

CACYP SA

SOUTH AUSTRALIAN COMMISSIONER FOR
ABORIGINAL CHILDREN AND YOUNG PEOPLE
ANNUAL REPORT 2021/2022



31 October 2022

The Honourable Blair Boyer MP
Minister for Education, Training and Skills
GPO Box 1563
Adelaide SA 5001

Dear Minister Boyer

I am pleased to present the 2021/2022 Annual Report of the Commissioner for Aboriginal Children and Young People, outlining key focus areas and activities undertaken pursuant to section 20H of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* and Premier and Cabinet Circular PC013 *Annual Reporting*.

This Annual Report reflects the activities and work from 1 July 2021 to 30 June 2022.

Annexed to the Annual Report, is the 2021 Youth Voices Report, and reflects the diversity of young voices from across South Australian Aboriginal communities. It is a unique report that is led by and focused on Aboriginal children and young people, about issues impacting their lives, as expressed by them.

This Commissioner's role received statutory powers and functions on 21 October 2021 and is a major highlight of the last twelve months. The enactment of formal powers has provided a stronger emphasis on my role and the work I have done since, most importantly, the launch of the Inquiry into the removal and placement of Aboriginal children.

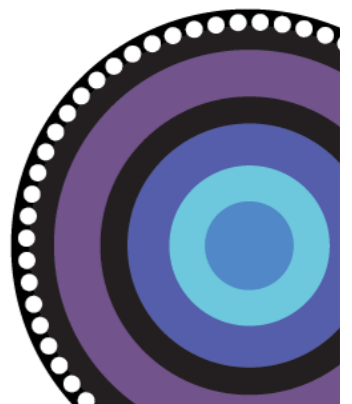
I have continued to promote the rights of Aboriginal children and young people and amplify their voices, as evidenced in the 2021 Youth Voices Report, as well as ensuring their experiences and perspectives are prioritised in policy development and decision-making that affects their lives.

My advocacy continues in the areas of child protection, youth justice and education to promote and nurture Aboriginal children's wellbeing, their cultural identities, and their connections to family, country, and community; this must be embedded in policy and service design.

I look forward to discussing this report with you, other key stakeholders, leaders, and decision makers.

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Commissioner of Aboriginal Children and Young People

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Acknowledgment of Country

We would like to acknowledge the Kurna people as the true custodians of the lands and waters of the Adelaide region on which the office of South Australia’s Commissioner for Aboriginal Children and Young People is located.

We acknowledge all custodians throughout South Australia for who the Commissioner seeks to serve the best interests of their Aboriginal children and young people. In doing so, we pay respect to Elders and families, both past and present, and pay reverence to today’s Aboriginal children and young people as they emerge as our future leaders.

We recognise the existing and ongoing spiritual connection to the land and waters.

We recognise the historical, contemporary, and ongoing impacts of the Stolen Generations and intergenerational trauma. Our trauma does not define our children or our future generations. It is our cultural resilience and optimism that ensures our children will flourish.



Note regarding language: The Commissioner for Aboriginal Children and Young People uses the term ‘Aboriginal’ to refer to people who identify as Aboriginal, Torres Strait Islander, or both Aboriginal and Torres Strait Islander. This term is preferred by Aboriginal South Australians and the Commissioner. The terms children and young people are used interchangeably to refer to all children with whom the Commissioner engaged.

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Executive Summary



I am proud to provide this inaugural annual report, as the first Commissioner for Aboriginal Children and Young People appointed under the **Children and Young People (Oversight and Advocacy Bodies) Act 2016**¹; this report is provided pursuant to section 20H. On 22 October 2021, the Act was amended, and the role now has statutory functions, and formal powers, particularly the powers of a Royal Commission. In this role, I am empowered and strengthened to undertake the important work underpinned by my earlier consultations with Aboriginal children, young people, their families, and communities. In Australia, this is the only statutory role, including among children's Commissioners that requires the incumbent to be an Aboriginal person.

As a result of the Commissioner's role becoming statutory, it is important to consolidate the priorities and work activities in a strategic plan. The development of the strategic plan intends to provide a useful communication resource to enable stakeholders to understand the emphasis of the Commissioner and gain clarity on key areas impacting Aboriginal children and young people. I look forward to releasing the published strategic plan in the coming months.

As the Commissioner now has a statutory role, it has attracted resources to enable me to build the capacity of my office; there has been a growth in staff and resourcing. I have made a strong commitment to Aboriginal employment; I have a total of 8 full-time positions within my core establishment and at the point of this report, I have 6 out of 7 staff that are Aboriginal.

I engaged Bree Ah Chee, a young Aboriginal graphic designer, to provide my office with branding and logo refresh. The new design incorporates the story and aspects of our original branding by Jordan Lovegrove from Karko Creations; in keeping with the integral story of the butterfly, now depicted with two hands, the logo expresses the need to balance safety and wellbeing of Aboriginal children and young people, with cultural identity. This notion is core to the Commissioner's role and the focus of my work. Along with our branding refresh, we have recently relocated to a new office space at 55 Currie Street. The new office provides more space for my growing team, and further signifies the independent nature of the role.

In the last twelve months, I have focused on preparing my team for the launch of the Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principles (ATSICPP) to the removals and placement of Aboriginal children in South Australia. Throughout this Inquiry I will hear from Aboriginal children and young people, their families and communities, key stakeholders and government and non-government agencies on the legislation, policies, practices, and procedures used to apply the principles. This Inquiry is the first of its kind in this jurisdiction and will focus solely on the growing over-representation of Aboriginal children in child protection and out of home care systems.

I have continued to strongly advocate for Aboriginal child's right to be heard in decisions about their future, and their rights to family and cultural identity, in line with the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**² and the **Convention on the Rights of the Child (CRoC)**.³ I have advocated

on the importance of an Aboriginal voice and partnership in system design and service delivery. I strongly support the shift towards genuine self-determination, capacity building of Aboriginal governance and leadership in the Aboriginal Community Controlled Organisation sector for the care and wellbeing of Aboriginal children and young people.

Other key activities include contributions to the **Safe and Supported National Framework for Protecting Australia's Children**,⁴ as part of my membership to the National Aboriginal and Torres Strait Islander Leadership Group. This group, led by the Secretariat for National Aboriginal and Islander Child Care (SNAICC), consists of key cultural advisors who provide direct contributions to the development and implementation of the new national framework on child safety, including a specific Aboriginal and Torres Strait Islander Action Plan.

Critical working relationships arising out of the **Children and Young People (Oversight and Advocacy Bodies) Act** have involved the Guardian and the Children's Commissioner in upholding the **UN CRoC** in the youth justice system for Aboriginal children and young people; the Child Death and Serious Injury Committee (CDSIC) on issues of informal care arrangements for Aboriginal children; and involvement with the Child Development Council and its Aboriginal Reference Committee to improve data on Aboriginal children and young people for the State's 'Outcomes Framework'.

My membership to the Australian New Zealand Childrens Commissioners and Guardians forum has enabled me to be involved and collaborate on national issues such as raising the minimum age of criminal responsibility and the call for a National Aboriginal and Torres Strait Islander Children's Commissioner.

Local Aboriginal communities, steered by SNAICC, have progressed the development of a model for the South Australian Peak Body for Aboriginal children and families in the care and protection of Aboriginal children and young people. Consultations and community forums were undertaken by SNAICC to seek perspectives

on a preferred peak body model, its functions and membership. While bringing about the peak as a priority initiative has been a long, tireless battle, the community is closer to its establishment. However, genuine commitment, resourcing and funding must be invested to ensure it is successful and achieves the intended outcomes for Aboriginal children, families and communities.

I have maintained strategic working relationships with executives in various government agencies, and other partnerships aimed at empowering Aboriginal youth in education and identity, such as the Tjindu Foundation and Johnathon Sweeney (a young environmental scientist) from WSP Pty Ltd.

Throughout 2023, the ever-present priorities that I will continue to provide my advocacy and leadership on include: Raise the Age Campaign, the Aboriginal Peak Body for SA, child protection reform, Closing the Gap implementation, Aboriginal child removals, and growing investment and capacity of Aboriginal Community Controlled Organisations in the early intervention space for the best interests of Aboriginal children, young people, their families and communities.



