indigenous peoples of Australia and acceptance as Indigenous by the Indigenous community.
14	Heads of damage	That monetary compensation be provided to people affected by forcible removal under the following heads. 1. Racial discrimination. 2. Arbitrary deprivation of liberty. 3. Pain and suffering. 4. Abuse, including physical, sexual and emotional abuse. 5. Disruption of family life. 6. Loss of cultural rights and fulfilment. 7. Loss of native title rights. 8. Labour exploitation. 9. Economic loss. 10. Loss of opportunities.
15	National Compensation Fund	That the Council of Australian Governments establish a joint National Compensation Fund.
16a	National Compensation Fund Board	That the Council of Australian Governments establish a Board to administer the National Compensation Fund.
16b		That the Board be constituted by both Indigenous and non-Indigenous people appointed in consultation with Indigenous organisations in each State and Territory having particular responsibilities to people forcibly removed in childhood and their families. That the majority of members be Indigenous people and that the Board be chaired by an Indigenous person.
17	Procedural principles	That the following procedural principles be applied in the operations of the monetary compensation mechanism. 1. Widest possible publicity. 2. Free legal advice and representation for claimants. 3. No limitation period. 4. Independent decision-making which should include the participation of Indigenous decision-makers. 5. Minimum formality. 6. Not bound by the rules of evidence. 7. Cultural appropriateness (including language).
18	Minimum lump sum	That an Indigenous person who was removed from his or her family during childhood by compulsion, duress or undue influence be entitled to a minimum lump sum payment from the National Compensation Fund in recognition of the fact of removal. That it be a defence to a claim for the responsible government to establish that the removal was in the best interests of the child.
19	Proof of particular harm	That upon proof on the balance of probabilities any person suffering particular harm and/or loss resulting from forcible removal be entitled to monetary compensation from the National Compensation Fund assessed by reference to the general civil standards.
20	Civil claims	That the proposed statutory monetary compensation mechanism not displace claimants' common law rights to seek damages through the courts. A claimant successful in one forum should not be entitled to proceed in the other.
21	Destruction of records prohibited	That no records relating to Indigenous individuals, families or communities or to any children, Indigenous or otherwise, removed from their families for any reason, whether held by government or non-government agencies, be destroyed.

BTH report recommendation number	BTH report theme	BTH report recommendation
22a	Record preservation	That all government record agencies be funded as a matter of urgency by the relevant government to preserve and index records relating to Indigenous individuals, families and/or communities and records relating to all children, Indigenous or otherwise, removed from their families for any reason.
22b		That indexes and other finding aids be developed and managed in a way that protects the privacy of individuals and, in particular, prevents the compilation of dossiers.
23	Joint records taskforces	<p>That the Commonwealth and each State and Territory Government establish and fund a Records Taskforce constituted by representatives from government and church and other non-government record agencies and Indigenous user services to,</p> <ol style="list-style-type: none"> 1. develop common access guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles, 2. advise the government whether any church or other non-government record-holding agency should be assisted to preserve and index its records and administer access, 3. advise government on memoranda of understanding for dealing with inter-State enquiries and for the inter-State transfer of files and other information, 4. advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information, and 5. advise government on the need to introduce or amend legislation to put these policies and practices into place.
24	Inter-State enquiries	That each government, as advised by its Records Taskforce, enter into memoranda of understanding with other governments for dealing with inter-State enquiries and for the inter-State transfer of records and other information.
25	Minimum access standards	<p>That all common access guidelines incorporate the following standards.</p> <ol style="list-style-type: none"> 1. The right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same. 2. No application fee, copying fee or other charge of any kind to be imposed. 3. A maximum application processing period to be agreed by the Records Taskforce and any failure to comply to be amenable to review and appeal. 4. A person denied the right of access or having any other grievance concerning his or her information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or other matter free of charge. 5. The right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her State or Territory of residence. 6. The form of advice provided to applicants to be drafted in consultation with local Indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress. 7. The right of every person to receive all personal identifying information about himself or herself including information which is necessary to establish the identity of family members (for example, parent's identifying details such as name, community of origin, date of birth). 8. The right of every person who is the subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.
26	FoI in the NT	That the Northern Territory Government introduce Freedom of Information legislation on the Commonwealth model.

