

Chapter 2

Commonwealth Policy on Indigenous Affairs

2.1 This chapter provides an update on selected Commonwealth policy and program developments since the committee last reported in June 2009.

Closing the Gap Policy

2.2 As the committee outlined in its second report, the Closing the Gap policy arose out of a three year campaign that began in 2005 with a coalition of non-government organisations calling for strategies to 'close the gap' between the life expectancy rates for Indigenous and non-Indigenous people.

2.3 This was followed by the Commonwealth's announcement of six targets intended to 'Close the Gap in Indigenous disadvantage'. These are:

- To halve the mortality gap between Indigenous children and other children under five within a decade;
- To provide access to early childhood education for all Indigenous four-year-olds in remote communities within five years;
- To halve the gap in literacy and numeracy achievement between Aboriginal and Torres Strait Islander students and other students within a decade;
- To halve the gap between Indigenous and non-Indigenous students in rates of year 12 attainment or an equivalent attainment by 2020;
- To halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade; and
- To finally close the shameful gap in life expectancy between Indigenous and non-Indigenous Australians within a generation.¹

2.4 These targets were adopted by the Council of Australian Governments (COAG) at their meeting of 2 October 2008.²

The COAG Agenda

2.5 COAG is the intergovernmental forum in Australia, comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA). COAG last met in Darwin on 2 July 2009. During this meeting COAG considered progress made towards addressing Indigenous

1 The Hon Kevin Rudd, MP, Prime Minister, *House of Representatives Hansard*, 26 February 2009, p. 3.

2 Council of Australian Governments, *Communiqué – 2 October 2008*, http://www.coag.gov.au/coag_meeting_outcomes/2008-10-02/index.cfm (accessed 4 June 2009).

disadvantage. The meeting considered the Productivity Commission's fourth report on Overcoming Indigenous Disadvantage and adopted a National Integrated Strategy for Closing the Gap, agreed to a National Indigenous Education Statement, and signed a National Partnership Agreement on Remote Indigenous Public Internet Access. COAG also agreed to a National Urban and Regional Service Delivery Strategy to address Indigenous disadvantage in urban and regional locations. More information related to these agreements and strategies is detailed below.

2.6 COAG is next scheduled to meet on 7 December 2009 in Queensland.

National Integrated Strategy for Closing the Gap in Indigenous Disadvantage

2.7 The National Integrated Strategy for Closing the Gap in Indigenous Disadvantage identifies how investment of funds under existing COAG agreements will make an impact on Indigenous disadvantage. The strategy includes specific outputs under each COAG agreement to meet the six Closing the Gap targets and commits governments to develop clear trajectories for each target and each jurisdiction, setting state and territory level benchmarks for monitoring performance against the targets agreed by COAG.

2.8 COAG has identified areas for future work under this strategy. These include:

- food security in remote communities;
- overcoming data gaps;
- continued welfare reform;
- infrastructure in remote communities and Indigenous economic development;
- case studies of best practice programs and initiatives by governments; and
- the role of the private and community sectors in meeting Closing the Gap targets.

2.9 The committee understands that as part of this strategy the Commonwealth will provide an additional \$46.4 million over four years to fund work undertaken by national data agencies such as the Australian Bureau of Statistics (ABS) and the Australian Institute of Health and Welfare (AIHW) to improve the evidence base and address data gaps.³

2.10 In its last report the committee recommended that COAG make a concerted effort to improve the quality and scope of existing data collections that are available for regional and remote Indigenous communities and urged all departments and agencies to routinely utilise the expertise of dedicated statistical agencies such as the ABS and AIHW when collecting and analysing data to ensure that it is consistent and

3 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 27 October 2009).

accurate across all jurisdictions.⁴ On this basis the committee welcomes additional funding to national data agencies however it is still concerned that agencies are developing policy and programs in isolation and without sufficient regard to the available evidence. The committee reiterates its previous recommendation that COAG ensure new policy and programs are consistent with the evidence base.