Role of the Commissioner

The role of Commissioner for Aboriginal Children and Young People in South Australia was created in 2018 after the dedicated advocacy of the Aboriginal community. The initial appointment was made under the **South Australian Constitution**⁵ and did not have any formal powers and functions. On 21 October 2021 the South Australian government amended the **Children and Young People (Oversight and Advocacy Bodies) Act 2016**, to include a statutory role for the Commissioner for Aboriginal Children and Young People. This amendment granted statutory powers and functions,⁶ equal to its counterpart role, South Australian Commissioner for Children and Young People. This achievement is a credit to the South Australian Aboriginal community, who lobbied tirelessly for a statutory role with powers to improve outcomes for Aboriginal children and young people.

The Commissioner remains an independent officer, however, has reporting responsibilities to the Minister for Education. The Commissioner's core functions are to listen and act upon the voices of South Australian Aboriginal children and young people, and to promote the rights, development and wellbeing of Aboriginal children and young people within South Australia, at a systemic level including the areas of health, justice, child protection and education.

The statutory powers allow the Commissioner to conduct formal independent inquiries to investigate systemic issues impacting Aboriginal children and young people, and to make recommendations for change, to government ministers, state authorities and other non-government bodies.

An integral responsibility of the role of Commissioner is to ensure the State of South Australia is accountable to and complies with the international obligations on the rights of Aboriginal children under the United Nations Declaration on the Rights of Indigenous Peoples,⁷ and the United Nations Convention of the Rights of the Child.

The Commissioner continues to advocate for the development of culturally safe and informed strategies and to promote Aboriginal voices with regard for the safety and wellbeing of all Aboriginal children and young people.



Inquiry into Aboriginal Child Removals

On 30 June 2022 I launched my Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) in the removal and placement of Aboriginal children in South Australia.

Since commencing as Commissioner in 2018, I have heard from Aboriginal children and young people and their families and communities from across South Australia. As I've raised in my previous two annual reports, Aboriginal children and young people have consistently highlighted the importance of connection with culture, family and community. Too often I've heard of negative experiences associated with removal and disconnection of Aboriginal children from culture, family and community.

These stories, combined with government statistics showing the continued shameful overrepresentation of Aboriginal children in removals and entry into out of home care, the placement of Aboriginal children in non-Aboriginal care, and low levels of investment in early intervention support services have been the driver for this Inquiry.

I am conducting the Inquiry under **Section 20M of the Children and Young People (Oversight and Advocacy Bodies) Act 2016**.⁸

The ATSICPP is contained in section 12 of the **Children and Young People (Safety) Act 2017** (the Child Safety Act) and applies when an Aboriginal and Torres Strait child or young person is to be placed in care under the Child Safety Act.⁹

There is also a wider policy iteration of the ATSICPP as defined by the Secretariat for National Aboriginal and Islander Child Care (SNAICC) through its Family Matters Campaign, which has been endorsed by the South Australian government and included its Safe and Well strategy.

For the purposes of my Inquiry, I will be examining the policies, practices and procedures of relevant state authorities with respect to the ATSICPP as set out both in the Child Safety Act and the Family Matters Campaign.

Over the course of the Inquiry, I will seek to interrogate the current application of the ATSICPP in the child protection system and will be extensively engaging with Aboriginal children and young people, families and communities to understand their lived experiences in the system, and what is required to ensure the proper application of the ATSICPP in its fullest sense. I will also be engaging with other stakeholders and service providers to determine what barriers they experience in the implementation of the ATSICPP and how the system can be improved to ensure Aboriginal children remain safe in the care of family and community.



Youth Voices

One of my fundamental responsibilities as Commissioner is to seek, listen to and amplify the voices of our Aboriginal children and young people.

I recently published the 2021 Youth Voices Report, where I engaged with 574 Aboriginal children and young people across South Australia. I conducted extensive state-wide consultations, seeking their views and insights about what matters to them, their families, and communities.

The Youth Voices Report brings together the voices, diversity and shared experiences of South Australian Aboriginal young people and highlights key messages about family, education, youth justice, culture, and racism.

Aboriginal children and young people value family and culture; they recognise these as core to their identities and their self-esteem. I heard strong views about the need to incorporate their culture into the education system, such as through the teaching of Aboriginal languages and the true history of Australia.

Racism is far too frequently witnessed and experienced by Aboriginal children and young people, and they told me they want more to be done to end racism. Aboriginal youth connected the issue of racism to youth detention, to the Black Lives Matter movement, and to the overrepresentation of Aboriginal students being excluded and suspended at schools. It is a daily experience for Aboriginal children and young people, and it must stop.

Aboriginal young people told me they support raising the minimum age of criminal responsibility to 14 and higher. They emphasised the need for therapeutic and rehabilitative support services as alternatives to detention and told me that locking up children is simply unfair, unjust and creates more trauma and harm. They often spoke about being racially profiled by police and security guards, which ultimately results in higher rates of youth detention and interaction with the youth justice system.

The notion of radical optimism is fiercely evident amongst Aboriginal children and young people. Their unwavering determination to turn the tides and help create a better future is inspiring to say the least. Aboriginal youth expressed that they do not want to be portrayed in a negative light or viewed from a deficit approach. They told me there are so many successful kids within their communities, and that their communities must show up for them, stand up for them and support them. We must value each child and their individual, unique skills, capabilities, interests and talents.

I encourage the Aboriginal community, educators, leaders, and decision makers to read the Youth Voices Report, sit with our young people's messages and implement their lessons in our work. This will ensure their communities, environments, and societies are supportive and encouraging of their cultural identities and wellbeing and creates a vision for their success.



Positive Story

During my youth consultations, I met a Walpiri teenager; she embodied pride for her culture, her people and her languages. She is 15 years old and lives away from her country in the Northern Territory and has not allowed this vast geographical distance to impair her connection. She expresses so much pride and confidence in the fact she speaks seven Aboriginal languages other than English.

I heard her say that her school environment was disinterested in her multilingual abilities. The Department for Education celebrates bilingual students who speak European and Asian languages, but there is little regard for those who speak, or value the reawakening of Aboriginal languages. Young people with her multi-lingual skills in Aboriginal languages should be valued and celebrated.

This strong sense of cultural identity is a strength that will not only help her, and her community and culture, but has potential to improve her school environment as well, and to inspire her Aboriginal and non-Aboriginal peers.



Progress against 2020 recommendations: Areas of reform

1.1 Raising the Age and #BLM

In my 2021-2022 state-wide consultation with Aboriginal children, young people, their families and communities, they spoke with me about raising the age of criminal responsibility to 14 and the impact of the #BLM.

Aboriginal children and young people were deeply concerned about racism in the criminal justice system in South Australia and its impact on them at an early stage in their lives. They were completely supportive of raising the age of criminal responsibility to 14 years, and many were surprised and horrified that the age was currently 10.

They expressed touching concern for children and young people who were in detention, recounting stories of those they knew and really feeling the pain of those that had the misfortune to be there. They also understood and frequently stated that children don't understand the consequences of their actions at that young age. They were alive to the role that disability, unhappy homes and homelessness, and intergenerational trauma play in the crime data for Aboriginal children. They were also very much alive to the role that race plays in the targeting of Aboriginal children and young people by police and other security officers. They were always looking to offer more humane solutions to the problem of "muck up" kids.

"Don't lock them up, that's wrong" - Aboriginal young person, Far North

"It's all about systemic racism. The stereotypes about Aboriginal people are all negative. It's not about the good things that Aboriginal people do" - Aboriginal young person, Riverland

"At the age of 10 you don't know what's right and can be put under pressure. By 14 you know what's right. You've had more time to grow. They need time to be children" - Aboriginal young person, Northern Adelaide

"Need to question why they are offending. Is it poverty? What are their circumstances? Have they been abused in foster care? Is it loss of community? There need to be better support systems around these kids. There needs to be funding to Aboriginal organisations to have programs connecting youth into a safe environment and to set kids up for life. They should be going out into communities and rural areas" - Aboriginal young person, metropolitan Adelaide

"It's bad in there for 10-year-olds and over. Lots of fighting goes on in jail. Could get sick. The police might shoot them instead of locking them up" - Aboriginal young person, Western Adelaide

"Instead of locking them up they should be in therapy" - Aboriginal young person, Western Adelaide

The 2021 data on **Closing the Gap Target 11** (by 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent) illustrates the over-representation of Aboriginal children in the justice system.¹⁰

It shows that in SA the proportion of Aboriginal children in the 10-13 age group has decreased from 4.1 per 10,000 to 3.8 per 10,000 and from 49.2 per 10,000 to 43.9 per 10,000 in the 14-17 age group. This is a positive sign but does not address SA's human rights obligations to ensure that all children are not unnecessarily deprived of their liberty.