BTH report recommendation number	BTH report theme	BTH report recommendation
27	Indigenous Family Information Service	That the Commonwealth and each State and Territory Government, in consultation with relevant Indigenous services and its Records Taskforce, establish an Indigenous Family Information Service to operate as a 'first stop shop' for people seeking information about and referral to records held by the government and by churches. That these Services be staffed by Indigenous people. That to support these Services each government and church record agency nominate a designated contact officer.
28	Training	That the Commonwealth and each State and Territory Government institute traineeships and scholarships for the training of Indigenous archivists, genealogists, historical researchers and counsellors.
29a	Indigenous repositories	That, on the request of an Indigenous community, the relevant Records Taskforce sponsor negotiations between government, church and/or other non-government agencies and the relevant Indigenous language, culture and history centre for the transfer of historical and cultural information relating to that community and its members.
29b		That the Council of Australian Governments ensure that Indigenous language, culture and history centres have the capacity to serve as repositories of personal information that the individuals concerned have chosen to place in their care and which is protected in accordance with established party principles.
30a	Establishment of family tracing and reunion services	That the Council of Australian Governments ensure that Indigenous community-based family tracing and reunion services are funded in all regional centres with a significant Indigenous population and that existing Indigenous community-based services, for example health services, in smaller centres are funded to offer family tracing and reunion assistance and referral.
30b		<p>That the regional services be adequately funded to perform the following functions.</p> <ol style="list-style-type: none"> 1. Family history research. 2. Family tracing. 3. Support and counselling for clients viewing their personal records. 4. Support and counselling for clients, family members and community members in the reunion process including travel with clients. 5. Establishment and management of a referral network of professional counsellors, psychologists, psychiatrists and others as needed by clients. 6. Advocacy on behalf of individual clients as required and on behalf of clients as a class, for example with record agencies. 7. Outreach and publicity. 8. Research into the history and effects of forcible removal. 9. Indigenous and non-Indigenous community education about the history and effects of forcible removal. 10. Engaging the service of Indigenous experts for provision of genealogical information, traditional healing and escorting and sponsoring those returning to their country of origin. 11. Participation in training of Indigenous people as researchers, archivists, genealogists and counsellors. 12. Participation in national networks and conferences. 13. Effective participation on Record Taskforces. 14. Support of test cases and other efforts to obtain compensation.
31a	Return of those removed overseas	That the Commonwealth create a special visa class under the Migration Act 1951 (Cth) to enable Indigenous people forcibly removed from their families and from Australia and their descendants to return to Australia and take up permanent residence.
31b		That the Commonwealth amend the Citizenship Act 1948 (Cth) to provide for the acquisition of citizenship by any person of Aboriginal or Torres Strait Islander descent.
31c		That the Commonwealth take measures to ensure the prompt implementation of the International Transfer of Prisoners Bill 1996.

