FAMILY MATTERS

**Strong communities. Strong culture.
Stronger children.**

The Family Matters
REPORT

Measuring trends to turn the tide on
Aboriginal and Torres Strait Islander
child safety and removal

ACKNOWLEDGEMENTS

FAMILY MATTERS PLATINUM CAMPAIGN PARTNERS

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FOREWORD by Family Matters Co-Chairs

The *Family Matters: Strong Communities. Strong Culture. Stronger Children* campaign has arisen from our collective distress at the realities that our children experience today across Australia. Aboriginal and Torres Strait Islander children have the right to grow up in nurturing environments, with loving and supporting families, with adequate food and housing, and rich with the beauty and diversity of our cultures. They have the right to the opportunities to reach their potential. For many, however, this is not happening.

There are over 15,000 Aboriginal and Torres Strait Islander children who will sleep away from their homes tonight. Too many of these children are permanently separated from their family and their culture. Too many will suffer poor lifelong outcomes. More and more children are removed every day, continuing to devastate and traumatise our families and fracture our communities. There are also many more of our children whose families are in crisis; begging for support; trapped by poverty, trauma and discrimination. Many communities are thriving, however, and our people have the knowledge, expertise and strategies to support our children to grow up safe, proud and well, meeting their potential. Strong and safe care of our children has been our cultural norm for more than 60,000 years.

The safety of our children is our foremost concern and safe care options must be found whenever children are at risk of harm. However, despite good intentions, the systems across Australia are failing to support the safety and well-being of our children. Evidence gathered in this report highlights how.

Family Matters is a collaboration of Aboriginal and Torres Strait Islander leaders, mainstream and community-controlled service providers, peak bodies, community leaders, academics and institutions working together to see all Aboriginal and Torres Strait Islander children grow up safe and cared for, thriving in family, community and culture. We have broad and diverse expertise and knowledge. We are committed to working with governments through evidence-based strategies to transform child and family welfare systems to ensure that they are centred on child safety and well-being outcomes.

This report presents yet another urgent call to action and helps to guide us to key priority areas for change. We are deeply shocked by the projection that on current trends the number of Aboriginal and Torres Strait Islander children in out-of-home care will almost triple by 2035. It is a stark warning that we urgently need a new approach. Many of our communities are at breaking point and should not have to endure this future. Aboriginal and Torres Strait Islander communities have the knowledge and expertise to drive change. They need the support and resources to tackle the deep issues around trauma that are playing out through our children's lives. We need mainstream community support to confront the systemic discrimination reflected in this report by the cumulative increases in over-representation of our children as they move through each phase of the child protection system.

Many important reforms have either taken place in recent years or are being led by reformist governments across jurisdictions. Victoria is embedding Aboriginal participation in innovative ways to improve decisions about, and the care for, our vulnerable children. Queensland is forming new partnerships with Aboriginal and Torres Strait Islander leadership to co-design a state-wide strategy for our children and has recently joined Victoria in the appointment of a Commissioner for Aboriginal children. There are other reforms being explored across many jurisdictions to reorient child protection systems. These are very positive moves.

However, the trends evidenced in this report do not suggest that substantial changes are occurring in the core drivers of child neglect and abuse. In fact, the problem is getting worse and, rather than invest the bulk of our resources in preventative measures, we are throwing more money at child protection systems that perpetuate the problem. The system has lost sight of the centrality of strengthening our families as the central pillars of care for our children and refuses to learn from past mistakes in not authorising Aboriginal and Torres Strait Islander peoples to lead decision-making on the care of our children. The organisations behind this report believe that we will not see sustainable change for our children unless and until we treat this issue as a national crisis.
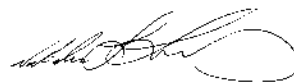
We call for all jurisdictions to come together in this critical year approaching the 20th anniversary of the seminal *Bringing Them Home* report, which unearthed the grief and injustice of the Stolen Generations. We call for the collective development of a national strategy to improve the safety and well-being of Aboriginal and Torres Strait Islander children, eliminating their over-representation in out-of-home care.

We all want our children to be loved and nurtured, to thrive - proud of who they are - and to live out their dreams.

We have the evidence. It is now on each of us – as governments, non-government organisations, communities, families and individuals – to respond to ensure this happens for our children. Or we are destined to repeat the tragic mistakes of our past.

Gerry Moore
SNAICC - National Voice for our Children, CEO
Family Matters Co-Chair

Natalie Lewis
Queensland Aboriginal and Torres Strait Islander Child Protection Peak, CEO
Family Matters Co-Chair

INTRODUCTION

When the ground-breaking Bringing Them Home report into the Stolen Generations was released in 1997, nearly 20 years ago, mainstream Australia was shocked to learn that Aboriginal and Torres Strait Islander children represented 20 per cent of children living in out-of-home care (Human Rights and Equal Opportunity Commission, 1997). Now, in 2016, that rate has increased to see Aboriginal and Torres Strait Islander children represent over 35 per cent of children living in out-of-home care (AIHW, 2016a).

Despite numerous legal and policy frameworks designed to advance safety, and family and cultural connections for children, the rate of Aboriginal and Torres Strait Islander children in out-of-home care (OOHC) is almost ten times that of non-Indigenous children, and continues to grow at an alarming rate (AIHW, 2016a).

While governments and civil society have focused on these trends, the response rarely goes beyond alarm and short-term, reactive policies that fail to address the causes of over-representation. Policies rarely articulate solutions and implementation fails to provide a holistic response that could decrease over-representation.

The *Family Matters* report contributes to efforts to change this story by beginning to measure both the extent of the problem as well as progress towards implementing evidence-informed solutions that aim to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. The *Family Matters'* recommended pathway to change is described separately in the *Family Matters Roadmap*, which proposes four interrelated building blocks – underpinned by both evidence and ethics – detailing systemic changes needed to achieve this aim:

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

Law, policy and practice in child and family welfare are culturally safe and responsive

Governments and services are accountable to Aboriginal and Torres Strait Islander people

This annual report uses quality, publicly available and government-held data to objectively and rigorously appraise progress toward implementing the building blocks and ending over-representation. This is a fact-driven report that clearly and simply describes progress on a set of key indicators – including their quality and availability – that can be used to measure progress and to influence the uptake of specific policy, practice and funding decisions that are most likely to reduce over-representation. Over time, this set of factors and the available data will be expanded. Ultimately, the report will measure the extent to which state, territory and national governments are successful in keeping Aboriginal and Torres Strait Islander children safe and well in their families, cultures and communities.

ABOUT FAMILY MATTERS

Family Matters: Strong Communities. Strong Culture. Stronger Children' is Australia's national campaign to ensure Aboriginal and Torres Strait Islander children and young people grow up safe and cared for in family, community and culture. *Family Matters* aims to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, within a generation (2040).

Family Matters is led by SNAICC – National Voice for our Children and supported by a Strategic Alliance of over 150 Aboriginal and Torres Strait Islander and non-Indigenous organisations.

KEY FINDINGS

This report finds that Aboriginal and Torres Strait Islander children and their families are grossly over-represented in involvement with child protection systems as well as on key indicators of social and economic disadvantage that contribute to entry into out-of-home care. At the same time, Aboriginal Torres Strait Islander children and their families are under-represented in universal and targeted services that could reduce their increasing rate of contact with child protection services, and improve their safety and well being. Further, there is an absence of mechanisms for Aboriginal and Torres Strait Islander people to participate in decisions that impact the care and protection of their children. There is also generally a gap in accountability mechanisms to oversee child protection decision-making, though important recent developments have advanced this area in Victoria and Queensland.

1. BENCHMARKING OF OVER-REPRESENTATION IN OUT-OF-HOME CARE

Aboriginal and Torres Strait Islander children are over-represented at every point in the child protection system measured at the national level. They are far more likely than non-Indigenous children to be subject to child protection notifications, investigations, substantiations, to be placed on a protection order and to reside in OOHC. In fact, the over-representation gets significantly greater at each point in the system. Furthermore, the differences between Aboriginal and Torres Strait Islander children and non-Indigenous children have continued to increase dramatically for each and every one of these measures in recent years. Between 2011-12 and 2014-15 for example, the rate at which Aboriginal and Torres Strait Islander children were living in OOHC increased by almost 22 per cent while the comparable rate for non-Aboriginal children only increased by 5 per cent.

CURRENT RATES OF OVER-REPRESENTATION

In 2015, **Aboriginal and Torres Strait Islander children were 9.5 times more likely to be residing in OOHC than non-Indigenous children in Australia.** Over-representation in OOHC varied significantly between states and territories, and was highest in Western Australia (16.2 times), the ACT (13 times), and Victoria (12.8 times).

RATES OF REUNIFICATION

Information about reunification of children with their families is needed for a comprehensive understanding of the over-representation of Aboriginal and Torres Strait Islander children in OOHC. **There is no publicly-available data in any state or territory to describe the rate at which Aboriginal and Torres Strait Islander children are reunified with their families, or the length of time they spend in out-of-home care before reunification occurs.**

PROJECTED GROWTH IN OVER-REPRESENTATION

There is strong reason to believe that the number and proportion of Aboriginal and Torres Strait Islander children in OOHC will continue to rise. Applying a theoretical model it is predicted from current trends that **the population of Aboriginal and Torres Strait Islander children in care will almost triple in size by 2035,** while the non-Indigenous population of children in OOHC will increase by less than two thirds.[1] This projection presents a startling and disturbing picture of the future impacts on Aboriginal and Torres Strait Islander families and communities if we fail to intervene now.

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1   Unfortunately, a figure or proportion could not be calculated as more information is required for a more reliable model, such as the incorporation of projected child population estimates by Indigenous status and OOHC entry and reunification rates by Indigenous status, which are currently not publicly available.

2. DATA ON ECONOMIC, SOCIAL AND COMMUNITY-LEVEL FACTORS

There is strong evidence that early care and environmental factors have crucial impacts on later health and wellbeing, and that interventions will be more effective if applied earlier in children's lives. These issues may worsen, compound, and ultimately increase the risk of harm to children over time if left unaddressed. Early investment in strengthening families can provide long-term social and economic benefits by interrupting trajectories that lead to health problems, criminalisation, and child protection intervention. It is well known that efforts to strengthen families need to target whole communities to address situations of poverty, disadvantage, trauma and housing instability for communities that are dealing with the inter-generational impacts of colonisation, racism and dispossession. This report finds that **Aboriginal and Torres Strait Islander peoples are grossly over-represented on measures of disadvantage that contribute to child protection risks, and similarly under-represented in participation in services that could respond and prevent entry to out-of-home care.**

EARLY CHILDHOOD EDUCATION AND CARE

In 2014, **Aboriginal and Torres Strait Islander children were 60 per cent less likely to attend a child-care benefit approved service than non-Indigenous children.** In the same year, a Productivity Commission Report identified **an overall 15,000 place gap in Early Childhood Education and Care (ECEC) service enrolment** of Aboriginal and Torres Strait Islander compared to non-Indigenous children. This under-representation in ECEC services correlates strongly with developmental vulnerability, with the Australian Early Development Census identifying that **Aboriginal and Torres Strait Islander children are consistently over 2.5 times more likely to be vulnerable on 2 or more domains** in comparison to non-Indigenous children.

PREVENTION SERVICES

In 2014-15, only 17 per cent of overall child protection funding was invested in support services for children and their families, amounting to just over $700 million, as compared to $3.5 billion or 83 per cent of funds spent on child protection statutory intervention and out-of-home care services. Over the last few years, the level of funding for support services decreased while funding for OOHC increased. While reliable data is not available on the full range of family support services, available data across 5 states/territories shows that **only 1.4 per cent of Aboriginal and Torres Strait Islander children commenced an Intensive Family Support Service in 2014-15,** which is, for most, a rate well below their rate of contact with child protection statutory intervention and OOHC services.

HOUSING

Aboriginal and Torres Strait Islander people experience significantly higher rates of homelessness, overcrowded housing, and unstable housing tenure than non-Indigenous Australians. In 2011, **Aboriginal and Torres Strait Islander people were 14 times more likely to be homeless than non-Indigenous people.** Yet, in 2014-15, clients accessing homelessness services across Australia were only 8.7 times more likely to be Indigenous. Of those, **1 in 4 was a child under the age of 10**. The differences were much larger in remote areas where Aboriginal and Torres Strait Islander people were approximately 18 times more likely to access homelessness services. The latest census also identified that **1 in 4 Aboriginal and Torres Strait Islander people were living in over-crowded households.**

POVERTY

The Socio-Economic Indexes for Areas (SEIFA) ranks areas in Australia according to relative socio-economic advantage and disadvantage. While the distribution of the non-Indigenous population was spread evenly across the SEIFA deciles, **almost 40 per cent of all Aboriginal and Torres Strait Islander peoples were in the most disadvantaged SEIFA areas.** Less than 2 per cent of Aboriginal and Torres Strait Islander peoples lived in the most advantaged areas. This relates to the types of maltreatment substantiated in child protection notifications. Poverty may reduce a caregiver's ability to provide for a child's basic necessities, putting families at risk of child protection involvement. **Substantiation of harm for Aboriginal and Torres Strait Islander children in 2014-15 were significantly more likely to be for neglect than for non-Indigenous children (38.3 per cent as compared to 21 per cent), which includes failure to provide for a child's essential needs,** and was the most common ground for substantiation for these children.

FAMILY VIOLENCE

Aboriginal and Torres Strait Islander women are overrepresented amongst victims of assault. Research has suggested that Aboriginal and Torres Strait Islander children are at greater risk of being exposed to family violence than other children. Family violence increases the risk of involvement with child protection. **A high proportion of Aboriginal and Torres Strait Islander children involved with child protection across Australia in 2014-15 were substantiated for emotional abuse, which includes exposure to family and domestic violence (37.7 per cent).**

3. ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION AND RESPECT FOR CULTURE

Evidence highlights the importance of drawing on the strengths of Aboriginal and Torres Strait Islander children's communities and cultures to keep them safe and well. Aboriginal and Torres Strait Islander peoples have a right to participate in decisions that affect them, and evidence is clear that better outcomes can be achieved through Indigenous community-led solutions.

To ensure a culturally responsive service system it is critical that participation is embedded from child, family and community level participation in individual case decisions through to participation in systems design and oversight of Aboriginal and Torres Strait Islander leaders. The Aboriginal and Torres Strait Islander Child Placement Principle is a key policy measure to shape culturally respectful practice that is attuned to the importance of connection to family community, culture and country for children. **This report shows very poor compliance with implementation of the Principle, as well as very few legislated, resourced and enabled roles for Aboriginal and Torres Strait Islander peoples to participate in child protection processes.**

ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

Limited data is available to describe compliance with the Principle. The data that is available focuses on an out-of-home care placement hierarchy as a proxy measure of compliance with the Principle. There is no available data on the processes of investigating and considering available family and community placement options, let alone whether there has been compliance with other elements of the Principle. The proportion of Aboriginal and Torres Strait Islander children placed with family, kin or other Aboriginal and Torres Strait Islander carers has in fact decreased over the past 10 years. **As of 2015, only 66 per cent of Aboriginal and Torres Strait Islander children in Australia were placed with family, kin or other Aboriginal and Torres Strait Islander carers.**

PARTICIPATION IN DECISION-MAKING, OVERSIGHT, AND SERVICE PROVISION

Review of Australian legislation shows that **a requirement to include Aboriginal and Torres Strait Islander agencies in all significant decisions for Aboriginal and Torres Strait Islander children is only fully provided in the legislation of one state, Queensland. Victoria has also significantly enabled Aboriginal and Torres Strait Islander participation through a separate protocol and a pilot of Guardianship delegation to an Aboriginal agency.**

Efforts to include families directly in decision-making have also been limited, and **only Victoria has implemented a state-wide, culturally specific model of Aboriginal Family-Led Decision Making delivered in partnership with Aboriginal agencies.**

Two key mechanisms for enabling participation of Aboriginal and Torres Strait Islander peoples in system design and oversight remain under-developed in Australia – **only two states resource Aboriginal and Torres Strait Islander peak bodies focused on child protection and family services** (New South Wales and Queensland), and **only two states in Australia have appointed an Aboriginal person to the role of Commissioner for Children** (Queensland and Victoria). While data is available to show that service delivery to Aboriginal and Torres Strait Islander people across a range of areas is predominantly delivered through mainstream – rather than Indigenous-specific – approaches, there is no data to show the extent to which Aboriginal and Torres Strait Islander community-controlled services are enabled to deliver services for their own communities.

4. STATE SNAPSHOT

This report highlights some key areas for priority action at both a state and national level. Table 1 below identifies state and territory trends across central report indicators, where data is available. In particular, it indicates **poor performance by Western Australia with the highest rates of over-representation and the lowest investment in evidence based strategies for redress.** South Australia and The Australian Capital Territory (ACT) also reflect particularly poorly against all these measures, while The Northern Territory demonstrates a lack of engagement with evidence informed solutions to concerns around child neglect, abuse and removal.

Victoria has made significant strides in investing in solutions to improve the safety and well-being of Aboriginal and Torres Strait Islander children and reduce their over-representation in OOHC. It features as a leading state in all areas except access to intensive family support services. Queensland and New South Wales (NSW) have also invested in some important mechanisms to improve child safety and reduce over-representation. The findings of this report highlight the need to upscale evidence based approaches and develop a holistic strategy to drive legislative, policy and practice reform and see improved outcomes for Aboriginal and Torres Strait Islander children.

Tasmania is difficult to determine without accurate data on over-representation of Aboriginal and Torres Strait Islander children in child protection statutory intervention.

TABLE 1.   State snapshot against data reported in this report

	TAS	VIC	QLD	NSW	NT	SA	ACT	WA
Rate of child protection notifications	Insufficient Data (?)	Improving	Improving	Improving	Improving	Poor	Poor	Poorest
Rate of children substantiated on grounds of abuse or neglect	Insufficient Data (?)	Improving	Improving	Improving	Improving	Poor	Poorest	Poorest
Rate of children removed by child protection authorities	Better	Poor	Improving	Improving	Improving	Improving	Poor	Poorest
Access to early childhood education	Better	Improving	Improving	Improving	Poorest	Poor	Improving	Poor
Investment in early intervention	Improving	Comparatively Good	Poor	Poor	Comparatively Good	Poorest	Poorest	Poor
Access to intensive family support services	Insufficient Data (?)	Poorest	Improving	Improving	Insufficient Data (?)	Comparatively Good	Comparatively Good	Poorest
Children placed in kinship care	Poor	Better	Improving	Improving	Poor	Better	Improving	Comparatively Good
Legislation for Aboriginal participation	Poorest	Comparatively Good	Comparatively Good	Comparatively Good	Poorest	Improving	Poorest	Poorest
Aboriginal peak and commissioner	Poorest	Comparatively Good	Comparatively Good	Improving	Poorest	Poorest	Poorest	Poorest
Aboriginal families involved in decisions	Poorest	Comparatively Good	Improving	Poorest	Poorest	Poorest	Poorest	Poorest

KEY ■ Poorest ■ Poor ■ Improving ■ Better ■ Comparatively Good ■ Insufficient Data

CONCLUSION

The modelling indicating that the number of Aboriginal and Torres Strait Islander children in OOHC may triple by 2035 provides a shocking call to action. It confirms a major crisis in Aboriginal and Torres Strait Islander child safety and well-being that requires urgent redress. A strong national public health model is embedded in the National Framework for Protecting Australia's Children 2009-2020. This provides a strong foundation but, as seen through the data in this report, there has not been a proportional shift in investment towards early intervention to respond to the causes of child removal and improve child safety. Nor has it led to a decrease in over-representation of Aboriginal and Torres Strait Islander children in out-of-home care.