Development of a Closing the Gap Indigenous Education Action Plan

2.11 COAG has adopted an Indigenous Education Statement titled Towards the Development of an Indigenous Education Action Plan. It commits states and territories to specific strategies to meet Indigenous education targets.

2.12 At their meeting in July 2009, COAG agreed that local and regional school strategies should be focused on improving the following:⁵

- enrolment, attendance and retention rates and student engagement;
- literacy and numeracy;
- development of the Indigenous education workforce and up-skilling teachers to better support Indigenous students;
- parental and community engagement;
- 'wrap-around' support, including through extended service school models;
- transition from school to further education through education and training; and
- higher expectations for Indigenous young people.

2.13 COAG has stated that these strategies will be brought together in a National Indigenous Education Action Plan, to be developed by the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) in consultation with Indigenous education leaders.⁶ The committee will report on progress made towards this plan and its implementation when it next reports in 2010.

National Remote Indigenous Food Security Strategy

2.14 COAG has requested the development of a national strategy to address food security in remote Indigenous communities by the end of 2009. The strategy will create a national approach to food security in remote communities and a consistent

4 Senate Select Committee on Regional and Remote Indigenous Communities, *Report No. 2*, p. 32.

5 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 27 October 2009).

6 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 27 October 2009).

licensing scheme for remote community stores. The Communiqué of 2 July 2009 also states that the strategy is intended to make healthy food accessible and affordable.⁷

2.15 The committee welcomes COAG's involvement in this area as food security, accessibility and affordability is an issue that is constantly raised when they visit regional and remote communities.⁸ The committee notes that the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs tabled a report on remote community stores on Monday 16 November 2009. This committee made 33 recommendations, many of which relate to food security.⁹

National Urban and Regional Service Delivery Strategy

2.16 The National Urban and Regional Service Delivery Strategy commits governments to coordinate and target funding under mainstream and Indigenous specific programs. It also requires that existing and future investments in housing, homelessness, education, employment, health and early childhood services are targeted towards specific outcomes. The Communiqué of 2 July 2009 states that this is intended to be achieved through:

- improved access by Indigenous people to better coordinated and targeted services;
- local need/place-based approaches enabling initiatives to be delivered in a manner appropriate to needs in a particular location;
- strengthened Indigenous capacity, engagement and participation to promote a strong and positive view of Indigenous identity and culture and strengthening individual, family and community wellbeing and capacity as a necessary impetus to improved access to and take-up of services;
- more effective program accountability and sustainability, with governments required to enhance statistical collection services and other information sources to improve the detail and accuracy of reporting on outcomes; and
- COAG monitoring progress in utilising Indigenous-specific and mainstream National Partnerships to improve outcomes in urban and regional locations.¹⁰

7 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 27 October 2009).

8 See also Dr Rosalie Schultz, *Submission No. 108*.

9 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Everybody's Business: Remote Aboriginal and Torres Strait Community Stores*, November 2009.

10 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 28 October 2009).

2.17 The committee welcomes the development of this strategy in light of the confusion the committee has observed surrounding remote service delivery, especially in relation to municipal and essential services.

National Partnership Agreement on Remote Indigenous Public Internet Access

2.18 This agreement is intended to provide public internet access facilities in remote Indigenous communities with limited or no public internet access, create a program for maintenance and support of public internet access in those communities commencing in 2011–12 and offer training in computer and internet use in up to 60 remote communities a year. The funding allocation by the Commonwealth is almost \$7 million over four years from 2009–10.¹¹

Closing the Gap in the Northern Territory National Partnership Agreement

2.19 This partnership agreement is a bilateral agreement between the Commonwealth and Northern Territory governments. More detail on the operation of this agreement appears in chapter three below.

National Partnership on Remote Indigenous Housing

2.20 The committee has previously reported that all state governments and the Northern Territory government agreed to a 10 year National Partnership on Remote Indigenous Housing, in which the Commonwealth government committed to providing \$5.48 billion over 10 years to address overcrowding, homelessness, poor housing conditions and the severe housing shortage in remote Indigenous communities.

