



**Secretariat of National Aboriginal
and Islander Child Care**

The national body for Aboriginal and Torres
Strait Islander children and families
www.snaicc.org.au

Submission to the Senate Inquiry into Out of Home Care

November 2014

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Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
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Canberra ACT 2600
By way of email: community.affairs.sen@aph.gov.au

25 November 2014

Dear Committee Secretary,

Senate Inquiry into Out of Home Care

The Secretariat of National Aboriginal and Islander Child Care (SNAICC) welcomes the opportunity to comment on the Terms of Reference under consideration by the Senate Standing Committee on Community Affairs. The national Inquiry provides a critical opportunity to identify new ways of working across systems that are manifestly failing Aboriginal and Torres Strait Islander children and their families. It is also an opportunity to highlight existing promising approaches that are working for our children and families.

SNAICC was established as a non-government, not-for-profit organisation in 1981. It is the national peak body in Australia representing the interests of Aboriginal and Torres Strait Islander children and their families, and is led by an elected National Executive of Aboriginal experts and community leaders. Further information on SNAICC is available online at www.snaicc.org.au.

SNAICC's understanding of approaches to the care and protection of our children across Australia significantly inform this submission. The submission draws from a practice and evidence base built in consultation and research with Aboriginal and Torres Strait Islander and non-Indigenous communities, organisations and sector experts. We are pleased to attach supporting material for the Inquiry's reference, including:

- SNAICC et al. (2014). *Joint Submission: Responses to Issues Paper 4: Preventing sexual abuse of children in out of home care*
- Tilbury, C. and SNAICC. (2013). *Aboriginal and Torres Strait Islander Child Placement Principle: Aims and core elements*
- SNAICC. (2013). *Developing Capacity Through Partnerships*
- SNAICC. (2013). *Whose Voice Counts: Aboriginal and Torres Strait Islander participation in child protection decision-making*

SNAICC believes five key priorities should underpin new ways of working with Aboriginal and Torres Strait Islander children and families, and have shaped this submission. These priorities are:

1. Increasing Aboriginal and Torres Strait Islander community participation in decisions for the care of our children, supported by increased Aboriginal and Torres Strait Islander community-controlled service design and delivery;
2. Re-orienting service delivery to early intervention and family support to build on the strengths of Aboriginal and Torres Strait Islander families to care for and protect their own children.

3. Reflecting in funding and policy directions that holistic and integrated family support and child protection services that are accessible and appropriate for Aboriginal and Torres Strait Islander families are crucial.
4. Recognising the importance of supporting and maintaining cultural connection to the best interests of our children.
5. Facilitating and supporting partnerships that build capacity and cultural competence for effective service delivery to Aboriginal and Torres Strait Islander children and families;

A. Drivers of the increase in the number of children placed in out of home care

The Inquiry is well aware of the significant over-representation of our children in the child protection system and the multiple disadvantages experienced by our families. In 2012–13, 10,991 Aboriginal and Torres Strait Islander children were the subject of a child protection substantiation, and were 10.6 times more likely than non-Indigenous children to be in out of home care nationally.¹ The rate of Aboriginal and Torres Strait Islander children in out of home care was higher than non-Indigenous children in every jurisdiction,² and the rate of Indigenous children on care and protection orders has increased since 2003 from 11.3 to 49.3 per 1000 children.³

These devastating numbers of Aboriginal and Torres Strait Islander children in care are driven by:

- Complex factors, including the inter-generational trauma caused by past policies of assimilation and forced removal of children from their families; poor socio-economic status; and misperceptions arising from cultural differences in child-rearing practices.⁴ Comprehensively detailed in the *Bringing them Home* report almost two decades ago and a wealth of literature since,⁵ the historical context and contemporary factors continue to contribute to the vulnerability of our children and families.⁶ In a recent report on Indigenous child safety, the Australian Institute of Health and Welfare concluded that ‘protecting Indigenous children must have a multi-pronged approach ... to tackle [factors such as] social and economic disadvantage, lack of access to or provision of social services, exposure to substance abuse and family violence, and inadequate housing’.⁷

¹ Australian Institute of Health and Welfare. (2014). *Child Protection 2012-13*, Canberra: Commonwealth of Australia, p. 51.

² Ibid.

³ Steering Committee for the Review of Government Service Provision. (2014). *Overcoming Indigenous Disadvantage: Key Indicators 2014*, Productivity Commission, Canberra, p. 4.77. See also for placement rates Australian Institute of Health and Welfare. (2014), op cit, p. 55.

⁴ SNAICC et al. (2014). *Family Matters: Kids safe in culture, not in care: South Australia Issues Paper*, Melbourne: SNAICC, p. 3. See also SNAICC et al. (2013). *Whose voice counts? Aboriginal and Torres Strait Islander participation in child protection decision making*, Melbourne: SNAICC, p. 12.

⁵ Human Rights and Equal Opportunity Commission. (1997). *Bringing them home: Report of the National Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Canberra: Commonwealth of Australia and Australian Institute of Health and Welfare. (2014)., op cit, p. 25.

⁶ See for example: SNAICC et al. (2014)., op cit.

⁷ Australian Institute of Health and Welfare. (2014). *Indigenous child safety*, Canberra: Commonwealth of Australia, p. 22.