Where the human rights of Aboriginal children are most impacted by incarceration and the justice system, is where they are not capable of forming the requisite criminal intent by reason of the neurological development of their brain. The United Nations Expert Committee on the rights of the child has repeatedly stated that the accepted medical evidence is that age 14 is the threshold for a child to form criminal intention.

But it is not just age, there are Aboriginal children whose behaviour because of their disability make them a target for criminalisation. It is also clear to me that race and ensuing racial profiling results in more arrests, less formal cautions, noting that anecdotal data suggests that Aboriginal young people do not receive informal cautions as young white people do.

In my recent conversations with Aboriginal children, their families and communities I heard time and time again about racial profiling by police and store security. These comments line up with Closing the Gap data which shows that in SA police proceeded with charges against 591.7 per 10,000 Aboriginal children and young people compared to 73.7 per 10,000 non-Aboriginal children. Aboriginal children are also more likely to be subject to more than one charge over the course of a year, with 32% having charges proceeded with more than three times in this period compared to 15% of their non-Aboriginal counterparts. SA has yet to provide important data about the method of how police proceed, whether by court action or non-court action. In other words, how many were dealt with by caution.

I am also concerned about those disproportionate numbers of Aboriginal children who languish in residential care and who are criminalised for their trauma which erupts in antisocial behaviour, but is often actuated by fear, frustration and alienation from their kin and community.

I have sought to address this issue by pressing for proper implementation of the Aboriginal and Torres Strait Islander Principal to get more of these children back to their kin and community. I also acknowledge that the Department for Child Protection (DCP) is introducing the Oregon model to provide trauma informed care for some young people and the Sanctuary model to assist training carers in residential care to provide trauma informed care. I hope that these models will live up to their promise to be culturally informed and culturally safe.

That children are locked up in the city watchhouse, the back of police vehicles and other police stations in remote and rural areas in adult facilities in the presence of adults is a demonstrable breach of **Article 37 UN CRoC**.¹¹ That it happens to children as young as 10 should no longer be allowed.

I have recently teamed up with the Guardian for Children and Commissioner for Children to press for change to this practice. One way to immediately ameliorate these human rights abuses is to raise the age of criminal responsibility.

This year I have joined with many lawyers, medical experts, NGOs, politicians and community members who have called for the age of criminal responsibility to be raised. I have pointed out that the standard does not comply with international human rights standards and have pointed to the disproportional number of Aboriginal children who are impacted by the current age setting.

I note that the SA Attorney General is giving this matter consideration and that nationally this issue has been restored for discussion at the Council of Attorney Generals. I hope with new State and Federal governments that progress towards raising the age to 14 will be accelerated.

What concerns me is that whilst there are blueprints for successful justice reinvestment to deal with children whose behaviour would otherwise be criminalised, that we will see an unnecessary stalling of legislative action whilst further investigations of these options occur or are these are not instigated due to 'lack of resources'. These are not reasons to delay raising the age.

I commend the Aboriginal Legal Rights Movement in their efforts to mitigate the numbers in the justice system by raising the defence of Doli Incapax for all Aboriginal children under the age of 14 but am appalled that this is still required when the solution is patently obvious - raise the age!

Progress against 2020 recommendations: Areas of reform continued

1.2 Suspensions, Expulsions, Exclusions of Aboriginal Children from School

On 26 October 2020 the final report on the independent **Inquiry into Suspensions, Exclusions and Expulsion Processes in South Australian Government Schools** (the SEE Report)¹² was released.

“While Aboriginal students accounted for just 6.6% of enrolments in 2019, they received 21.4% of take homes, 17.6% of suspensions, and 20.3% of exclusions, with the result that Aboriginal students were 3.0 times more likely to receive a suspension in 2019 than non-Aboriginal students (up from 2.5 times more likely in 2010), and 3.6 times more likely to be excluded (up from 3.2 times more likely in 2010).¹³

“Aboriginal students were more likely to be sent home, suspended, or excluded if they had a disability or were also in care (or both). This reflects the compounding impacts of intersecting social disadvantages experienced by Aboriginal communities”.¹⁴

The data indicates existing strategies have not been effective at reducing the overrepresentation of Aboriginal students in take home, suspension, and exclusion rates, and indicate a failure to implement effective strategies that align with international human rights obligations under the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and best practice for supporting the education of Aboriginal students” (Rec 4 ,Rec 3a (iii) p344 Rec 18 p 379 Rec 23).¹⁵

The SEE Report made recommendations specific to Aboriginal children, that require culturally appropriate trauma informed practice; consultation with Aboriginal Education services and staff, family conferencing and parental sign-off before SEE action is taken and support for disability children (Rec 18 (c)).¹⁶

Importantly it recommends a revision of the Aboriginal Education strategy to include specific strategies and targets to monitor and eliminate over-representation.¹⁷

So far the government has concentrated its policy effort on reform of the system with respect to children with disabilities (The “1 in 4 Reforms”) to which I contribute. Whilst I am hopeful this will assist the many Aboriginal children with disabilities it does not address the systemic racism and breaches of human rights identified in the SEE Report that underlies many SEE decisions about Aboriginal children, nor does it differentiate its policy response to them¹⁸.

The matter of SEE was of deep concern to the Aboriginal children, families and communities I spoke with during my state-wide consultations in 2019 – 2022:

In summary children told me that they felt that their race was a key feature, sometimes the sole feature, in decisions to suspend them from school. In one regional school that I visited, 14 Aboriginal students were either suspended or excluded on the day of my visit, and a further 15 Aboriginal students were serving a direction.

Aboriginal young people felt that the complexities of home life were not understood and that a failure to manage and take into account disability was a major factor.

“Suspensions are not cool. It’s not right to call the police when someone has a meltdown. There is no need to call the police” - young Aboriginal student, Northern Adelaide

“7 Aboriginal kids have been suspended. It feels like they are trying to kick us all out of school” - young Aboriginal student, Upper Spencer Gulf

“I had problems focussing when I got to High School then got diagnosed with ADHD and I try to tell the teachers that I’ve got family stuff. Teachers don’t understand stuff like that” - Aboriginal secondary student, Eyre Peninsula

It was also apparent that family and community keenly felt that their children were not being given every opportunity to gain an education because of the overuse of SEE with a corresponding failure to understand the complexities of race, disability and living in out of home care.

“There are a lot of inter-racial issues in the school. The school manages this by sending kids home. Recently the police were called to the school site every day for one week. 4 of our kids were suspended for 10 weeks” - Parent, Eyre Peninsula

“Exclusion happens because kids don’t feel like they belong. Racism and discrimination is always there. A lot of young people are articulate about it. Adults and teachers need to catch up” - Grandparent, Northern Adelaide

“They (the school) don’t take into account that trauma of witnessing violence. Just because they don’t talk about it doesn’t mean it isn’t there. They just don’t have the words. The school just see it as unacceptable behaviour” - Grandparent, Upper Spencer Gulf

“Kids are expelled because of race, bias, stigma. They don’t realise there are other things going on in their lives at home and can’t talk to the schools about these things. Often there are undiagnosed learning difficulties” Parent, South East.

Involvement of ACETOs was seen as crucial to overcoming SEE:

“There needs to be greater involvement of Aboriginal workers. There is a lot of trauma behind the kids’ behaviour and Aboriginal workers understand this. Children know what they need but are not listened to. As an ASETO I raise my concerns, but no-one listens” - ASETO

It is true that some schools deal with SEE better than others, but still there is an overreliance on the police to deal with behaviour and this is traumatic, frightening and shames the children. It feels to them that they are being criminalised.

“If you know the kids, the signs are picked up and they get the kids early intervention. They call the parents first. If they can’t get the parent, they will call the police. This can be a problem as sometimes parents will avoid school, or the school won’t make enough effort to contact the parents and then call the police”- Parent, Upper Spencer Gulf

There was a strong call for community input in solution brokering for the serious and debilitating effects that SEE is having on Aboriginal children. It is eloquently summarised by a parent from the Upper Spencer Gulf:

“Education is compulsory. How can they kick them out? When a child has an internal suspension, it disadvantages them. The child is not learning whilst suspended. They need to get through school. These are punitive measures connected to systemic racism by teachers and police”.