2.21 Over this 10 year period the agreement is intended to deliver:

- construction of up to 4 200 houses and major upgrades and repairs to around 4 800 houses in the 26 communities identified as remote service delivery sites;
- improved tenancy management services so that rental houses are maintained and rent is collected;
- economic development opportunities through increased local training and employment in construction and housing management;
- an ongoing maintenance and repairs program;
- upgrades to housing related infrastructure in remote communities, including town camps; and

11 Council of Australian Governments, *Communiqué – 2 July 2009*, http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/index.cfm#closing_the_gap (accessed 28 October 2009).

- access to affordable accommodation in regional centres to support employment, education and training in regional areas.¹²

2.22 The Strategic Indigenous Housing and Infrastructure Program (SIHIP) is a partnership between the Commonwealth and Northern Territory governments and is intended to deliver 750 new houses, the demolition of 230 uninhabitable houses, 500 housing upgrades, essential infrastructure to support new houses and improvements to living conditions in town camps in the Northern Territory.¹³ More information about SIHIP can be found in chapter 3 below.

Overcoming Indigenous Disadvantage: Key Indicators 2009

2.23 The fourth edition of the *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report* (*Overcoming Indigenous Disadvantage Report*) was released on 2 July 2009 to coincide with the COAG meeting in Darwin. *Overcoming Indigenous Disadvantage* reports were initiated in 2002 and have been released every two years since 2003. These reports inform governments about whether policy, programs and interventions are actually achieving improved outcomes for Indigenous people.

2.24 As the committee noted in its last report, the *Overcoming Indigenous Disadvantage* reports focus on outcomes for Indigenous people and do not report on individual government services. The reporting framework has two tiers: ‘headline’ indicators for the longer term outcomes sought; and a second tier of ‘strategic change indicators’ which are responsive to government policies and programs over the short term. It describes ‘state-of-the-nation’ outcomes for Indigenous people, with a view to all government departments and agencies together being responsible. Therefore no reporting on an individual government agency basis is available. It does not necessarily feature state and territory comparisons, nor does it focus on government service provision.¹⁴

2.25 The latest report shows that while there has been some progress against the Closing the Gap targets, overall the divide between Indigenous and non-Indigenous Australians remains extreme.¹⁵ While it is encouraging that the report shows that overall, Indigenous people have shared in Australia’s economic prosperity over the

12 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Remote Indigenous housing investment*, Press release, 23 March 2009.

13 FaHCSIA, *New Remote Housing System - NT*, http://www.fahcsia.gov.au/sa/indigenous/progserv/housing/pages/newremote_housing_system.aspx (accessed 23 June 2009).

14 Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services 2009*, January 2009, p. 3.

15 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report*, July 2009, p. 3.

past decade, with gains being made in employment, income and measures of wealth such as home ownership, it is important to recognise that:

...outcomes for non-Indigenous people have also improved, meaning the gaps in outcomes persist. The challenge for governments and Indigenous people will be to preserve these gains and close the gaps in a more difficult economic climate.¹⁶

2.26 Indigenous infant (from birth to 12 months) mortality rates have improved, while child (from 0–4 years) mortality rates have remained relatively constant. Mortality rates for Indigenous infants and young children remain two to three times as high as those for all infants and young children. In early childhood education there are limited data available on Indigenous preschool participation, making it difficult to draw conclusions about participation rates.¹⁷

2.27 There has been little change in the reading, writing and numeracy performance of Indigenous students over the past ten years, and no closing of the gaps between Indigenous and non-Indigenous students. The proportion of Indigenous 19 year olds who had completed year 12 or the equivalent increased from 31 to 36 per cent between 2001 and 2006. However, the non-Indigenous rate increased from 68 to 74 per cent, leaving the gap unchanged. The employment-to-population ratio for Indigenous people increased from 43 per cent to 48 per cent between 2001 and 2006. However, similar increases for non-Indigenous people left the gap unchanged.¹⁸

