



Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Dear Committee Secretary

RE: SENATE INQUIRY INTO MISSING AND MURDERED FIRST NATIONS WOMEN AND CHILDREN

The Commission for Children and Young People (the Commission) is an independent statutory body that promotes improvement in policies and practices affecting the safety, wellbeing and rights of Victorian children and young people. The Commission's work is governed by a number of pieces of legislation including the *Commission for Children and Young People Act 2012*. Our statutory functions include:

- providing independent oversight of Victoria's child protection, out-of-home care and youth justice systems, including monitoring reports of serious incidents such as self-harm and attempted suicide in out-of-home care and youth justice custody
- conducting inquiries into services providing to children and young people who have died and were involved with Child Protection in the 12 months before their death
- conducting individual and systemic inquiries into services provided to children and young people
- supporting and regulating organisations that work with children and young people to prevent abuse, respond appropriately to allegations of child abuse and make sure these organisations have child safe practices.

We are deeply concerned about the alarming and unacceptable violence faced by First Nations women and children across Australia. These high rates of family violence and death are a result of systemic oppression, dispossession and discrimination inflicted by state laws, policies and actions brought about by the colonisation of Australia. For generations, Aboriginal and Torres Strait Islander women fought against violence within colonial systems which permitted or at best ignored their persecution, rape and sexual abuse.¹ This legacy of racism and normalisation of violence experienced by Aboriginal people continues to be evident in many parts of our society today.

Despite the persistent advocacy of Aboriginal and Torres Strait Islander communities, and countless inquiries and Royal Commissions, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised due to family violence, and 11 times more likely to die due to assault than non-Indigenous women.²

¹ Open Letter - [An open letter in response to the lack of public concern or response to the killings of Aboriginal and Torres Strait Islander women – Croakey Health Media](#)

² Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*. The Australian Human Rights Commission.

Shockingly, there are more Aboriginal and Torres Strait Islander children being removed today than there were during the Stolen Generation.³ At 30 June 2021, there were 19,480 First Nations children in out-of-home care across Australia at a rate of 57.6 per 1000 of the population.⁴ In 2020-21, First Nations children and young people were 16 times more likely to be in the youth justice system than non-indigenous children. Aboriginal and Torres Strait Islander children are also overrepresented in missing persons data, comprising about 20% of missing children, despite making up less than 6% of the population⁵. These staggeringly high rates of overrepresentation in poor outcomes cannot be viewed in isolation. It is clear that the system as a whole has failed and continues to fail First Nations women and children. We therefore urge the Committee to ensure that the inquiry has a focus on both children and women.

In Australia, First Nations women are among the most victimised groups in the world, murdered up to 12 times the national average.⁶ Their deaths rarely make the headlines. Data shows that at least 315 First Nations women have either gone missing, been murdered or killed in suspicious circumstances since 2000⁷. However, a lack of accurate data tracking means that this number could indeed be much higher. Noongar human rights lawyer and member of the United Nations Permanent Forum on Indigenous Issues, Dr Hannah McGlade, describes the issue of violence against Aboriginal women as “one of the most serious human rights issues possibly facing our country”. Many advocates have called out the disparity in media coverage and public outrage for when a non-Indigenous woman or child experiences violence as opposed to a First Nations Aboriginal woman or child. This double standard severely undermines the value of Aboriginal and Torres Strait Islander women and children, silences the voices of the First Nations community, and inhibits progress to address racism within our systems. We suggest the Committee examines this systemic racism within our media institutions and broader society.

The history of colonisation and punitive government policies in relation to Aboriginal and Torres Strait Islander people has led to a distrust of government and the systems that are supposed to protect them. We see the over-criminalisation of First Nations people through law enforcement and the unnecessary and brutal acts of government intervention. These approaches have eroded trust between First Nations women and the very agencies tasked with keeping them safe. As a result, this erosion of trust has led to less women reaching out for support through fear of victim blaming and child protection interventions, allowing instances of family violence to increase.