BTH report recommendation number	BTH report theme	BTH report recommendation
32	Research	That the Commonwealth Government work with the national Aboriginal and Torres Strait Islander Health Council in consultation with the National Aboriginal Community Controlled Health Organisation (NACCHO) to devise a program of research and consultations to identify the range and extent of emotional and well-being effects of the forcible removal policies.
33a	Indigenous well-being model	That all services and programs provided for survivors of forcible removal emphasise local Indigenous healing and well-being perspectives.
33b		That government funding for Indigenous preventive and primary mental health (well-being) services be directed exclusively to Indigenous community-based services including Aboriginal and Islander health services, child care agencies and substance abuse services.
33c		That all government-run mental health services work towards delivering specialist services in partnership with Indigenous community-based services and employ Indigenous mental health workers and community members respected for their healing skills.
34a	Health professional training	That government health services, in consultation with Indigenous health services and family tracing and reunion services, develop in-service training for all employees in the history and effects of forcible removal.
34b		That all health and related training institutions, in consultation with Indigenous health services and family tracing and reunion services, develop under-graduate training for all students in the history and effects of forcible removal.
35	Mental health worker training	That all State and Territory Governments institute Indigenous mental health worker training through Indigenous-run programs to ensure cultural and social appropriateness.
36	Parenting skills	That the Council of Australian Governments ensure the provision of adequate funding to relevant Indigenous organisations in each region to establish parenting and family well-being programs.
37	Prisoner services	That the Council of Australian Governments ensure the provision of adequate funding to Indigenous health and medical services and family well-being programs to establish preventive mental health programs in all prisons and detention centres and to advise prison health services. That State and Territory corrections departments facilitate the delivery of these programs and advice in all prisons and detention centres.
38a	Private collections	That every church and other non-government agency which played a role in the placement and care of Indigenous children forcibly removed from their families, at the request of an Indigenous language, culture and history centre, transfer historical and cultural information it holds relating to the community or communities represented by the centre.
38b		That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families identify all records relating to Indigenous families and children and arrange for their preservation, indexing and access in secure storage facilities preferably, in consultation with relevant Indigenous communities and organisations, in the National Library, the Australian Institute of Aboriginal and Torres Strait Islander Studies or an appropriate State Library.
38c		That every church and non-government record agency which played a role in the placement and care of Indigenous children forcibly removed from their families provide detailed information about its records to the relevant Indigenous Family Information Service or Services.
39	Application of minimum standards and common guidelines	That church and other non-government record agencies implement the national minimum access standards (Recommendation 25) and apply the relevant State, Territory or Commonwealth common access guidelines (Recommendation 23).

BTH report recommendation number	BTH report theme	BTH report recommendation
40a	Counselling services	That churches and other non-government welfare agencies that provide counselling and support services to those affected by forcible removal review those services, in consultation with Indigenous communities and organisations, to ensure they are culturally appropriate.
40b		That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families provide all possible support to Indigenous organisations delivering counselling and support services to those affected by forcible removal.
41	Land holdings	That churches and other non-government agencies review their land holdings to identify land acquired or granted for the purpose of accommodating Indigenous children forcibly removed from their families and, in consultation with Indigenous people and their land councils, return that land.
42	Social justice	That to address the social and economic disadvantages that underlie the contemporary removal of Indigenous children and young people the Council of Australian Governments, 1. in partnership with ATSIC, the Council for Aboriginal Reconciliation, the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner and Indigenous community organisations dealing with Indigenous family and children's issues, develop and implement a social justice package for Indigenous families and children, and 2. pursue the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody which address underlying issues of social disadvantage.
43a	Self-determination	That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Services Secretariat national legislation establishing a framework for negotiations at community and regional levels for the implementation of self-determination in relation to the well-being of Indigenous children and young people (national framework legislation).
43b		That the national framework legislation adopt the following principles. 1. That the Act binds the Commonwealth and every State and Territory Government. 2. That within the parameters of the Act Indigenous communities are free to formulate and negotiate an agreement on measures best suited to their individual needs concerning children, young people and families. 3. That negotiated agreements will be open to revision by negotiation. 4. That every Indigenous community is entitled to adequate funding and other resources to enable it to support and provide for families and children and to ensure that the removal of children is the option of last resort. 5. That the human rights of Indigenous children will be ensured.
43c		That the national framework legislation authorise negotiations with Indigenous communities that so desire on any or all of the following matters, 1. the transfer of legal jurisdiction in relation to children's welfare, care and protection, adoption and/or juvenile justice to an Indigenous community, region or representative organisation, 2. the transfer of police, judicial and/or departmental functions to an Indigenous community, region or representative organisation, 3. the relationship between the community, region or representative organisation and the police, court system and/or administration of the State or Territory on matters relating to children, young people and families including, where desired by the Indigenous community, region or representative organisation, policy and program development and the sharing of jurisdiction, and/or 4. the funding and other resourcing of programs and strategies developed or agreed to by the community, region or representative organisation in relation to children, young people and families.