2.28 As there are no trend data available for life expectancy, except in the Northern Territory, national life expectancy can not be reported on. However in the Northern Territory the report concluded that there is evidence to show that both Indigenous and non-Indigenous life expectancy increased between 1967 and 2004. Over this period, the gap in life expectancy between Indigenous and non-Indigenous males increased slightly and decreased for females.¹⁹

Measuring and reporting under COAG

2.29 In its last report the committee noted the emphasis placed by the COAG framework on reporting requirements and measurement towards closing the gap in Indigenous disadvantage. At the meeting on 2 July 2009, COAG agreed to national targets against which to measure this performance. The National Indigenous Reform

16 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report*, July 2009, p. 3.

17 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report*, July 2009, p. 3.

18 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report*, July 2009, p. 4.

19 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009 Report*, July 2009, p. 3.

Agreement was amended at the 2 July meeting to set performance indicators under each of the six targets.²⁰

2.30 The National Indigenous Reform Agreement states that progress against the six COAG targets will be determined by plotting indicative straight line trajectories (between the baseline and the target) for each target and by jurisdiction. This will comprise six national trajectories, one for each target, and trajectories for each jurisdiction where data are available.²¹ Indicative national level trajectories are set out in schedule G to the agreement. The committee understands that jurisdictional targets will be agreed to at a later COAG meeting.²²

2.31 The COAG Reform Council will conduct an annual assessment to determine whether there has been a statistically significant improvement against each target.²³

2.32 The committee welcomes COAG's focus on measurement and reporting and has found that there is considerable support for the new direction of COAG and the focus on explicit partnership agreements, targets and reporting.²⁴

2.33 However, while there is support for COAG's aims, the committee found that there is also considerable scepticism about the ability of governments to be able to deliver on their ambitious targets. As the Hon Fred Chaney AO put it:

...I am strongly supportive of the government's COAG objectives. They seem to me to be evidence-based and sensible. I think the capacity to deliver on those objectives is much more limited than this committee, the parliament, the government or the opposition would wish...²⁵

...there is in fact a systemic problem that underpins the cycle of external and / or failed interventions in remote Australia's Indigenous communities. New initiatives are constantly announced and implemented but do not lead to the intended result because the structure of government is deficient. To avoid any possibility of misunderstanding, this is not an attack on government policies past and present; it is not an attack on public servants.

20 Council of Australian Governments, *National Indigenous Reform Agreement (Closing the Gap)*, pp 9–15.

21 Council of Australian Governments, *National Indigenous Reform Agreement (Closing the Gap)*, p. 15.

22 Advice provided to the secretariat by the Indigenous Policy Branch of the Department of Prime Minister and Cabinet, 28 October 2009.

23 Council of Australian Governments, *National Indigenous Reform Agreement (Closing the Gap)*, p. 15.

24 Mr Patrick Walker, Department of Indigenous Affairs, Western Australia, *Committee Hansard*, 9 October 2009, pp 96–97; Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 55.

25 The Hon Fred Chaney AO, Desert Knowledge Australia, *Committee Hansard*, 9 October 2009, p. 61.

It is saying that within the present structure the best of intentions will simply not be realised.²⁶

2.34 The committee has found that there is a perceived lack of coherence related to the COAG agenda, and that this causes a great deal of frustration. As Western Australia's Commissioner for Children and Young People, Ms Michelle Scott put it:

What concerns me about the COAG agenda and other initiatives is that we are reinventing the wheel in some cases. How do we develop our own corporate knowledge about best practice programs? The mining industry and the private sector have said to me that there is no one place you can go to—and I am talking here about Western Australia—where, in the early years, you can get that evidence based information. When I travel in regional and remote communities, I hear things like, ‘I’m developing the first ever program,’ and I say, ‘Do you know about so and so over in that community who is also developing the first ever?’ People are not in touch and there is no repository—that the Commonwealth does not have that; that the state does not. So there are wasted resources reinventing—for example, the not-for-profit sector coming up with an idea that somebody else has already had but they do not know about it. I think that is a waste of resources.²⁷

2.35 The committee hopes that the Closing the Gap Clearinghouse, discussed below, will go some way to addressing this problem.