A lack of investment in culturally appropriate and culturally safe support networks, particularly Aboriginal Community Controlled Organisations (ACCOs) has further contributed to a lack of suitable supports for First Nations women and children experiencing family violence, homelessness and poverty, contributing to increasing numbers of missing and murdered First Nations women and children. We ask the Committee to investigate the lack of investment in, and highlight the need for, culturally safe, early help support services for Aboriginal and Torres Strait Islander children and women.

THE CONTEXT IN VICTORIA

Aboriginal and Torres Strait Islander women and children have endured a terrifying history of colonising policies causing the removal of people from their lands and resources, tearing apart families and the suppression of culture. These policies have attacked the very tools that kept Aboriginal families strong for tens of thousands of years. As a result, Aboriginal children and young people are overrepresented in almost every aspect of the Commission’s work and these figures continue to grow. The factors contributing to over-representation are numerous, complex and interrelated.

³ A guide to Australia’s Stolen Generations - Creative Spirits, retrieved from <https://www.creativespirits.info/aboriginalculture/politics/stolen-generations/a-guide-to-australias-stolen-generations#more-children-are-being-taken-today-than-during-the-stolen-generations-period>

⁴ AIHW Child Protection Data Tables 2020 – 2021. Table S5.5

⁵ [First Nations kids make up about 20% of missing children, but get a fraction of the media coverage \(theconversation.com\)](https://www.theconversation.com/first-nations-kids-make-up-about-20-of-missing-children-but-get-a-fraction-of-the-media-coverage)

⁶ [How Many More? The crisis of the murdered and missing First Nations women - ABC News](https://www.abc.net.au/news/2021-06-30/how-many-more-the-crisis-of-the-murdered-and-missing-first-nations-women/100877440)

⁷ [The killings and disappearances of Indigenous women across Australia is a crisis hidden in plain sight - ABC News](https://www.abc.net.au/news/2021-06-30/the-killing-and-disappearances-of-indigenous-women-across-australia-is-a-crisis-hidden-in-plain-sight/100877440)

The Commission has investigated the factors that influence poor outcomes for Aboriginal children through numerous systemic inquiries including; *In the Child's Best Interests (2016)*,⁸ *Always Was Always Will be Koori Children (2016)*⁹ and *Our Youth Our Way (2020)*¹⁰. Further, most of the Commission's other systemic inquiries examine the unique and compounded impacts of particular issues on Aboriginal children.

The Commission's recent inquiry *Out of Sight: Systemic inquiry into children and young people who are absent or missing from residential care (2021)* found that reporting of children going missing from care is inconsistent and that, as a result, no-one knows the full extent of the problem. While Aboriginal children are over-represented in out of home care overall, the rate at which they are reported absent or missing from residential care is lower than for non-Aboriginal children. This gives rise to concerns that Aboriginal children going missing is under-reported. The Commission found that a significant number of children who go missing or leave residential care experience sexual exploitation and abuse. Consultations suggested that a lack of support to maintain Aboriginal children and young people's connection to their community, country and culture was one of the reasons children may go absent or missing to reconnect. One Aboriginal child told us:

"I have tried getting things done – confirmation of Aboriginality – they won't do that. I tried to do a return to country. They have not done that. The only thing they have done is ordered me stuff that is made on my land. They have not even assigned me to an Aboriginal lawyer. (Rohan, residential care, 17, Aboriginal)"

The report also found that an overreliance on warrants to find and return children who are absent or missing from residential care has the potential to criminalise children and cause more trauma. This in turn makes children unlikely to trust police in the future and to make complaints. With regard to recommendations and findings from the *Out of Sight* Inquiry, the Commission has expressed concern with the delay of the first action plan and disappointment that some of the proposed actions did not adequately respond to key recommendations. Improved responses to these inquiry recommendations have since been received but much of the action needed to prevent children leaving residential care placements and to protect them from sexual exploitation and other abuse has yet to commence.