It is clear that implementation of comprehensive, evidence-informed strategies across the nation in the next few years are critical to avert the 2035 projection. The scale of this issue and the reality that solutions necessarily cross a diverse range of federal and state/territory portfolios require a national strategy for change. They also call for clear accountability measures to ensure strong data availability and mechanisms to track progress. These are vital to ensure that responsive decisions can be made to shift course or deepen investment as necessary to see Aboriginal and Torres Strait Islander children grow up safe and well, with equal development opportunities as other children, to reach their full potential.

This is the first report. Let the second tell a changing story.

KEY RECOMMENDATIONS

1. **As a matter of urgency, a national comprehensive strategy to redress the causes of Aboriginal and Torres Strait Islander child removal and improve child safety and well-being.**

2. **A target and strategy to increase proportional investment in prevention and early intervention services.**

3. **A focused strategy to redress Aboriginal and Torres Strait Islander poverty and homelessness**, ensuring Aboriginal-led processes, access to economic opportunities, and social welfare measures that provide for an adequate standard of living.

4. **Comprehensive investment in effective culturally safe reunification programs across Australia**, accompanied by strong follow-up support to ensure placement stability, and strong data collection and reporting.

5. **Broad-based legislative and policy reform to strengthen representation of Aboriginal and Torres Strait Islander organisations, communities, families and children** in decisions about child safety and removal, from before and throughout their engagement with child protection systems. This would include compliance with the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle and strong models of Aboriginal family-led decision-making.

6. **Investment in service delivery by community-controlled organisations** in line with self-determination and quality of service provision.

7. **A framework for Aboriginal and Torres Strait Islander child well-being**, developed in partnership with Aboriginal and Torres Strait Islander peoples, and accompanied by the **collection and reporting of necessary data** (identified in this report) to guide policy development and implementation.

8. **Development and publication of data to better measure the situation of, causes and responses to over-representation of Aboriginal and Torres Strait Islander children.** Data development should take account of identified gaps throughout this report.

9. **State based Commissioners and peak bodies for Aboriginal and Torres Strait Islander children.**

STRUCTURE AND CONTENTS

The report is structured into three distinct sections: the first reflects drivers of over-representation within child protection systems and current data that describes over-representation; the second addresses, more broadly, the social and economic causes of and solutions to over-representation, while the third addresses respect for cultural and Aboriginal and Torres Strait Islander participation as core solutions to ensure culturally safe and responsive child protection systems.

1. **BENCHMARKING OF OVER-REPRESENTATION IN OUT-OF-HOME CARE:** In order to measure progress toward reducing over-representation in out-of-home care and to best focus efforts at change, an accurate benchmarking of national and state/territory indicators has been undertaken. This includes trends to date and a 20-year projection if current conditions are maintained. The report also includes a description of the types of data that are currently publicly available, data that are potentially available within state government, and the types of data that are still needed to properly gauge progress.

2. **ECONOMIC, SOCIAL AND COMMUNITY FACTORS:** The causes of over-representation in out-of-home care, both before and after child protection intervention, are manifold. This first report focuses on available data that reflect a number of key causes of over-representation, as well as available data that measure progress toward parity.

3. **ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION AND RESPECT FOR CULTURE:** Over-representation in out-of-home care is strongly linked to failures to provide service responses that are shaped and driven by Aboriginal and Torres Strait Island people, and attuned to their unique cultural needs. This report focuses on aspects of child and family service system design and operation that contribute to ensure that services are culturally safe and responsive, and accountable to Aboriginal and Torres Strait Islander people.

PART 1

BENCHMARKING OF OVER-REPRESENTATION IN OUT-OF-HOME CARE

1.1 OVERVIEW

The over-representation of children in OOHC is the end result of several linked processes within the child protection system, each of which is essential for understanding the strategies required to reduce this over-representation. From a child protection systems perspective, the number of children in care is a function of four interrelated categories:

1. *Children already in OOHC.* This is usually a count of all children who are placed in care on a given day (usually mid-calendar year). Some of these children will have been in care for one day and some for 17 years. This is best described as a **point-in-time** estimate of the **prevalence** of OOHC and is the measure that is mostly relied upon in the national AIHW reports.

2. *Children entering care.* This is a count of all first entries into OOHC in a given period of time (usually in a year). Some of these children may have a history of OOHC, others have had no prior contact, but all are entering care for the first time in a given year (i.e. being removed from the care of their parent(s) and placed with a caregiver). This is best described as the **incidence** of OOHC (i.e. new cases) or an **entry cohort**.

3. *Children exiting care.* This is a count of all children leaving OOHC in a given period (usually a year). Some leave because they turn 18 and are no longer supported by the child protection system, others return to their parents, and others leave to enter other forms of permanent care. This is best known as an **exit cohort**.

4. *The time children spend in OOHC.* When children enter care, they can stay for long or short periods of time. This is commonly referred to as **length of stay**, and it is one of the most influential factors driving the number of children in OOHC.
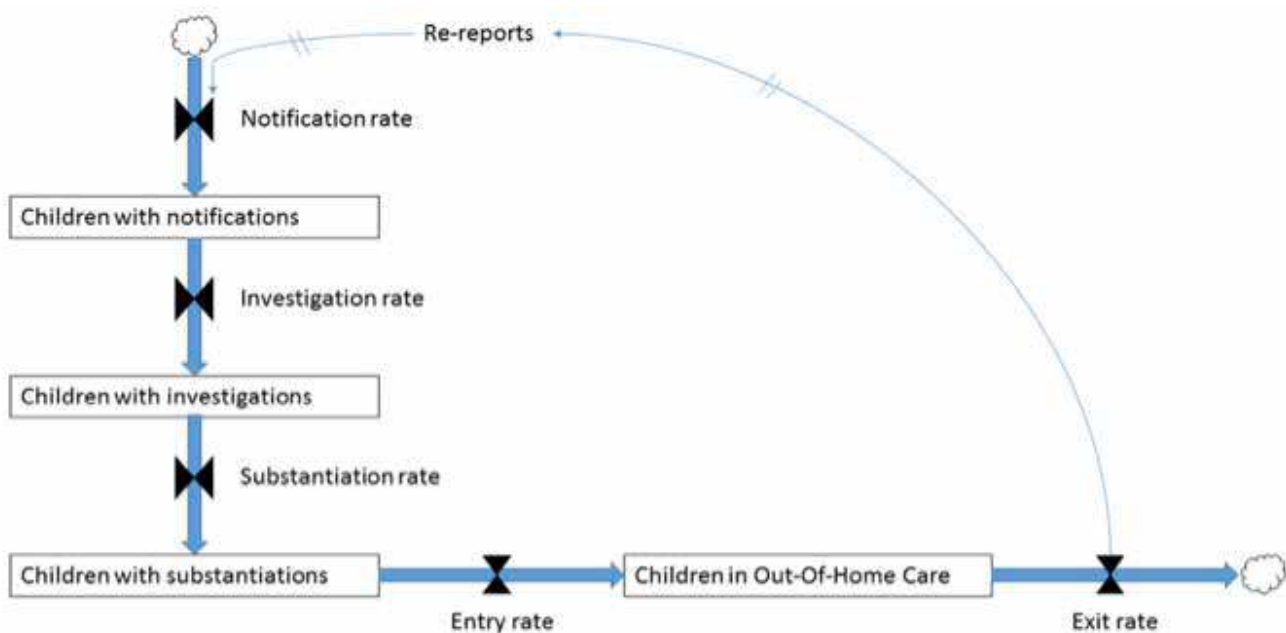
Over-representation and under-representation can occur in any or all of these areas, and focusing only on those in care or those exiting care can lead to poor policy decisions. When considered this way, the children currently in OOHC do not represent the children entering care, and the children exiting care do not necessarily represent the children who are leaving care. Currently, there is a dearth of reliable data measuring entries to OOHC, reunification with families, and length of time spent in care. This data is needed for a comprehensive understanding of the over-representation of children in care.

1.2 HOW OVER-REPRESENTATION OCCURS

Over-representation is a result of a chain of events (Figure 1). It begins with the increased likelihood that an Aboriginal or Torres Strait Islander child, as opposed to a non-Indigenous child, is the subject of a notification, whether that child has the same chance of being investigated as a non-Indigenous child, and whether that same child is more or less likely than a non-Indigenous child to be placed in OOHC. Over-representation also depends on whether that child, once placed, has the same likelihood of being returned to their parent(s) (rate of reunification/restoration) and how long this process takes (length of stay).

Each of these decision points (e.g. whether to investigate, whether to place a child, whether to return a child) may require a different strategy for bringing the system to parity. Properly understanding and describing the underlying data and associated processes is crucial if policy and practice decisions with the ability to affect substantial change are to be developed.

1.3 CURRENT SITUATION AND TRENDS

Aboriginal and Torres Strait Islander children are over-represented at every point in the child protection system that is currently measured at the national level. When considering the ratio of Aboriginal and Torres Strait Islander children who are involved with child protection compared with non-Indigenous children in the population (Figure 2), Aboriginal and Torres Strait Islander children are far more likely than non-Indigenous children to be notified, investigated, substantiated, placed on a protection order and to reside in OOHC.

Furthermore, **the differences for each and every one of these points between Aboriginal and Torres Strait Islander children and non-Indigenous children in the child protection system compound and have continued to increase dramatically in recent years.** Over the last decade, notifications have increased by 108 per cent; investigations by 97 per cent; substantiations by 86 per cent; protection orders by 65 per cent; and the likelihood of residing in OOHC by 67 per cent. In 2015, Indigenous children were 5 times more likely to be reported to child protection; 6.3 times more likely to be investigated; 6.7 times more likely to be substantiated; and 9.5 times more likely to be residing in OOHC (AIHW, 2016a).

Figure 3 shows the ratio of Aboriginal and Torres Strait Islander children who were involved with child protection compared with non-Indigenous children, by jurisdiction, at the end of financial year 2014-15.

Across all states and territories, Aboriginal and Torres Strait Islander children were far more likely than non-Indigenous children to be notified, investigated, substantiated, placed on a protection order and to reside in OOHC. The degree of over-representation varied across the states, though a substantial portion of differences may be attributable to differences in measurement and measurement error. At the highest end of the range, Aboriginal and Torres Strait Islander children were 16.2 times more likely to be placed in OOHC in WA.[2]

It should be noted that across all of these measures, except for protection orders and out-of-home care, data for Tasmania and Western Australia are considered unreliable and likely to be under-reported for Aboriginal and Torres Strait Islander children because of the high proportion of children reported as having an unknown Indigenous status in those states. This indicates that better process around identification and/or recording of children's Indigenous status is critical, both to ensure accurate data, and to ensure that culturally appropriate services can be made available.

Overall, the median over-representation by states shows that WA and ACT have the highest degree of over-representation of Aboriginal and Torres Strait Islander children in the child protection system. On the other hand, NT and Queensland have the lowest degree of over-representation with the exception of Tasmania.

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2   The results from Tasmania, while clearly the lowest, must be interpreted with caution due to the relatively large proportion of cases where the Aboriginal and Torres Strait Islander status is unknown for notifications, investigations, and substantiations.

FIGURE 2   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection in Australia
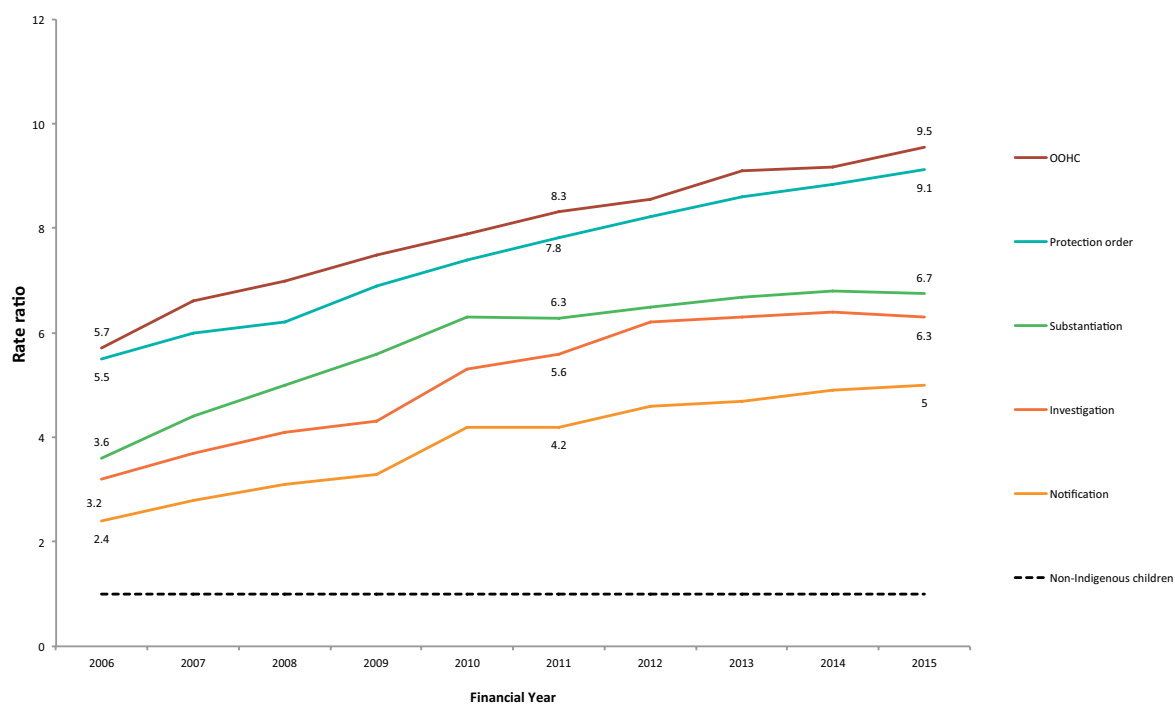
a. Children involved with CP measured at 30 June each financial year.

b. It is important to note that rates for years 2011-2015 were calculated using revised population estimates based on the 2011 Census and should not be compared with rates calculated using populations based on previous Censuses. However, all figures are included to demonstrate the steady increase and disparity between Indigenous and non-Indigenous children across all points on the CP continuum.

c. Rates for notification and investigation from 2011 to 2015 were taken from ROGS, 2016. The rates were derived from unpublished data from State and Territory Governments.

d. Rates from 2006 to 2010 were taken from ROGS, 2016. The rates were derived from unpublished AIHW data collected for *Child protection Australia*.

Source: 2011-2015 data (substantiation, protection order, OOHC) from Child protection Australia 2014-15 (AIHW, 2016)

Source: 2011-2015 data (notification, investigation) from Chapter 15 Child protection services (ROGS, 2016)

Source: 2006-2010 data from Chapter 15 Child protection services (ROGS, 2016)

a. In Tas, the proportion of notifications, investigations, and substantiations for children with unknown Indigenous status impacts the reliability of these data.

b. Children involved with CP measured at 30 June each financial year.

c. The rates were derived from unpublished data from State and Territory Governments.

Source: Tables 15A.8 and 15A.18 from Chapter 15: Child protection services (SCRGSP, 2016)

The most recent AIHW report (AIHW, 2016a) provides data on the primary form of substantiated maltreatment during 2014-2015. For a better understanding of factors that drive involvement in child protection, this data is shown in Figure 4. **The majority of Aboriginal and Torres Strait Islander children involved with child protection across Australia in 2014-15 were substantiated for neglect, which includes failure to provide for a child's essential needs (38.3 per cent), and emotional abuse, which includes exposure to family and domestic violence (37.7 per cent). Substantiations for Aboriginal and Torres Strait Islander children were significantly more likely to be for neglect in comparison to non-Indigenous children (38.3 per cent as compared to 21 per cent)** and were less likely to be for all other substantiation categories, namely emotional abuse, sexual abuse and physical abuse.

When primary grounds for substantiation of maltreatment are considered however, in the context of the major over-representation of **Aboriginal and Torres Strait Islander children in substantiations, Aboriginal and Torres Strait Islander children were over-represented for all abuse types across all states and territories** (with one exception of sexual abuse in Tasmania) (AIHW, 2016, Table A11). On a national level, **Aboriginal and Torres Strait Islander children are approximately 12 times more likely to be substantiated for neglect in comparison to non-Indigenous children.** This is concerning given that neglect is highly related to poverty, especially chronic poverty. Later sections of this report confirm that Aboriginal and Torres Strait Islander households experience poverty and disadvantaged socio-economic conditions at higher rates than non-Indigenous households (AIHW, 2014b; 2015; 2016b).

FIGURE 4   Primary substantiated maltreatment types amongst cases involving Aboriginal and Torres Strait Islander and non-Indigenous children in Australia, 2014-15

a. Type of maltreatment is the primary type of abuse or neglect identified for their first substantiation in the year.
Source: Table A11, Chapter *Source*: Table A11 (AIHW, 2016)
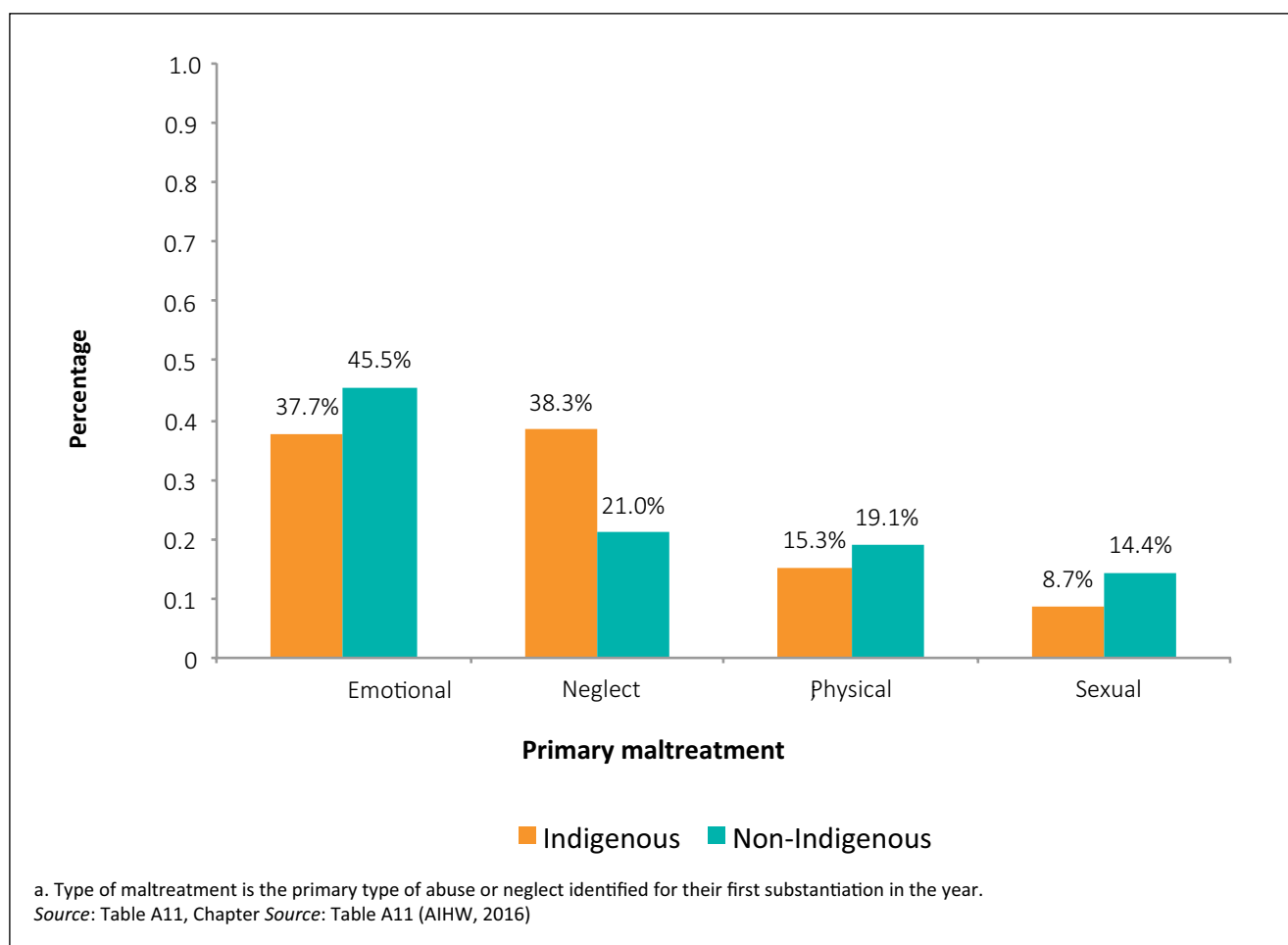
DATA GAPS

LIMITATIONS OF POINT-IN-TIME ESTIMATES

Unfortunately, these data are largely based on point-in-time estimates at mid-year that are not linked to each other (i.e. children can have multiple incidents with a given year). While new entries to OOHC are included in the latest AIHW report, these are not disaggregated by Aboriginal and Torres Strait Islander status. Moreover, the data are not presented in a longitudinal format that allows calculation of length of stay by Indigenous status, time to exit by exit type (e.g. reunification) or Indigenous status, and there is no information on re-entry to care. It is highly likely that, similar to information leading up to the decision to place a child in OOHC, Aboriginal and Torres Strait Islander children are more likely than non-Indigenous children to enter OOHC, more likely to be placed in kinship care, and less likely to be reunified. Regrettably, this information is currently unavailable from public sources.

