
Covenanting Commission

Proposal 5: Reducing the number of Aboriginal children in care

That the Synod resolve:

To acknowledge that:

- (a) the current number of First Peoples' children in State care is unacceptably high;**
- (b) the challenges faced by First Peoples' families that lead to child removal are directly associated with the intergenerational trauma experienced through the negative impacts of colonisation and Government policy and practice;**
- (c) the practice of Governments removing First Peoples' children from their families and placing them in the care of church-based agencies, while distinct in modern practice, closely echoes the practices that created the Stolen Generations;**
- (d) the circumstances of each family and individual are complex and unique and that State child protection policies exist for the sake of the child, to whom we share a collective responsibility for their wellbeing.**

To affirm:

- (e) the new Closing the Gap Agreement and Targets, in particular the inclusion of the Out of Home Care reduction target;**
- (f) the WA Government's Out of Home Care Reform process currently underway, especially the consultation with key Aboriginal people and the increased role of Aboriginal Community Controlled Organisations in the delivery of Out of Home Care services.**

To call on the Federal Government to:

- (g) establish of a national commissioner for Aboriginal and Torres Strait Islander children and young people;**
- (h) increase funding for First Peoples' culturally appropriate pre and post-natal support, early childhood support and education, especially for families at risk of or recently experiencing child removal;**
- (i) establish an independent, Aboriginal-led justice reinvestment body.**

To call on the WA State Government to:

- (j) prioritise development and implementation of a First People's led strategy, with sufficient funding and independent oversight, to achieve the new Closing the Gap target of reducing the rate of over-representation of Aboriginal and Torres Strait Islander children in Out of Home Care by 45 per cent by 2031.**
- (k) ensure First Peoples and First Peoples' led organisations are designing, managing and implementing responses for First Peoples' families at risk or in need of Out of Home Care services;**
- (l) To raise the age of criminal responsibility from 10 to 14, reallocating the subsequent savings into early childhood support and education, especially for families at risk of or recently experiencing child removal.**

Mover: Rev Robert Jetta

Secunder: Rev Steve Francis

Rationale

At its 7th Assembly the Uniting Church formally entered into a relationship of Covenant with its Indigenous members, recognising and repenting for the Church's complicity in the injustices perpetrated on Australia's Indigenous community, and pledging to move forward with a shared future. The Uniting Aboriginal and Islander Christian Congress's generous response to this statement, among other messages, called upon the broader Church to take up the mission of reconciliation.

The ongoing and continually renewing nature of the Covenant calls the Uniting Church to continually act to remove the systems and structures of discrimination and oppression in Australia.

Care for children has been a prominent feature of Christian action throughout the history of the church, following Jesus welcoming of children during his own ministry. The Uniting Church has often acted in the provision of child welfare services through its care agencies and the Assembly Standing Committee formally endorsed the United Nations Convention of the Rights of the Child in 1990.

Ensuring the welfare of children is not only protecting the vulnerable in our community but a positive investment in our future society.

Acknowledgement "b" states that "the challenges faced by First Peoples' families that lead to child removal are directly associated with the intergenerational trauma experienced through the negative impacts of colonisation and Government policy and practice." There is a growing body of research that highlights the impacts trauma has on multiple generations and we are particularly mindful of the traumas of previous child removal practices that created the Stolen Generations and the ongoing impacts still experienced by First Peoples caused by the forced separation from family, culture, language and land.¹

The acknowledgment "c" that, "the practice of Governments removing First Peoples' children from their families and placing them in the care of church-based agencies, while distinct in modern practice, closely echoes the practices that created the Stolen Generations" is not intended to suggest that the Out of Home Care (OOHC) services provided by church-based care agencies is anything other than a service of care and welfare, nor that those services contain the racist intentions of past Government policy for which both the Australian Government and the Uniting Church Assembly have apologised. It does, however, acknowledge that for many Aboriginal and Torres Strait Islander people, there are clear similarities that remind First Peoples of their previous ill-treatment and trauma, and that they are still very much subject to Government intervention and interpretation of their lives. As a church we have committed to learning from the mistakes that created the Stolen Generations, which means we need to ensure we are supporting First Nations peoples to address the current child removal crisis.²

Concern for children is a particularly important point for Congress WA, who are keen to invest in their future generations by speaking and acting on this issue. Through support for families to keep their children, connect with their culture, emerge from poverty, and become healthier and more resilient, Congress WA sees a positive future for their people.

Congress WA has a vision to be part of God's transforming work, to end the cycles of dysfunction that have followed too many of their people since colonisation, that have been sown and sustained by racist policies and layers of trauma, and become instead part of God's community of wholeness, justice and healing, where people are strong in culture, in spirit and in love.