I urge the Minister for Education to hear the voices of Aboriginal children, their families and communities and to immediately address the recommendations in the SEE Report in partnership with them.

To add to the SEE reform effort, it is also time for the SAASTA program now in the hands of mainly non-Aboriginal staff) to move to an Aboriginal Community Controlled Organisation to reinforce cultural safety and connect children more deeply with their communities

I look forward to continued productive discussions with the Minister about all of these matters in the coming years.

Progress against 2020 recommendations: Areas of reform continued

1.3 Right to Family

2020-2021 proved to be another year where the glaring disproportion in outcomes for Aboriginal children compared to non-Aboriginal children in the child protection system was seriously and sadly evident.

The available data to 30 June 2021 data revealed that there were 1637 Aboriginal children in out of home care out of a total 4366 children.¹⁹ That is 90 per 1000 Aboriginal children compared to 7.7 per thousand non-Aboriginal children.²⁰ The ratio of Aboriginal to non-Aboriginal child removals was 7.62 in 2020-2021, up from 7.57 in 2019-2020.²¹

Despite the requirement in **section 12 Children and Young People (Safety) Act 2017** (Child Safety Act) to consider the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) in placement decisions, less than half were placed in line with the placement hierarchy in **section 12(3) Safety Act**.²² Only 511 Aboriginal children were placed in Aboriginal kinship care; 336 were placed into to non-Aboriginal kinship care, 102 with another Aboriginal carer, 414 in non-Aboriginal, non-kinship care and 224 in Residential care or a group home.

There is no disaggregated data about what efforts have been made to comply with the placement hierarchy before an Aboriginal child is placed in non-Aboriginal care. Nor is there data about whether the consultation with Recognised Aboriginal Torres Strait Islander Organisation (RATSIO) about placement has taken place.²³

Despite welcomed policy commitments by the SA government to implement the wider 5 pillars of the ATSICPP to the standard of “active efforts” in policy (**Safe and Well**), there is no reportable data about what active efforts have been made to comply with 5 pillars of the ATSICPP in policy. There is paucity of available detailed policies which are often ad hoc.

The system is deeply opaque.

It concerns me that South Australia has one of the highest rates of guardianship orders to age 18 in the nation, the lowest reunification rate and one the lowest levels of expenditure on early intervention services for Aboriginal children.²⁴

Since my appointment as CACYP in 2018, I have conducted two statewide consultations (2019 - 2022) with Aboriginal children, their families and communities seeking to find out what lies behind the data for removals and placements and to gauge support for a model for structural reform, the Aboriginal Family Care Program (AFCP). This model will, I believe, enable the voice of Aboriginal children, their families and communities in Aboriginal Family Led Decision Making (AFLDM). It is my view that this is a key tool to ensure the full implementation of all 5 pillars of the ATSICPP.

The AFCP model is led through a local Aboriginal Community Controlled Organisation (ACCO) and provides for immediate early referral of Aboriginal children and families that come to the notice of the Department for Child Protection (DCP), for a mandatory family care meeting. The program will ensure all potential family and community are present and active in decision making about the child, whose voice is also enabled in a child safe setting. I believe this is the lynchpin of successful AFLDM.

What I heard in 2021-2022 confirmed that Aboriginal children, their families and community are marginalized from decision making and there is a failure to activate early intervention. Both factors indicate a fundamental failure to deliver on the ATSICPP.

“The best people to talk about the kids is the family. DCP intervene when they shouldn't, even where there are a whole lot of people working with the family” - Grandparent, Northern Adelaide

“Families should be in the room when services are talking about them. The young person's voice is not being heard. Nor is the family. Family should always be involved. DCP should always ask other agencies to update them

before they decide to remove. Frontline workers are not being asked” – Community worker, Eyre Peninsula

“Family safety plans only happen if you know the right person to approach. Have to climb mountains to get DCP to agree to these. There are not many people in DCP who have the skills to approach and get Nannas support with right cultural structures” – Parent, Upper Spencer Gulf

Children, family, and community see the only way to eliminate systemic racism and support their children to maintain their connection to family, community, and culture is to take the lead in decision making and it is clear that a strong reliable community mechanism is needed to facilitate this.

They told me that they want to see the 5 pillars of the ATSICPP fully implemented and they see an AFCP that sources community intelligence about children and families as integral to a robust AFLDM process.

“There must be mandatory notification until they have engaged the family care panel liaison worker who works with the AFCP. Without this the grandmothers and the families are the last to find out and by then it's too late” – Parent, South East

“We need family group conferencing” - Parent, Eyre Peninsula

Many considered that if more Recognised Aboriginal or Torres Strait Islander Organisations (RATSIOs) were gazetted under the Child Safety Act that these ACCOs with strong community intelligence could provide the link to AFCPs and strengthen the implementation of the ATSICPP.

“The AFCP system needs to come back, it worked, it was done by gazetted organisations; it helped with early intervention. It worked. There are older members in the community here who provide safe havens for kids.

They need to be on the AFCP” - Community worker, Riverland

“The AFCP system kept kids out of care in the 90's. The model for funding for the youth program here would work for AFCP. These people know the community, 'cos they know the kids” – Parent, South East

The AFCP is crucial to the proper implementation of the 5 pillars of the ATSICPP and a legitimate exercise of the right to self-determination guaranteed in the United Nations Declaration on the Rights of Indigenous People (UNDRIP).²⁵ It is an opportunity to ensure that the Aboriginal child's right to be heard in decision making under the United Nations Convention on the Rights of the Child (CROC)²⁶ is fully enabled. It should be implemented early across communities, to ensure that there is every opportunity for AFLDM and culturally safe services to combine at family group conferences and divert children away from removal.

I have heard from the Aboriginal community, a desperate call to action for systemic change; What I heard was the pressing need for:

- Upholding Aboriginal Children's inherent right to family and cultural identity
- Agency of Aboriginal voice
- Social justice in service delivery

The systems failure to form genuine partnerships with Aboriginal people is pronounced right through early intervention approaches to the acute child protection interventions; overlooking Aboriginal community intelligence; resulting in limited engagement with Aboriginal families and subsequent deficiencies in placement outcomes for Aboriginal children.

This is an inditement on the true sense of the Aboriginal Child Placement Principle.

Progress against 2020 recommendations: Areas of reform continued

1.4 Aboriginal Community Controlled Organisations and self-determination

In an era where Aboriginal people actively strive for self-determination, the propagation of genuine partnerships is at the control and direction of the government service system, a stymying force that is beset by systemic racism in policy and practice. Government is hesitant to give up on some of its powers, believing that if it does so is a suggestion of undermining safety of the child. This could not be further from the truth. To counter this “we know best” government assumption, a deliberate design on genuine partnerships at the local level, is the call for various Aboriginal Community Controlled Services (ACCOs) to be resourced to deliver the fundamentals of the Aboriginal Family Care Program (AFCP) in their communities. The model involves the establishment of community based Aboriginal Family Care Coordinator roles to work through local level AFCPs to forge links and ensure Aboriginal family intelligence into planning and decision making on the safety and wellbeing of their children and young people.

“Ownership should go back to indigenous organisations to develop the pathway for children back to family” - Community worker, Eyre Peninsula

“ACCOs know their community” – Parent, Upper Spencer Gulf

Over time, the growth of many NGOs receiving funding to deliver Aboriginal services and programs has diminished Aboriginal Organisations in South Australia. Aboriginal community councils have been one of the main casualties. Aboriginal family support, particularly early intervention and community development was funded through Aboriginal community councils. Today’s existing Aboriginal organisations continue to deliver services, often stretched with limited resources. The Aboriginal community relies on ACCOs to help navigate complex government systems, to access

services, and garner a sense of neighbourhood. ACCO’s are of significant benefit to their Aboriginal families and communities, as they are a source of pride and foster social and economic empowerment, they create jobs for Aboriginal people, and their governance contains incredible cultural knowledge and experience.