RECOMMENDATION: Publication of comprehensive data on Aboriginal and Torres Strait Islander child entry and re-entry to OOHC through the annual AIHW Child Protection Australia Reports.

TYPE OF MALTREATMENT

Comprehensive data on reported and substantiated maltreatment type by Aboriginal and Torres Strait Islander status is necessary to understand the types of issues that bring children to the attention of child protection and what issues are substantiated. While data on the primary form of substantiated maltreatment by Indigenous status is publicly available, there is a lack of data on all forms of substantiated maltreatment (i.e. primary, secondary, any). Moreover, the available data provides substantiated primary maltreatment for the first substantiation of the year. More data is needed to provide information on substantiations beyond the earliest in the year.

RECOMMENDATION: Publication of comprehensive data on all reported and substantiated maltreatment (i.e. primary, secondary, any) by Aboriginal and Torres Strait Islander status through the annual AIHW Child Protection Australia Reports.

REUNIFICATION/RESTORATION

A key solution to keep children connected to their families and communities is to prioritise and support the timely and safe reunification/restoration of Aboriginal and Torres Strait Islander children in out-of-home care to the care of their families. Currently there is no publicly available data in any state or territory to describe the rate at which Aboriginal and Torres Strait Islander children are reunified with their families, and the length of time they spend in out-of-home care before reunification occurs. Data from the most recent Report on Government Services (SCRGSP, 2016) include the number of children exiting OOHC and length of time prior to exit during a financial year by Indigenous status. However the data is not disaggregated by child age and exit type, therefore children exiting care do not necessarily represent children reunified.

RECOMMENDATION: Urgent efforts to develop and publish data sets that reflect reunification rates of Aboriginal and Torres Strait Islander children in OOHC.

1.4 CHILDREN IN OOHC BY 2035: AN ALARMING PROJECTION OF GROWING OVER-REPRESENTATION

The number of children in OOHC continues to rise and, across all available indicators, so too does the over-representation of Aboriginal and Torres Strait Islander children in OOHC. There is strong reason to believe that the number and proportion of Aboriginal and Torres Strait Islander children in OOHC will continue to rise. In this section we use a theoretical model to describe how the number of children in OOHC, and the over-representation of Aboriginal and Torres Strait Islander children, will increase over the next 20 years if today's conditions remain the same (Figure 5)[345]. Using available estimates over the last four years of Australian Institute of Health and Welfare Child Protection Australia reports[6], **the population of Aboriginal and Torres Strait Islander children in care will almost triple in size by 2035**, while the non-Indigenous population of children in OOHC will increase by less than two thirds.[7] This projection presents a startling and disturbing picture of the future impacts on Aboriginal and Torres Strait Islander families and communities if we fail to intervene now.

While the number of children in OOHC will continue to increase for both Aboriginal and Torres Strait Islander children and non-Indigenous children, the level of over-representation will increase dramatically over time. In all likelihood, if these trends continue, a substantial proportion of Australia's Aboriginal and Torres Strait Islander children will spend time in OOHC. Of critical importance, these projections indicate that the number of Indigenous children in care must be substantially decreased over the next three years or the proportion of Aboriginal and Torres Strait Islander children in care will start to rapidly increase by 2020. While it is important to consider how to decrease over-representation across all child protection decision-making points through preventative measures at the front end, we must also work on successfully reunifying the growing population of children in care, some of whom may have been in OOHC for long periods of time.

FIGURE 5   Population growth trajectories of children in OOHC in Australia by Indigenous status
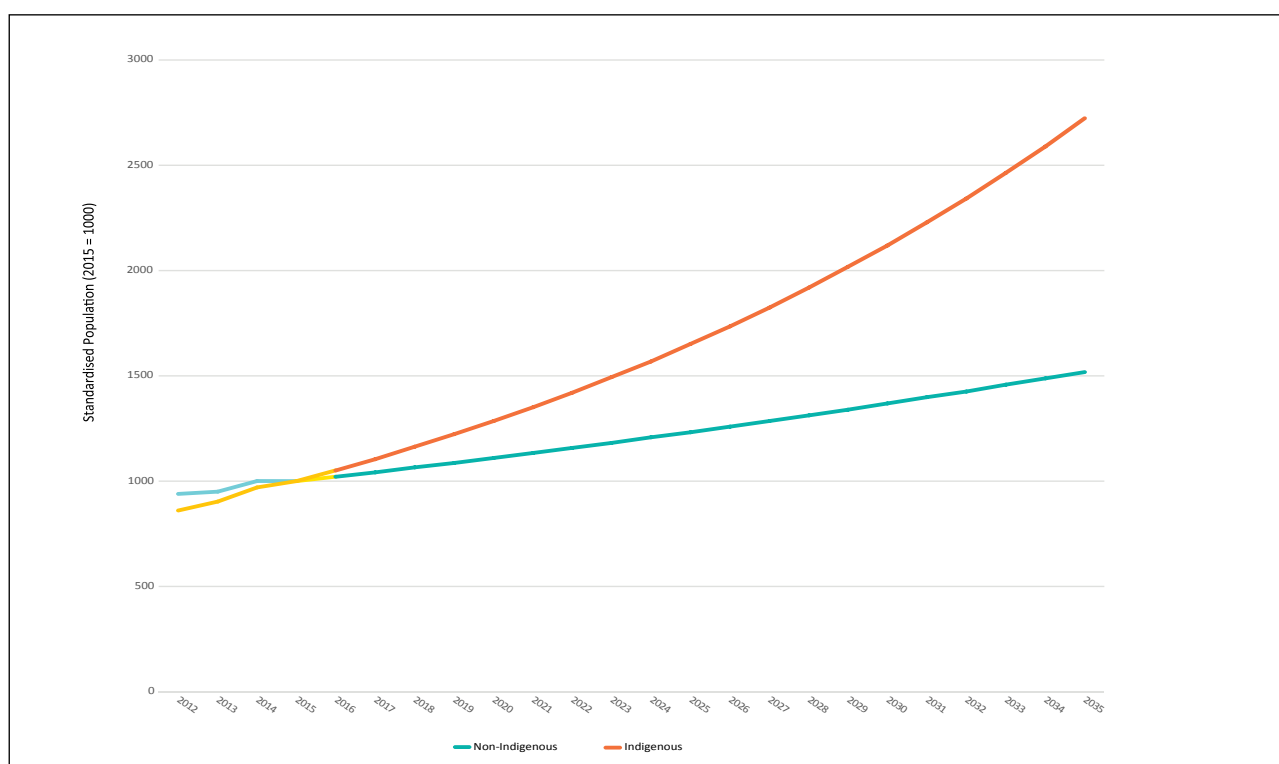
3   The method used to develop this projection is detailed in Appendix I.

4   This model is dynamical (is a function of time and space) and is state-dependent (i.e., the population in each year depends on the population in previous periods), and it describes the relationship between the annual population growth rates (APGR), the annual entry and exit rates, and the annual number of substantiations and the number of notifications in each year.

5   There are also several important caveats that are listed in Appendix II. These caveats highlight that the figures presented in the scenario have to be interpreted with caution. The constraints of the model may not be good approximations of the real system, in which case the figures shown in the example may not come to pass. That said, the estimates are conservative on a number of levels and will be adjusted as more information is made available.

6   Comparable data from AIHW is only available for five years since rates were calculated using revised population estimates based on the 2011 Census. Rates calculated using populations or projections based on previous Censuses should not be compared to data from the last five years. Unfortunately, the data points in the year 2010/11 had to be excluded as outliers.

7   Unfortunately, a figure or proportion could not be calculated as more information is required that is currently unavailable, such as child population estimates by Indigenous status and OOHC entry and exit rates by Indigenous status.

PART 2

DATA ON ECONOMIC, SOCIAL AND COMMUNITY -LEVEL FACTORS

2.1 OVERVIEW

Part 2 of this report describes some of the key economic, social and community-level drivers thought to be related to children's entry to out-of-home care. Numerous studies have indicated that poverty is highly related to child protection system involvement (e.g. Sedlak, Mettenburg, Basena, Petta, McPherson, Greene, & Li, 2010). Poverty is strongly intertwined with the historical legacy of colonialism, including forced child removals and discrimination, experienced by Indigenous populations in the US, Canada, Australia and New Zealand (Human Rights and Equal Opportunity Commission, 1997). This legacy endures through intergenerational transmission of such trauma (Aboriginal and Torres Strait Islander Healing Foundation, 2013; Atkinson, 2013; Canberra & Yehuda, 2016), and such trauma and associated poverty undermine the social structures that would otherwise support the building and maintaining of strong, intact families and communities.

There is strong evidence that early childhood care and environmental factors have crucial impacts on later health and well-being and that interventions will be more effective the earlier they are applied in children's lives (e.g. Allen, 2013; Fox, Southwell, Stafford, Goodhue, Jackson, & Smith, 2015; Heckman, 2008). Unaddressed, socio-economic issues impacting families may otherwise worsen, compound, and ultimately increase the risk of harm to children over time. Early investment in strengthening families provides long-term social and economic benefits by interrupting trajectories that lead to health problems (Fox et al, 2015) and child protection intervention.[8]

Much of the data that reflects progress towards implementing solutions to over-representation is under-developed. For the first report, only quality, publicly available data that compares Aboriginal and Torres Strait Islander children to non-Indigenous children are included. Specifically, this section describes a set of measurable constructs reflecting

early intervention approaches that are likely to prevent entry or re-entry into OOHC by focusing on one or more of its antecedents.

2.2 ACCESS TO QUALITY, CULTURALLY SAFE, UNIVERSAL AND TARGETED SERVICES

This section relates to Family Matters Building Block 1: All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive. It measures the extent to which children and families have access to, and receive, high-quality universal and targeted services. Included here is available information on access to key relevant services, as well as available data on key outcomes targeted by these services.

a) Early childhood education and care participation

Evidence is unequivocal that the formative years of a child's life are a critical predictor of their successful transition to school and life-long education, health, wellbeing and employment outcomes (Fox et al, 2015). Early childhood education and care (ECEC) services are intended to provide a safe and supportive environment for children to learn and grow.

Such services can also provide a universal access point that links families with young children to other key support services that can prevent child protection intervention.

Currently, the best publically available data on ECEC services is from the latest *Report on Government Services* (SCRGSP, 2016). Data are available on early childhood education and care, and preschool by Indigenous status and show that **Aboriginal and Torres Strait Islander children access ECEC at significantly lower rates than non-Indigenous children.** Figure 6 shows that in 2014 Aboriginal and Torres Strait Islander children had about a 60 per cent lower chance of attending a child-care benefit approved childcare service than non-Indigenous children.

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8   The evidence base that informs the selection of measures in this section of the report is detailed further in the separately published Family Matters Policy Roadmap.

FIGURE 6   Rate ratios comparing Indigenous and non-Indigenous children aged 0 to 5 attending Australian Government CCB approved childcare services in 2014

Note: CCB refers to Child Care Benefit
Source: Table 3A.13, Chapter 3 (SRGSP, 2016)

FIGURE 7   Rate ratios comparing Indigenous and non-Indigenous children aged 4 and 5 years attending a preschool program in the year before schooling in 2014

Source: Table 3A.31, 3A.36, Chapter 3 (Report on Government Services, 2016)
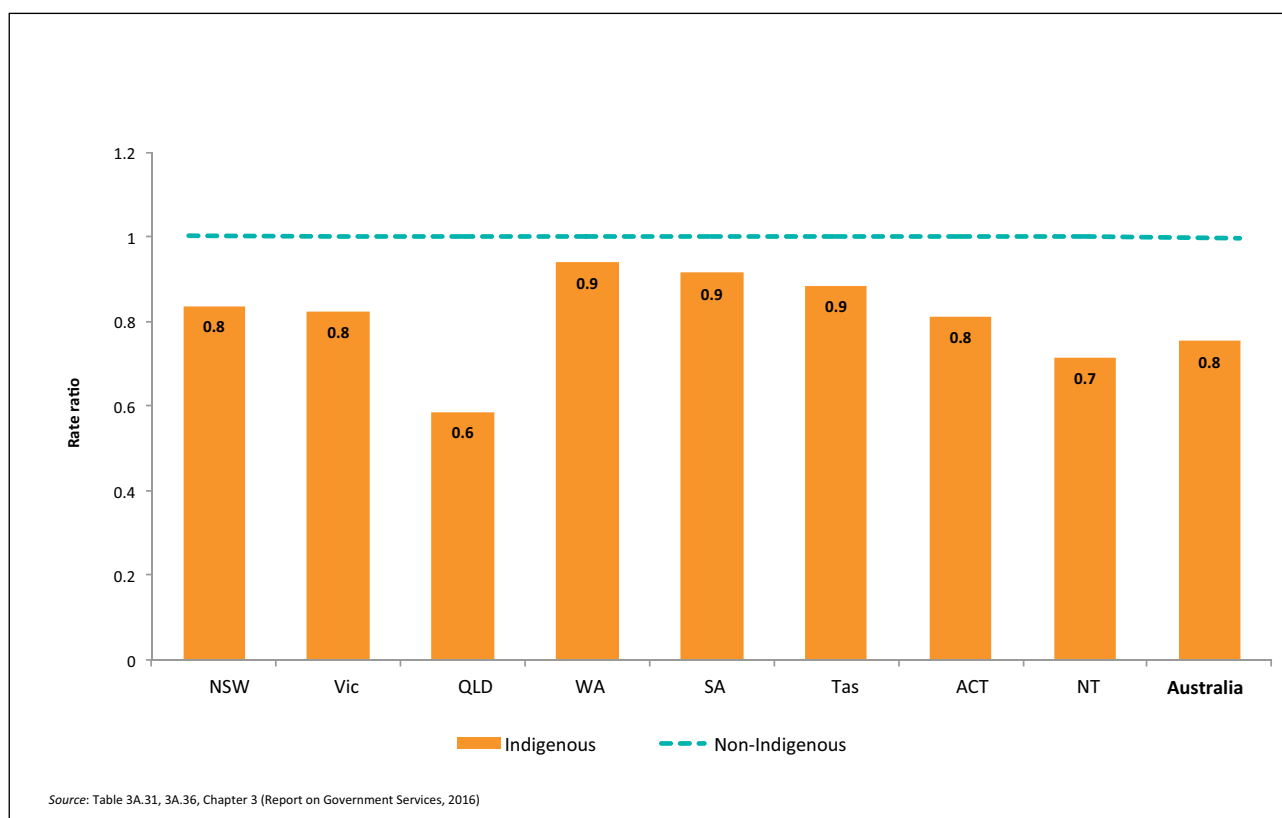
9   Information provided by the Australian Government Department of Education and Training to Senate Committee: Education and Employment Legislation, Public Hearing, 4 October 2016.
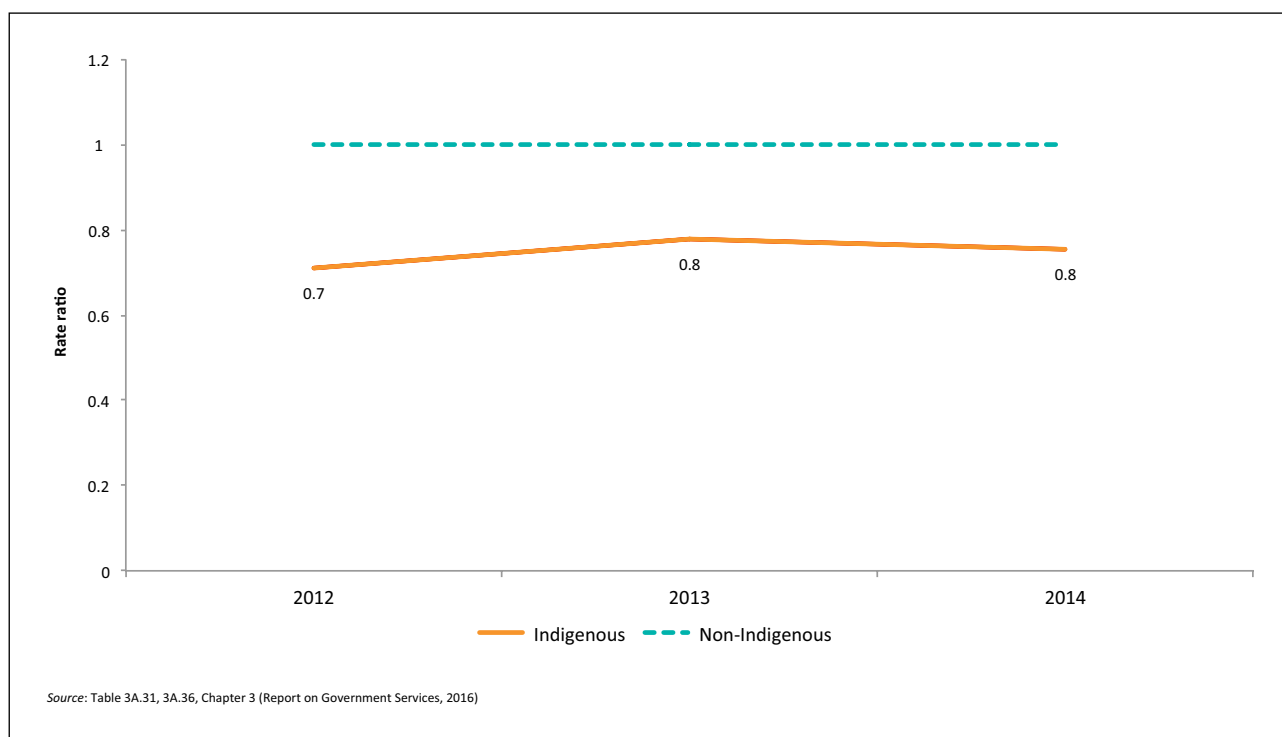
FIGURE 8 Rate ratios comparing Indigenous and non-Indigenous children aged 4 and 5 attending a preschool program in the year before school in Australia

Source: Table 3A.31, 3A.36, Chapter 3 (Report on Government Services, 2016)

Additionally, a substantial number of Aboriginal and Torres Strait Islander children attend Budget Based Funded (BBF) childcare services across the country. Although the number of Aboriginal and Torres Strait Islander children attending a BBF service is known (16,256 in 2015-16[9]), it is not possible to compare this to mainstream childcare participation because BBF services also provide a range of non-childcare services, with over one third of the services outside school hours care for older children and one sixth are mobile services (Palmer, 2016). However, in 2014 the Productivity Commission (2014), a review of all Australian ECEC services showed that there was a gap of 15,0000 children in service enrolment of Aboriginal and Torres Strait Islander children compared to non-Indigenous children.