- Piecemeal reforms to Aboriginal and Torres Strait Islander child welfare service delivery that have been undertaken following previous inquiries⁸ that have not contributed to either better outcomes for children or significantly to the empowerment of Aboriginal and Torres Strait Islander families and communities to care for and protect their children. Aboriginal and Torres Strait Islander preventative and early intervention services have been underfunded and have experienced mixed support, despite studies demonstrating specific demand for and promising outcomes from these services.⁹ A holistic approach, described by Bromfield and Osborn as including ‘the needs of natural families, natural children of foster families and the role of significant health and welfare professionals involved in the lives of children in care’, is needed.¹⁰
- A failure to consistently prioritise cultural care for our children despite broad recognition of the importance of cultural connection to the wellbeing of Aboriginal and Torres Strait Islander children,¹¹ and state and territory policies and legislation requiring compliance with the Aboriginal and Torres Strait Islander Child Placement Principle.¹²
- Varying levels of participation of Aboriginal and Torres Strait peoples in the child protection system, recognising that initiatives supporting self-determination of Aboriginal and Torres Strait Islander peoples are critical to success in changing long-term outcomes for children, families and communities.¹³
 - Low participation contributes to barriers to our children and families accessing and engaging with services, particularly non-Indigenous services.¹⁴ For example, a research study on participation demonstrates that our children and families are more likely to engage with an Aboriginal and Torres Strait Islander community-controlled organisation that is trusted and known to the community, particularly where staffing

⁸ Including significantly: Human Rights and Equal Opportunity Commission. (1997)., op cit; Crime and Misconduct Commission. (2004). *Protecting children: an inquiry into abuse of children in foster care*, Brisbane: Crime and Misconduct Commission.

⁹ Brennan, D. (2013). *Joining the Dots: Program and Funding Options for Integrated Aboriginal and Torres Strait Islander Children’s Services*. Options paper prepared for SNAICC; Bond, D (2000) Multifunctional Aboriginal Children’s Services National Report. Melbourne: SNAICC; Mason-White, H. (2012). *Learning from Good Practice: Implementing the Early Years Learning Framework for Aboriginal and Torres Strait Islander Children*. Melbourne: SNAICC.

¹⁰ See for example Bromfield, L. and Osborn, A. (2007) *Getting the big picture: a synopsis and critique of Australian out of home care research*, NCPC Issues Paper No. 26, Melbourne: AIFS, p. 34 and Barbour, B. (2012), *Responding to Child Sexual Assault in Aboriginal Communities*, Sydney: Ombudsman NSW, pp.46-48.

¹¹ See for example: Libesman, T. (2011). *Cultural care for Aboriginal and Torres Strait Islander children in out-of-home care*. Melbourne: SNAICC, pp21-22.

¹² Tilbury, C. (2013). *Aboriginal and Torres Strait Islander Child Placement Principle: Aims and core elements*. Melbourne, SNAICC.

¹³ See for example: SNAICC et al (2013). *Submission to the Royal Commission Issues Paper 4: Preventing sexual abuse of children in out-of-home care*, Melbourne, SNAICC et al; and Human Rights and Equal Opportunity Commission. (1997)., op cit.

¹⁴ SNAICC. (2010). *Towards Aboriginal and Torres Strait Islander access and engagement: overcoming barriers to child and family services*. Melbourne: SNAICC. See also Victorian Auditor General. (2014), *Accessibility of Mainstream Services for Aboriginal Victorians Report*, Melbourne: VAG.

and services reflect a 'ground up', responsive and empowering approach for clients.¹⁵ See also **(H)**.

B. The outcomes for children in out of home care (including kinship care, foster care and residential care) versus staying in the home

A child's immediate home environment and surrounding support has the most direct impact on their development, which in turn shapes their lifelong outcomes.¹⁶ Research has found that outcomes for children in out of home care are generally poorer than those for children who are not in care.¹⁷

The *National Framework for Protecting Australia's Children 2009-2020* (National Framework) recognises that safety and wellbeing for Aboriginal and Torres Strait Islander children is enabled by efforts that ensure "Indigenous children are supported and safe in their families and communities" (Supporting Outcome 5).¹⁸ Recent studies have demonstrated the promising support delivered to our children and families through Aboriginal community controlled preventative and early intervention strategies and services.¹⁹ These services have very limited coverage, and failure to provide them contributes to out of home care experiences for Aboriginal and Torres Strait Islander children that often create a lifelong 'trajectory of disadvantage,' including poorer economic, health and social outcomes after leaving care.²⁰ Engagement of our children in out of home care also continues and exacerbates the breakdown of families and communities caused by the Stolen Generations.

However, safety of children must be paramount in any child protection decision. When alternative care needs to be arranged for the safety of our children, the following must be considered:

- Recognition and commitment to the principle that 'safety' for our children has a cultural component. Cultural safety includes a service focus on timely family reunification and compliance with the intent and process of the Aboriginal and Torres Strait Islander Child Placement Principle (see **(E)**). Cultural and community connections provide recognised, crucial protective functions and enhance outcomes for children,²¹ including general wellbeing and school attendance rates.²²

¹⁵ SNAICC et al. (2013). *Whose voice counts?*, op cit, pp 27– 44.

¹⁶ Shepard, C. and Zubrick, S. (2012). *What shapes the development of Indigenous children?* in Hunter, B. and Biddle, N. (eds), *Survey analysis for indigenous policy in Australia : social science perspectives*, Research Monograph, No 32, Canberra: Australian National University: Centre for Aboriginal Economic Policy Research, pp. 79, 90.

¹⁷ See for example Osborn, A. and Bromfield, L. (2007). *Outcomes for children and young people in care*, NCPC Brief No. 3, Melbourne: AIFS.

¹⁸ *National Framework for Protecting Australia's Children 2009.*, p28.

¹⁹ Tilbury, C. and SNAICC. (2014). *Moving towards prevention* research report: Intensive family support services for Aboriginal and Torres Strait Islander children, Melbourne: SNAICC.

²⁰ See for example: Steering Committee for the Review of Government Service Provision. (2014)., op cit, p. 4.77; Australian Institute of Health and Welfare. (2014)., op cit, and Lewis, N. and Burton, J. (2014). *Keeping kids safe at home is key to preventing institutional abuse*, Indigenous Law Bulletin, Volume 8, No. 13, pp. 11-14.