I have heard far too often of Aboriginal families experiencing injustice in service delivery and how ACCOs are not engaged and not valued by government and non-government services for the critical role they play in supporting Aboriginal families at the community level. The principle underpinning ACCOs is to uphold culturally safety for Aboriginal people; subtracting judgment, racism, and discrimination so that Aboriginal people receive the services they need. The South Australian government is considering an initiative to support the growth and development of ACCOs. This is welcomed by the Commissioner.

The lack of Aboriginal organisations in local areas was an issue familiar to Aboriginal young people. Aboriginal young people felt that any potential to prioritise the needs of Aboriginal children and young people at a local or regional level was marred by the lack of Aboriginal community unity, which weakens leadership collaboration and undermines the strength of Aboriginal communities. They yearned for the establishment of Aboriginal Community Centres in their regions and the incorporation of youth hubs to give rise to opportunities for leadership, governance, employment, and volunteerism for Aboriginal young people. Aboriginal young people believed Aboriginal Community Centres would bring diverse Aboriginal identities together to work in unity for their benefit. Further, it would help support and strengthen Aboriginal children and young people, their families and communities to address the barriers they face.

“A connected community allows bonds to be formed and connections made. We can grow in strength and love together, instead of apart” - Aboriginal young person, Eastern Adelaide

1.5 Aboriginal Peak Body

Early in my role as Commissioner, I held extensive consultations with Aboriginal communities, and it was abundantly clear there is unfinished business regarding the establishment of a peak body for Aboriginal children and family. The peak body will serve to bring the Aboriginal community voice into the development of strategy, policy and service development, to ensure the care and protection system is culturally responsive to Aboriginal children, young people and their families.

I made clear calls to action for a peak body in my first two reports (2020 and 2021)²⁷; the South Australian government responded to the community call to action by resourcing SNAICC to undertake a further process of consultation. It is pleasing as a first step that SNAICC have leveraged their consultations from my early work across Aboriginal communities in South Australia. SNAICC made the decision to collaborate with me, as Commissioner, to enhance their engagement process with the Aboriginal community of South Australia. SNAICC consulted with the Commissioner’s Office on planning and identifying stakeholders, locations for face-to-face community workshop and providing ongoing feedback. SNAICC communicated directly with local level stakeholders and promoted and facilitated all workshops to ensure that the consultation process was independently driven by the Aboriginal community.

The Aboriginal peak body remains an unfulfilled and unfunded priority and is an apparent gap for Aboriginal communities in South Australia. Other mechanisms also yet to be fulfilled include embedding the broader ATSICPP pillars in its fullest form in policy and legislation and an Aboriginal care and protection strategy.

Our children and families would greatly benefit from having a peak body established to accompany the suite of existing mechanisms in place to drive better outcomes, such as the Aboriginal Children’s Commissioner role and an Inquiry into Aboriginal child removals.



Emerging Issues

Closing the Gap: SA Implementation Plan

On 9 August 2021, then Premier Steven Marshall, launched **South Australia's Implementation Plan on the Closing the Gap Agreement**.²⁸ The Aboriginal Affairs and Reconciliation office (within the Department of the Premier and Cabinet) partnered with the South Australian Aboriginal Community Controlled Organisation Network (SAACCON) to develop and co-design the Plan to improve outcomes for Aboriginal peoples in social and health determinants.

There are four critical targets that relate to the development, rights and wellbeing of Aboriginal children and young people:

Target 4: By 2031, increase the proportion of Aboriginal and Torres Strait Islander children assessed as developmentally on track in all five domains of the Australian Early Development Census (AEDC) to 55%.

Target 11: By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30%.

Target 12: By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45%.

Target 13: By 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced by 50%, as progress towards zero.

While these targets intersect with the wellbeing of Aboriginal children and young people, they are also distinct determinants of involvement with the child protection system. These targets also intersect with the National Family Matters campaign's vision and target "to eliminate the over-representation of Aboriginal and Torres Strait Islander children in Australia's child protection systems by 2040".²⁹

One of the four building blocks is to ensure Aboriginal communities and organisations participate and have control over decisions affecting their children. It is critical that both Aboriginal community and key stakeholders contribute to the development of actions under the Closing the Gap targets to ensure successful outcomes are achieved.

To ensure the implementation process maintains its integrity and achieves the desired targets, I believe an external accountability mechanism must be developed to monitor and track progress. The success of the implementation plan also requires the government to go beyond commitment, to a genuine shift in power towards Aboriginal self-determination to families and ACCOs and provide the appropriate resourcing, funding and capacity building supports.

The ACCO sector is crucial to successfully achieving these targets, as they can ensure culturally appropriate, holistic and trauma responsive support services are provided. ACCOs can also safeguard Family-Led Decision Making (FLDM); I continue to promote and advocate for local-level FLDM as an important approach, in not only the accurate application of the Aboriginal and Torres Strait Islander Child Placement Principles, but also in reducing the overrepresentation of Aboriginal children in out of home care.

While there was a missed opportunity throughout the agreement making process to partner with an independent role with statutory powers, circumstances enable a partnership with CACYP to ensure that the voices of Aboriginal children and young people are heard, amplified and integrated throughout the discussions, negotiations and implementation. I encourage the development of a mechanism for the Commissioner to be engaged throughout the implementation plan and process, to utilise the Commissioner's statutory functions as independent oversight, detached from the bias of governmental processes and approaches.

Coronial Inquest into the death of 12 year old Aboriginal youth in residential care

***Trigger warning: Aboriginal young person who has passed and suicide.**

On 29 March 2022 I gave evidence at the coronial inquest into the death of a young Aboriginal child in residential care. He was 12 years old. He was found hanging in his wardrobe. His name was Zhane Chilcott. He had a mother, a father, six siblings and many extended family members. He had little or no connection with his family and community before his death.

Zhane was removed from his family at just under 12 months of age. During his short life he lived in 10 placements with non-Aboriginal people, four of which were residential or commercial care placements. From the age of three up until the age of 11 he had no contact with his family and only minimal contact with a member of the Ngarrindjeri Aboriginal community. At age 11 he had the fortune to be placed with a carer who facilitated contact with some of his siblings for the first time since his removal.

My evidence dealt with what I perceived was the failure of the department to comply with the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) to ensure that Zhane's right to maintain connection with his family and community through placement and contact was implemented. It also dealt with his right to have his voice heard in decision making Article 12 CRoC. It is my view that at the time of his death, Zhane was crying out for his family; his mother was there and had turned her life around; his siblings were there but the system was largely blind to them. He could see no way out of it and back to them and was given no hope that this would happen.

The Coroner has yet to hand down his findings and recommendations about Zhane's death and whether it could have been prevented.

Ahead of the mid-term review of the **Children and Young People (Safety) Act**, I can only reiterate what I put to the Coroner; that it is my view that the ATSICPP will continue to be poorly applied until Aboriginal self-determination underpins decision making. It is only by applying a strong Aboriginal Family Led decision making process, (early mandatory family group conferences, structured around the Aboriginal Family Care Program), that compliance with the ATSICPP is ensured; but only if coupled by a serious investment in early preventative services by Aboriginal Community Controlled Organisations (ACCOs), delivered in tandem with and through this same process. The removals of Aboriginal children continue at ever increasing rates because of this and in circumstances where their connection with family and community is permanently severed. A deeper question needs to be asked for Aboriginal children in particular, and that is what can be done to scaffold, intervene and support Aboriginal children, their families and communities to take the lead in keeping their children safe and supported.

I believe the answer lies in the full implementation of the five pillars of the ATSICPP under the Aboriginal Family Care Program and increased resourcing for early intervention equitable to community need. To do otherwise is to suggest that Aboriginal people cannot look after their own, a suggestion that cannot possibly be tolerated, and is deeply racist.



Statutory Reporting

Summary of enquiries

The CACYP Office provided systemic advocacy and assistance on 35* matters related to the safety and wellbeing of Aboriginal children and young people, received by family members and others throughout 2021-22. These figures capture matters related to Aboriginal children, young people, and their families; although we might receive contact from various family members regarding the child or young person in question, we record number of cases of individual assistance per matter. Our experience is that Aboriginal families are not adequately provided information regarding their rights, their voices are not heard, and Aboriginal children and young people's best interests are impaired as a result.