Preschool is another important service that prepares children for full-time schooling. It can support a good transition for children formally entering the Australian education system. Figure 7 shows that **in 2014 Aboriginal and Torres Strait Islander children aged 4 and 5 years had a 20 per cent lower chance of attending a preschool program in the year before schooling than non-Indigenous children across Australia**. Particularly concerning is that preschool enrolment is not improving, with this disparity unchanged since 2012 as shown in Figure 8.

DATA GAPS

Currently no national data reporting on ECEC service participation includes Aboriginal and Torres Strait Islander children who participate in services under the Budget Based Funded program. Inclusion of this program, which reaches over 16,000 Aboriginal and Torres Strait Islander children, is critical to better understand the rate at which Aboriginal and Torres Strait Islander children are accessing ECEC services. Also, because the program includes a large number of Aboriginal and Torres Strait Islander community-controlled service providers, it provides an important indication of the level of culturally safe service provision.

In addition, data that includes the socio-economic status of participants, remoteness, and the location of ECEC services would support a better understanding of Indigenous access to ECEC services.

RECOMMENDATION: Publication of comprehensive data on Aboriginal and Torres Strait Islander child entry and re-entry to OOHC through the annual AIHW Child Protection Australia Reports.

FIGURE 9   Rate ratios comparing developmentally vulnerable Indigenous and non-Indigenous children in their first year of full-time education

Source: Table 19 (AEDC, 2015)
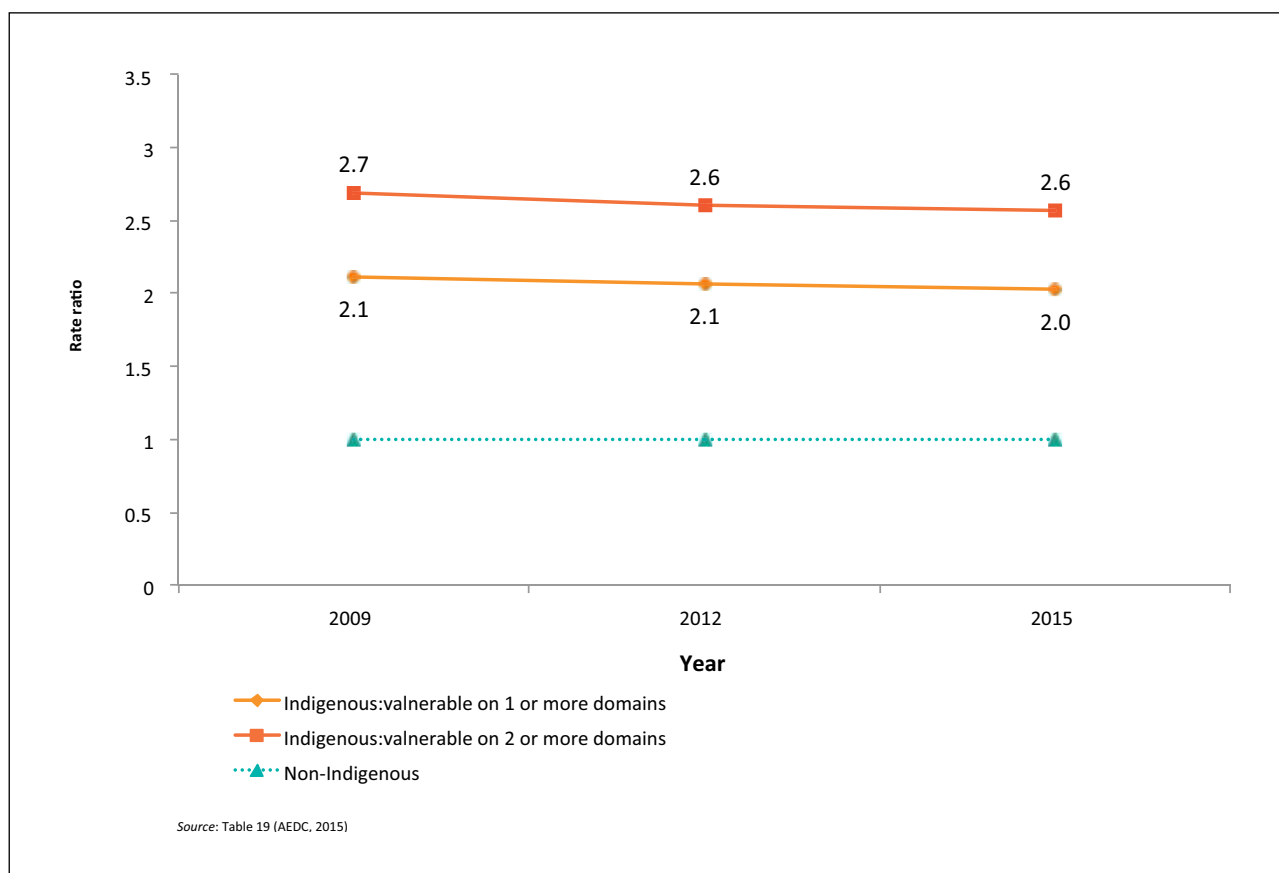
b) Early childhood development outcomes

A valuable indicator of whether a child has been enabled to thrive during the early years of life is their developmental progress when they commence education. The Australian Early Childhood Development Census (AEDC) collects data on early childhood development when children commence their first year of full-time education. Data are collected in five areas: physical health and well-being; social competence; emotional maturity; language and cognitive skills; and communication skills and general knowledge.

Aboriginal and Torres Strait Islander children's higher rates of developmental vulnerability identified in the AEDC correlate strongly with their under-representation in early childhood education and care services. Figure 9 shows that **since 2009, Aboriginal and Torres Strait Islander children are consistently over 2.5 times more likely to be vulnerable on 2 or more domains in comparison to non-Indigenous children**. Importantly, there has been no substantial improvement on this measure over the 6-year period for which data are available. Unfortunately, state-specific data were not available.

c) Investment in and access to prevention services funded by child protection departments

Provision of early intervention and prevention supports to families is one of the major strategies used to improve outcomes for vulnerable children and families, and is one of the core strategies described in the *National Framework for Protecting Australia's Children 2009-2020.*

While the current expenditure on child protection and family support services is not available by Indigenous status, an examination of recurrent expenditure provides a useful indication of the level of support being provided to families before child protection intervention, as compared to child protection and out-of-home care service provision. Core service types that are identified as critical in targeting supports for families experiencing vulnerabilities include: intensive family support to preserve and reunify families where there are child protection concerns; parenting support services; and other less-intensive casework support for families experiencing lower-level issues.

Source: Table 15A.1 (SCRGSP, 2016)
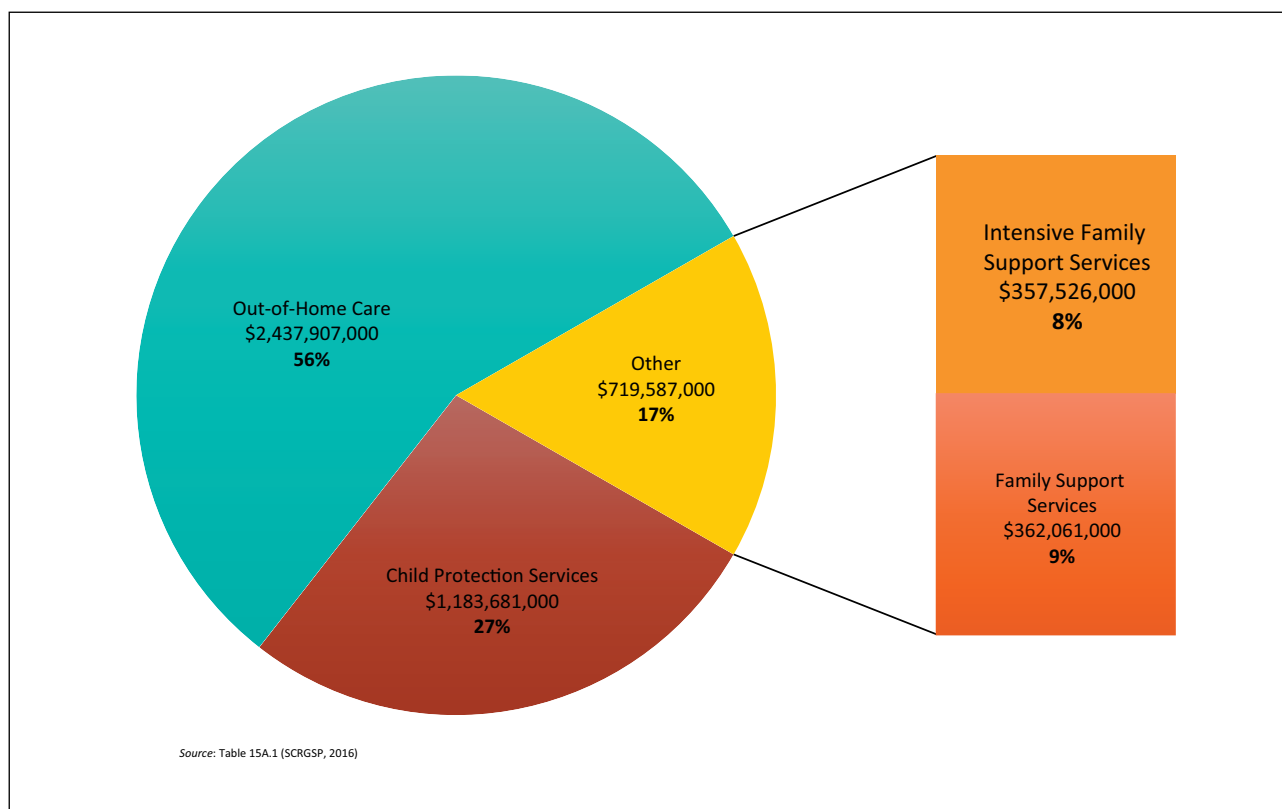
In 2014-15, only 17 per cent of overall child protection funding was invested in support services for children and their families, amounting to just over $700 million, as compared to $3.5 billion or 83 pre cent of funds spent on child protection intervention and out-of-home care services (Figure 10). Standing at only 8 and 9 per cent of the overall budget, respectively, Intensive Family Support Services (IFSS) and Family Support Services (FSS) are treated as secondary to the more tertiary OOHC and child protection services.

An examination of increases in recurrent expenditure categories provides a useful indication of whether efforts to shift funding from tertiary to preventive services is occurring and, over time, at what level. Specifically within child protection, we would like to examine whether the level of support being provided to families before child protection intervention commences has increased, as compared to the level of support provided once child protection intervention has begun. Between 2011-12 and 2014-15 investment in support services decreased while investment in OOHC services increased. Funding for child protection services remained relatively stable in comparison. Figure 11 shows that **funding invested in support services decreased by approximately 3 per cent**. The decrease was larger in Intensive Support Family Services, which decreased by 1.8 per cent over the four-year period. On the other hand, funding spent on OOHC services increased by 3.5 per cent.

Although this decrease is a relatively small per cent change, it represents decreases of millions of dollars. The amount of funding for OOHC went from $2.04 billion in 2011-12 to $2.44 billion in 2014-15, while the amount of funding for IFSS went from $362 million to $356 million. At the very least, this trend indicates that prevention services are not seeing increasing levels of support and funds continue to overwhelmingly favour tertiary services that include OOHC.

The breakdown of funding for child protection services by state and territory governments shows that investment in support services is much lower than the investment in child protection and OOHC services across all jurisdictions (Table 2). Across all states and territories, over 75 per cent of funding was invested in child protection and OOHC. SA and ACT were at the higher end with approximately 90.8 and 93.1 per cent of funding invested in child protection and OOHC, respectively. Funding for support services varied across the jurisdictions, with some investing more in IFSS and others investing more in family support services. Victoria appeared to invest the most in support services with almost a quarter of funding allocated to IFSS and family support services. The NT (23.5 per cent), NSW (17.7 per cent) and Tasmania (17 per cent) trailed behind Victoria. The ACT invested the lowest proportion of funding into support services out of all the jurisdictions (6.9 per cent), followed by SA (9.2 per cent) and WA (10.7 per cent).

FIGURE 11   Real recurrent expenditure for child protection in Australia (2011-12 to 2014-15)

Source: Table 15A.1 (SCRGSP, 2016)
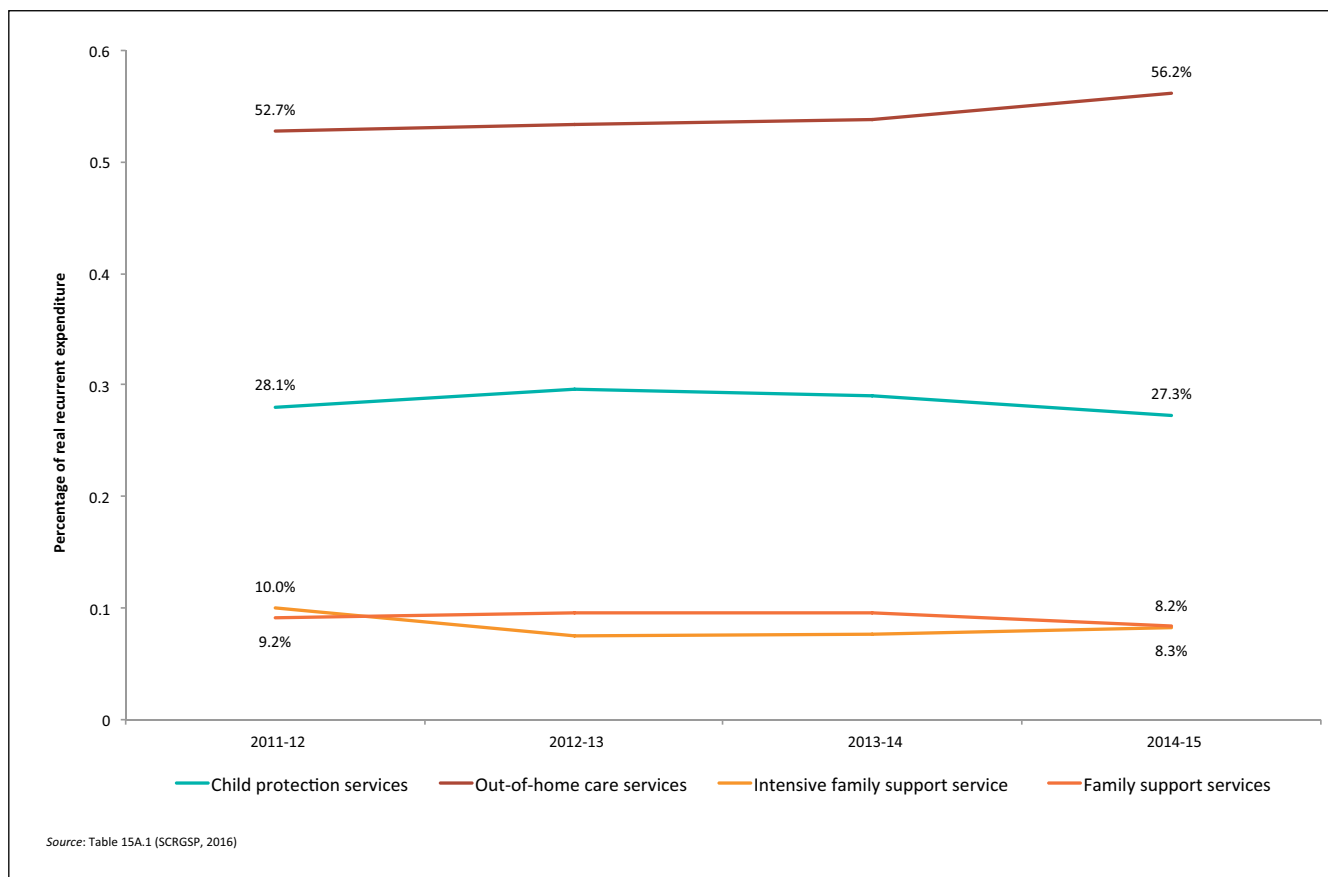
TABLE 2   Real recurrent expenditure for child protection by state and territory governments, 2014-15

Jurisdiction	CP Services		Out-of-home care		Intensive Family Support Services		Family Support Services		Total
	Unit $'000	%	Unit $'000	%	Unit $'000	%	Unit $'000	%	
ACT	$13,858	26.8	$34,332	66.3	$994	1.9	$2,596	5.0	$51,780
NSW	$383,920	24.8	$891,124	57.5	$166,197	10.7	$109,079	7.0	$1,550,320
NT	$35,424	20.0	$100,226	56.6	N/A	N/A	$41,578	23.5	$177,228
Qld	$314,816	36.6	$446,045	51.8	$68,590	8.0	$31,176	3.6	$860,626
SA	$62,617	19.5	$229,395	71.3	$19,268	6.0	$10,424	3.2	$321,705
Tas	$19,283	24.2	$46,775	58.8	$8,150	10.2	$5,323	6.7	$79,532
Vic	$199,631	23.4	$443,845	52.1	$84,432	9.9	$123,776	14.5	$851,684
WA	$154,132	34.4	$246,165	54.9	$9,895	2.2	$38,109	8.5	$448,301
Australia	$1,183,681	27.3	$2,437,907	56.2	$357,526	8.2	$362,061	8.3	$4,341,176

a. N/A represents unavailable data. Source: Table 15A.1 (SCRGSP, 2016)