This vision can be lived out through support for these positive and empowering initiatives.

¹ <https://healingfoundation.org.au/intergenerational-trauma/>

² <https://www.familymatters.org.au/>

Children in Care in Australia

According to the UnitingCare Australia research report, [Review of Best Practice in Residential Out of Home Care](#) launched in September 2019, there are currently 47,000 children in Out of Home Care across Australia, with Aboriginal and Torres Strait Islander children over-represented. Indigenous children are seven times more likely to have received child protection services, and were more likely to encounter neglect, one of the risk factors of child maltreatment.

Claerwen Little, National Director of UnitingCare Australia, said “Far too many children are ending up in out of home care in Australia, and greater investment in early intervention and prevention is urgently needed so children can grow up happy and healthy within their own families and communities.”

Report author, Dr Seth-Purdie, highlighted that neglect was common for families who didn't have the resources needed. She said if Australians didn't have adequate housing or employment, the risk of their children being maltreated climbed rapidly.

According to the [Australian Institute of Health and Wellbeing](#) (AIHW), 1 in 6 Aboriginal and Torres Strait Islander children received child protection services.

The Federal Government, as part of the Council of Australian Governments (COAG), has recently announced the revised [Closing the Gap targets](#) which now include a specific target directly addressing the over-representation of Aboriginal and Torres Strait Islander children in care. This is a very positive development and now the challenge is achieving the goals set, starting with an adequate allocation of funding.³

Importantly, the new targets have been developed in consultation with First Peoples and require involvement of Aboriginal Community Controlled Organisations at every step of implementation. They are also deliberately holistic and inter-connected, strongly focused on children, young people and family wellbeing since investment in early childhood wellbeing is widely considered the best preventive measure against a range of poor health and social outcomes.

Children in Care in WA

According to the [Department of Communities](#), WA has increasing numbers of Aboriginal children in care, making up 55% of the total, despite being only 3.1% of the population.

There are calls from many quarters to address this, in particular from the [Secretariat of National Aboriginal and Islander Child Care \(SNAICC\)](#) and the Noongar Family Safety & Wellbeing Council (NFSWC), particularly by investing Aboriginal led responses.

UnitingWA have committed to the [Ngulla Boodjar \(Our Land\), Ngulla Moort \(Our Family\), Ngulla Kaartadjin \(Our Knowledge\) Vision Statement](#) developed in collaboration with the Noongar Family Safety and Wellbeing Council and the WA Council of Social Services.

The Vision Statement says that, “To keep Aboriginal children at home and in families and communities there needs to be co-designed and Aboriginal-led initiatives with collaborative, respectful relationships and partnerships for the development of culturally safe and strengths-based evidence frameworks.”

The Department of Communities has been progressing a [reform process](#) for Out of Home Care in WA and while many elements are to be encouraged, much greater urgency and breadth of reform is required.

The new Closing the Gap Targets need to be incorporated into any reforms and a clear strategy developed with accompanying resourcing to ensure they are achieved in WA.

Unfortunately in WA the current funding trajectory for child protection, according to the [Productivity Commission](#), shows that while there are increasing costs for removing children and providing out of home care services, there is minimal and diminishing funding for family support which would prevent children from being removed.