²¹ See for example: Dockery, A. (2012). *Do traditional culture and identity promote the wellbeing of Indigenous Australians? Evidence from the 2008 NATSISS*, Research Monograph, No 32, p. 281.

- Our children and families are best served by quality Aboriginal and Torres Strait Islander community-controlled services, ranging from preventative programs through out of home care services. Common features underpinning the effectiveness of Aboriginal and Torres Strait Islander community-controlled services include Aboriginal staffing and leadership, holistic approaches to supporting families, strengths in cultural competence, longstanding community engagement and accessible, tailored service delivery.²³ While Aboriginal and Torres Strait Islander services seek to support all children in their communities, the sector is underfunded and overburdened.²⁴
- Despite the broad data on outcomes of experiences in out of home care, limited specific studies exist on outcomes and support needs for children and their carers in kinship care arrangements.²⁵ See also **(F)** for further discussion of support needs and outcomes for kinship care.

C. Current models for out of home care, including kinship care, foster care and residential care

Kinship care, permanency and adoption

- Kinship care is among the most common placement options for Aboriginal and Torres Strait Islander children, with 37.5% of out of home care placements across Australia reported to be with Indigenous relatives or kin in 2012-13.²⁶ However, SNAICC notes with concern the lack of adequate resources and supports for kinship carers (see **(F)**).
- SNAICC notes that there has been increasing policy discussion and development around issues of permanency planning and adoption. While stability for our children is important, for reasons detailed by the *Bringing them home* report, adoption is not an appropriate consideration for our children. In line with the intent and processes set out by the Aboriginal and Torres Strait Islander Child Placement Principle, placements and permanency options must support the maintenance of safe connections to family, community and culture for our

Canberra: Australian National University, Centre for Aboriginal Economic Policy Research and Bamblett, M. and Lewis, P. (2007). *Detoxifying the Child and Family Welfare System for Australian Indigenous Peoples: Self-Determination, Rights and Culture as the Critical Tools*, First Peoples Child and Family Review, Vol. 3, No. 3 and Penman, R. (2006). *The "Growing Up" of Aboriginal and Torres Strait Islander Children: A Literature Review*, Occasional Paper No. 15, Canberra: Department of Families, Community Services and Indigenous Affairs.

²² See for example: Biddle, N. (2011). *An Exploratory Analysis of the Longitudinal Study of Indigenous Children*, Canberra: FaCHSIA, Commonwealth of Australia.

²³ See for example, SNAICC et al. (2013). *Whose voice counts?*, op cit; Higgins, J.R. and Butler, N. (2007). *Characteristics of promising Indigenous out-of-home care programs and services*, Promising Practices in Out-of-Home Care for Aboriginal and Torres Strait Islander Carers, Children and Young People (Paper 1) Melbourne: AIFS.

²⁴ SNAICC et al. (2013). *Whose voice counts?* op cit.

²⁵ McDonald, M., Higgins, D., Valentine, K., and Lamont, A. (2011). *Protecting Australia's children research audit (1995-2010)*, Melbourne: Australian Institute of Family Studies, p.25.

²⁶ Australian Institute of Health and Welfare. (2014)., op cit, p. 102.

children, and should only be considered with careful consultation with appropriate Aboriginal and Torres Strait Islander community representatives.²⁷

D. Current cost of Australia's approach to care and protection

In addition to the devastating personal toll on those affected by contact with out of home care, it is difficult to quantify the full cost of of Australia's approach to care and protection for our children, with limited long term research available. While government expenditure on child protection and out of home care for all children was \$3.2 billion in 2012–13,²⁸ the extent of medium to long term costs of supporting affected people are harder to estimate but are identified as significant.²⁹ Further costs include initial transition from care programs through to lifelong costs associated with poorer socioeconomic and health outcomes.³⁰ SNAICC identifies the following priorities for allocating care and protection expenditure in Australia:

- SNAICC supports the public health model outlined in the *National Framework* that identifies the social and economic benefits of investing in preventative and early intervention supports.³¹ This approach is aligned with the holistic service approach that many Aboriginal and Torres Strait Islander organisations have identified as most responsive to our children and communities.
- The larger proportion of Aboriginal and Torres Strait Islander children are removed from their parents for reasons of neglect, indicating the reality that many Aboriginal and Torres Strait Islander families do not have the resources and supports needed. Heckman's research in the United States highlights that making resources available to support the most disadvantaged families is critical to reducing inequality and raising productivity.³²
- As discussed in **(B)**, Aboriginal and Torres Strait Islander community-controlled organisations are the most effective and best-placed organisations to support our children and families. However, this is undermined with a lack of support for Aboriginal-specific targeted programs, with 79% of investment in community support programs for Indigenous Australians channeled through mainstream services and only 21% of expenditure directed through Aboriginal and Torres Strait Islander controlled services.³³ Given the high number of our children and families affected by out of home care, it is concerning that commensurate funding for Aboriginal and Torres Strait Islander controlled services to respond

²⁷ Ibid p. 8.

²⁸ Steering Committee for the Review of Government Service Provision. (2014). *Report on Government Services 2014*, p 15.16.

²⁹ See for example discussion of costs of harms to children in Keatsdale. (2003). *Report into the cost of child abuse and neglect in Australia*, Queensland: Queensland Kids First Foundation, pp 5- 9.

³⁰ Australian Institute of Family Studies. (2014)., *The economic costs of child abuse and neglect*, Factsheet 2014, Melbourne: AIFS..

³¹ See for example, Department of Families, Housing, Community Services and Indigenous Affairs. (2008). *Australia's children: safe and well A national framework for protecting Australia's children*, Discussion Paper, Canberra: FaHCSIA.

³² Heckman. (2008)., op. cit., p.49.