2.36 Concerns about the lack of consultation and poor communication that has occurred with communities that will be affected by COAG initiatives such as the Remote Service Delivery sites were also put to the committee:

Mr Yungabun—Another thing is Closing the Gap and the issue of getting good services for Aboriginal people...With Closing the Gap there are services within 50 kilometres or so of Fitzroy Crossing, but not outside Fitzroy Crossing, and that is going to really affect our community. Look at Bandrarl Ngadu, which is the Fitzroy Valley in our language group. That gives services to all of the Fitzroy Valley. The services coming are going on within 50 kilometres or so, but not outside that area. I do not know, but it looks as if our community is going to miss out on a lot of services. We will wait for a couple of years to get our services.

Mr Davies—Harry is talking about COAG. Apparently it is coming here to the valley in two stages, and there is a bit of anxiety because nobody is really clear on how that is going to work, and some communities that are outside are worrying about their situation.

26 The Hon Fred Chaney AO, Desert Knowledge Australia, *Committee Hansard*, 9 October 2009, pp 62–63.

27 Ms Michelle Scott, Commissioner for Children and Young People, Western Australia, *Committee Hansard*, 9 October 2009, p. 31.

Mr Yungabun—We are really terrified.²⁸

2.37 This frustration was repeated when the committee took evidence in Broome.²⁹

2.38 The committee is concerned about the ability of all levels of governments to be able to deliver on the COAG targets. It is particularly concerned about the damage that will be caused to Indigenous people and communities if there are yet more failures and dramatic policy changes related to COAG.

2.39 Mr Patrick Walker, the Director General of Western Australia's Department of Indigenous Affairs told the committee:

I honestly believe that there are two keys to making a difference. One is generally empowering the community and listening to them. The second is to have the flexibility to be able to respond. Invariably, good solutions require more than one agency to deliver them.³⁰

2.40 The committee agrees with evidence presented to it which encourages all levels of government to improve their own capacity to deliver on targets, communicate continuously and effectively with communities and to pursue genuine engagement from the ground up.³¹ The committee has come to the view that this requires greater flexibility than is currently being displayed by governments. The committee has repeatedly been told about the inefficiencies and burdens that dealing with multiple agencies for multiple funding agreements over quite short time frames causes.³² This is again borne out by evidence presented to the committee during this reporting period and in relation to the COAG agenda.³³

2.41 The committee is concerned by the lack of effective communication between stakeholders in the COAG process.

28 Mr Harry Yungabun, Marra Worra Worra and Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 71.

29 Mrs Caroline Sibosado, Lombadina Aboriginal Corporation, *Committee Hansard*, 26 August 2009, p. 85.

30 Mr Patrick Walker, Department of Indigenous Affairs, Western Australia, *Committee Hansard*, 9 October 2009, p. 106.

31 Indigenous Implementation Board of Western Australia, *Report to the Hon. Dr Kim Hames MLA, Deputy Premier; Minister for Health; Indigenous Affairs*, August 2009, p. 24; Mr Patrick Walker, Department of Indigenous Affairs, Western Australia, *Committee Hansard*, 9 October 2009, p. 106.

32 Senate Select Committee on Regional and Remote Indigenous Communities, *Report No 2*, p. 128.

33 Mr Joe Ross, Fitzroy Futures Governing Committee, *Committee Hansard*, 24 August 2009, pp 9–10.

Recommendation 1

2.42 The committee recommends that COAG consider at its first meeting in 2010 how communication and consultation with all relevant stakeholders in the delivery of the COAG targets can be improved. Furthermore, progress in improving communication and consultation should be publicly reported.