³ <https://unitingcare.org.au/download/5636/>

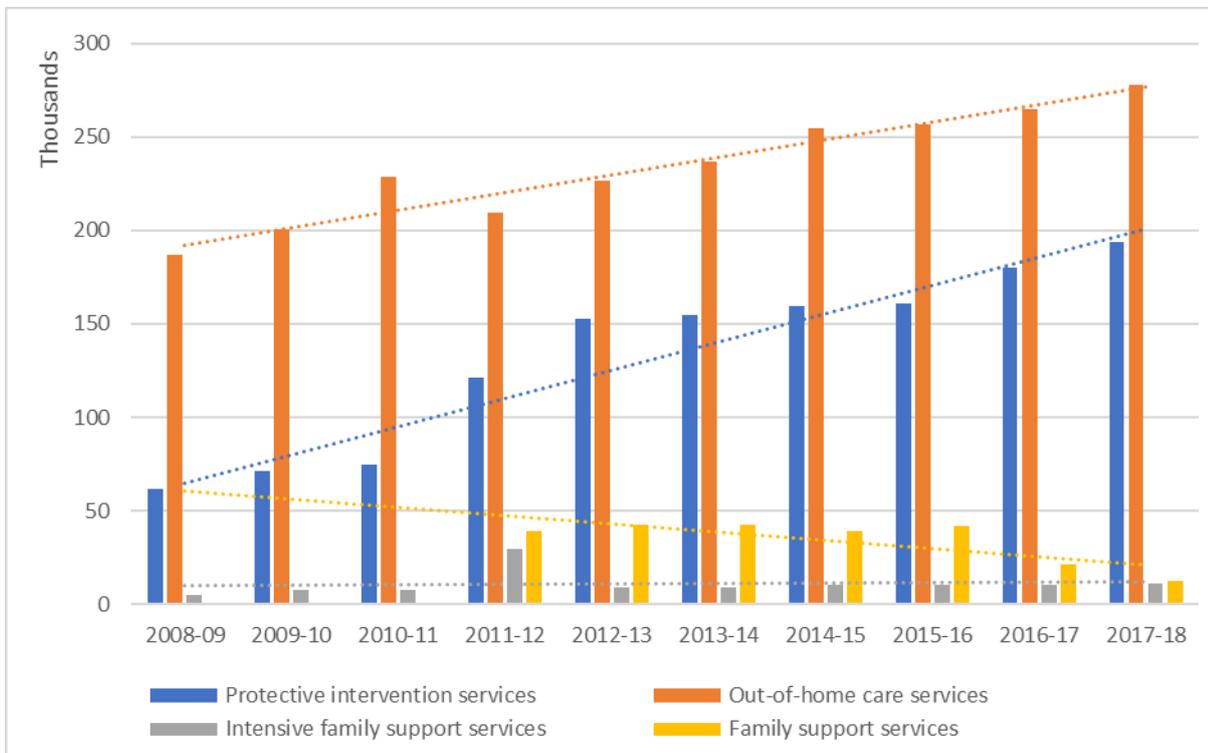


Image: Total Real Expenditure Productivity Commission Report on Government Services (WA Data).

System not working

While there will continue to be circumstances where the safest option for children is in some form of OOHC, and there are excellent examples of the positive influence foster carers can have, there is also an inherent trauma in removing a child from their family and heightened risks of poor outcomes.

The AIHW have highlighted that the experience of OOHC has been shown to often have a further detrimental effect on the health and wellbeing of children unable to live with their parents creating negative outcomes for mental health and wellbeing, educational attainment, access to suitable accommodation, employment and relational stability.⁴

In an independent review into Aboriginal OOHC in NSW, Professor Megan Davis notes that, “In addition to abuse in care, research indicates that children who are removed also often suffer physical, mental and cultural neglect across multiple agencies, and that this can have a devastating effect on other indicators of success for a child or young person throughout the course of their life.”⁵

A 2019 Report by the Telethon Kids Institute looked at the outcomes of young people leaving care in Western Australia and found that young people who had been in care were at high risk of negative outcomes such as mental health disorders, justice involvement, and incomplete education.⁶

For Aboriginal children in OOHC, the loss of connection to culture that can occur is another layer of impact. As stated in the Family is Culture Report, “when it is necessary to remove an Aboriginal child from his or her family, it is crucial that the child is given the opportunity to stay connected with their family, community, culture and country...The experiences of the Stolen Generation also provide stark evidence of the horrific damage that is inflicted upon Aboriginal children, families and communities when their familial, cultural and spiritual connections are forcibly severed.”⁷

⁴ <https://www.aihw.gov.au/getmedia/e84b6721-7ea0-4688-8eac-59353cfb4452/aihw-australias-welfare-2017-chapter2-5.pdf.aspx>

⁵ <https://www.familyisculture.nsw.gov.au/?a=726329>

⁶ <https://www.telethonkids.org.au/news--events/news-and-events-nav/2019/august/report-young-people-home-care-more-support/>

⁷ <https://www.familyisculture.nsw.gov.au/?a=726329>

This all points to a system that is not working and is not achieving the outcomes we would expect for many of the most vulnerable members of our community.

Child protection to prison

There are a number of international studies that indicate longer term negative outcomes for young people who exit care, like homelessness and/or housing instability, significantly higher rates of mental illness, unemployment/underemployment, substance abuse issues, involvement in the youth criminal justice system, early parenthood, and low educational attainment.⁸

According to the AIHW, young people under youth justice supervision are about 9 times as likely as the general population of the same age to have received child protection services. Of the young people who had experienced both child protection and youth justice, 81% experienced child protection first. Young Indigenous Australians were 17 times as likely as their non-Indigenous counterparts to have been in both the child protection system and under youth justice supervision.⁹

These statistics demonstrate the clear link between the child protection system and the justice system. Part of the justice reinvestment strategy we have already committed to as a Synod through [Social Reinvestment WA](#) highlights the importance of prioritising support at the earliest possible point to prevent people from ending up in prison.