BTH report recommendation number	BTH report theme	BTH report recommendation
44	National standards for Indigenous children	That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Services Secretariat national legislation binding on all levels of government and on Indigenous communities, regions or representative organisations which take legal jurisdiction for Indigenous children establishing minimum standards of treatment for all Indigenous children (national standards legislation).
45a	National standards for Indigenous children under State, Territory or shared jurisdiction	That the national standards legislation include the standards recommended below for Indigenous children under State or Territory jurisdiction or shared jurisdiction.
45b		That the negotiations for national standards legislation develop a framework for the accreditation of Indigenous organisations for the purpose of performing functions prescribed by the standards.
46a	Standard 1: Best interests of the child – factors	That the national standards legislation provide that the initial presumption is that the best interest of the child is to remain within his or her Indigenous family, community and culture.
46b		That the national standards legislation provide that in determining the best interests of an Indigenous child the decision maker must also consider, <ul style="list-style-type: none"> 1. the need of the child to maintain contact with his or her Indigenous family, community and culture, 2. the significance of the child's Indigenous heritage for his or her future well-being, 3. the views of the child and his or her family, and 4. the advice of the appropriate accredited Indigenous organisation.
47	Standard 2: When best interests are paramount	That the national standards legislation provide that in any judicial or administrative decision affecting the care and protection, adoption or residence of an Indigenous child the best interest of the child is the paramount consideration.
48	Standard 3: When other factors apply	That the national standards legislation provide that removal of Indigenous children from their families and communities by the juvenile justice system, including for the purposes of arrest, remand in custody or sentence, is to be a last resort. An Indigenous child is not to be removed from his or her family and community unless the danger to the community as a whole outweighs the desirability of retaining the child in his or her family and community.
49	Standard 4: Involvement of accredited Indigenous organisations	That the national standards legislation provide that in any matter concerning a child the decision maker must ascertain whether the child is an Indigenous child and in every matter concerning an Indigenous child ensure that the appropriate accredited Indigenous organisation is consulted thoroughly and in good faith. In care and protection matters that organisation must be involved in all decision making from the point of notification and at each stage of decision making thereafter including whether and if so on what grounds to seek a court order. In juvenile justice matters that organisation must be involved in all decisions at every stage including decisions about pre-trial diversion, admission to bail and conditions of bail.
50	Standard 5: Judicial decision making	That the national standards legislation provide that in any matter concerning a child the court must ascertain whether the child is an Indigenous child and, in every case involving an Indigenous child, ensure that the child is separately represented by a representative of the child's choosing or, where the child is incapable of choosing a representative, by the appropriate accredited Indigenous organisation.

BTH report recommendation number	BTH report theme	BTH report recommendation
51a	Standard 6: Indigenous Child Placement Principle	That the national standards legislation provide that, when an Indigenous child must be removed from his or her family, including for the purpose of adoption, the placement of the child, whether temporary or permanent, is to be made in accordance with the Indigenous Child Placement Principle.
51b		Placement is to be made according to the following order of preference, <ol style="list-style-type: none"> 1. placement with a member of the child's family (as defined by local custom and practice) in the correct relationship to the child in accordance with Aboriginal or Torres Strait Islander law, 2. placement with a member of the child's community in a relationship of responsibility for the child according to local custom and practice, 3. placement with another member of the child's community, 4. placement with another Indigenous carer.
51c		The preferred placement may be displaced where, <ol style="list-style-type: none"> 1. that placement would be detrimental to the child's best interests, 2. the child objects to that placement, or 3. no carer in the preferred category is available.
51d		Where placement is with a non-Indigenous carer the following principles must determine the choice of carer, <ol style="list-style-type: none"> 1. family reunion is a primary objective, 2. continuing contact with the child's Indigenous family, community and culture must be ensured, and 3. the carer must live in proximity to the child's Indigenous family and community.
51e		No placement of an Indigenous child is to be made except on the advice and with the recommendation of the appropriate accredited Indigenous organisation. Where the parents or the child disagree with the recommendation of the appropriate accredited Indigenous organisation, the court must determine the best interests of the child.
52	Standard 7: Adoption a last resort	That the national standards legislation provide that an order for adoption of an Indigenous child is not to be made unless adoption is in the best interests of the child and that adoption of an Indigenous child be an open adoption unless the court or other decision maker is satisfied that an open adoption would not be in the best interests of the child. The terms of an open adoption order should remain reviewable at any time at the instance of any party.