Closing the Gap Clearinghouse

2.43 As the committee noted in chapter two of its last report, the Commonwealth committed \$1.5 million over three years in the 2009–10 Budget for a Clearinghouse to gather and disseminate evidence on effective policy interventions to address Indigenous disadvantage. The state and territory governments also committed to matching this funding.³⁴

2.44 Establishment of the Clearinghouse has progressed to the point of creating a website. The Clearinghouse is a collaboration between the Australian Institute of Health and Welfare and the Australian Institute of Family Studies. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), on behalf of the Commonwealth, provides half the funding with the other half shared by the states and territories. The Clearinghouse's website states that it is intended to provide access to a cumulative evidence base to monitor progress on closing the gap, identify gaps in the evidence base, help better coordinate research and evaluation efforts across Australia and provide access to a single online repository of material.³⁵

2.45 The committee understands that substantive evidence and research papers are not yet available on the website and that an advisory board to oversee the Clearinghouse's operation will be appointed later this year.³⁶

2.46 The committee welcomes the creation of this Clearinghouse and looks forward to reporting in 2010 on the use of information provided by the Clearinghouse. The committee encourages policy makers to ensure that their policies and programs are based on solid evidence.

Coordinator-General for Remote Indigenous Services

2.47 Earlier this year the Commonwealth created a statutory office for the Coordinator-General for Remote Indigenous Services, as agreed by COAG. The Commonwealth government committed \$9 million over four years to the creation of

34 Commonwealth government, *Budget Paper No. 2*, 12 May 2009, p. 210.

35 Closing the Gap Clearinghouse website, http://www.aihw.gov.au/indigenous/closing_the_gap.cfm (accessed 26 October 2009).

36 Advice provided to the secretariat by the Australian Institute of Health and Welfare, 28 October 2009.

this office in its 2009–10 Budget.³⁷ Mr Brian Gleeson was appointed to this position in June 2009.

2.48 The Coordinator-General's role is to implement reforms in housing, infrastructure and employment in remote Indigenous communities, and to report to the Commonwealth Minister for Families, Housing, Community Services and Indigenous Affairs. The Coordinator-General will formally report publicly twice a year on the development and delivery of remote services and on the progress that has been made towards the closing the gap targets.³⁸

2.49 In its last report the committee undertook to monitor the newly created role of the Commonwealth Coordinator-General in the implementation of the Alice Springs Transformation Plan. The committee asked FaHCSIA for information about the Transformation Plan at its Canberra hearing on 9 June 2009.³⁹ FaHCSIA advised the committee that the Transformation Plan will support the Closing the Gap targets in Alice Springs with \$125 million in expenditure. \$100 million of this is already announced expenditure from the National Partnership on Remote Indigenous Housing for housing and infrastructure upgrades and reforms in the Alice Springs town camps. An additional \$25 million was allocated to service delivery and housing assistance to address homelessness.⁴⁰

2.50 Progress made on implementation of the Alice Springs Transformation Plan is discussed further in chapter three. In response to the committee's request for information about the Coordinator-General's role in the Alice Springs Transformation Plan, the Minister advised that: 'The Coordinator-General receives updates on the implementation of the Alice Springs Transformation Plan.'⁴¹

2.51 As the committee reported in June 2009, the Northern Territory government also created a Northern Territory Coordinator-General position.

Healing Foundation

2.52 In its last report the committee noted that the 2009–10 Budget allocated \$26.6 million over four years for an Indigenous Healing Foundation. Consultations on the establishment of a foundation were conducted and on 24 September 2009 the Commonwealth accepted the report of the Aboriginal and Torres Strait Islander Healing Foundation Development Team. This report made ten recommendations, one of which was the establishment of an independent national body to address the

37 Commonwealth government, *Budget Paper No. 2*, 12 May 2009, p. 254.

38 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Office of Coordinator-General for Remote Indigenous Services*, Press release, 27 May 2009.