Such support must prioritise those families who are at risk of having children removed. If we can support families to address the issues that lead to child removal, we can avoid a lengthy series of negative outcomes, including imprisonment. Support must be led by First-Peoples to ensure that services are culturally appropriate and emphasise cultural connections as a key component of wellbeing.

Raising the age of criminal responsibility

The Social Reinvestment WA campaign, along with the Law Society, the Australian Medical Association and many other groups are already advocating for the minimum age of criminal responsibility to be raised from 10 to 14 years of age.¹⁰ The Australian Human Rights Commission has also called for this in line with a recommendation made by the UN Committee on the Rights of the Child.¹¹

The damaging effects of incarceration on children and young people, particularly Aboriginal and Torres Strait Islander children, and the potentially lifelong ramifications of early contact with the criminal legal system are serious. Our high recidivism rates in WA also demonstrate that we're failing to effectively support these young people to be rehabilitated or reintegrate into the community.

The medical evidence on raising the age is clear with doctors agreeing that children do not have the cognitive capacity to be held criminally responsible at 10 years old.¹² Moreover, they have found that sending children to prison can cause them lifelong harm, increase rates of mental illness, trauma, and even lead to early death.¹³

⁸ <https://aifs.gov.au/cfca/publications/supporting-young-people-leaving-out-home-care/outcomes-young-people-leaving-care>

⁹ https://www.aihw.gov.au/reports/australias-welfare/youth-justice?mc_cid=a0ff0f1627&mc_eid=f91685727d

¹⁰ <https://www.raisetheage.org.au/>

¹¹ <https://humanrights.gov.au/about/news/raising-age-criminal-responsibility>

¹² Law Council of Australia and Australian Medical Association, "Joint Policy Statement: Minimum Age of Criminal Responsibility", 17 December 2019, at <https://www.lawcouncil.asn.au/media/media-releases/lca-and-ama-call-on-australian-governments-to-raise-the-age-of-criminal-responsibility-to-14>.

¹³ Australian Medical Association, "AMA Calls for Age of Criminal Responsibility to be Raised to 14 Years of Age", 25 March 2019, at <https://ama.com.au/media/ama-calls-age-criminal-responsibility-be-raised-14-years-age>.

It is predominantly Aboriginal and Torres Strait Islander children who detained at these very young ages. Of the extremely young children (under 14 years old) in detention nationally, 65% are Aboriginal and Torres Strait Islander children,¹⁴ and in WA in 2019 Aboriginal children were 75% of those incarcerated.

Imprisoning children also serves to drive the extraordinary and tragic over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system as adults, since the system is largely ineffective at rehabilitating people. According to the Australian Law Reform Commission, up to 76% of Aboriginal and Torres Strait Islander prisoners in 2016 had been imprisoned previously¹⁵. For young people released from detention, the rate of return to sentenced supervision within 12 months is highest for those aged 10–13 at release (92%), down to 75% for those aged 16.¹⁶

Furthermore, we know that detaining children is very expensive. It costs close to \$1,000 a day to detain a child at Banksia Hill Detention Centre. Australia-wide, the total average cost per day for each young person in detention in 2018-2019 was \$1579, compared to \$187 for community-based supervision and/or diversion methods¹⁷. By comparison, youth-work-based programs have been proven to reduce youth recidivism by half, with an annual cost of \$1,680 per person.¹⁸

By ceasing to detain children before the age of 14 numerous negative outcomes can be avoided and greater investment can be reallocated into preventative measures that build stronger families and create safer communities.

Mover: Rev Robbie Jetta

Seconder: Rev Steve Francis (steve.francis@wa.uca.org.au)

¹⁴Australian Institute of Health and Welfare, “Youth Justice in Australia, 2018-19”, at <https://www.aihw.gov.au/getmedia/970c74c9-02c7-4855-884b-c0df219f951d/aihw-juv-132-Detention-tables-2018-19.xlsx.aspx>

¹⁵ <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-133-summary/>

¹⁶ <https://www.aihw.gov.au/getmedia/48ae3545-83c5-46f1-96d4-9fac034fc71b/aihw-juv-127.pdf.aspx?inline=true>

¹⁷ Productivity Commission (2020). Report on Government Services 2020 Chapter 17 – Youth Justice Services. <https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/community-services/youth-justice/rogs-2020-partf-section17.pdf>

¹⁸ <https://www.justice.vic.gov.au/justice-system/youth-justice/youth-justice-review-and-strategy-meeting-needs-and-reducing-offending>