The extent of system navigation and advocacy assistance required, particularly regarding child protection matters, provides significant evidence of a system gap for Aboriginal families; a gap that can be filled by the establishment of a Peak Body.

| CATEGORY OF ENQUIRY | NUMBER OF ENQUIRIES |
|--|---------------------|
| SA Health complaints | 2 |
| Racism/culturally inappropriate staff | 9 |
| Housing issues | 9 |
| Contact with child in care (referred to CARP) | 13 |
| DCP complaints | 10 |
| Aboriginal child with disabilities | 8 |
| Aboriginal parent with disabilities and child protection concerns | 2 |
| Safety concerns for Aboriginal child or young person (in care) | 5 |
| Safety concerns for Aboriginal child or young person (not in care) | 3 |
| Reunification concerns | 6 |
| Complaint with DCP placement decision (non-compliant with ATSICPP) | 15 |
| Removal concerns | 7 |
| Department for Education complaints | 7 |
| Kinship carer resources / support | 4 |
| Foster carer resources / support | 2 |
| Lack of services for Aboriginal youth | 2 |
| Other / Miscellaneous | 1 |
| Referred for legal advice | 12 |
| Referred to Guardian's Office | 6 |

*It is common for a single matter to involve several issues, which is why there are more issues than matters listed.

Children and Youth Engagement

| DATE | PROJECT | ENGAGEMENT TYPE |
|--------------|-----------------------------|-----------------|
| 6 June 2022 | Port Lincoln Youth Forum | Face to Face |
| 6 June 2022 | Lincoln Gardens Youth Forum | Face to Face |
| 16 June 2022 | Ceduna Youth Forum | Face to Face |
| 20 June 2022 | Cooper Pedy Youth Forum | Face to Face |
| 21 June 2022 | Indulkana Youth Forum | Face to Face |



Statutory Reporting continued

Direct consultations

| DATE | HOST | PROJECT |
|------------------|-------------------------------|---|
| 20 December 2021 | Department for Education | Behaviour and Engagement Reform |
| 8 February 2022 | Department for Human Services | Community and neighbourhood development program with senior leaders |
| 4 March 2022 | Department for Education | Consent and respectful relationships, student engagement workshop |

Meetings, workshops and consultations

| DATE | HOST | PROJECT |
|------------------|---|---|
| Bi-monthly | Office of the Guardian for Children and Young People | OGCYP, CACYP, CCYP |
| Quarterly | Department for Child Protection, Chief Executive, Cathy Taylor | |
| Quarterly | Department for Education, Chief Executive, Rick Persse / Martin Westwell | |
| Quarterly | Minister for Child Protection, Hon Katrine Hildyard MP | |
| Quarterly | Department for Education, Executive Director, Strategic and External Relations, Dr Peta Smith | |
| 15 July 2021 | Department for Health and Ageing, Catherine Turnbull | |
| 20 July 2021 | Justice Health Unit Melbourne University | Youth Justice Data Project 20 July 2021 |
| 5 August 2021 | South Australian Civil and Administrative Tribunal | |
| 13 August 2021 | Aboriginal Legal Rights Movement, Youth Justice | Aboriginal and Torres Strait Islander Child Placement Principles |
| 17 August 2021 | Nunga Baby Watch Committee | Introductory meeting |
| 17 August 2021 | Children and the Law Committee, Law Society of South Australia | Introductory meeting |
| 17 August 2021 | Hon Connie Bonaros MLC | Children and Young People (Oversight and Advocacy Bodies) Commissioner for Aboriginal Children and Young People Amendment Bill 2021 |
| 30 August 2021 | Aboriginal Legal Rights Movement, Khatija Thomas | |
| 8 September 2021 | Nunkuwarri Yunti | Australia Nurse Family Partnership Program |

| | | |
|-------------------|--|--|
| 10 September 2021 | Commissioner for Aboriginal Engagement | Targeted engagement on the Draft Aboriginal Representative Body Bill 2021 |
| 13 September 2021 | Department for Education, Darren Humphries | One in Four Strategy |
| 16 September 2021 | Department for Premier and Cabinet, Aboriginal Affairs and Reconciliation Department | Closing the Gap Implementation Plan |
| 17 September 2021 | Department for Education | Reducing Exclusion through Inclusion school reform |
| 27 September 2021 | SA Law Reform Institute | Communication Partners |
| 28 September 2021 | Department for Premier and Cabinet | Protocol Prevent Criminalisation of Children in Care |
| 29 September 2021 | Department of Human Services | Capital Works, Kurlana Tapa |
| 29 September 2021 | SA Health | Women and Childrens State-wide Health Plan |
| 13 October 2021 | Department for Human Services | Youth Justice Directorate Youth Diversion Program |
| 18 October 2021 | SA Health | Consultation workshop for the development of the South Australian Alcohol and Other Drugs Strategy 2022-2026 |
| 19 October 2021 | Department for Human Services | Communities of Practice |
| 19 October 2021 | Department Health and Wellbeing | Plan for Women and Children |
| 20 October 2021 | Primary Health Care, Matt Fisher | Decolonising practice in Aboriginal and Torres Strait Islander Primary Health Care |
| 22 October 2021 | Uluru Statement from the Heart SA Dialogue Group | Strategic Planning Session |
| 27 October 2021 | Department for Education | Oversight and Advocacy Bodies Regulations |
| 4 November 2021 | Raising the Age Coalition Forum | Minimum Age of Criminal Responsibility |
| 5 November 2021 | Premier, Hon Peter Malinauskas MP | |
| 10 November 2021 | CREATE Young Consultants | |
| 16 November 2021 | Judge Eldridge, Senior Judge Youth Court | Reunification Court |
| 16 November 2021 | Raising the Age Coalition Forum | Minimum Age of Criminal Responsibility |
| 17 November 2021 | Aboriginal Legal Rights Movement | Minimum Age of Criminal Responsibility |
| 23 November 2021 | Minister for Human Services, Hon Michelle Lensink | |
| 29 November 2021 | Nunga Babies Watch and Grannies Group | Child Protection Forum |
| 1 December 2021 | Secretariat of National Aboriginal and Islander Child Care (SNAICC) | Southern Metro Peak Body Consultation |

Statutory Reporting continued

| DATE | HOST | PROJECT |
|------------------|--|---|
| 2 December 2021 | SNAICC | Northern Western Metro Peak Body Consultation |
| 3 December 2021 | SNAICC | Port Pirie Peak Body Consultation |
| 9 December 2021 | Winangay Resources Inc. | Winangay Carer Assessments |
| 9 December 2021 | SNAICC | Family Matters 2021 Report Launch |
| 10 December 2021 | SNAICC | Ceduna Peak Body Consultation |
| 10 December 2021 | Rights Resource Network | International Human Rights Day Event |
| 16 December 2021 | Guardian for Children and Young People | |
| 27 January 2021 | Aboriginal Family Support Services | Gazetted functions |
| 1 February 2022 | Stolen Generation | Healing Camp Information Session |
| 2 February 2022 | Department for Child Protection and MacKillop Power to Kids | Virtual Yarning Circle |
| 1 March 2022 | Office of Minister for Child Protection, Hon Katrine Hildyard MP | Online Child Protection Conversation |
| 2 March 2022 | SNAICC | Mount Gambier Peak Body Consultation |
| 4 March 2022 | SNAICC | Murray Bridge Peak Body Consultation |
| 11 March 2022 | Raise the Age Campaign | Minimum Age of Criminal Responsibility |
| 16 March 2022 | Commonwealth Attorney-General's Department | Family Dispute Resolution Services for Aboriginal and Torres Strait Islander families |
| 6 April 2022 | Department for Education | Perceptions of safety in Kurlana Tapa Youth Justice Centre |
| 7 April 2022 | National Indigenous Australians Agency | Supporting healing families program |
| 16 April 2022 | Patty Mills Foundation | National Indigenous Basketball Tournament |
| 22 April 2022 | Secretariat of the South Australian Aboriginal Community Controlled Organisation Network (SAACCON) | |
| 3 May 2022 | CEO of Foodbank Greg Pattinson | Tour of Foodbank |
| 9 May 2022 | Junction Australia | |
| 10 May 2022 | Government House | Launch of the Charter Ambassador Program |
| 17 May 2022 | Jonathon Sweeney, WSP Australia | STEM for Aboriginal Young People |

| | | |
|--------------|---|--|
| 27 May 2022 | PwC Adelaide | Closing the Gap Partnership Agreement Schedule 5 Child Protection Negotiation workshop |
| 10 June 2022 | Peter Kenny | Anangu Education |
| 28 June 2022 | Guardian for Children and Young People, Ombudsman of South Australia and Commissioner for Children and Young People | Youth detention in police cells and the Watchhouse |