Through our child death inquiry and incident monitoring functions, the Commission frequently sees the risks of not addressing overrepresentation and that, in many tragic cases, change comes too late. These inquiries often highlight the prevalence of family violence as a protective concern in Child Protection cases and a lack of adequate culturally safe supports for Aboriginal mothers.

In 2020, the new National Agreement on Closing the Gap set a target to reduce rates of overrepresentation of Aboriginal children in care by 45 per cent by 2031. Despite this, Victoria continues to have the highest rate of Aboriginal children in care in Australia with the numbers of Aboriginal children in care in Victoria increasing every year¹¹. When the Close the Gap Agreement was made there were 2,181 Aboriginal children in out of home care in Victoria (a rate of 89.9 per 1000 Aboriginal children). Since that time, the number has increased to 2,572 as at June 2021 (a rate of 103 per 1000 Aboriginal children).

What remains deeply concerning is the level of family violence perpetrated against Aboriginal women and children. In Victoria, Aboriginal women and children remain disproportionately impacted by family violence. These rates are continually rising and observations show that these assaults are often racially motivated. Family violence is not an element of Aboriginal and Torres Strait Islander culture; rather a result of the lasting and traumatic impacts of colonisation. Through the work of the Commission, we see the impact of family violence playing a common theme in child death inquiries, child protection intervention, and escalating cases of youth involvement in the justice system.

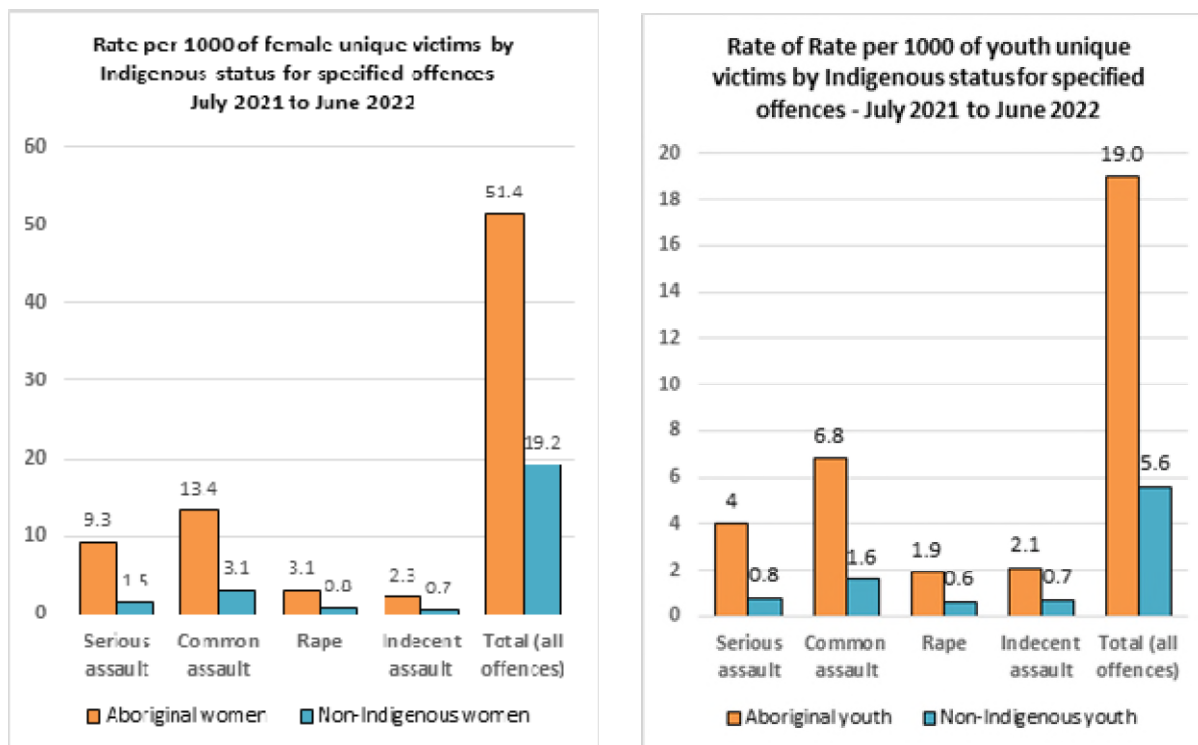
⁸ CCYP. *In the Child's Best Interest* is a systemic review of the Victorian child protection system's compliance with the Aboriginal Child Placement Principle. 2016. Available at [CCYP | In the child's best interests](#)