³³ See Steering Committee for the Review of Government Service Provision. (2012)., *2012 Indigenous Expenditure Report*, Canberra: Productivity Commission, pp. 226-30.

to their needs is not allocated, with many services under-resourced.³⁴

- Strengthening community-led integrated service supports for families must be a key platform of efforts to reduce the current over-representation of Aboriginal and Torres Strait Islander children in Australia's child protection systems. Funding distributions should also reflect the shifting priority of supporting Aboriginal and Torres Strait Islander community controlled preventative and early intervention services.

E. Consistency of approach to out of home care around Australia

SNAICC supports the *National Framework's* articulation that achieving the goal of 'Indigenous children are supported and safe in their families and communities' requires tailored approaches that: recognise cultural differences and strengths; the specific challenges faced by Aboriginal and Torres Strait Islander communities; and the need for "Indigenous led and managed solutions".³⁵

A key issue that has particular impact on our children and families are inconsistencies in conceptualisation and implementation of the Aboriginal and Torres Strait Islander Child Placement Principle. Underlying it is the foundational need for greater participation of our families and children in out of home care processes and decisions that affect them (see also **(H)** and **(I)**).³⁶

Aboriginal and Torres Strait Islander Child Placement Principle

Family is the cornerstone of Aboriginal and Torres Strait Islander culture, spirituality and identity. This is articulated in the Aboriginal and Torres Strait Islander Child Placement Principle, which acknowledges the importance of family, cultural and community connections to the identity and wellbeing of Aboriginal and Torres Strait Islander children. This principle is recognised to varying degrees in both international and domestic laws and policies.³⁷ SNAICC notes the following in relation to implementation gaps and what is needed for a nationally consistent approach to implementing the Principle:

- Despite the adoption of the Principle nationwide, 31.2% of Aboriginal and Torres Strait Islander children in out-of-home care across Australia are placed with non-family, non-Indigenous carers.³⁸ This non-compliance figure is likely to be misleadingly low, particularly given the poor understanding of the Principle and inadequate commitment to the efforts necessary for its realisation are apparent in Australia's child protection systems.³⁹ The Principle has been narrowly conceptualised in legislation and child protection practice with a focus only on a hierarchy of out-of-home care placement options, undermining its broader intent. As Libesman explains, it 'is not simply related to the placement

³⁴ See for example, SNAICC's discussion of funding arrangements for Aboriginal and Torres Strait Islander community controlled organisations in Queensland: SNAICC. (2013). *Submission to the Queensland Child Protection Inquiry*, p.21.

³⁵ NFPAC 2009, p28.

³⁶ SNAICC et al. (2013). *Whose voice counts?* op cit.

³⁷ See for example: *Convention on the Rights of the Child 1989* and the *United Nations Declaration on the Rights of Indigenous Peoples 2008*. Further detail available in Tilbury, C. (2013)., op cit.

³⁸ AIHW (2013), op. cit., p.81.

³⁹ Tilbury, C. (2013)., op cit, p.3.

of children in out-of-home care. It is also concerned with cultural support for a child from the time that a department has contact with a family to their ongoing cultural needs after they have been placed in out-of-home care.⁴⁰

- SNAICC supports a broader understanding of the Aboriginal and Torres Strait Islander Placement Principle, requiring efforts to implement strong practice across five key areas:
 - **Prevention** and early intervention to strengthen Aboriginal and Torres Strait Islander families and communities, keeping them together.
 - **Independent representative participation** of Aboriginal and Torres Strait Islander communities in the decisions made for the care and protection of their children.
 - **Placement** in accordance with the agreed hierarchy of out-of-home care placement options, informed by community and family participation.
 - **Child and family participation** in care and protection decision-making that affects them.
 - **Cultural care and connection** supported for Aboriginal and Torres Strait Islander children in out-of-home care.

These elements are comprehensively detailed in the attached paper, Tilbury, C. and SNAICC. (2013). *Aboriginal and Torres Strait Islander Child Placement Principle: Aims and core elements*.

- There has been limited focus on the detailed processes required to identify and respond to the cultural support and connection needs of Aboriginal and Torres Strait Islander children who come into contact with Australia's child protection systems. Very limited review of compliance with the Principle is itself indicative of inadequate commitment. In Queensland, the only state where compliance has been independently audited, only 15% of the most recent audit sample showed full compliance with legislative requirements.⁴¹

F. Supports available for relative/kinship care, foster care and residential care

Across out of home care, SNAICC's view is that holistic, integrated Aboriginal controlled services are best placed to provide quality support for carers and communities. However, as discussed in **(D)**, there is an overwhelming need for more support that is unmet.⁴² A recent SNAICC survey of the out-of-home care sector in three states found that for Aboriginal and Torres Strait Islander agencies to support all placements for Aboriginal and Torres Strait Islander children would require an approximate six-fold increase on current capacity.⁴³

In relationship to kinship care placements for Aboriginal and Torres Strait Islander children:

⁴⁰ Libesman, T. (2011)., op cit, p17.

⁴¹ Queensland Commission for Children and Young People and Child Guardian (QCCYPCG). (2012). Commission for Children and Young People and Child Guardian. (2012). *Indigenous Child Placement Principle Audit Report 2010/11*, Brisbane: Author, p.42.

⁴² See SNAICC et al (2013)., op cit, and Richardson, N., Bromfield, L. and Higgins, D. (2007). *Supporting carers, Promising Practices in Out-of-Home Care for Aboriginal and Torres Strait Islander Carers and Young People: Strengths and Barriers Paper No. 5*, Melbourne: AIFS.

⁴³ See Lewis, N. and Burton, J. (2014). op cit, p. 13; see also Ministerial Advisory Group on Transition of Out of Home Care (OOHC) Service Provision in NSW to the Non-Government Sector. (2011). *OOHC Transition Plan Stage 1 – The 'Who' and 'When'*, p.10.