Presentations, speeches and panels

| DATE | HOST | PROJECT |
|------------------|--|--------------------|
| 2 August 2021 | NAPCAN - Every Child, in Every Community, Needs a Fair Go | Panelist / Speaker |
| 3 August 2021 | Uluru Statement Voice to Parliament Reconciliation SA | Panelist / Speaker |
| 10 August 2021 | STAY Communities of Practice (DHS Community Investment and Support Division) | Presentation |
| 7 September 2021 | Youth Court South Australia | Presentation |
| 8 September 2021 | NAPCAN Conference: Proud in Culture, Strong in Spirit | Speaker |
| 1 December 2021 | DCP-SWAT Conference | Guest speaker |
| 8 December 2021 | 9th National SNAICC Conference (Our children matter; innovative approaches to new world challenges) Aboriginal Family Care Program | Presentation |
| 7 April 2022 | Tonsley VIEW Club luncheon | Guest Speaker |
| 2 May 2022 | Josephite S.A. Reconciliation Circle | Guest speaker |
| 5 May 2022 | GBT & Reconciliation Discussion | Panelist / Speaker |
| 6 May 2022 | Foodbank Women of Influence Luncheon | Panelist / Speaker |
| 17 May 2022 | Family and Relationships Services Australia Conference | Keynote |
| 31 May 2022 | Junction Australia, National Reconciliation Week | Keynote |

Statutory Reporting continued

Conferences and events

| DATE | HOST | TYPE |
|-------------------|---|------------|
| 27 - 28 July 2021 | NAPCAN - National Child Protection Forum | Conference |
| 8 September 2021 | DCP, SA Child Protection Awards | Event |
| 17 September 2021 | 2021 Inclusive Education Forum | Event |
| 30 September 2021 | SAHT Board and AAC | Event |
| 5 October 2021 | Kempe's 2021 A Call to Action Conference International Exchange - Family Leadership in Decision Making: Innovations and Opportunities | Conference |
| 7 October 2021 | The Swearing-In of Ms Frances Adamson AC as Governor of South Australia | Event |
| 19 October 2021 | Executive Leadership Forum DHS | Event |
| 21 October 2021 | Australia Day Council of SA Awards 2022 | Event |
| 27 October 2021 | Power SAASTA Connect Launch | Event |
| 22 November 2021 | Lord Mayor's Tika Tirka graduation ceremony | Event |
| 24 November 2021 | 2021 Duguid Memorial Lecture: Has the Australian dream been achieved at the expense of the Aboriginal child? Presented by Professor Lester-Irabinna Rigney, The Centre for Research in Educational and Social Inclusion University of South Australia | Event |
| 6 December 2021 | 9th National SNAICC Conference | Conference |
| 6 December 2021 | Year 12 schooling achievements Guardianship Children | Event |
| 9 December 2021 | Family Matters 2021 Report Online Launch | Event |
| 10 March 2022 | Power to Kids (P2K): Respecting Sexual Safety program | Event |
| 30 March 2022 | Australia Day Awards Ceremony | Event |
| 31 March 2022 | Aboriginal Law Student Mentoring Program - 2022 Launch | Event |
| 27-29 April 2022 | International Indigenous Voices in Social Work Conference | Conference |
| 6 May 2022 | 7NEWS Young Achiever Awards | Event |
| 13 May 2022 | Launch of SA Youth Week | Event |
| 26 May 2022 | Power Cup opening ceremony | Event |
| 27 May 2022 | National Reconciliation Breakfast | Event |
| 27 May 2022 | Opening of Burton Primary Community Hub and Aboriginal Education Room | Event |
| 1-3 June 2022 | AIATSIS Summit 2022 | Conference |
| 7 June 2022 | Her Majesty The Queens Platinum Jubilee | Event |

Inquests and Inquiries

| DATE | HOST | PURPOSE |
|---------------|--|---------|
| 29 March 2022 | Coronial Inquest into the death of Zhane Chilcott | Witness |
| 30 June 2022 | Launch of the CACYP Inquiry into Aboriginal child removals | Inquiry |

Media coverage and interviews

| DATE | MEDIA OUTLET / HOST | SUBJECT |
|-------------------|--|--|
| 6 July 2021 | ABC Radio Adelaide, David Bevan | CAMHS on the APY Lands and Problematic Sexual Behaviours |
| 20 October 2021 | Aboriginal Way Podcast, South Australian Native Services | Commissioner Lawrie reflects on her first term, why she is reapplying for the role and how she would use her investigative powers to improve the lives of Indigenous Youth |
| 4 May 2022 | Global Business Travel | Reconciliation |
| 24 September 2021 | In Daily | Aboriginal Children's Commissioner granted inquiry powers as three-year term ends |
| 22 November 2021 | In Daily | Aboriginal Children's Commissioner to launch inquiry into child removals |

Social Media insights:

- Reach: 200% increase on previous year (2180 people)
- Engagement: Highest ever engagement for launch of Inquiry on 30 June (25%)
- Page followers up 9%
- Page likes up 6%

Boards, Committees and Forums

- Australian and New Zealand Children's Commissioners and Guardians Forum
- Child Development Council and its Aboriginal Reference Group
- Children and Young People's Oversight and Advocacy Bodies Entities
- SNAICC National Aboriginal Leadership Group on National Child Safety Framework and Child Safety Action Plan
- Catholic Education SA's Learning, Wellbeing and Inclusion Standing Committee
- Department for Education's Aboriginal Expert Advisory Panel
- SA Health, Aboriginal and Torres Strait Islander Mental Health and Suicide Prevention Plan Committee
- UniSA Justice & Society Advisory Panel
- SA Housing Trust Aboriginal Advisory Committee
- Stay True 2 Uluru South Australian Dialogue Group
- 7 News Young Achiever Awards Judging Panelist
- Wellbeing SA, Anti-Racism Strategy Steering Committee
- Department for Education's Support and Inclusion Reference Group
- CCYP Problematic Sexual Behavior Advisory Group

Statutory Reporting continued

Submissions

| DATE | TO | SUBJECT |
|-------------------|---|--|
| 9 July 2021 | South Australian Attorney General's Department | Operational Protocol to the Convention Against Torture (OPCAT) Implementation Bill 2021 |
| 15 July 2021 | Shadow Minister for Child Protection | Proposed amendments for Children and Young People (Safety) (Miscellaneous) Amendment Bill 2020 |
| 5 August 2021 | Secretariat of National Aboriginal and Islander Child Care (SNAICC) | Aboriginal Peak Body for South Australia |
| 15 September 2021 | Western Australian Parliament | Role of Commissioner for Aboriginal Children and Young People |
| 24 September 2021 | Department for Child Protection | Draft Standards of Alternative care |
| 29 September 2021 | South Australian Law Reform Institute | Report on Communication Partners |
| 25 October 2021 | South Australian Attorney General's Department | Draft Controlled Substances (Youth Treatment Orders) Regulations |
| 1 November 2021 | SA Health | Draft Health and Wellbeing Plan for Women, Children and Young People |
| 11 November 2021 | SNAICC | Family Matters Report 2021 |
| 21 November 2021 | Minister for Child Protection | Draft Children and Young People (Oversight and Advocacy Bodies) (Miscellaneous) Regulations 2021 |
| 24 January 2022 | South Australian Law Reform Institute | Witness competence |
| 8 February 2022 | SNAICC | Compliance review for the Aboriginal and Torres Strait Islander Child Placement Principles |
| 21 March 2022 | Wellbeing SA | State Suicide Prevention and Wellbeing Plan and South Australian Aboriginal Suicide Prevention and Wellbeing 2022-2025 |
| 29 March 2022 | Coroner's Court | Coronial Inquest into the death in care of Zhane Chilcott |
| 18 May 2022 | Independent Foster and Kinship Care Inquiry | CACYP Submission |
| 20 May 2022 | South Australian Attorney General's Department | Criminal Forensic Procedure (Regulations) |
| 10 June 2022 | Department for Education | Sexual behaviour in children and young people procedure, guideline and factsheet |
| 17 June 2022 | Law Society of South Australia | Guidelines on Representation of Children in the Youth Court |