This report will be produced again in twelve months to measure progress against this baseline report. **Let it show a changing story.**

a. Data for Tas and NT was unavailable in 2015
b. Australian rate ratio excludes Tas and NT
c. Rate ratios calculated using number of children commencing IFSS and child population by state
Note: IFSS refers to Intensive Family Support Services
Source: ABS, 2014a; ABS, 2014b; ABS, 2015; Table 15.A31, Chapter 15 (ROGS, 2016)
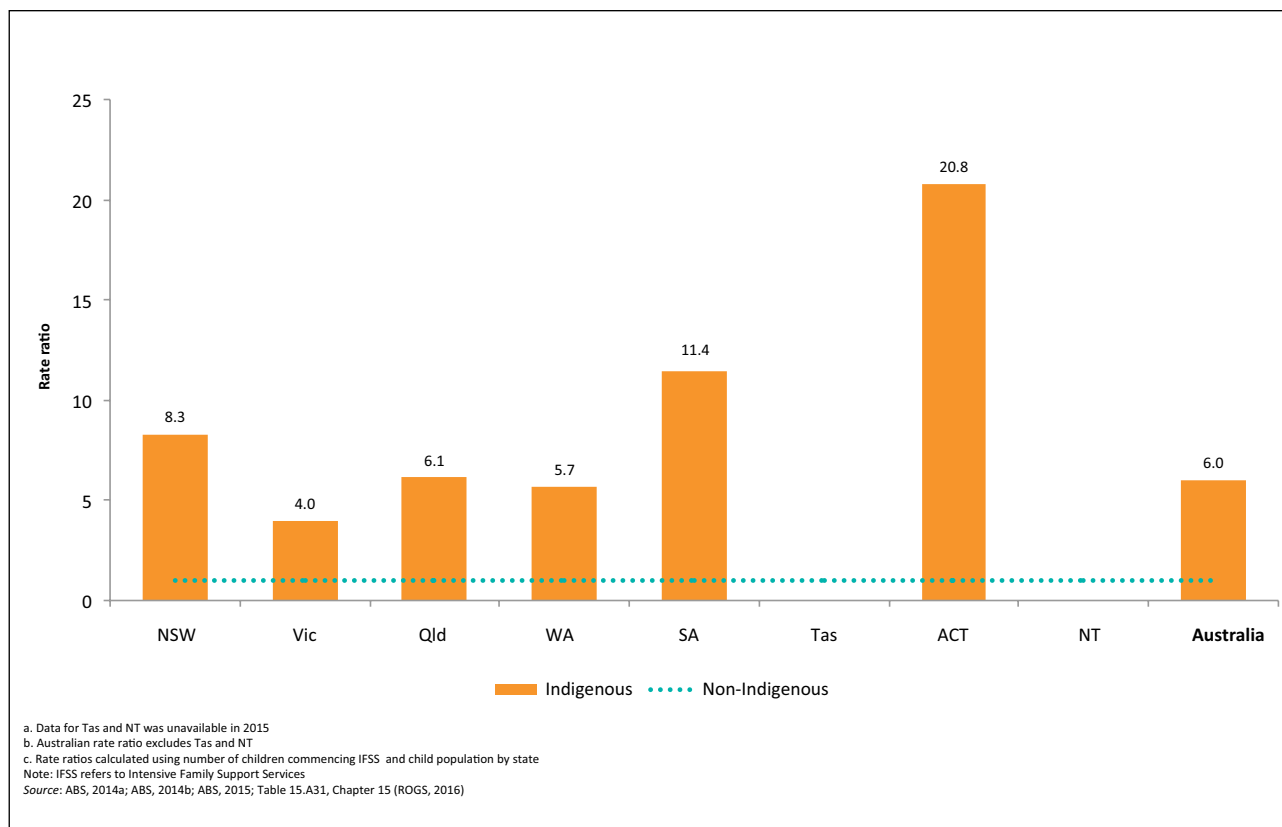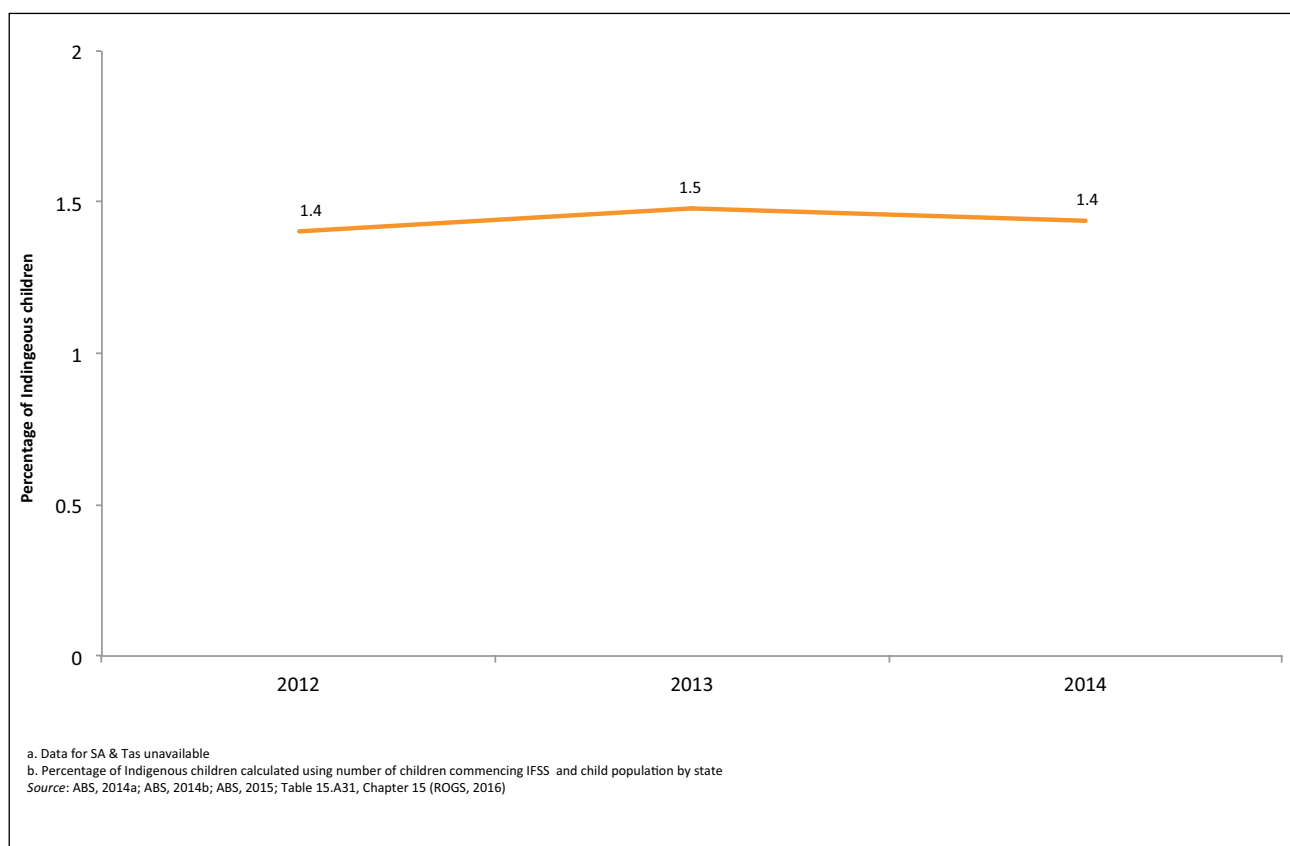
While quality data are not available on access and utilisation of all family support services, data are available on access to intensive family support. Intensive family support models provide time-limited, in-home, and time-intensive casework support aimed at addressing the complex needs of vulnerable families. Some of these IFSS are Aboriginal and Torres Strait Islander community-controlled intensive family support services and they attempt to bridge known barriers to successful service delivery by providing culturally strong casework supports and assisting families to access and navigate the broader service system.

Figure 12 shows that **in 2014-15 Aboriginal and Torres Strait Islander children were on average 6 times more likely to commence an intensive family support service than non-Indigenous children**, noting that data were unavailable for Tasmania and the Northern Territory. The rate ratios ranged from 4 times more likely in Victoria, to ACT, where Aboriginal and Torres Strait Islander children were 21 times more likely to commence IFSS than non-Indigenous children.

While this type of over-representation can be seen as encouraging on one hand, as vulnerable Aboriginal and Torres Strait Islander children are more likely than their non-Indigenous counterparts to receive needed services, these data should be approached with some caution. **Despite their over-representation in intensive family support services, only 1.4 per cent of Aboriginal and Torres Strait Islander children commenced an intensive family support service in 2014-15 across 5 states/territories where data were available** (Figure 13). Also of concern, the percentage of Aboriginal and Torres Strait Islander starting intensive family support has not increased between 2012 and 2014, despite a steady and substantial increase in notifications, investigations, and entries to OOHC during the same period.

a. Data for SA & Tas unavailable
b. Percentage of Indigenous children calculated using number of children commencing IFSS and child population by state
Source: ABS, 2014a; ABS, 2014b; ABS, 2015; Table 15.A31, Chapter 15 (ROGS, 2016)

DATA GAPS

EXPENDITURE

Data are unavailable to show the percentage of expenditure in child protection and family support that relates to Aboriginal and Torres Strait Islander children. Data are also unavailable to show what percentage of expenditure in family support and intensive family support was for services targeted for Aboriginal and Torres Strait Islander children. These data are needed to ensure a better understanding of costs of service provision for Aboriginal and Torres Strait Islander children, and relative investment in culturally safe and targeted interventions that could prevent their entry to out-of-home care.

RECOMMENDATION: Development and publication of data on expenditure in child protection and family support both provided to Aboriginal and Torres Strait Islander children and provided by community-controlled services.

ACCESS

Data on family support service access is very limited, with Aboriginal and Torres Strait Islander access to intensive family support not reported consistently across all states and territories, and data on access to other family support services unavailable.

RECOMMENDATION: Urgent publication of data on Aboriginal and Torres Strait Islander access to intensive family support services across all jurisdictions within the annual AIHW Child Protection Australia Reports.

EVALUATION

There is a dearth of strong evaluations of early intervention programs for Aboriginal and Torres Strait Islander peoples, limiting the capacity to confirm the extent of and reasons for effectiveness, including effective culturally safe family support services. Improved data on the impact of effective early intervention mechanisms on keeping Aboriginal and Torres Strait Islander children out of OOHC is critical to ensure maximum outcomes from policy and program development and implementation.

RECOMMENDATION: Prioritisation of culturally appropriate evaluations of early intervention programs for Aboriginal and Torres Strait Islander children and families, including through the National Research Agenda of the National Framework for Protecting Australia's Children 2009-2020.

2.3 ECONOMIC AND SOCIAL FACTORS DRIVING CHILD PROTECTION INVOLVEMENT

a) Levels of homelessness and over-crowding of Aboriginal and Torres Strait Islander people

Access to safe and healthy housing environments has a substantial impact on the capacity of families to provide safe and supportive care for children, and these hardships may increase the risk of involvement with the child protection system (e.g. Courtney, Dworsky, Piliavin,

& Zinn, 2005; Dworsky, Courtney, & Zinn, 2007; Slack, Lee, & Berger, 2007). Of particular concern for this report, issues with housing (e.g. homelessness, overcrowding, unstable housing tenure) indicate the types of vulnerability and risk that can lead to child removal. Moreover, housing problems may impact the likelihood that children will be reunified with their families once they are removed. Data in this section shows that Aboriginal and Torres Strait Islander people experience higher rates of homelessness, overcrowded housing and unstable housing tenure.

The most recent statistics on rates of homelessness amongst the Aboriginal and Torres Strait Islander and non-Indigenous populations are from the 2011 Census (AIHW, 2014a). In 2011, an estimated 26,743 Indigenous peoples were experiencing homelessness, representing almost a third of all homeless people who provided information on their Indigenous status. **Indigenous peoples were 14 times more likely to be homeless than non-Indigenous people, with 1 in 20 Aboriginal and Torres Strait Islander peoples experiencing homelessness** (AIHW, 2014a). It is important to note that in 2011, 75 per cent of the Indigenous population

experiencing homelessness was living in *severely crowded* households (AIHW, 2014a).

The disparity between the rates of Indigenous and non-Indigenous clients accessing homelessness services in Australia has been increasing over the past 5 years to increasingly reflect this over-representation (Figure 14). **As of 2014-2015, in Australia, clients accessing homelessness services were 8.7 times more likely to be Indigenous.** Overall, at the commencement of homelessness services, in 2014-15 about half of the Aboriginal and Torres Strait Islander population accessing services were parents: 35 per cent were sole parents and 14 per cent were couples with children. **One in four Indigenous clients using homelessness services was a child under the age of 10** (AIHW, 2016b). The main reason that Indigenous clients sought services was domestic and family violence – an identified high risk factor for child abuse and neglect – accounting for 24 per cent of the distribution (AIHW, 2016b).

While the disparity of accessing specialist homelessness services amongst Aboriginal and Torres Strait Islander and non-Indigenous clients increased steadily amongst people living in major cities or inner/outer regional areas, the disparity nearly doubled over the past 5 years in remote areas (Figure 15). In remote areas, Aboriginal and Torres Strait Islanders were approximately 18 times more likely to access specialist homelessness services in comparison to non-Indigenous people. Aboriginal and Torres Strait Islanders in major cities were almost 10 times more likely to access specialist homelessness services compared to their non-Indigenous counterparts.

FIGURE 14 Rate ratios comparing Indigenous and non-Indigenous clients accessing specialist homelessness services in Australia

Source: Table 1 (AIHW, 2016)
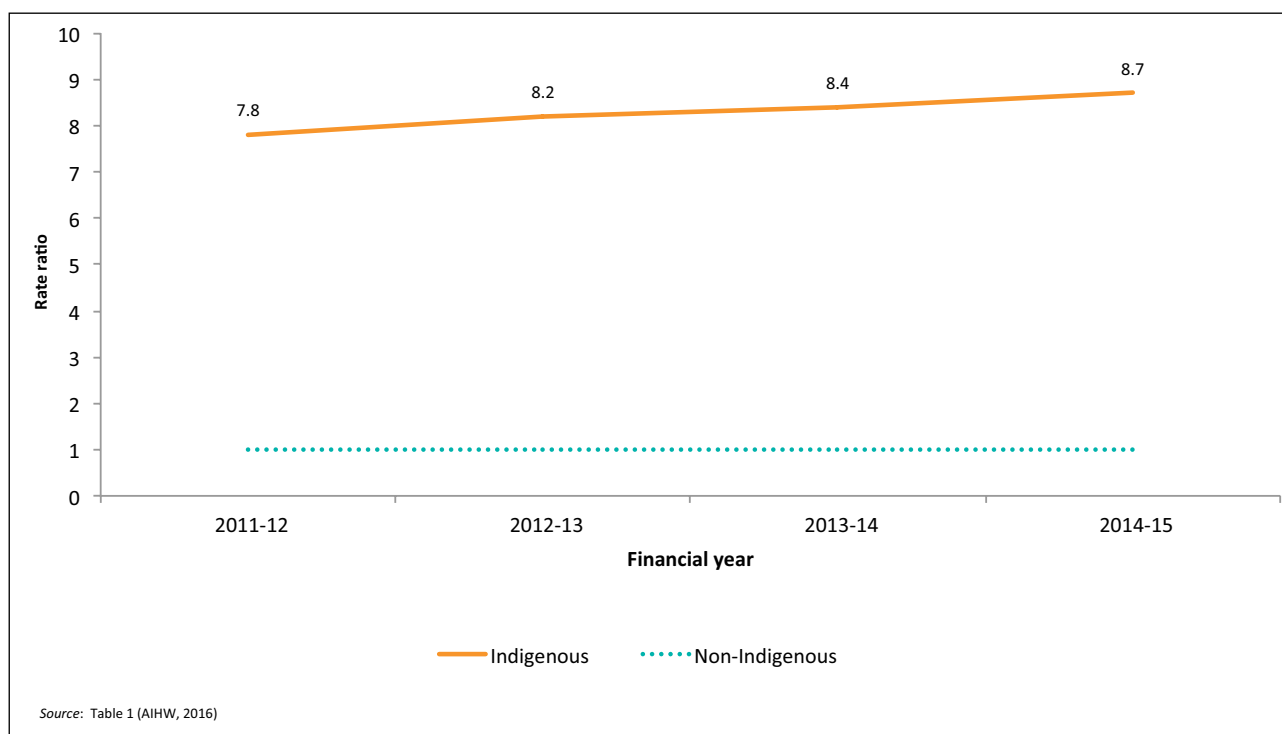
FIGURE 15   Rate ratios comparing Indigenous and non-Indigenous accessing specialist homelessness services by remoteness in Australia

Source: Table 1 (AIHW, 2016)
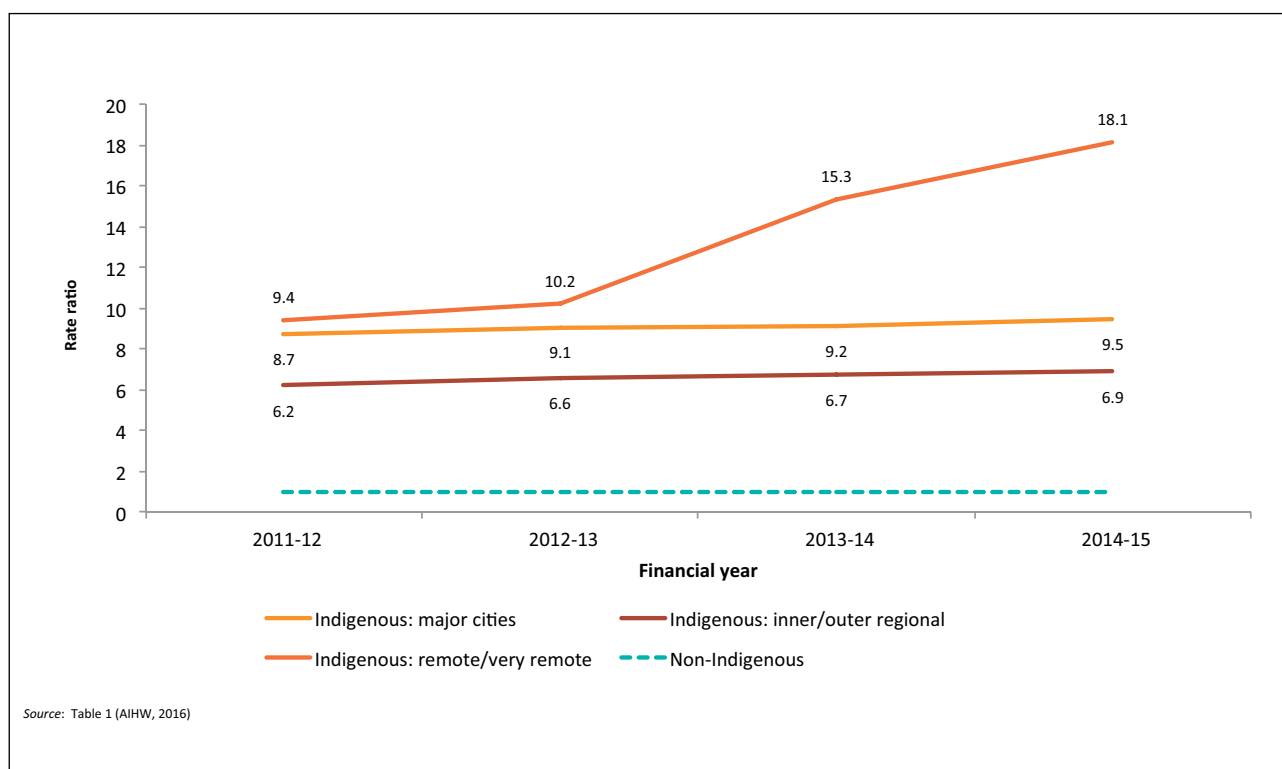
Another concern is overcrowded households. The latest Census determined that **1 in 4 Indigenous peoples were living in overcrowded households** (AIHW, 2016b). For data presented in Figure 16, an overcrowded household is defined as one that requires one or more extra bedrooms to meet the Canadian National Occupancy Standard (CNOS).[10] According to these standards, there should be no more than two people per bedroom; children aged 5-and-over of the opposite sex should have separate bedrooms; and single household members over the age of 18 and parents or couples should have a separate room.