39 Senator Judith Adams, *Committee Hansard*, 9 June 2009, p. 57.

40 FaHCSIA, answer to question on notice, 9 June 2009 (received 22 June 2009).

41 Correspondence to committee from the Hon Jenny Macklin MP, 23 November 2009.

transgenerational cycle of trauma and grief in Aboriginal and Torres Strait Islander communities as a result of colonisation, forced removals and other past government policies.⁴² The issue of transgenerational trauma was raised at the committee's hearing in Narrogin, Western Australia and is discussed further in chapter four.

2.53 In accepting the report the Minister for Families, Housing, Community Services and Indigenous Affairs agreed to the establishment of an interim board recommended by the Development Team to oversee the early establishment of the foundation until a full board is appointed in December 2009. Members of the interim board are Mr Gregory Phillips, Ms May O'Brien, Ms Deb Hocking and Professor Helen Milroy.⁴³

National Indigenous Representative Body

2.54 As the committee has previously reported, the Commonwealth government invited the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Tom Calma, to convene a steering committee tasked with developing a preferred model for a national Indigenous representative body. The Commissioner presented his final report to the government on 27 August 2009.

2.55 The report presented a proposed model for a new national Indigenous representative body. It is recommended that the body be a company limited by guarantee with the following roles and functions:⁴⁴

- Formulating policy and advice – to ensure that Aboriginal and Torres Strait Islander peoples contribute to and lead policy development on relevant issues and to ensure that an Aboriginal and Torres Strait Islander perspective is provided on issues across government;
- advocacy and lobbying – to act as a conduit between Aboriginal and Torres Strait Islander peoples and the government, corporate and non-government sectors and ensure the acts of those sectors are in the best interests of Aboriginal and Torres Straits Islander peoples; and
- ensure the presence of, and contribute to, mechanisms to monitor and evaluate government performance to Aboriginal and Torres Strait Islander peoples.

42 Aboriginal and Torres Strait Islander Healing Foundation Development Team, *Voices from the Campfires: Establishing the Aboriginal and Torres Strait Islander Healing Foundation*, September 2009, p. xii.

43 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Strong future for the Healing Foundation*, Press release, 24 September 2009.

44 Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Our future in our hands - Creating a sustainable National Representative Body for Aboriginal and Torres Strait Islander peoples*, August 2009, pp 27–28.

2.56 On 22 November 2009 Minister Macklin announced the Commonwealth government's support for the body. The committee understands that the Commonwealth will provide \$6 million to establish the body. An additional \$23.2 million will be provided for the operation of the body from January 2011 to December 2013.

2.57 The body will be a company limited by guarantee and will consist of a National Executive made up of eight board members, including two full time co-chairs. It will have equal representation of men and women with the National Executive elected by an annual congress of 120 representatives from key Aboriginal and Torres Strait Islander organisations and bodies, as well as individuals and community representatives.⁴⁵

2.58 The committee looks forward to following the progress of the National Indigenous Representative Body.

National Indigenous Law and Justice Framework

2.59 While the committee acknowledges that law and justice issues are predominantly the responsibility of the states and territories, the committee is profoundly concerned about the very high rates of incarceration of Indigenous people, as well as the very high level of contact that Indigenous people have with the criminal justice system across Australia. The committee has formed the view that the Commonwealth should take a more active role in driving reform and improvements in this area. The committee encourages the Commonwealth and the states and territories to work together to provide a national framework on these issues to try to address the high level of contact and incarceration, particularly in relation to young people.

2.60 While the committee appreciates that all jurisdictions are aware of the need to reduce incarceration rates, and the need to have effective diversionary programs to reduce the interaction Indigenous people are having with the system, they are concerned that responses are inadequately resourced, ad hoc and not based on the available evidence. This is discussed by the committee in more detail in chapters four and five.

2.61 The latest report on juvenile justice in Australia was released by the Australian Institute of Health and Welfare in November 2009. This report makes three main findings:⁴⁶

45 The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Australian Government response to 'Our Future in Our Hands'*, Press release, 22 November 2009.