- Targeted policy, programs and resources supporting Aboriginal and Torres Strait Islander kinship carers are crucial, as this form of care is integral to the successful national implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.⁴⁴
- Kinship carers receive second-rate resourcing and support within Australia's child protection systems. McHugh and Valentine (2011) link increasing use of kinship care in Australia positively to cultural and family continuity benefits. They also identify negative implications of cost-saving measures driven through the use of kinship care that contribute to risks for children. Cost saving comes in the form of little or no training for kinship carers, perfunctory assessments, and commonly absent ongoing case planning and caseworker support.⁴⁵
- Aboriginal and Torres Strait Islander families are shouldering a large burden of alternative care responsibility in Australia.⁴⁶ While this is desirable from a cultural strengths and care perspective, it is also placing additional strain on families that are often experiencing poverty and multiple stress factors. As Kiraly and Humphreys (2011) describe in reporting on extensive consultations with kinship carers: "The acute unmet support needs of kinship carers are nowhere seen as vividly as in the Aboriginal community, where larger numbers of children are being cared for by carers living in straitened circumstances."⁴⁷
- The availability of safe and culturally-connected kinship care placements is further impacted by a shortage of Aboriginal and Torres Strait Islander carers.⁴⁸ This shortage is not linked to the unwillingness of Aboriginal and Torres Strait Islander people to provide care, though it has been commonly associated with a reluctance to engage with child welfare authorities that were centrally involved in creating the Stolen Generations. In fact, the recent Queensland Child Protection Inquiry noted that Aboriginal and Torres Strait Islander people were five times more likely to be carers than non-Indigenous people.⁴⁹
- Richardson et al (2007) identify multiple Australian studies indicating that community-based strategies undertaken by Aboriginal and Torres Strait Islander people are most effective for recruiting Aboriginal and Torres Strait Islander carers: "Community-based...strategies were reported by participants as being the most effective ways of recruiting Indigenous carers. Such strategies were also more effective when undertaken by Indigenous people."⁵⁰ Despite these findings, limited availability of culturally-appropriate carer recruitment and assessment

⁴⁴ SNAICC et al (2013)., op cit.

⁴⁵ McHugh, M. and Valentine, K. (2010). *Financial and non-financial support to formal and informal out-of-home carers*, Occasional Paper No 38. Canberra: FaHCSIA, p.4.

⁴⁶ AIHW (2013), op. cit., p.81.

⁴⁷ Kiraly, M., and Humphreys, C. (2011). *'It is the story of all of us': Learning from Aboriginal communities about supporting family connection*, Melbourne: Child Safety Commissioner, p.34.

⁴⁸ Bromfield, L., and Osborn, A. (2007). *'Getting the big picture': A synopsis and critique of Australian out-of-home care research*, National Child Protection Clearinghouse Issues Paper No. 26, Melbourne: AIFS, p.25.

⁴⁹ Carmody, T. (2013) *Taking Responsibility: A Roadmap for Queensland Child Protection*, Brisbane: Queensland Child Protection Commission of Inquiry, p.367.

⁵⁰ Richardson, N., Bromfield, L., and Osborn, A. (2007). *Cultural considerations in out-of-home care*, National Child Protection Clearinghouse, Research Brief No. 8, p.10.

processes continues to impact the engagement of Aboriginal and Torres Strait Islander people in caring roles, further limiting options for culturally connected and safe care.⁵¹

G. Best practice in out of home care in Australia and internationally

Several studies have set out promising practices in out of home care for our children and families, many of which are initiatives that have been driven by Aboriginal and Torres Strait Islander communities and organisations.⁵² These have ranged from statewide partnership initiatives to specific care programs.⁵³

SNAICC notes that the key common characteristics of each of these practices often include the strong leadership by an Aboriginal or Torres Strait Islander organisation and workers, embedded cultural content, and a program or approach that is developed in a manner guided by and responsive to local community needs and stakeholders.

Partnership approaches to building Indigenous service capacity in out of home care

Partnerships between Aboriginal and Torres Strait Islander community-controlled services and non-Indigenous services have the potential to significantly contribute to the capacity of the child and family sector, across areas such as workforce development, cultural competency, service and community capacity.⁵⁴ Partnerships that are genuine and long-term can ultimately build the service delivery capacity of both Aboriginal and Torres Strait Islander and non-Indigenous organisations. SNAICC's research has identified that the following interrelated and interdependent principles underpin the strongest partnerships:

1. Commitment to developing **long-term sustainable relationships** based on **trust**.
2. **Respect** for Aboriginal and Torres Strait Islander cultural knowledge, history, lived experience and connection to community and country.
3. Commitment to **self-determination** for Aboriginal and Torres Strait Islander peoples.
4. Aim to **improve long-term well-being outcomes** for Aboriginal and Torres Strait Islander children, families and communities.
5. **Shared responsibility and accountability** for shared objectives and activities.
6. Valuing **process elements as integral** to support and enable partnership.
7. A commitment to **redressing structures, relationships and outcomes** that are unequal and/or discriminatory.
8. Openness to **working differently** with Aboriginal and Torres Strait Islander peoples,

⁵¹ Carmody (2013), op. cit., p.368; Bromfield, L. and Osborn, A. (2007), op. cit., p.25.

⁵² For international comparative approaches, see for example Libesman, T. (2004). *Child welfare approaches for Indigenous communities*, NCPC Issues April 2004, Melbourne: National Child Protection Clearinghouse.

⁵³ See for example: Tilbury, C. and SNAICC. (2014). *Moving to Prevention research report: Intensive family support services for Aboriginal and Torres Strait Islander children*, Melbourne: SNAICC; SNAICC et al. (2013). *Whose voice counts?* op cit; SNAICC. (2013). *Developing Capacity Through Partnerships*, Melbourne: SNAICC; Australian Institute of Family Studies. (2013). *Knowledge Circle Practice Profiles*, Canberra: AIFS; Higgins, D., Bromfield, L., Richardson, N. (2005). *Enhancing out-of-home care for Aboriginal and Torres Strait Islander young people*. Melbourne, Vic.: National Child Protection Clearinghouse, Australian Institute of Family Studies.

