



Aboriginal and Torres Strait Islander Healing Foundation
PO Box 4363, Kingston ACT 2604
healingfoundation.org.au

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Via email: legcon.sen@aph.gov.au

19 December 2025

Dear Senate Inquiry Members,

The Healing Foundation welcomes the opportunity to provide this brief submission on **Australia's youth justice and incarceration system**.

The Healing Foundation is the national Aboriginal and Torres Strait Islander body for Stolen Generations survivors and the incredible Stolen Generations organisations that tirelessly support survivors. We provide expert advice on the needs of ageing survivors, support survivor-led healing projects, and help educate future generations about the continuing impacts of Australia's Stolen Generations history. We are governed by an Aboriginal and Torres Strait Islander Board and Executive, guided in our work by Stolen Generations Organisations to support survivors to tell their stories and drive their healing. We work with government, policy makers, organisations and workforces to understand and take accountability for their role in meeting the needs of Stolen Generations survivors and intergenerational healing.

Founded in 2009, following national consultation and the landmark *Bringing Them Home*¹ report, the Healing Foundation was established to implement the key report recommendation: that healing must be integrated into services for survivors. Since the report was handed down over 28 years ago, there has been no nationally coordinated response or mechanism to monitor implementation of the report's recommendations. Our February 2025 report, *Are you waiting for us to die? The unfinished business of Bringing Them Home*, analysed implementation of the recommendations and found that only **six percent** have been completely implemented.² At the same time, key indicators identified in the *Bringing Them Home* report, including child separation and overrepresentation of youth in the justice system, have continued to worsen.³

¹ Human Rights and Equal Opportunity Commission. (1997). *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Retrieved from: <https://humanrights.gov.au/?a=51037>

² The Healing Foundation. (2025). *Are you waiting for us to die? The unfinished business of Bringing Them Home*. Retrieved from: https://healingfoundation.org.au/media/ak5niup3/bth_report_are-you-waiting-for-us-to-die-final-2025-1.pdf

³ Australian Institute of Health and Welfare. (2025). *Youth detention population in 2025*. Retrieved from: <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/about>

The over-representation of Aboriginal and Torres Strait Islander children and young people in detention is long-standing and well-documented.

- The 1997 *Bringing Them Home* report identified the over-representation of Aboriginal and Torres Strait Islander children and young people in the juvenile justice system.⁴ The report noted that the Commonwealth had recognised this issue decades earlier, as reflected in public records as early as 1977.
- Further reports throughout the 1980s reinforced this pattern, documenting disproportionate policing and detaining of Aboriginal and Torres Strait Islander children and young people. Nearly five decades after the earliest known reports, Aboriginal and Torres Strait Islander children and young people are still vastly over-represented in the justice system.
- Since 2011, Australia has undertaken four cycles of the Universal Periodic Review (UPR) by the United Nations, with the fourth currently in progress. Across the previous three reviews, the persistent over-incarceration of Aboriginal and Torres Strait Islander children and young people have been identified as a human rights breach requiring urgent revision and action from the Government.⁵
- The United Nations has repeatedly urged the Government to address these violations by enacting a federal Human Rights Act and Youth Justice Act, and ensuring all laws comply with the United Nations Convention on the Rights of the Child, ratified by Australia 35 years ago.
- Despite these clear directives, subsequent and present-day legislative approaches, such as reducing the age of criminal responsibility to 10, are still implemented federally and jurisdictionally.⁶ As a result, the treatment of Aboriginal and Torres Strait Islander children and young people remain punitive, discriminatory, and inconsistent nationwide.
- During her 2017 visit, the United Nations Special Rapporteur described the over-representation and detention of Aboriginal and Torres Strait Islander children and young people as ‘deeply troubling’ and the ‘most distressing aspect’ of her findings.⁷ Eight years on, Queensland and Victoria have recently introduced regressive youth justice reforms in Australia that further entrench systemic injustice and disregard for international human rights obligations.
- Recent statistics published by AIHW in December 2025 report that Aboriginal and Torres Strait Islander young people aged 10-17 were 21 times more likely as non-Indigenous young people aged 10-17 to be in detention. This distinction is even more pronounced among younger

⁴ Human Rights and Equal Opportunity Commission. (1997). *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Retrieved from: <https://humanrights.gov.au/?a=51037>

⁵ United Nations. (2020). *Compilation on Australia: Report of the Office of the United Nations High Commissioner for Human Rights*. (p.4). Retrieved from: <https://documents.un.org/doc/undoc/gen/g20/306/42/pdf/g2030642.pdf>

⁶ Australian Human Rights Commission. (2024). *‘Help way earlier!’ How Australia can transform child justice to improve safety and wellbeing*. Retrieved from: https://humanrights.gov.au/data/assets/pdf_file/0025/25477/1807_help_way_earlier_-_accessible_0-1-2.pdf

⁷ United Nations. (2017). *Report of the Special Rapporteur on the rights of Indigenous peoples in her visit to Australia*. (p.13). Retrieved from: <https://www.refworld.org/reference/mission/unhrc/2017/en/118746>

children, with Aboriginal and Torres Strait Islander children comprising 79 per cent of those aged 10-13 in detention.⁸

- While the rate and number of non-Indigenous young people in detention have remained steady since 2021, both continue to increase for Aboriginal and Torres Strait Islander young people.⁹ Evidence has long linked these patterns of over-incarceration to the intergenerational impacts of forced child removal and, by extension, the unfinished business of the *Bringing Them Home* report.