BTH report recommendation number	BTH report theme	BTH report recommendation
53a	Standard 8: Juvenile justice	That the national standards legislation incorporate the following rules to be followed in every matter involving an Indigenous child or young person.
53b		<p>That the national standards legislation provide that evidence obtained in breach of any of the following rules is to be inadmissible against the child or young person except at the instance of the child or young person himself or herself.</p> <p>Rule 1. Warnings Arrest and charge are actions of last resort. Subject to Rule 2, a police officer is to issue a warning, without charge, to a child or young person reasonably suspected of having committed an offence without requiring the child or young person to admit the offence and without imposing any penalty or obligation on the child or young person as a condition of issuing the warning.</p> <p>Rule 2. Summons, attendance notice A child or young person may be charged with an offence when the alleged offence is an indictable offence. The charging officer must secure the suspect's attendance at the court hearing in relation to the charge by issuing a summons or attendance notice unless the officer has a reasonable belief that the suspect is about to commit a further indictable offence or, due to the suspect's previous conduct, that the suspect may not comply with a summons or attendance notice.</p> <p>Rule 3. Notification When a child or young person has been arrested or detained the responsible officer must notify the appropriate accredited Indigenous organisation immediately of the fact of the arrest and make arrangements for the attendance of a representative of that organisation.</p> <p>Rule 4. Consultation The responsible officer, in accordance with Standard 4, must consult thoroughly and in good faith with the appropriate accredited Indigenous organisation as to the appropriate means of dealing with every child or young person who has been arrested or detained.</p> <p>Rule 5. Interrogation No suspect or witness is to be interviewed in relation to an alleged offence unless: a parent or person responsible for the suspect or witness is present, unless the suspect or witness refuses to be interviewed in the presence of such a person or such a person is not reasonably available, a legal adviser chosen by the suspect or witness or, where he or she is not capable of choosing a legal adviser, a representative of the appropriate accredited Indigenous organisation is present, and an interpreter is present in every case in which the suspect or witness does not speak English as a first language.</p> <p>Rule 6. Caution No suspect or witness is to be interviewed in relation to an alleged offence unless, the caution has been explained in private to the suspect or witness by his or her legal adviser or representative, the interviewing officer has satisfied himself or herself that the suspect or witness understands the caution, and the suspect or witness freely consents to be interviewed.</p> <p>Rule 7. Withdrawal of consent The interview is to be immediately discontinued when the suspect or witness has withdrawn his or her consent.</p> <p>Rule 8. Recording Every interview must be recorded on audio tape or audiovisual tape. The tape must include the pre-interview discussions between the suspect or witness and the interviewing officer in which the officer must satisfy himself or herself that the suspect or witness understands the caution and freely consents to be interviewed.</p> <p>Rule 9. Bail Unconditional bail is a right. The right to bail without conditions can only be varied where conditions are reasonably believed due to the suspect's past conduct to be necessary to ensure the suspect will attend court as notified. The right to bail can only be withdrawn where it is reasonably believed, due to the nature of the alleged offence or because of threats having been made by the suspect, that remand in custody is necessary in the interests of the community as a whole.</p>