Reporting of Public Complaints

| CATEGORY OF COMPLAINT BY SUBJECT | NUMBER OF INSTANCES |
|----------------------------------|---------------------|
| Customer service complaint | 0 |
| Alleged breach of legislation | 0 |

Work, Health and Safety Issues

| WORKPLACE INJURY CLAIMS | CURRENT YEAR |
|---|--------------|
| Total workplace injury claims | 0 |
| Fatalities | 0 |
| Seriously injured workers | 0 |
| Significant injuries (where lost time exceeds a working week, expressed as frequency rate per 1000 FTE) | 0 |

| RETURN TO WORK COSTS** | CURRENT YEAR |
|---|--------------|
| Total gross workers compensation expenditure (\$) | 0 |
| Income support payments - gross (\$) | 0 |

| WORK HEALTH AND SAFETY REGULATIONS | CURRENT YEAR |
|---|--------------|
| Number of notifiable incidents (Work Health and Safety Act 2012, Part 3) | 0 |
| Number of provisional improvements, improvement and prohibition notices (Work Health and Safety Act 2012, Sections 90, 191 and 195) | 0 |

** before third-party recovery

Employment Opportunity programs

N/A

Statutory Reporting continued

Executive employment in the Agency

1 FTE SAES2 - Commissioner

Financial performance overview

The Financial operations of the office are consolidated into and audited through the Department for Education. Accordingly, full financial reports are not provided as part of this annual report. A summary of expenditure is provided below:

Financial summary of expenditure 2021/2022

| ITEM | ACTUAL (\$ 000) |
|--|---------------------|
| Salaries and wages | \$994,233.01 |
| Grants and subsidies | N/A |
| Goods and services | \$185,554.74 |
| Investing payments for property, plant and equipment | \$5,151.11 |
| Depreciation and amortisation | N/A |
| TOTAL EXPENDITURE | \$804,924.57 |

Contractors

The following is a summary of external contractors engaged by the agency as the nature and cost of the work they were contracted to undertake.

Contractor expenses for 2021/2022

| CONTRACTOR | PROJECT | ACTUAL (\$ 000) |
|------------------------------------|---|-------------------|
| HaelCo Pty Ltd | Development of Communications plan and Communication services | \$2,226.66 |
| NChangeR Consulting | Youth Voices Draft Skeleton | \$3,960.00 |
| Chad Jacobi Edmund Barton Chambers | Assistance with commencement of ATSCPP Inquiry | \$3,864.96 |
| TOTAL EXPENDITURE | | \$9,380.26 |

Risk Management

Fraud detected in the Agency: 0

NB: Fraud reported includes actual and reasonably suspected incidents of fraud.

Public Interest Disclosure

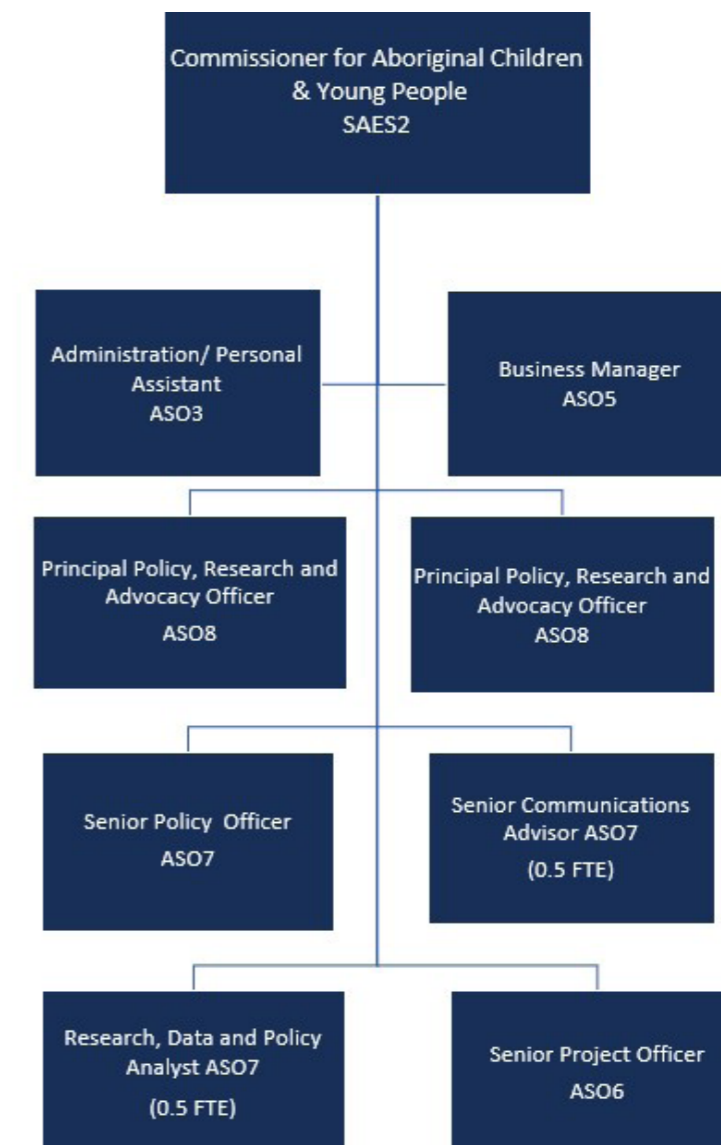
There were nil occasions on which public interest information was disclosed to a responsible officer of the agency under the Public Interest Disclosure Act 2018

Compliance statement

Commissioner for Aboriginal Children and Young People is compliant with Premier and Cabinet Circular 039 – compliant management in the South Australian Public Sector **YES**

Commissioner for Aboriginal Children and Young People has communicated the content of PC 039 and the agency's related complaints policies and procedures to employees **YES**

Organisational Structure



Looking Ahead

Looking ahead, my focus over the next 12 months will be finalising the Inquiry into Aboriginal child removals. As we move into the new year, the Inquiry will wrap up our community forums and commence the next stage of public hearings. The final report is expected later in 2023.

An immediate priority before the end of 2022, is contributing to the review of the Children and Young People Safety Act. The legislation is currently undergoing its mid-term review; a critical opportunity to ensure we create the right settings and mechanisms to improve South Australia's child protection system and outcomes for Aboriginal children, families and communities. I will be providing a submission that advocates strongly for mandatory family group conferencing, legislating all five pillars of the Aboriginal and Torres Strait Islander Child Placement Principles (ATSICPP), increased capacity building and funding for early intervention and intensive family support services, improvements to contact provisions, change the onus of proof in applications for removal, delegated authority to the ACCO sector to undertake functions of child protection, and emphasising the best interests of the child. These aspects of the legislation are critical in addressing the overrepresentation of Aboriginal children in out of home care, as well as ensuring the appropriate application of the ATSICPP.

I will continue advocacy on raising the minimum age of criminal responsibility, in hopes we see the national movement succeed in changing these laws. Children do not belong in prison. As highlighted in the Youth Voices Report, Aboriginal children and young people agree to raising the age, increasing rehabilitation and support services, and allowing children to remain with the families and communities.

As highlighted earlier, I will soon be releasing a strategic plan for 2021-2024. I am excited for this resource to assist both community, government and non-government stakeholders in understanding my strategic direction, focus areas and key functions. I hope the strategic plan

will provide clarity and space for stronger working relationships with a common goal of improving outcomes for Aboriginal children and young people.

I look forward to engaging with Aboriginal communities throughout 2023 through key events that constructively promote Aboriginal children and young people from a strength-based approach and portray them in a positive light.

My office is in the planning stages of organising an Emerging Young Leaders Forum, where 100 young Aboriginal leaders will focus on the Uluru Statement from the Heart to build their leadership skills. Another project to commence, is the South Australian Aboriginal Youth (SAAY) public speaking competition, for secondary Aboriginal students, to build their pride and confidence and strengthen their cultural identity through oration.

I aim to host a celebration for the National Aboriginal Torres Strait Islander Children's Day, to highlight the strengths of our South Australian Aboriginal families and communities in raising strong and proud Aboriginal children and young people.

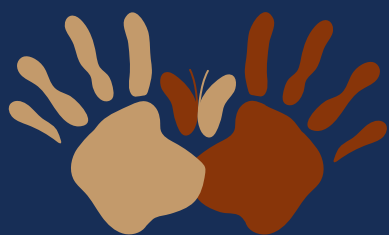


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