⁵⁴ SNAICC. (2012). *Opening doors through partnerships: Practical approaches to developing genuine partnerships that address Aboriginal and Torres Strait Islander community needs*. Melbourne, SNAICC.

recognising that the mainstream approaches are frequently not the most appropriate or effective.⁵⁵

SNAICC draws the attention of the Inquiry to the recent highly promising work of the Aboriginal Child, Family and Community Care Secretariat (AbSec) in New South Wales to support the development of state-wide capacity for Aboriginal-controlled agencies to deliver out-of-home care services:

- This work supports the commitment of the NSW Government to transfer out-of-home care service delivery for all Aboriginal children to the Aboriginal non-government sector over a 10 year period.⁵⁶ In the first 12 months of implementation the number of out-of-home care placements supported by Aboriginal agencies increased by 350 to 600, a 71% increase,⁵⁷ demonstrating that significant capacity and service leadership change can be affected quickly where existing capacity is utilised. Key elements of the NSW approach include:
 - statewide mapping of community needs, service capacity and development support needed, conducted by the peak body;
 - direct peak body support for agencies to build capacity and meet accreditation requirements;
 - peak body facilitation of community consultations and development of community-based governance structures;
 - peak body involvement in high level service management and policy development forums with government to ensure decisions reflect community service development needs;
 - in geographical areas with higher capacity support needs, facilitation of partnerships between mainstream agencies and Aboriginal and Torres Strait Islander organisations to build local capacity and transfer service delivery to local Aboriginal and Torres Strait Islander management;
 - support from mainstream agencies for an agenda that grows that capacity of Aboriginal and Torres Strait Islander community organisations rather than their own role in service delivery.
- The role of AbSec as an Aboriginal peak body leading the change process has been critical to its early successes, increasing Aboriginal community trust and engagement. See the attached *Developing Capacity Through Partnerships* for further detail on the AbSec partnership model.⁵⁸

SNAICC qualifies our positive assessment of the early success of the New South Wales capacity-building initiative, noting its exclusive focus on out of home care service delivery, and that a concurrent commitment to build the capacity for preventative and early intervention supports is needed. While a number of Aboriginal community-led early intervention approaches have been trialled in some locations, statewide implementation is lacking.

⁵⁵ Ibid.

⁵⁶ Ministerial Advisory Group on Transition of Out-of-home Care Service Provision in NSW to the Non-government Sector. (2011). *OOHC Transition: Implementation Framework*. Retrieved 13 March 2013 from:

http://www.community.nsw.gov.au/docswr/_assets/main/documents/oohc_transition_implementation_framework.pdf

⁵⁷ Approximate numbers provided by AbSec on 14 March, 2013.

⁵⁸ SNAICC. (2013). *Developing Capacity Through Partnerships*, op cit.

H. Consultation with individuals, families and communities affected by removal of children from the home

Quality decision-making that ensures Aboriginal and Torres Strait Islander children are cared for in safe and supportive environments must be informed by Aboriginal and Torres Strait Islander people with knowledge of each child's community. This is critical to ensure that the identification of care options and ongoing placement support draws on knowledge of culture, caring strengths and risks in the local Aboriginal and Torres Strait Islander community.⁵⁹ This was a key finding of the *Bringing them Home* report into the experience of the Stolen Generations which recommended that in child protection matters:

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.⁶⁰

The United Nations Committee on the Rights of the Child highlights that respecting Indigenous children's rights and making decisions in the best interests of Indigenous children requires an Indigenous perspective in decision-making.⁶¹ This is recognised as important to ensure a culturally informed understanding of what a child's best interests are, as well as the impact of decision-making on a child's enjoyment of cultural rights in community with members of her/his cultural group.⁶²

Recent SNAICC (2013) research has again highlighted the importance of independent, representative participation of Aboriginal and Torres Strait Islander peoples to improving quality child-protection decision-making and respecting human rights. The research finds that the critical recommendation of the *Bringing them Home Report* to involve Indigenous agencies in all decision-making remains largely unimplemented.⁶³

Legislative requirements for participation of Aboriginal and Torres Strait Islander peoples in child protection systems are variable. Commonly, legislative frameworks include a strong in-principle commitment to participation and/or self-determination for Aboriginal and Torres Strait Islander peoples in child protection matters. Libesman (2008) identifies that the common lack of definition of 'self-determination' and other participatory principles undermines legislative objectives by leaving the means and extent of participation enabled to the interpretation of government departments.⁶⁴

This conclusion is evident in very limited systems supporting the effective participation of Aboriginal and Torres Strait Islander communities in decision-making for their children. Those systems that do exist are significantly undermined by a lack of detailed

⁵⁹ SNAICC (2013), *Whose Voice Counts*, op. cit., pp. 27-30.

⁶⁰ Human Rights and Equal Opportunity Commission. (1997). *Bringing them home: Report of the National Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*, Canberra: Commonwealth of Australia.

⁶¹ Committee on the Rights of the Child, General Comment No. 11: *Indigenous Children and their Rights under the Convention*, 2009, CRC/C/GC/11, 12 February 2009, para. 31.

⁶² *Ibid*, para. 30.

⁶³ SNAICC (2013), *Whose Voice Counts*, op. cit.