BTH report recommendation number	BTH report theme	BTH report recommendation
53b	Standard 8: Juvenile justice	<p>Rule 10. Bail review The suspect has a right to have the imposition of bail conditions or the refusal of bail reviewed by a senior police officer. In every case in which the senior officer refuses to release the suspect on bail, the officer must immediately notify a magistrate, bail justice or other authorised independent person who is to conduct a bail hearing forthwith. The suspect is to be represented at that hearing by a legal adviser of his or her choice or, where incapable of choosing, by a representative of the appropriate accredited Indigenous organisation.</p> <p>Rule 11. Bail hostels When bail has been refused the suspect is to be remanded in the custody of an Indigenous bail hostel, group home or private home administered by the appropriate accredited Indigenous organisation unless this option is not available in the locality.</p> <p>Rule 12. Detention in police cells No suspect is to be confined in police cells except in extraordinary and unforeseen circumstances which prevent the utilisation of alternatives. Every suspect confined in police cells overnight is to be accompanied by an Indigenous person in a relationship of responsibility to the suspect.</p> <p>Rule 13. Non-custodial sentences Custodial sentences are an option of last resort. Every child or young person convicted of an offence who, in accordance with Rule 14 cannot be dismissed without sentence, is to be sentenced to a non-custodial program administered by the appropriate accredited Indigenous organisation or by an Indigenous community willing to accept the child. The child's consent to be dealt with in this way is required. The selection of the appropriate program is to be made on the advice of the appropriate accredited Indigenous organisation and, where possible, the child's family.</p> <p>Rule 14. Sentencing factors The sentencer must take into account, the best interests of the child or young person, the wishes of the child or young person's family and community, the advice of the appropriate accredited Indigenous organisation, the principle that Indigenous children are not to be removed from their families and communities except in extraordinary circumstances, and Standard 3.</p> <p>Rule 15. Custodial sentences Where the sentencer, having taken into account all of the factors stipulated in Rule 14, determines that a custodial sentence is necessary, the sentence must be for the shortest appropriate period of time and the sentencer must provide its reasons in writing to the State or Territory Attorney General and the appropriate accredited Indigenous organisation. No child or young person is to be given an indeterminate custodial sentence or a mandatory sentence.</p>
54	Family Law	That the Family Law Act 1975 (Cth) be amended by, 1. including in section 60B(2) a new paragraph (ba) 'children of Indigenous origins have a right, in community with the other members of their group, to enjoy their own culture, profess and practice their own religion, and use their own language', and 2. replacing in section 68F(2)(f) the phrase 'any need' with the phrase 'the need of every Aboriginal and Torres Strait Islander child'.

Appendix 3

Timeline of key events/reports/initiatives since the *Bringing Them Home* Report

Year	What
August 1995	Following advocacy from Aboriginal and Torres Strait Islander organisations, the Federal Government asked the Human Rights and Equal Opportunity Commission to carry out a national inquiry to: <ul style="list-style-type: none"> • examine the past laws, practices and policies of forcible separation of Aboriginal and Torres Strait Islander children from their families and their effects • identify what should be done in response, including any changes in current laws, practices and policies with a focus on locating and reunifying families • examine the justification for any compensation for those affected by the forcible separations • look at then current laws, policies and practices affecting the placement and care of Indigenous children.
26 May 1997	BTH report tabled in Federal Parliament. National Sorry Day Committee established to monitor and oversee the implementation of the recommendations of the BTH report.
15 August 1997	Meeting of MCATSIA where it was resolved that they were the appropriate Commonwealth, state and territory forum to consider inter-governmental action on recommendations of the BTH report; and that a Working Group be established to make recommendations to the Ministerial Council and Victoria convene and coordinate the Working Group.
December 1997	Federal Government's response to the BTH report announced – \$63 million over four years.
1997	<i>Kruger v The Commonwealth</i> 190 CLR 1; 71 ALJR 91. Alec Kruger and others lose a High Court case where they argued against the constitutional validity of a Northern Territory Ordinance under which Aboriginal children were forcibly removed.
1997 – 2007	This period is marked by the Report's rejection by the Federal Government. Many of the recommendations around reparations and for a formal apology are rejected. However, \$63 million over four years for services including 'regional social and emotional wellbeing centres, counselling positions, Link-Up services, culture and language maintenance programs, and family support and parenting program'. ¹⁰⁴
1998	Sorry Books open.
22 May 1998	NSW Police Commissioner, Peter Ryan, apologises to members of the Stolen Generations.
17 November 1998	Western Australia published its formal responses to the recommendations in the BTH report.
31 December 1998	South Australia published its formal responses to the recommendations in the BTH report.
1999	HREOC release the <i>Social Justice Report 1998</i> which documents the responses to the BTH report.
26 May 1999	NSW published its formal responses to the recommendations in the BTH report.
26 August 1999	Motion of Reconciliation moved in the House of Representatives by then Prime Minister John Howard. Both houses endorsed the Motion of Reconciliation.
November 2000	Legal and Constitutional References Committee published its report – <i>HEALING: A Legacy of Generations</i> – The Report of the Inquiry into the Federal Government's Implementation of the Recommendations Made by the Human Rights and Equal Opportunity Commission in <i>Bringing Them Home</i> .