Forced removals and institutionalisation have affected Aboriginal and Torres Strait Islander people across generations.

- The ongoing intergenerational impacts of forced removals of Stolen Generation survivors are still evident today. Removal from families and institutionalisation have resulted in the loss of cultural knowledge and identity, disrupted parenting and relationships, and unresolved trauma, all of which increase the vulnerability of Aboriginal and Torres Strait Islander children and families and perpetuate involvement with statutory systems and institutionalisation today.¹⁰
- As of 2019, there was an estimated 142,200 (36 per cent) Aboriginal and Torres Strait Islander adults (aged 18 and over) who identified as descendants of Stolen Generations survivors, with the actual figure likely much higher when including children and descendants of survivors who have chosen not to disclose.¹¹
- There is a 'gap within a gap'- Stolen Generations survivors and their descendants are more likely than the general Aboriginal and Torres Strait Islander population to experience poor health, social and emotional wellbeing, educational and economic outcomes, and are more likely to have negative experiences with the justice system, including higher rates of incarceration.¹²
- Children living in households with Stolen Generations survivors face poorer health, economic, and social outcomes than other Aboriginal and Torres Strait Islander children¹³.
- Intergenerational impacts were explicitly recognised in the *Bringing Them Home* report, which set our recommendations emphasising the importance of healing and early intervention for parents, families and communities. However, the 83 report recommendations have been

⁸ Australian Institute of Health and Welfare. (2025). *Youth detention population in 2025*. Retrieved from: <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/about>

⁹ Ibid.

¹⁰ AIHW. (2021). *Aboriginal and Torres Strait Islander Stolen Generations aged 50 and over: updated analyses for 2018-2019*. Retrieved from: <https://www.aihw.gov.au/reports/indigenous-australians/indigenous-stolen-generations-50-and-over/contents/summary>

¹¹ Ibid.

¹² Ibid.

¹³ AIHW. (2019). *Children living in households with members of the Stolen Generations*. Retrieved from: <https://www.aihw.gov.au/reports/indigenous-australians/children-living-in-households-with-members-of-the/summary>

largely unimplemented, leaving many intergenerational impacts unaddressed and allowing harm to compound over time and across communities.

The unfinished business of the *Bringing Them Home* report continues to shape outcomes for Aboriginal and Torres Strait Islander communities.

- The *Bringing Them Home* report recommended appropriate, culturally informed health, mental health and healing services in prisons and detention centres (recommendation 37). The failure to implement this has left many Aboriginal and Torres Strait Islander children, young people and adults without adequate trauma-informed support during detainment, reinforcing and contributing to racial discrimination and intergenerational trauma.¹⁴
- To address the social and economic disadvantages underpinning contemporary removals and incarceration, recommendation 42 of the report emphasised the need for a national social justice package to support Aboriginal and Torres Strait Islander children, young people, and families facing systemic adversity.¹⁵ The absence of a national package is clearly reflected in contemporary youth justice statistics.
- Similarly, recommendation 43 of the report called for a wellbeing framework for Aboriginal and Torres Strait Islander children and young people through the promotion of self-determination and the transfer of policing, care and protection, and juvenile justice powers to Aboriginal and Torres Strait Islander communities.¹⁶
- Recommendation 53(a) and (b), or Standard 8 on Juvenile Justice, was proposed in hopes of establishing a nationally consistent, rights-based standards and safeguards for children and young people within youth justice systems.
- Without nationally consistent application and standards, youth justice has resulted in fragmented and discriminatory approaches across jurisdictions that disproportionately impact Aboriginal and Torres Strait Islander communities.¹⁷
- In our most recent report, we found that all of the above recommendations have failed to be implemented.¹⁸ Taken collectively, the ongoing inaction of these recommendations demonstrates the consequences of the unfinished business of *Bringing Them Home*.
- The failure of subsequent governments to address these underlying socioeconomic drivers, barriers and known gaps has unequivocally exacerbated the over-incarceration and over-representation of Aboriginal and Torres Strait Islander children and young people in the justice system and other institutions.

¹⁴ Human Rights and Equal Opportunity Commission. (1997). *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Retrieved from: <https://humanrights.gov.au/?a=51037>

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ The Healing Foundation. (2025). *Are you waiting for us to die? The unfinished business of Bringing Them Home*. Retrieved from: https://healingfoundation.org.au/media/ak5niup3/bth_report_are-you-waiting-for-us-to-die-final-2025-1.pdf

- Decades of compelling evidence show that unimplemented *Bringing Them Home* recommendations have left intergenerational harms unaddressed. This ongoing inaction continues to undermine intergenerational healing, with impacts extending across many communities and policy areas, particularly for youth justice.

The Healing Foundation is calling for a coordinated response to the recommendations in the *Bringing Them Home* and *Are you waiting for us to die?* reports. These recommendations require a systematic approach to address the ‘gap within a gap’ and support Stolen Generations survivors across six areas: reparations; rehabilitation and research; records, family tracing and reunions; acknowledgements and apologies; education and training; and monitoring and accountability.

The Healing Foundation welcomes the opportunity to discuss our concerns further and if additional information is required please contact Sarah Davidson via phone 0492 329 558 or email Sarah.Davidson@healingfoundation.org.au

Yours faithfully,

A handwritten signature in black ink, appearing to read "Shannan Dodson", written over a thin horizontal line.

Shannan Dodson
Chief Executive Officer
The Healing Foundation