⁹ CCYP. *Always was, always will be Koori children: systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria*. 2016. Available at [CCYP | Always was, always will be Koori children](#)

¹⁰ CCYP. *Our youth, our way: Inquiry into the over-representation of Aboriginal children and young people in the Victorian youth justice system*. 2021. Available at [CCYP | Our youth, our way](#)

¹¹ Close the Gap Child Protection Data. Table CtG12A.1.

Disturbingly, Aboriginal women and children are also far more likely to be victims of violent offences than non-Indigenous women and children. Recent data (provided below) received from the Crime Statistics Agency indicates that between July 2021 and June 2022, Aboriginal women and children were far more likely to be a victim of an offence, in particular a victim of a violent offence, than non-Indigenous women and children¹².



This stark over-representation of Aboriginal women and children as victims of violent acts demonstrates how the legacy of colonisation continues to be felt by the Aboriginal community today.

Family violence also continues to be a persistent and pervasive theme in the Commission’s child death inquiries, particularly in relation to risk assessment. A thematic analysis of 23 child death inquiries (CDI) for Aboriginal children and young people completed by the Commission between 2017-2021 showed a number of concerns. Of those inquiries completed, exposure to family violence and cumulative harm associated with family violence, drug abuse and parental ill mental health was common. The inquiries noted that all but one of the perpetrators of family violence were male parents/step-parents. A number of the parents had their own experiences with child protection and youth justice, as well as criminal offending associated with drug use and poor mental health. This in particular emphasises the impact of intergenerational trauma.

It is important to note that more than half of the CDIs completed during this time found there was a lack of early supports and interventions. The inquiries identified multiple missed opportunities for Child Protection to link children and their families to early supports to prevent future contact with the system. Other themes included poor planning, including a lack of safety planning and case planning, poor collaboration, as well as failure to connect an Aboriginal child and or their family to culturally-safe supports. This analysis confirms the need to invest into Aboriginal-led culturally-safe supports, along with a clear commitment to early intervention, agency and organisation collaboration, as well as effective planning.

¹² Crime Statistics Data. July 2021 and June 2022

The Commission's child death inquiries have also highlighted a lack of meaningful engagement by Child Protection with children and young people to understand their experiences of family violence and inform decisions concerning them¹³. If children and young people are not given the opportunity to express their needs and concerns, the risk of harm to them cannot be properly assessed, the impact of family violence on them cannot be fully understood, and many will be denied the support or safety response they require.

Family violence impacting Aboriginal communities in Victoria remains an ongoing challenge. Aboriginal organisations that are part of Victoria's Dhek Dja Partnership forum report that demand for services constantly outstrips supply with all services, including housing, legal, and therapeutic care having lengthy waitlists. Further resources targeting early intervention and front line supports in this space would help to assist Aboriginal-led culturally safe programs for communities.

The current rates of missing and murdered First Nations women and children represent a national shame. We urge the Senate Legal and Constitutional Affairs Committee to follow the evidence of what works to keep First Nations women and children safe. Strong leadership at all levels is needed to identify, resource and implement Aboriginal led, trauma-informed and culturally-safe solutions.

Yours sincerely,



Meena Singh
**Commissioner for Aboriginal Children
Young People**

07/12/2022



Liana Buchanan
Principal Commissioner

08/12/2022

¹³ Commission for Children and Young People, 2020-21 Annual Report pages 40-41.
Lost, not forgotten: Inquiry into children who died by suicide and were known to Child Protection 2019.
Neither seen nor heard: Inquiry into issues of family violence in child deaths 2016.