Year	What
28 May 2000	The People's Walk for Reconciliation – occurs in state and territory capitals throughout Australia.
2001	God's Own Country published by the Anglican Church in Tasmania. 'Continuing the Journey' published by the National Council of Churches.
16 October 2002	Valerie Linow – successful compensation claim in NSW through the Victims Compensation Tribunal. \$35,000 awarded in compensation.
2000–2007	Evaluations of progress against the recommendations show 'the Australian Government's response in particular had been under-funded, badly directed, poorly coordinated, and insufficiently targeted to the needs of the Stolen Generations'. ¹⁰⁵
2003	MCATSIA release their 2003 report, Evaluation of Responses to Bringing Them Home Report: Final Report, Success Works .
2004	Memorial to the Stolen Generations unveiled at Reconciliation Place in Canberra by the Federal Government.
2005	ATSIC abolished.
2007	Northern Territory Intervention. Bruce Trevorrow sued the South Australian Government for compensation. Supreme Court of South Australia approved \$775,000 in damages.
2007–2008	Tasmania implemented a reparations process. Survivors received a little over \$58,000 each and eligible children between \$4,000 and \$5,000.
2007	Human Rights and Equal Opportunity Commission (HREOC) (2007). <i>Us Taken-Away Kids: Commemorating the 10th Anniversary of the Bringing Them Home report</i> . Canberra. Wilczynski A, Reed-Gilbert K, Milward K, Tayler B, Fear J and Schwartzkoff J (2007). <i>Evaluation of Bringing Them Home and Indigenous Mental Health Programs</i> . Canberra, Report prepared by Urbis Keys Young for the Office for Aboriginal and Torres Strait Islander Health, Department of Health and Ageing.
13 February 2008	The Apology to Australia's Indigenous Peoples moved by the Prime Minister, the Hon Kevin Rudd MP and passed by the Australian Parliament. Formal Response on behalf of the Stolen Generations to the Parliament of Australia's National Apology by Professor Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, 13 February 2008.
19 and 20 April 2008	2020 Summit held by the Rudd Government. Recommended funding an Aboriginal and Torres Strait Islander healing body, with long term funding.
June 2008	Senate Committee Report – Stolen Generation Compensation Bill 2008.
National Healing Forum, 16 and 17 September 2008	Convened by the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, this forum brought together approximately 60 delegates including members of the Stolen Generations, other Aboriginal and Torres Strait Islander individuals and organisations, the Australian Human Rights Commission, government representatives and researchers. This forum discussed what 'healing' meant and showcased examples of successful healing programs and public policy directions. The forum resolved to support the establishment of a Healing Foundation.
November 2008	COAG approved the National Indigenous Reform Agreement which set out 6 Closing the Gap targets to close key gaps in life expectancy within a decade.
13 February 2009	The Hon. Minister Jenny Macklin's announced \$26.6 million in funding over four years to establish the Aboriginal and Torres Strait Islander Healing Foundation to address the healing needs of Aboriginal and Torres Strait Islander people, with a strong focus on the Stolen Generations.
2009	Public Interest Advocacy Centre, <i>Restoring Identity</i> , (2009) – the final report of the Moving forward consultation project on a national reparations scheme.