While the disparity in the rate of overcrowded households amongst Indigenous peoples in comparison to non-Indigenous people has decreased over the past 15 years, **Indigenous peoples are still almost 4 times more likely to live in overcrowded households** (Figure 16). More information is needed on why the rate of overcrowded households has decreased to determine whether this is due to increased housing, increased homelessness, measurement error, or changes in counting rules. State-specific data on overcrowded households and by remoteness level are available, but are not included as they are beyond the scope of the current report.

Housing tenure types for Aboriginal and Torres Strait Islander people suggest a significantly lower level of housing stability than exists among non-Indigenous people. **Aboriginal and Torres Strait Islander households were over 6 times more likely to reside in social housing than non-Indigenous households** (Figure 17). Indigenous households were less likely to reside in homes they owned and more likely to rent compared to non-Indigenous households.

However, socio-economic status (SES), remoteness, and state-specific data were available. **As SES increases, Aboriginal and Torres Strait Islander households become less prevalent and non-Indigenous households more prevalent.** This reflects that poverty and living tenure type are inextricably bound. Even the most advantaged Aboriginal and Torres Strait Islander households are less likely than non-Indigenous to own their own home. While approximately 22per cent of Indigenous households were living in social housing in major cities, in remote areas this increased to approximately 40 per cent and up to almost 70 per cent in very remote areas.

10   The use of this standard is not intended to convey that households should conform to this standard. It is merely used here as a standard way to measure the potential for overcrowding.

FIGURE 16 Rate ratios comparing overcrowded households amongst Indigenous and non-Indigenous peoples in Australia

Source: Table B3.1 (AIHW, 2014)
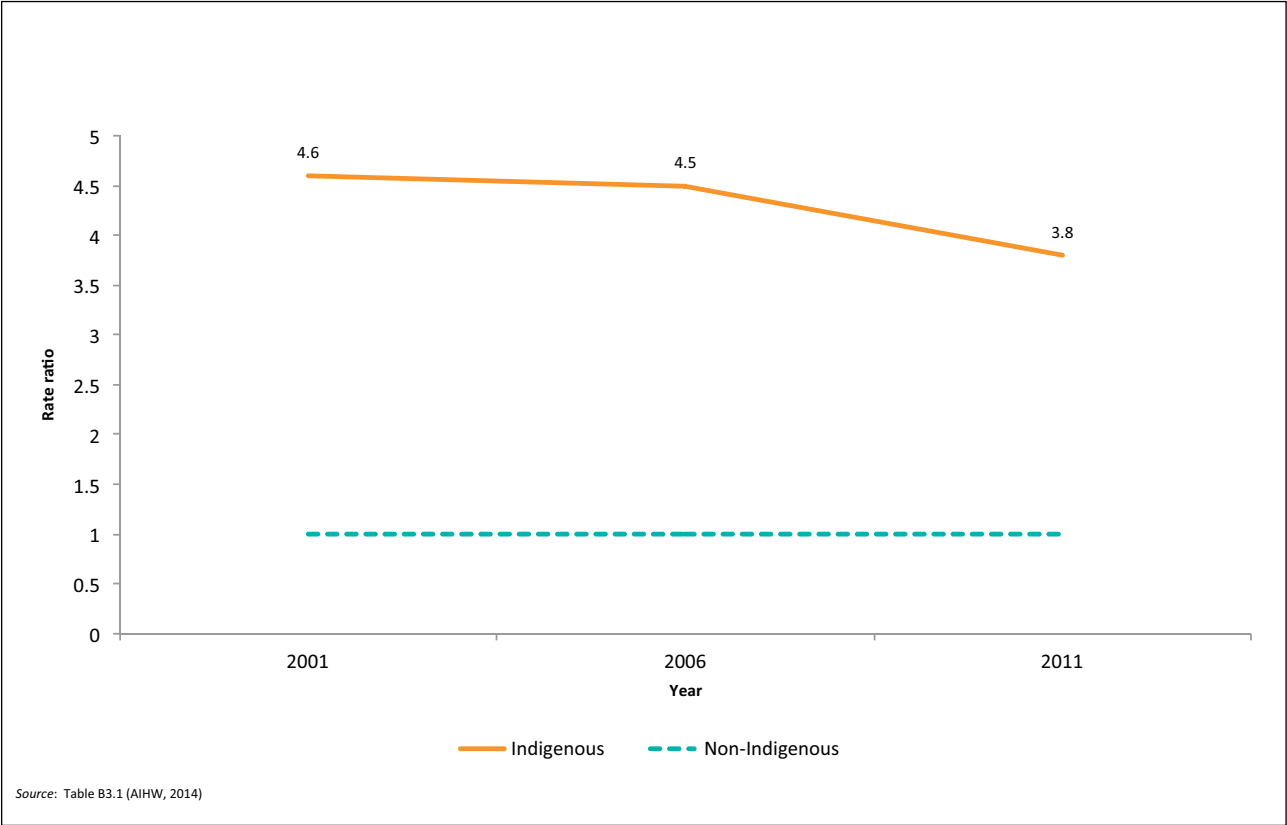
FIGURE 17 Rate ratios comparing housing tenure type amongst Indigenous and non-Indigenous households in Australia in 2011

Source: Table B2.1, B2.2 (AIHW, 2014)
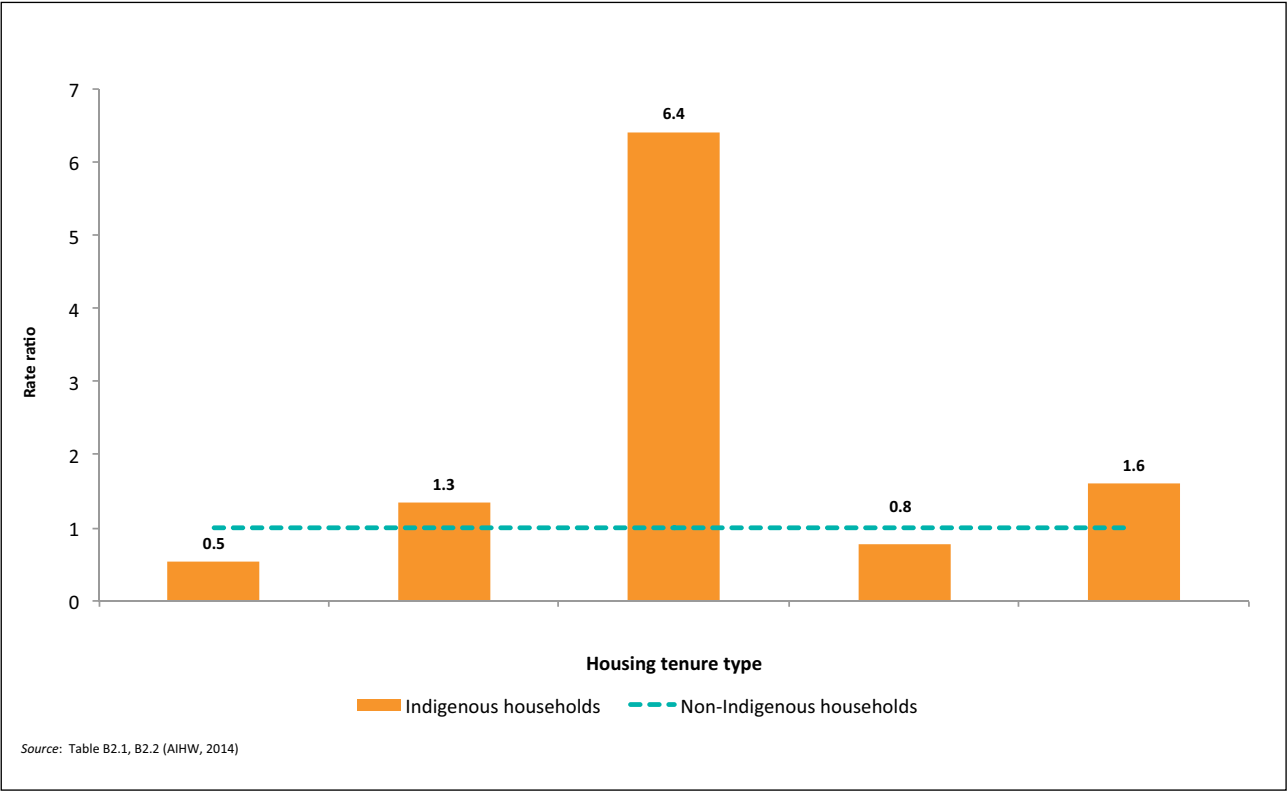
DATA GAPS

HOUSING TENURE TYPE AND QUALITY OF HOUSING AMONGST FAMILIES WITH CHILDREN

Data on housing tenure type amongst families with children is not publicly available. This information would provide a more comprehensive understanding of the impact of housing on families, as opposed to Aboriginal and Torres Strait Islander peoples in general.

RECOMMENDATION: Provide information on housing tenure and the quality of housing for Aboriginal and Torres Strait Islander families with children across all jurisdictions and by remoteness in the next AIHW *Homelessness Specialist Services* report.

HOMELESSNESS, AND ISSUES RELATING TO HOUSING AND OVERCROWDING IDENTIFIED IN CHILD PROTECTION

While research has shown an association between poverty, housing and increased risk of involvement with child protection, there is a dearth of data on homelessness and issues of housing and overcrowding as it relates to children and families entering or involved with the Australian child protection system.

RECOMMENDATION: Publication of data on homelessness and issues relating to housing identified in child protection cases by Aboriginal and Torres Strait Islander status.

EVALUATION

There is a dearth of strong evaluations of early intervention programs for Aboriginal and Torres Strait Islander peoples, limiting the capacity to confirm the extent of and reasons for effectiveness, including effective culturally safe family support services. Improved data on the impact of effective early intervention mechanisms on keeping Aboriginal and Torres Strait Islander children out of OOHC is critical to ensure maximum outcomes from policy and program development and implementation.

RECOMMENDATION: Prioritisation of culturally appropriate evaluations of early intervention programs for Aboriginal and Torres Strait Islander children and families, including through the National Research Agenda of the National Framework for Protecting Australia's Children 2009-2020.

b) Comparative levels of poverty

Given that poverty is one of the major drivers of child protection system involvement, we examined the degree of poverty amongst Aboriginal and Torres Strait Islander households using the Australian Bureau of Statistics national population distribution was determined by the Socio-Economic Indexes for Areas (SEIFA). SEIFA ranked areas in Australia according to relative socio-economic advantage and disadvantage (Figure 18). While the distribution of the non-Indigenous population was spread evenly across the SEIFA deciles, **almost 40 per cent of all Aboriginal and Torres Strait Islander peoples were in the most disadvantaged SEIFA areas**. Less than 2 per cent of Aboriginal and Torres Strait Islander peoples lived in the most advantaged areas.
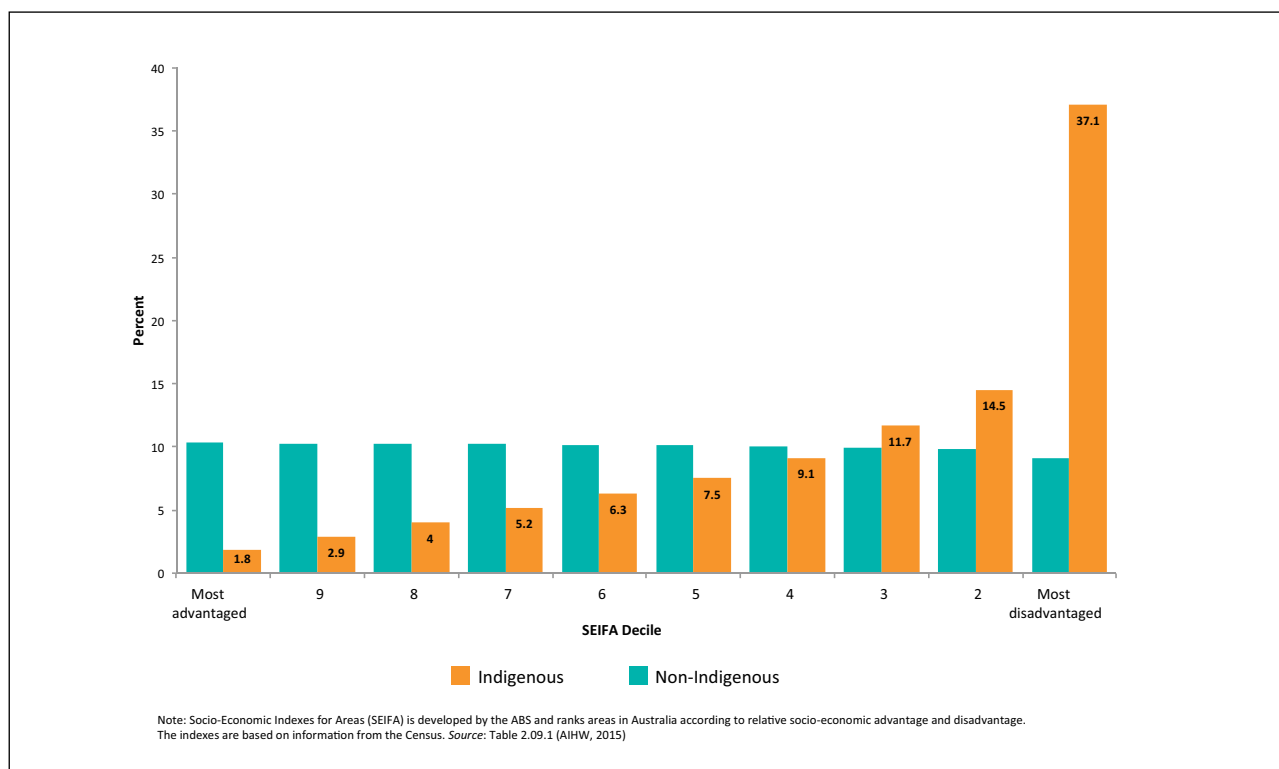
The National Aboriginal and Torres Strait Islander Social Survey (Australian Council of Social Services and Social Policy Research Institute, 2016), conducted between September 2014 and June 2015, shows that only 46 per cent of Aboriginal and Torres Strait Islander people over 15 years of age were employed and that the rate was much lower in remote areas. Only 27.7 per cent were working full time. The rate of unemployment amongst Aboriginal and Torres Strait Islander people is 20.6 per cent. Compared to the national unemployment rate of 6.2 per cent at the time, **Aboriginal and Torres Strait Islander people were approximately 3.5 times more likely to be unemployed**. Unemployment is closely connected to poverty, particularly given that most social welfare payments leave families well below the poverty line (ACOSS and Social Policy Research Institute, 2016).

c) Family violence[11]

Domestic and family violence is a widespread issue in Australia, however, it is not possible to establish the prevalence since many cases of domestic and family violence, sexual assault, and other types of violence are often unreported (Phillips & Vandenbroek, 2014). A recent report in Victoria found that 88% of Aboriginal and Torres Strait Islander children in out-of-home care had experienced family violence (Victorian Commission for Children and Young People, 2016). Research demonstrates that Aboriginal and Torres Strait Islander women are over-represented amongst victims of assault (Willis, 2011). In 2013 Aboriginal and Torres Strait Islander women were significantly more likely to be the victim of assault compared to non-Indigenous women: 4.2 times in NSW; 7.9 times in SA and 12.3 times in the NT (SCRGSP, 2014). In 2012-2013 Aboriginal and Torres Strait Islander women across Australia were 33 times more likely to be hospitalised as a result of injuries caused by family violence, and this rate remained stable over time (SCRGSP, 2014). Homicide deaths of Aboriginal and Torres Strait Islander women

FIGURE 18   Population distributions by SEIFA advantage/disadvantage decile, by Indigenous status in Australia, 2011

Note: Socio-Economic Indexes for Areas (SEIFA) is developed by the ABS and ranks areas in Australia according to relative socio-economic advantage and disadvantage. The indexes are based on information from the Census. *Source*: Table 2.09.1 (AIHW, 2015)

were 8 times the rate for non-indigenous women across 5 jurisdictions from 2008-2012 (SCRGSP, 2014). A domestic violence incident was identified as the setting for 83.3 per cent of homicides of Aboriginal and Torres Strait Islander women in 2011-2012 (SCRGSP, 2014).

The reality may in fact be much worse, with official statistics under-representing the level of violence in many Aboriginal and Torres Strait Islander communities: it is estimated that up to 90 per cent of violence may not be disclosed (Willis, 2011). Many Aboriginal and Torres Strait Islander women do not report for reasons including fear of reprisals or of having children taken away; lack of confidence in police or community support; language and cultural barriers; and lack of awareness of support services (Willis, 2011).

Impact of domestic and family violence on Aboriginal and Torres Strait Islander children

Research has suggested that Aboriginal and Torres Strait Islander children are at greater risk of being exposed to family violence than other children (Cripps, Bennett, Gurrin, & Studdert, 2009; Mouzos & Makkai, 2004). Two thirds of victims of physical or threatened violence share the household with children, and in one third of cases the children are under the age of five (AIHW, 2006). Children's exposure to family violence has been recognised as harmful and classified as child abuse for over a decade (Tomison, 2000). The harm can be complex and profound and can include witnessing violence (Goddard & Bedi, 2010); being used or blamed for the violence; and being involved in trying to stop

the violence (Humphreys, 2007). Harm can range from death, injury, complex trauma, developmental and learning impacts, suicide and self-harm, increased risk of sexual assault, and ongoing negative impact on social and emotional wellbeing (Holt, Buckley, & Whelan, 2008; Secretariat of National Aboriginal and Islander Child Care, 2007).

Research has shown that the greater the risk of violence perpetrated against mothers, the more likely violence will be directed at the children and the more likely there will be lack of supervision and neglect (Hartley, 2004). Domestic and family violence is a major issue driving involvement with the child protection system in Australia. The most recent statistics on substantiated child maltreatment shows that neglect and emotional abuse, which includes exposure to domestic and family violence, were most often substantiated as the primary forms of maltreatment amongst cases involving Aboriginal and Torres Strait Islander children (AIHW, 2016).

The intergenerational cycle of family and domestic violence is concerning. The results of an Australian study found that a potential risk factor for Indigenous mothers experiencing family violence as an adult was a history of removal from their families during childhood (Cripps, Bennett, Gurrin, & Studdert, 2009). Given the impact of domestic and family violence on children and the risk of intergenerational violence, it is important to break the cycle and address family and domestic violence, as it is a driver for child protection involvement.

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11   Note: Significant content in the section is reproduced from: SNAICC (2016 – Forthcoming). *Strong families, safe kids: Protecting Aboriginal and Torres Strait Islander children from family violence*. Melbourne: Author.