⁶⁴ Libesman, T. (2008). A human rights framework for contemporary Aboriginal and Torres Strait Islander Children's wellbeing, *Australian Indigenous Law Review*, 12 (SE), 68, pp.72-73.

implementation standards, accountability and resourcing.⁶⁵ Independent Aboriginal and Torres Strait Islander agencies have only advisory roles, and commonly cite limited capacity to influence decisions.⁶⁶

Resourced and independent advisory roles across the spectrum of statutory child protection decision-making only exist state wide in Queensland and Victoria. Even in these states, available review has described the limits of effective input and participation. The recent report of the Queensland Child Protection Inquiry concluded on the variable operation of 'Recognised Entities' as the primary service model for Aboriginal and Torres Strait Islander participation, noting that:

Departmental data on the activities of recognised entities suggest that their participation in most aspects of statutory services is indeed fairly limited and skewed toward the intake phase.⁶⁷

An audit of relevant decisions in Queensland in 2012 indicated only 62% compliance with legislative consultation requirements at the critical stage of deciding on where and with whom a child is placed.⁶⁸ The *Report of the Protecting Victoria's Vulnerable Children Inquiry* also described the need to address under-resourcing of cultural advice and support services that is limiting their effectiveness in Victoria.⁶⁹

International models have suggested possibilities for reform through the delegation of statutory child protection functions to Indigenous agencies. Delegation models employed in Canada have been recognised for their strengths in contributing to culturally competent practice, community capacity building, and community caring models of service delivery.⁷⁰ Weaknesses have also been identified, and linked to funding of delegated authorities for statutory intervention without resourcing preventative family support functions to provide Indigenous communities with the means to strengthen family and community caring capacity.⁷¹

Decision-making roles for Aboriginal and Torres Strait Islander communities in child protection have also been linked to potential risks where poverty, disadvantage, and colonising factors have undermined community capacity for just decision-making in a minority of Aboriginal and Torres Strait Islander communities.⁷² We assert that policy and practice development has too commonly emphasised these risks to justify limited roles for Aboriginal and Torres Strait Islander peoples in decision-making. In doing so, there has been inadequate recognition of the enormous strengths in caring for children that exist in every

⁶⁵ SNAICC (2013), *Whose Voice Counts*, op. cit., p.57.

⁶⁶ Ibid.

⁶⁷ Carmody (2013), op. cit., p.362.

⁶⁸ QCCYPCG (2012), op. cit., p.32.

⁶⁹ Cummins, P., Scott, D., and Scales, B. (2012) *Report of the Protecting Victoria's Vulnerable Children Inquiry*, Melbourne: State of Victoria, p304.

⁷⁰ McKenzie, B. & Shangreux, C. (2011) From Child Protection to Community Caring in First Nations Child and Family Services, ch22 in Kufeldt, E. & McKenzie, B. (eds.) (2011). *Child Welfare: Connecting Research, Policy and Practice*, 2nd ed, Waterloo: Wilfrid Laurier University Press.

⁷¹ Ibid.

⁷² Libesman, T. (2004) *Child welfare approaches for Indigenous communities: international perspectives*. Child Abuse Prevention Issues, Melbourne: Australian Institute of Family Studies; Harris-Short, S. (2012). *Aboriginal child welfare, self-government and the rights of indigenous children: protecting the vulnerable under international law*, Surrey: Ashgate, pp.128-148.

Aboriginal and Torres Strait Islander community, and the significant service and leadership capacity that could be drawn upon in many communities.

We believe that an approach that rather focuses on building capacity and transferring authority to Aboriginal and Torres Strait Islander communities in child protection matters would increase safety for Aboriginal and Torres Strait Islander children in out-of-home care. This view is supported by Australian and international evidence that better outcomes in community well-being and development are achieved where Indigenous communities are empowered to respond to and address the challenges they face.⁷³

I. Extent of children in out of home care remaining connected to their family of origin

As discussed above at **(E)**, out of home care placements compliant with both the intent and processes set out by the Aboriginal Child Placement Principle are crucial to effective care and wellbeing of our children and communities. Currently, only 68% of Aboriginal and Torres Strait Islander children are placed with family and kin carers.⁷⁴ This figure reduces to 54% when taking account of children placed with non-Indigenous family carers,⁷⁵ a cohort that is also particularly vulnerable to losing their Indigenous family connections. In relation to the critical need to build and maintain connections, SNAICC notes particularly that:

- The number of Aboriginal and Torres Strait Islander children that remain connected with their family of origin is difficult to determine from currently available statistics. It is important to note that kinship care data should be considered with the qualification that relationship types are not detailed beyond the broad definition adopted by the AIHW of 'kinship' for Aboriginal and Torres Strait Islander children as 'another Indigenous person who is a member of their community, a compatible community or from the same language group.'⁷⁶
- SNAICC has also received emerging feedback from member organisations across several states reporting inconsistent practice approaches to defining and identifying appropriate 'kin' to care for our children, including instances where children are placed in 'kinship care' with non-Indigenous, non-family carers. In addition to raising concerns about inappropriate placements of our children, these reports suggest that compliance data may also be misleading.
- For Aboriginal and Torres Strait Islander children who are placed in out of home care outside of their families and communities, efforts to support and maintain connections are especially vital to their ongoing wellbeing and

⁷³ Denato, R., and Segal, L. (2013). Does Australia have the appropriate health reform agenda to close the gap in Indigenous health?, *Australian Health Review*, 37(2), May, 232, p235; Cornell, S., and Taylor J. (2000). *Sovereignty, Devolution, and the Future of Tribal-State Relations*. Cambridge: Harvard University, pp6-7. Retrieved 13 March 2013 from: <http://hpaied.org/images/resources/publibrary/PRS00-4.pdf>

⁷⁴ Steering Committee for the Review of Government Service Provision. (2014). *Report on Government Services 2014*.

⁷⁵ Ibid.

⁷⁶ Australian Institute of Health and Welfare. (2014)., op cit, pp. 58 and 131.

safety. Important aspects of cultural care include both the mapping of cultural connections through accurate genealogies, and the practical supports and resourcing for Aboriginal and Torres Strait Islander children in out of home care to connect with and participate in the cultural life of their families and communities.⁷⁷ Requirements commonly exist for cultural care planning and support in Australia's child protection systems, but limited completion of plans, and limited resourcing and practical supports for implementation are endemic to these systems.⁷⁸

- While a shortage of Aboriginal and Torres Strait Islander carers is often identified as the reason for children not being placed in connection with their families and communities, not enough is being done to ensure effective recruitment and retention of Indigenous carers, as discussed at (F) above.