Year	What
May – August 2009	Aboriginal and Torres Strait Islander Healing Foundation Development Team conduct consultations on healing and the establishment of the Foundation.
2009	Australia supports the United Nations Declaration on the Rights of Indigenous Peoples.
May 2010	Stolen Generations Working Partnership launched between Stolen Generations peak organisations and government agencies. Were to meet twice per year as organised by FaCHSIA, the now Department of Social Services. It has not met since June 2013.
National Sorry Day 2011	First National Sorry Day Committee Scorecard released in May and updated in November.
2012	National Sorry Day Committee Scorecard detailed progress in the previous 12 months.
2014	The Healing Foundation, <i>Prospective cost benefit analysis of healing centres</i> , Canberra, Aboriginal and Torres Strait Islander Healing Foundation.
2015	Scorecard National Sorry Day Committee. South Australia's Stolen Generations Reparation Scheme announced.
2016	NSW Parliament report <i>Reparations for the Stolen Generations in New South Wales, Unfinished Business. Legislative Council General Purpose Standing Committee no 3, report 34.</i>
2017	NSW Stolen Generations Reparation Scheme. Australian Law Reform Commission, <i>Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples</i> , Final Report No 133 (2017). Deloitte Access Economics, <i>Cost Benefit Analysis of the Murri School Healing Program: Report prepared for The Healing Foundation.</i> Pat Anderson and Edward Tilton (2017), <i>Bringing Them Home 20 years on: an action plan for healing</i> , The Healing Foundation, Canberra. This project was led by the Stolen Generations Reference Group and informed by consultation with Stolen Generations organisations across the country. The report was designed to coincide with the 20th anniversary of the release of the Bringing Them Home Report and revisited and reviewed the recommendations, principles and progress. It developed an action plan to meet the continuing and emerging needs of Stolen Generations members and their families.
December 2017	Final Report, Royal Commission into Institutional Responses to Child Sexual Abuse. Tilton, E. Australian policy and service delivery landscape as it affects the Stolen Generations, Research Paper for The Healing Foundation.
2018	National Redress Scheme for people who have experienced institutional child sexual abuse was established in response to recommendation by the Royal Commission into Institutional Responses to Child Sexual Abuse.
January 2018	Institutions to which children were removed report – McCausland, R., Nettheim, A and Kang C, <i>Institutional mapping report</i> Research Paper for The Healing Foundation.
February 2018	Knowledge Circle, Canberra – to mark the 10 years since the apology. Northern Territory announced a reparations scheme but no further progress.
2018	Australian Institute of Health and Welfare (AIHW) reported on data about the numbers and contemporary situations of Stolen Generations survivors and their descendants. Based on the five surveys conducted by the Australian Bureau of Statistics: The National Aboriginal and Torres Strait Islander Social Survey (NATSISS) of 2022 and 2014-2015; and the National Aboriginal and Torres Strait Islander Health Survey (NATSIHS) of 2004-05 and 2012-2013. The AIHW updated this using the 2018-2019 NATSIHS. Western Australian Police Commissioner apologises to Stolen Generations survivors.
July 2018	Report of the South Australian Stolen Generations Scheme – Independent Assessor, July 2018.

Year	What
2019	Department of Health (2019), Actions to Support Older Aboriginal and Torres Strait Islander People: a Guide for Consumers and a Guide for Care Providers published. This represents an Aged Care Action plan for Aboriginal and Torres Strait Islander peoples.
March 2020	Victoria announced it would establish a Stolen Generations redress scheme to commence in 2021 and include \$10 million for counselling, a funeral expenses fund and ex gratia payments.
2020	<p>Wiyi Yani U Thangani (Women's Voices): <i>Securing Our Rights, Securing Our Future</i>, Report by the Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission.</p> <p>The Healing Foundation partnered with the National Indigenous Australians Agency to provide grants of up to \$30,000 to enable Stolen Generations organisations to deliver COVID 19 response projects.</p>
April 2021	Shine Lawyers launch class action for compensation for NT Stolen Generations survivors.
May 2021	<p>The Healing Foundation releases the Make Healing Happen – It's Time to Act Report. This settled on four actions:</p> <p>Action 1: redress</p> <p>Action 2: Meeting the complex needs of Stolen Generations survivors</p> <p>Action 3: Healing intergenerational trauma and preventing new harm</p> <p>Action 4: Sustainable and Robust Monitoring and Evaluation.</p> <p>(Within the above, 7 priorities)</p> <p>Funding for this report was provided by the government in response to the 2017 publication <i>Bringing Them Home 20 years on – an action plan for healing</i>.</p> <p>The Contemporary Experiences and Needs of Stolen Generations survivors; a qualitative analysis by Ruth McCausland, A Nettheim and Kang C.</p>
October 2021	Territories Stolen Generations Redress Scheme (Facilitation) Bill 2021 [Provisions] and Territories Stolen Generations Redress Scheme (Consequential Amendments) Bill 2021.
1 March 2022	Territories Stolen Generations Redress Scheme opens and closes 28 February 2026. Relevant to Northern Territory, ACT and Jervis Bay Territory.
31 March 2022	Victorian Stolen Generations Reparations Package opens.
24 May 2024	Victorian Police Commissioner apologises to Stolen Generations.
3 August 2024	The Northern Territory Commissioner of Police Michael Murphy delivered an Apology at the Garma Festival on 3 August 2024.

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