DATA GAPS

INCIDENCE AND PREVALENCE OF DOMESTIC AND FAMILY VIOLENCE REPORTED TO CHILD PROTECTION

There is a dearth of information available on the number and rate of reports and/or substantiations of domestic and family violence and/or exposure to family violence by Aboriginal and Torres Strait Islander status. This information would provide a more comprehensive understanding of the intersection of domestic and family violence and the child protection system.

RECOMMENDATION: Publication of data describing the rate of domestic and family violence reports and substantiations across all jurisdictions and by remoteness for Aboriginal and Torres Strait Islander women and children.

POVERTY AMONGST CHILDREN AND YOUTH OR FAMILIES WITH CHILDREN

There is a dearth of data on poverty amongst children and youth or families with children. More information is needed to understand the severity of poverty, such as income and remoteness. A better understanding of poverty has significant implications for planning and delivering services specifically for Aboriginal and Torres Strait Islander peoples with high need.

RECOMMENDATION: Publication of data describing poverty amongst Aboriginal and Torres Strait Islander children and youth or children with families across all jurisdictions and by remoteness. The most commonly used general measure of socio-economic status (SEIFA) measure should be modified to more accurately assess the socio-economic status of Aboriginal and Torres Strait Islander peoples, including factors such as remoteness and household income.

PART 3

ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION AND RESPECT FOR CULTURE

3.1 OVERVIEW

This section of the report addresses aspects of child and family service system design and operation that contribute to ensure that services are culturally safe and responsive and accountable to Aboriginal and Torres Strait Islander people. It relates to key data that is available on Family Matters Building Blocks 2, 3 and 4:

- Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.
- Law, policy and practice in child and family welfare are culturally safe and responsive.
- Governments and services are accountable to Aboriginal and Torres Strait Islander people.

Research indicates that building on the strengths of families and communities to support their continuing safe care of their children offers the best prospect to secure children's long-term well-being (e.g. Armstrong, Buckley, Lonsdale, et al, 2013). As such, for Aboriginal and Torres Strait Islander children, it is important to draw on the strengths of their communities and cultures to keep them safe and well. Some research has shown positive outcomes of Aboriginal and Torres Strait Islander approaches in areas such as, child rearing (e.g. Armstrong et al, 2013;) and cultural identity (e.g. Colquhoun & Dockeray, 2012). It is purported that better outcomes can be achieved through Indigenous community-led solutions (e.g. Cornell & Taylor, 2000; Morley, 2015) and recognising the importance of cultural knowledge in decision-making regarding children's well being (SNAICC, 2013).

International research has supported the importance of Indigenous participation for positive outcomes in service delivery for Indigenous children and families. For example, in the United States, a study found that the best outcomes in community well-being and development for Indigenous peoples are achieved where those peoples have control over their own lives and are empowered to respond to and address the problems facing their own communities (Cornell & Taylor, 2000). Canadian research has shown links between Indigenous community control of service delivery and a range of improved health and well-being outcomes (Lavoie, Forget, Prakash, et al, 2010).

Numerous reports and inquiries in Australia consistently confirm a lack of robust community governance and meaningful Indigenous community participation as major contributors to past failures of Government policy and a call for the development of community-controlled children and family services (e.g. Australian National Audit Office, 2012; NSW Ombudsman, 2011; Wild & Anderson, 2007). A report of the Australian National Audit Office finds that building the role and capacity of Aboriginal and Torres Strait Islander organisations is not only important for effective service delivery, but is an important policy objective in its own right in so far as it promotes local governance, leadership and economic participation, building social capital for Aboriginal and Torres Strait Islander peoples (ANAO, 2012).

3.2 COMPLIANCE WITH THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

The Aboriginal and Torres Strait Islander Child Placement Principle recognises the importance of connection to family, community, culture and country in child and family welfare policy, legislation and practice. It was founded on an intent of systemic change to counter embedded racism that caused the Stolen Generations by explicitly recognising the value of culture and the vital role of Aboriginal and Torres Strait Islander children, families and communities to participate in decisions about the safety and wellbeing of their children.

While the elements of the Principle span from prevention of child removal to Aboriginal and Torres Strait Islander participation in child protection decision making, and cultural connection for children in out-of-home care, implementation efforts have typically focused narrowly on the legislated hierarchy of placement options for Aboriginal and Torres Strait Islander children in out-of-home care, which varies in each state and territory (Tilbury, Burton, Sydenham, Boss, & Louw, 2013; Arney, Iannos, Chong, McDougall, & Parkinson, 2015).

The only data available focuses on the placement hierarchy as a proxy measure of compliance with the Principle, though this data says little about whether the process of investigating and considering available family and community placement options has been followed, let alone about compliance with other elements of the Principle. The data, collected by AIHW (2016a), examines the Indigenous status and relationship of carers to Aboriginal and Torres Strait Islander children in OOHC.

Two key issues with the data compiled by AIHW (2016a) are that:

1. Over the past decade, between 10 to 15 per cent of children represented in the data each year as placed in accordance with the Principle were actually in the care of non-Indigenous family and kin. Broad definitions of kinship applied in child protection legislation and practice mean that these children are potentially placed with non-Indigenous, non-family members deemed to be, for example, 'part of their social network' or 'a person of significance to the child'. The degree of separation from family and culture that can result from such a placement cannot rightly be deemed as compliance with the Principle.

2. Aboriginal and Torres Strait Islander children in Indigenous-run residential care are counted as being in compliance with the Aboriginal and Torres Strait Islander Child Placement Principle. This is highly questionable, as residential care is not placing a child with their kin or a member of the community. Regardless of whether or not the residential care is Indigenous operated, placing a child in residential care under this policy does not represent the spirit of the legislation. As such, the following figures do not include children in Indigenous residential care.

As shown in Figure 19, the proportion of Aboriginal and Torres Strait Islander children placed with family, kin or other Aboriginal and Torres Strait Islander carers has continued to decrease over the past 10 years. **As of 2015, only 66 per cent of Aboriginal and Torres Strait Islander children in Australia were placed with family, kin or other Aboriginal and Torres Strait Islander carers.**

While the overall rate of placement of Aboriginal and Torres Strait Islander children with family, kin or other Aboriginal and Torres Strait Islander carers has decreased, there is variation across the states (Figure 21). The rate has decreased in most states over time with the exception of Victoria and Queensland. Regardless, no states were above 80 per cent compliance with this proxy measure of the Placement Principle. In fact, none of the states were able to claim more than 80 per cent compliance, even at their best. Only two states have undertaken more detailed review of their compliance with the Principle through their respective Children's Commissions, in Victoria and Queensland, with these reviews demonstrating that actual compliance is much less than these statistics indicate. The last audit in Queensland (2010-11) showed that only 15 per cent of matters fully complied with legislative requirements relating to the Principle (Queensland Commission for Children and Young People and Child Guardian, 2012). The Victorian review, released in October 2016, found that although there was strong policy and program compliance, there were no matters within the January 2013 to December 2014 two-year period that achieved full practical compliance with the Principle (Victorian Commission for Children and Young People, 2016).

DATA GAPS

A much broader suite of data is needed to provide a meaningful indication of whether Aboriginal and Torres Strait Islander children's needs and rights of connection to community, family and culture are being met in their interactions with child protection services. More meaningful data would include:

- Compliance with full consideration of the hierarchy of placement options in order;
- The percentage of Aboriginal and Torres Strait Islander families with children in out-of-home care receiving reunification support services;
- The level of demonstrated participation of independent Aboriginal and Torres Strait Islander community representatives and families in placement decisions;
- The percentage of Aboriginal and Torres Strait Islander children in out-of-home care who have an active cultural support plan; and
- Placement type by entry to care (to show current trends in levels of placement with Aboriginal and Torres Strait Islander carers).

RECOMMENDATION: Urgent efforts to progress a stronger and more meaningful nationally reported measure of compliance with the Aboriginal and Torres Strait Islander Child Placement Principle that reflects these elements.

FIGURE 19   Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carers in Australia

Source: Table 15A.24 (ROGS, 2016)
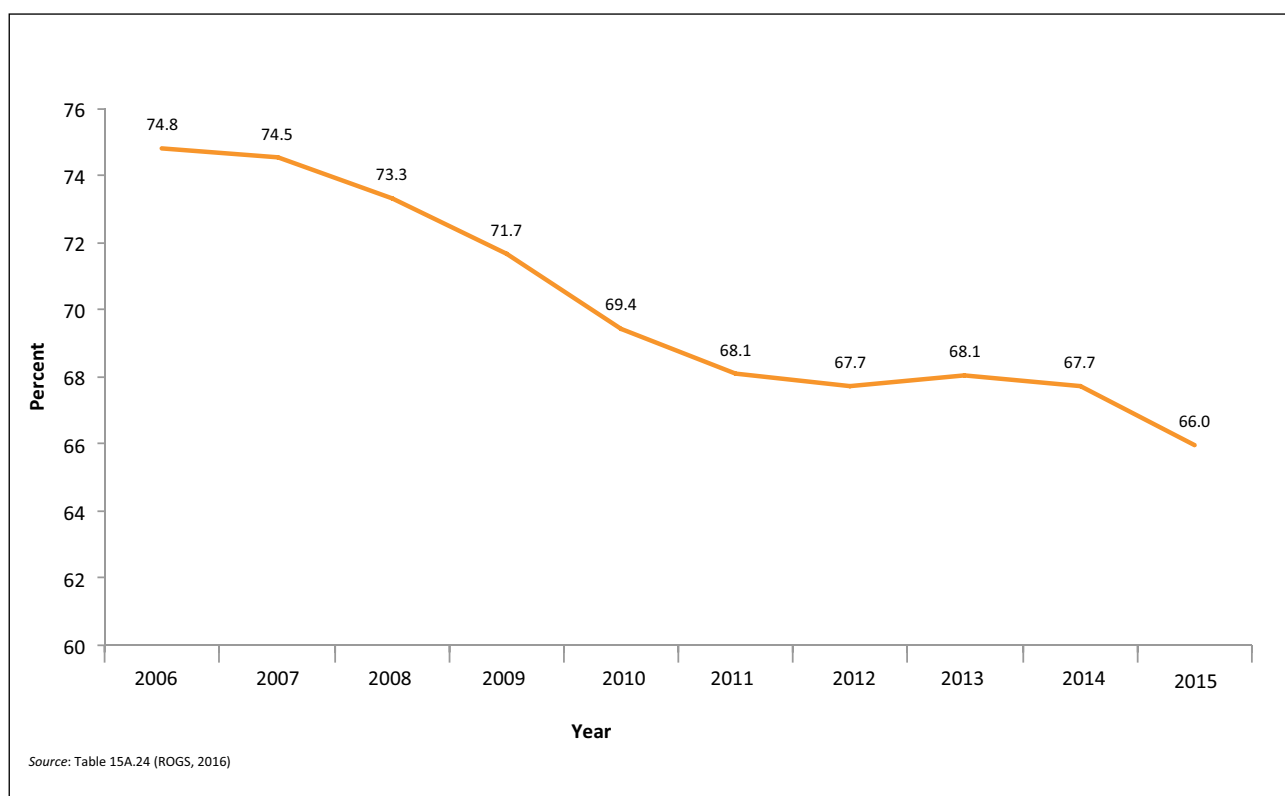
FIGURE 20   Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carer between 2011 and 2015

Source: Table 15A.24 (ROGS, 2016)
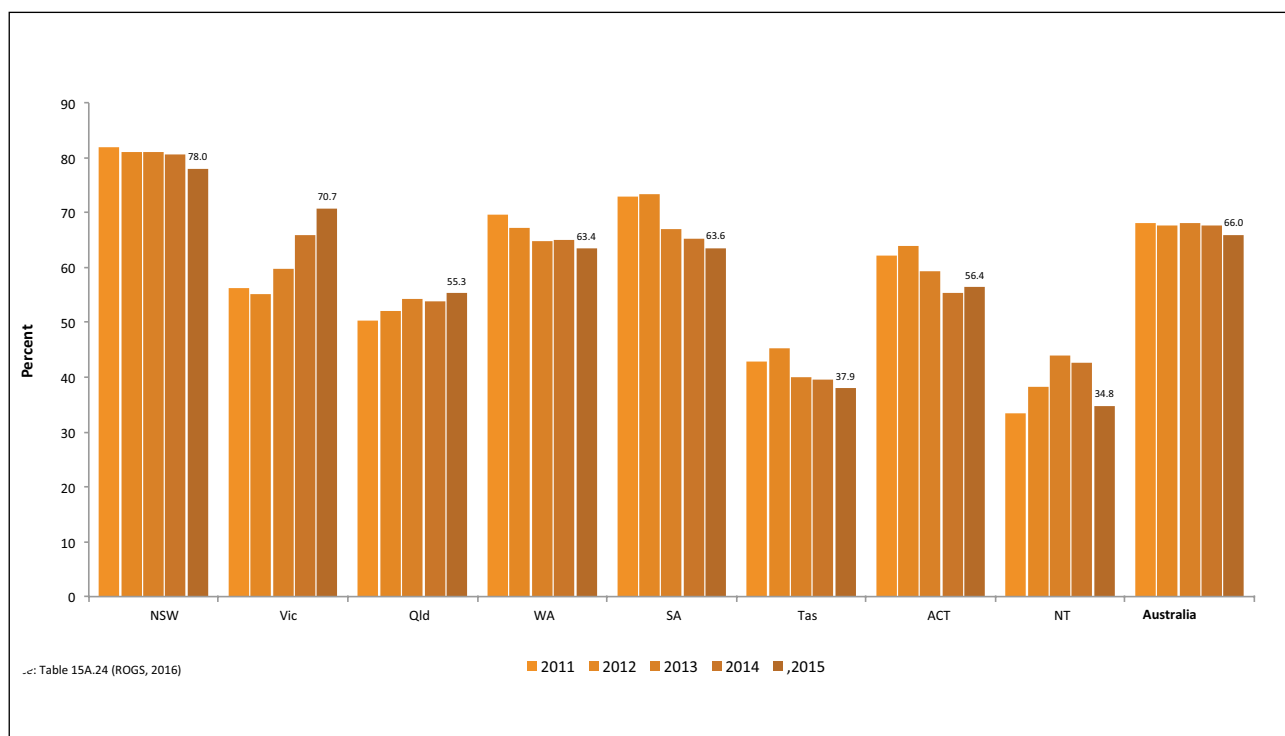
3.3 RESOURCED AND LEGISLATED ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION WITH SUFFICIENT POWERS

Participation of Aboriginal and Torres Strait Islander peoples in decisions that affect them is considered a core human right (SNAICC, 2012), and recognised as critical to decision-making that is based on the best interests of children from a cultural perspective (Committee on the Rights of the Child, 2009). Participation must extend beyond consultation to genuine inclusion of Aboriginal and Torres Strait Islander children, families and community representatives in the decisions that are made about children and youth at all stages of the child protection process.

The data in this section address legislative and service systems alignment to enable independent, representative participation of Aboriginal and Torres Strait Islander communities, families and children in child protection decisions.

a) Legislative alignment with representative participation

Table 3 reviews the alignment of current legislation with elements of a human rights-based framework for Aboriginal and Torres Strait Islander participation in child protection decision-making.[12] The table shows only 18 out of 40 possible areas where legislation is fully aligned with the participation framework. In some states – such as Western Australia, Tasmania and the Northern Territory – a principled commitment to participation is not supported by specific legislative requirements. Notably, **the critical requirement to involve Aboriginal and Torres Strait Islander agencies in all significant decisions for Aboriginal and Torres Strait Islander children (highlighted on the third row of the table) is fully aligned only in Queensland**. This requirement, though not entrenched in legislation, is also enabled significantly in Victoria through a separate protocol between the relevant government department and Aboriginal agencies, and also for some Aboriginal children in out-of-home care who are part of a trial of the delegation of Guardianship to an Aboriginal Agency as provided for under s18 of the *Children, Youth and Families Act 2005* (Vic).

TABLE 3   Alignment of state and territory child protection legislation with elements of participation

	ACT[i]	NSW[ii]	NT[iii]	QLD[vi]	SA[v]	TAS[vi]	VIC[vii]	WA[viii]
Aboriginal and Torres Strait Islander **self-determination** is a recognised **principle** in the Act.	NO	YES s11(1)	YES s12(1)	NO	NO	YES s10G(1)	YES s12	YES s13
Aboriginal and Torres Strait Islander **participation and/or consultation** is a decision-making **principle** in the Act.	NO see s7(d) (participation requirements not specific to decision-making)	YES s11(1)	YES s12(2)	YES s6	NO	YES s10G(2)	YES s12	YES ss13,14
Consultation/participation of an **external** Aboriginal and Torres Strait Islander agency is expressly **required for all significant decisions**.	NO See s10(b) (submissions considered)	YES s12 (organisations and means of participation not specified)	NO	YES s6(1)	NO See ss5(2) (a) & (b) (submissions considered)	NO See s10G	NO[13] See s10G	NO
Consultation with an **external** Aboriginal and Torres Strait Islander agency is expressly **required prior to placement decisions**.	NO	YES s12, s13(1)(d) s13(7) (exceptions) s78A(4)	NO	YES s83(2)	YES s5(1)	NO See s10G	YES s12(1)(c)	NO see s81 (internal or external consultation)
Input from **external** Aboriginal and Torres Strait Islander agencies is expressly **required in judicial decision-making**.	NO See s482(1)(g) (limited input requirement for long-term orders)	NO	NO	YES s6(4)(a)	YES ss5(1) & (2)	NO (evidence and submissions, s51)	YES s323(b) (for permanent care orders only)	NO

GREEN – Legislation aligned   RED – Legislation not aligned   GREY – limited / significantly qualified alignment

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12   For reference to the framework that informs this table see: SNAICC (2013) *Whose Voice Counts: Aboriginal and Torres Strait Islander Participation in Child Protection Decision Making*, Melbourne: SNAICC.

13   Although not legislatively entrenched, s16(1)(j) of the *Children, Youth and Families Act 2005* (Vic) requires the Victorian Department of Human Services (DHS) to give effect to the existing protocol between VACCA and DHS, inclusive of the agreement with Mildura Aboriginal Corporation (MAC), additionally requiring consultation on notification and investigation decisions.

b) Structures for representative participation

While legislative requirements are important to enable participation, they represent only a small part of what is required and have little meaning where there are no mechanisms to implement them as, is the case across many jurisdictions. Participatory roles cannot succeed unless independent and representative community-controlled organisations are properly resourced to perform them (SNAICC, 2013).

In only two jurisdictions, Victoria and Queensland, regionally-based Aboriginal and Torres Strait Islander services are specifically resourced to fulfil roles needed to adequately participate in child protection decision-making on a state-wide basis (SNAICC, 2013). Additionally, two pilot services are funded in New South Wales, and one centralised service operating across a very limited scope of decision-making points commenced in South Australia in 2011. All other states and territories lack an infrastructure that facilitates independent participation (SNAICC, 2013). Even where systems supporting participation of Aboriginal and Torres Strait Islander peoples exist, there is limited evaluation and review, or independent oversight, available to inform understanding of their effectiveness (SNAICC, 2013).

c) Family participation

Models of Family Group Conferencing and Family-led Decision Making originated in New Zealand, partly as a means to better attune child protection services to cultural practices in working with Maori communities, by involving Indigenous family and community members in decision-making for their children (Harris, 2008). Similar and adapted models have been adopted across other countries to provide a family-led decision-making processes for both Indigenous and non-Indigenous children (Harris, 2008). Studies of family group conferencing have shown that generated plans tended to keep children at home or with their relatives, and that the approach reinforced children's connections to their family and community (Pennell, Edward, & Burford, 2010).