46 Australian Institute of Health and Welfare, *Juvenile justice in Australia 2007–08*, Juvenile Justice Series No 5, November 2009, p. vii.

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- The number of young people in detention is growing. The number of young people in detention on an average day in Australia⁴⁷ rose from 540 in 2004–05 to 630 in 2007–08 which is a 17 per cent increase.
 - The number of unsentenced young people in detention is increasing. In 2004–05, just over one third of the average daily detention population was unsentenced but, by 2007–08, unsentenced young people in detention outnumbered those who were sentenced. The increase in the unsentenced population occurred for both Indigenous and non-Indigenous young people.
 - Although only about five per cent of young Australians are Aboriginal or Torres Strait Islanders, 40 per cent of those under supervision on an average day were Aboriginal or Torres Strait Islanders. Their overrepresentation was particularly prominent in detention, where over half of those in detention on an average day and 60 per cent of those who were unsentenced in detention were Aboriginal or Torres Strait Islanders.

2.62 The committee is very concerned about the rise in incarceration and supervision rates of young people in general, but particularly in relation to Indigenous young people, and encourages the Commonwealth, states and territories to set clear targets and strategies to reduce the numbers.

2.63 The committee is pleased to note that the Standing Committee of Attorneys-General, the body that consists of all Attorneys-General from the states and territories and the Commonwealth, has developed a National Indigenous Law and Justice Framework. This is intended to provide a national approach to justice issues affecting Aboriginal and Torres Strait Islander people and to guide the states and territories in their policy and program work related to Indigenous justice issues.⁴⁸

2.64 The main goal of the Framework is to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system, reduce alcohol and substance abuse, and increase community safety. On 6 November 2009 the Attorney-General and the Minister for Home Affairs announced that all governments had endorsed the Framework, and that it would '...form the basis of a long term strategic approach to Indigenous law and justice issues and support work being done to "close the gap" on Indigenous disadvantage.'⁴⁹

2.65 The committee also notes that the Commonwealth hosted a roundtable on Indigenous community safety for state and territory Attorneys-General, Indigenous

47 These figures exclude NSW where the data is not available.

48 Department of the Attorney-General, *Draft National Indigenous Law and Justice Framework*, http://www.ag.gov.au/www/agd/agd.nsf/Page/Consultationsreformsandreviews_DraftNationalIndigenousLawandJusticeFramework (accessed 10 November 2009).

49 The Hon Robert McClelland MP, Attorney-General and the Hon Brendan O'Connor MP, Minister for Home Affairs, *Tackling Indigenous Law and Justice Issues*, Press release, 6 November 2009.

Affairs Ministers, Police Ministers and Commissioners and Indigenous professionals working in the field on 6 November 2009 in Sydney. At this roundtable Ministers agreed to develop shared strategies designed to provide better support for law enforcement in remote and very remote communities, reduce alcohol induced violence, abuse and crimes in Indigenous communities and provide more support for integrated service delivery.

2.66 The committee is very interested in the proposal announced after this meeting which commits the states and territories and the Commonwealth to investigating the possibility of a 'first door must be the right door' service delivery model. This model is expressed as being a method of giving people appropriate care and support through the entire process of recovery.⁵⁰ The committee will follow closely the development of this approach and examine the issue further in its next report.

2.67 While the committee appreciates recent work on creating a more coordinated approach to Indigenous law and justice issues, the committee remains concerned that without strong leadership from the Commonwealth, responses across jurisdictions will continue to be inadequate and ineffective.

Recommendation 2

2.68 The committee recommends that the Commonwealth government take a more active role in driving reform of the criminal justice system with the aim of reducing the alarmingly high level of contact of Indigenous Australians, particularly Indigenous young people.

50 The Hon Robert McClelland MP, Attorney-General, *Communiqué - Indigenous Community Safety Roundtable*, Press release, 6 November 2009.