J. Best practice solutions for supporting children in vulnerable family situations, including early intervention.

The poor outcomes for many children living in out of home care are often due to over-burdened out of home care systems. Consequently, system-wide change of service focus is required to prevent children from entering out of home care. Through empowering our communities to address the factors that cause removal, placements numbers will lower, and the availability of safe caring options for children who need to live in out of home care will also increase. SNAICC notes that:

- There is a widely recognised need for a shift in focus to the provision of early intervention and holistic services to best support our children and families. SNAICC has recently completed a two year study with Griffith University examining intensive family support services that work to strengthen family functioning to create safe and supportive environments for children so that they are not removed, or are later reunified with their families. The study explains that the participating services adapted core elements of international evidence-based practice to their service delivery, such as tailored responses to each family, focusing on strong relationships, family participation, adaptation of assessment tools to specific cultural requirements, and providing a holistic range of practical and therapeutic supports for clients. The study also observed that the services' 'standing as Aboriginal and Torres Strait Islander services was important to engagement and take up.'⁷⁹ It concluded that these services 'played a vital role, both in assisting families who face multiple challenges, and in increasing community ownership of child protection issues.'⁸⁰
- In the short to medium term, significant focussed investment is needed in secondary service functions, including intensive family support for the

⁷⁷ Libesman, T. (2011). *Cultural care for Aboriginal and Torres Strait Islander children in out-of-home care*, Melbourne: SNAICC, p.12.

⁷⁸ Libesman (2011), op. cit., pp.26-29; SNAICC (2013a) *Whose Voice Counts?: Aboriginal and Torres Strait Islander participation in child protection decision-making*, Melbourne: Author, pp.41-42.

⁷⁹ Tilbury, C. and SNAICC. (2014), op cit, p. 37.

⁸⁰ Tilbury, C. and SNAICC. (2014), op cit, p. 39.

preservation and reunification of Aboriginal and Torres Strait Islander families. This recognises the current high levels of disadvantage and breakdown experienced by many Aboriginal and Torres Strait Islander families, and the potential that has been identified for culturally appropriate, strengths-based intensive support to improve family functioning and reduce the need for tertiary intervention.⁸¹ It supports the strongly recognised priority in the *National Framework* to intervene in the ongoing breakdown of Aboriginal and Torres Strait Islander families to ensure that families and communities can safely care for their own children.

- Heckman's research in the United States has confirmed that cost benefits of preventative interventions and family supports are higher for disadvantaged groups, and provide greater social and economic benefits the earlier they occur in the life cycle.⁸² The strengths of Aboriginal and Torres Strait Islander community-controlled early years services and their importance for supporting children and families have long been recognised.⁸³ However, numerous reports over many years have found that persistent under-funding has limited the capacity of these services to provide integrated support to families, commonly restricting their operation to a more exclusive child care focus.⁸⁴ While the Federal Government has supported the development of 38 new Aboriginal and Torres Strait Islander Children and Family Centres to provide integrated early years focussed supports to families, their early development has been impacted by a lack of commitment to sustainable funding and a lack of focussed support for community governance and leadership in some cases.⁸⁵ Strengthening these and other community-led integrated service supports for families must be a key platform of efforts to reduce the current over-representation of Aboriginal and Torres Strait Islander children in Australia's child protection systems.

Conclusion

It is clear from the staggering numbers of our children and families affected by out of home care that significant, innovative and bold new ways of working are needed. SNAICC emphasises that this change is best guided by five priorities of:

⁸¹ Matthews, G. and Burton, J. (2013). Promising practice in intensive family support for Aboriginal and Torres Strait Islander families. *Developing Practice: The Child, Youth and Family Work Journal*, No. 34, Summer, 56-66; Tilbury, C. (2012). *Intensive Family-based Support Services for Aboriginal and Torres Strait Islander Children and Families*. Melbourne: SNAICC.

⁸² Heckman (2008), op. cit., p.50.

⁸³ Brennan, D. (2013). *Joining the Dots: Program and Funding Options for Integrated Aboriginal and Torres Strait Islander Children's Services*. Options paper prepared for SNAICC; Bond, D (2000) Multifunctional Aboriginal Children's Services National Report. Melbourne: SNAICC; Mason-White, H. (2012). *Learning from Good Practice: Implementing the Early Years Learning Framework for Aboriginal and Torres Strait Islander Children*. Melbourne: SNAICC.

⁸⁴ Productivity Commission. (2011). *Early Childhood Development Workforce Report*. Canberra: Australian Government, p.352; Bond (2000), op. cit.

⁸⁵ See: SNAICC (2012). *Coming together: the journey towards effective integrated services for Aboriginal and Torres Strait Islander children and families*. Melbourne: Author.

1. Increasing Aboriginal and Torres Strait Islander community participation in decisions for the care of our children, supported by increased Aboriginal and Torres Strait Islander community-controlled service design and delivery;
2. Re-orienting service delivery to early intervention and family support to build on the strengths of Aboriginal and Torres Strait Islander families to care for and protect their own children;
3. Reflecting in funding and policy directions that holistic and integrated family support and child protection services that are accessible and appropriate for Aboriginal and Torres Strait Islander families are crucial;
4. Recognising the importance of supporting and maintaining cultural connection to the best interests of our children; and
5. Facilitating and supporting partnerships that build capacity and cultural competence for effective service delivery to Aboriginal and Torres Strait Islander children and families.

We would be happy to provide further information on any of the matters raised. In addition, if the Committee felt it would support the work of the Inquiry, we would be pleased to arrange for the Committee to visit some of SNAICC's member child and family services.