In Australia and internationally, the promise of culturally adapted models of family-led decision making to engage and empower Indigenous families and communities in child protection processes has been recognised (e.g. Ban, 2005; Drywater-Whitekiller, 2014; Marcynyszyn, Bear, Geary, et al, 2012), but their development and implementation remains very limited. Only Victoria has implemented a state-wide, culturally specific model of Aboriginal Family-Led Decision Making delivered in partnership with Aboriginal agencies (DHHS, 2013), however a recent report found only 43% of children in OOHC had been provided with a family conference (Victorian Commission for Children and Young People, 2016). In Queensland, a model that has drawn on the Victorian approach is being trialled in four locations and delivered through community-controlled service providers (DCCSDS, 2016). In New South Wales, a model of Aboriginal Family-led Decision Making developed by AbSec (the state Aboriginal child and family services peak body) was trialled as a 3-year pilot program, but programmatic funding was recently discontinued. AbSec still provides the service state-wide on a fee-for-service basis (AbSec, 2015). While some other states use some form of family group conference, they have not worked to engage Aboriginal and Torres Strait Islander communities and agencies specifically in their development or delivery (Harris, 2008).

d) Participation in policy development, service design and system oversight

Genuine participation further requires that Aboriginal and Torres Strait Islander peoples, through their representatives, are able to participate in processes of policy development, service design, and oversight of the systems and services that impact the safety and wellbeing of children. Two key ways in which this form of participation has been enabled to varying degrees in Australia are through the establishment and resourcing of Aboriginal and Torres Strait Islander peak bodies to participate in policy development and service design, and through the appointment of Aboriginal children's commissioners to provide systems oversight and review.

Aboriginal and Torres Strait Islander peak bodies play an important role across a range of sectors impacting the safety and well-being of Aboriginal and Torres Strait Islander children, including the child and families, health, legal, early childhood, and education sectors. Aboriginal and Torres Strait Islander peak bodies with a dedicated focus on the child protection and family services sector are established and resourced at the state level in only two jurisdictions, Queensland and New South Wales, and at the national level through SNAICC – National Voice for our Children. Significant policy participation roles are also resourced in Victoria through the Victorian Aboriginal Child Care Agency and the Victorian Aboriginal Children's and Young People's Alliance. No other state or territory resources an Aboriginal and Torres Strait Islander organisation for peak body functions directly related to child protection and family services. The level of resourcing for peak bodies and the extent to which governments facilitate and enable their participatory roles are also relevant to consider, but are beyond the scope of this report.

Only two states in Australia have appointed an Aboriginal person to the role of Commissioner for Children, and there is no equivalent role at the national level. In Victoria, a dedicated Commissioner for Aboriginal Children and Young People has been established, and the position is currently held by Commissioner Andrew Jackomos. In Queensland a Commissioner role has been established for the Queensland Family and Child Commission that is to be held only by an Aboriginal and/or Torres Strait Islander person, and is currently held by Commissioner Tammy Williams.

3.4 INVESTMENT IN ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY-CONTROLLED SERVICE DELIVERY

Despite the recognised critical importance of community-controlled services, very limited data is available on the extent to which they are enabled and resourced. The *2014 Indigenous Expenditure Report* compares expenditure on Indigenous specific services as compared to mainstream services across a broad range of government services for Aboriginal and Torres Strait Islander people. The funding allocation to Indigenous specific services provides some useful indication of the extent to which the specific needs of Aboriginal and Torres Strait Islander people are being considered, but it does not include information about what extent of Indigenous specific services are delivered by community-controlled organisations.

Figure 21 shows expenditure across a number of areas that are relevant to the safety and wellbeing of Aboriginal and Torres Strait Islander children. This data indicates that mainstream service funding is dominant in service delivery for Aboriginal and Torres Strait Islander people across all areas except public and community health. Across early childhood development, school education, and community support and welfare, expenditure on Indigenous specific services ranged from 18.9 per cent to 33.1 per cent. Notably, Indigenous expenditure reporting does not address child protection and family support services. A recent review in Victoria found that 86% of the cases of Aboriginal and Torres Strait Islander children in OOHC were managed by non-Indigenous agencies (Victorian Commission for Children and Young People, 2016).

FIGURE 21   Comparing government direct expenditure on programs for Aboriginal and Torres Strait Islander peoples, 2012-13
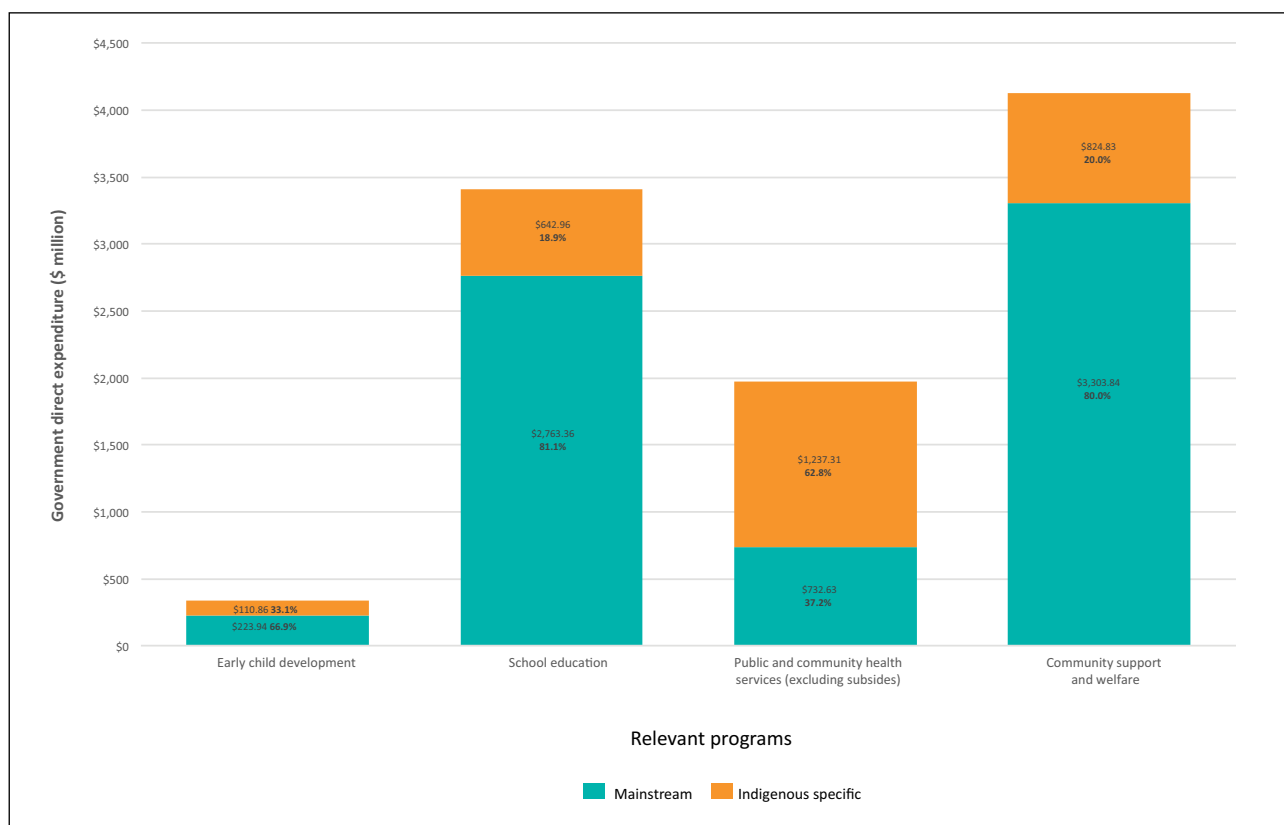
DATA GAPS

Two key gaps need to be addressed concurrently in the collection and reporting of Indigenous expenditure data to provide a meaningful indication of the extent to which community-controlled services are enabled to respond to the needs of children and families:

1. Indigenous expenditure data needs to include child protection and family support services; and
2. Data must differentiate between Indigenous-specific service delivered by community-controlled organisation and those delivered by governments and mainstream services.

RECOMMENDATION: Urgent attention to establish measurement of community-controlled service provision in each state and territory and nationally to ensure accountability for progress on this critical factor for culturally safe and quality service provision.

CONCLUSION AND IMPLICATIONS

This report starts to provide a baseline of data relevant to measuring the care, safety, development and well-being of Aboriginal and Torres Strait Islander children across Australia. There are major data gaps that require urgent redress to develop, in subsequent years, a more comprehensive assessment of progress towards all Aboriginal and Torres Strait Islander children growing up safe and cared for, with the ability to meet their potential.

This report does, however, provide stark findings and projections that call for,

1. **As a matter of urgency**, **a national comprehensive strategy to redress the causes of Aboriginal and Torres Strait Islander child removal and improve child safety and well-being**. Unless swift and strategic action is taken, this crisis will escalate exponentially in coming years. The consistent pattern of over-representation in child protection intervention and under-representation in access to prevention and early intervention services is profound.

   Experience and research indicates that ad hoc, piecemeal approaches will not see sustainable improvement. Achieving fundamental change in outcomes requires the implementation of holistic, evidence-based solutions – which are currently embedded within the public health model of the National Framework for Protecting Australia's Children 2009-2020 – through a coordinated national approach. The scale and impact of this issue, as well as the complex, structural nature of the required solutions spanning federal and state/territory powers, demands nothing less. What is also abundantly clear is that success requires strong Aboriginal and Torres Strait Islander participation as partners in the development and implementation of the national strategy, as well as rigorous monitoring and accountability mechanisms to track progress and alter the national strategy as required to maximise the potential for genuine change for children across Australia.

Major priorities for consideration in a national strategy identified through the report findings include:

2. **A target and strategy to increase proportional investment in prevention and early intervention services.** Over seven years into the National Framework for Protecting Australia's Children 2009-2020 there continues to be decreasing proportional investment into early intervention. A clear target and strategy are critical to drive a shift towards a public health model with strong prevention and early intervention measures. This would drive investment in evidenced and culturally safe early childhood education and care, trauma, healing and family support services, as well as family violence prevention and response. It would assist in redressing the adult related issues impacting the care of children.

3. **A focused strategy to redress Aboriginal and Torres Strait Islander poverty and homelessness**, ensuring Aboriginal-led processes, access to economic opportunities, and social welfare measures that provide for an adequate standard of living.

4. **Comprehensive investment in effective culturally safe reunification programs across Australia**, accompanied by strong follow-up support to ensure placement stability, and strong data collection and reporting. Initial modelling indicates that changing this dimension alone may dramatically alter the trajectory of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. There is a dearth of resourced programs prioritising the safe return of children to their families, and no publically available information on the rate at which Aboriginal and Torres Strait Islander children are reunified with family.

5. **Broad-based legislative and policy reform to strengthen representation of Aboriginal and Torres Strait Islander organisations, communities, families and children** in decisions about child safety and removal, from before and throughout their engagement with child protection systems. This would include focus on compliance with and accountability to the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle. Strong models of Aboriginal family-led decision-making are a key component of this compliance, supporting families to work through issues and find effective solutions to ensure quality care for their children.

6. **Investment in service delivery by community-controlled organisations** in line with self-determination and quality of service provision. There is strong capacity in many communities to take up further service provision and partnership models to support capacity development for sustainable community-controlled service sectors.

7. **A framework for Aboriginal and Torres Strait Islander child wellbeing**, developed in partnership with Aboriginal and Torres Strait Islander peoples, and accompanied by the **collection and reporting of necessary data** to guide policy development and implementation. Reporting on implementation of the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle under the National Framework for Protecting Australia's Children 2009-2020 may provide a complementary foundation for this framework.

8. **Development and publication of data to better measure the situation of, causes and responses to over-representation of Aboriginal and Torres Strait Islander children.** Data development should take account of identified gaps throughout this report. In particular, there should be a priority to ensure the following priority data gaps are redressed and reported against in the Productivity Commission's annual Report on Government Service, the AIHW Child Protection Australia Report, and/or the Overcoming Indigenous Disadvantage Report:

   • Reunification rates of Aboriginal and Torres Strait Islander children in OOHC;

   • Aboriginal and Torres Strait Islander child entry and re-entry to OOHC;

   • Inclusion of access to long day care under the Budget Based Funding Program in early childhood education and care data;

   • Expenditure in child protection and family support both provided to Aboriginal and Torres Strait Islander children and provided by community-controlled services;

   • Aboriginal and Torres Strait Islander access to family support and intensive family support services;

   • The rate of domestic and family violence reports and substantiations across all jurisdictions and by remoteness for Aboriginal and Torres Strait Islander women and children;

   • Nationally consistent measures of compliance with the Aboriginal and Torres Strait Islander Child Placement Principle aligned with its intent and five distinct elements;

   • Housing tenure type and quality of housing amongst Aboriginal and Torres Strait Islander families with children; and

   • Homelessness and issues relating to housing and overcrowding experienced by Aboriginal and Torres Strait Islander children and their families involved with child protection.

9. **State based Commissioners and peak bodies for Aboriginal and Torres Strait Islander children**. The scale and specificity of the issues impacting Aboriginal and Torres Strait Islander children calls for these unique Commissioners. Their role is pivotal in providing Aboriginal leadership to support both children and families on the one hand, and departmental transformation on the other, shining the light on necessary issues, monitoring progress and brokering solutions. Their work, alongside Aboriginal and Torres Strait Islander peak bodies, could provide significant assistance in informing policy reform and models of best practice to ensure a culturally respectful child and family welfare system centred on the well-being of all children, including Aboriginal and Torres Strait Islander children.

This report exposes the alarming trajectory that some of Australia's most vulnerable children face. It also provides available evidence to inform an approach that would dramatically change the trajectory of Aboriginal and Torres Strait Islander child abuse and neglect, and children's removal into out-of-home care.

It is our collective responsibility as government and non-government stakeholders to collaborate to develop and implement this approach, in partnership with Aboriginal and Torres Strait Islander communities around Australia.

This report will be produced again in twelve months to measure progress against this baseline report.

Let it show a changing story.

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APPENDIX I: METHOD FOR THE PROJECTION SCENARIO

A theoretical model describing the number of children in OOHC depicted in Figure 5 (above) was used and populated with available AIHW data to ascertain the projected growth rate in the number of children in OOHC by Indigenous status. The model is dynamical (is a function of time and space) and is state-dependent (i.e. the population in each year depends on the population in previous periods). It describes the relationship between the annual population growth rates (APGR), the annual entry and exit rates, the annual number of substantiations and the number of notifications in each year.

The aim was to use these data to show one possible path of population growth for Indigenous and non-Indigenous children in OOHC, assuming that each population will continue to grow at the average annual population growth rate based on the years 2011-2012 to 2014-2015. Due to limitations of the available data, some important assumptions were necessary:

• The entry rate is a constant proportion of the number of children with at least one substantiation within that particular year. For the purposes of this Report, this parameter was set to 30 per cent, which is slightly higher than the value for the total population of children in OOHC. That is, the proportion of substantiations leading to placements in OOHC is assumed to be approximated by the number of new entries to care in a given year (numerator) by the number of substantiations in that year (denominator)[14].

• The exit rate is calculated based on the theoretical model and depends on the validity of the assumptions.

• The population in a particular year is calculated as: $Po,t = Po,t{-}1 + ANRt - AXRt$ where Po,t denotes the population in period t, $Po,t{-}1$ represents the population in the previous period, $ANRt$ is the number of children entering OOHC in period t (entry rate) and $ANRt$ is the number of children discharged from OOHC in period t (exit rate). The population is measured as the number of children in OOHC on 30 June each year.

• The number of children with at least one substantiation in period t grows at the 4-year average annual growth rate based on years 2011-2012 to 2014-2015. With this assumption the aim is to approximate the increasing number of substantiations each year and compensate for the lack of data in relation to notifications and re-reporting children who have previously experienced at least one episode of OOHC.

For ease of interpretation, all numbers in the model have been scaled to a base population of 1000 (i.e. there are far more non-Indigenous children in the Australian population, so growth rates were standardized to a base population of 1000 in order to facilitate the comparison of growth rates within each population). There are also several important caveats that are listed in Appendix 2. These caveats highlight that the figures presented in the scenario have to be interpreted with caution given the quality and limited availability of relevant data. The constraints of the model may not be good approximations of the real system, in which case the figures shown in the example may not come to pass. That said, the estimates are conservative on a number of levels and will be adjusted as more information is made available.

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14   The 4-year average (2011/12-2014/15) for the total population in OOHC is 28.7 per cent but we rounded up to 30 per cent. Later models can use more precise estimates.

APPENDIX II: CAVEATS FOR THE PROJECTION SCENARIO

CAVEATS AS A RESULT OF THE MODEL RESTRICTIONS:

- Comparable data from AIHW is only available for five years. Unfortunately, the data points in the year 2010-2011 had to be excluded as outliers. This means that the parameters used in our scenario are based on only four years of data. Therefore the figures we present should be treated as estimates – they are not exact and may change as data are improved and extended.

- Data by Indigenous status was not available for notifications, entry rates and exit rates to OOHC. As a consequence entry rates were approximated by a constant proportion of the number of children with at least one substantiation in period t.

- The scenario does not take variation between states into consideration. States and Territories exhibit very different trends and legislation differs significantly between States and Territories. An example is the introduction of a new policy in NSW, which led to a sharp increase in discharges of children to guardianship from OOHC as part of the *Safe Home For Life* legislative reforms (AIHW, 2016).

- The legislative reforms in NSW in 2014 had significant effects on the population of non-Indigenous children in OOHC. This population experienced negative growth (or a decrease) in population size in the year 2014-2015 while the population of Indigenous children in OOHC increased by 464 children between 30 June 2014 and 30 June 2015. These shocks to the system may bias average annual population growth rates, especially for non-Indigenous children. In other words, it appears that fewer Indigenous children were *exited* from the system than non-Indigenous children, which, if the trend continues, will increase the over-representation of Indigenous children in OOHC.

- The limited availability of data necessitated a restriction on the parameters for each variable in the model. Instead of a flexible functional form as assumed in the theoretical model, linear relationships with time constant slopes were assumed. Additionally, the scenario assumes constant growth rates for populations of Indigenous and non-Indigenous children in OOHC as well as the number of children with at least one substantiation in period t. These constraints may not be realistic (i.e. the birth rate of Indigenous or non-Indigenous children might increase or decrease), and they will need to be adjusted over time.

- Unlike the theoretical model (as in Figure 5), the scenario does not explicitly incorporate the re-enforcing feedback from exits to notifications via re-reports. This shortcoming is due to the absence of data on the nature and timing of re-entry to OOHC. However, the total bias resulting from this restriction is expected to be small.

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i   *Children and Young People Act 2008* (ACT)

ii   *Children and Young People (Care and Protection) Act 1998* (NSW)

iii *Care and Protection of Children Act 2007* (NT)

iv   *Child Protection Act 1999* (Qld)

v   *Children's Protection Act 1993* (SA)

vi   *Children, Young Persons and Their Families Act 1997* (Tas)

vii *Children, Youth and Families Act 2005* (Vic)

viii *Children and Community Services Act 2004* (WA)

FAMILY
MATTERS

**Strong communities. Strong culture.
Stronger children.**