Significance of Culture to Wellbeing, Healing and Rehabilitation

Vanessa Edwige and Dr Paul Gray
Authors

Ms Vanessa Edwige is a Ngarabal woman from Emmaville, NSW. Vanessa is a registered psychologist and a Director on the Board of the Australian Indigenous Psychologists Association (AIPA). Vanessa has worked in Redfern, New South Wales, for the past 22 years, working predominantly with Aboriginal children, young people, families and community providing culturally responsive psychological support for adverse childhood experiences, intergenerational trauma and supporting cultural resilience. Vanessa currently works as a Senior Psychologist, Education, for the NSW Department of Education. Prior to this, Vanessa has worked as a school counsellor, a psychologist for headspace and the dual diagnosis team, a consultant and trainer for the NSW Institute of Psychiatry, NSW Co-ordinator for Aboriginal victims of crime with the NSW Attorney-General’s Department, and as the Senior Researcher for report of the Aboriginal Sexual Assault Taskforce, *Breaking the Silence: Creating the Future – Addressing Child Sexual Assault in Aboriginal Communities in NSW*, with the NSW Attorney-General’s Department. Vanessa has been writing psychological reports for people who have come into contact with the justice system for the past six years. Vanessa is a member of the independent advisory panel for the *Bugmy Bar Book*.

Dr Paul Gray is a Wiradjuri man and is an Associate Professor at the University of Technology Sydney Jumbunna Institute of Indigenous Education and Research. Paul has worked in a range of roles focused on the safety and wellbeing of Aboriginal children and young people. Paul has worked as a psychologist and in policy and project roles with the NSW Department of Communities and Justice, and served as the Executive Leader of Strategy, Policy and Evidence at AbSec (NSW Child, Family and Community Peak Aboriginal Corporation), the Aboriginal child protection peak organisation in NSW. In this role, Paul led the development of community-led approaches to child and family wellbeing and advocated for systemic and practice reforms grounded in the rights and interests of Aboriginal children, families and communities. Paul completed a DPhil in Experimental Psychology at St Catherine’s College, Oxford, investigating the relationship between early maltreatment and adolescent social and emotional processes. Paul is also a member of the Family Matters National Leadership Group, and the Aboriginal and Torres Strait Islander Working Group for the National Framework for Protecting Australia’s Children, and is a Director of the Australian Indigenous Psychologists Association.
# Contents

Introduction .................................................................................................................................................... 3
Summary.......................................................................................................................................................... 5

Social and Emotional Wellbeing of Aboriginal and Torres Strait Islander People .......................... 7
  Aboriginal and Torres Strait Islander cultures and identities ................................................................. 7
  Models of Social and Emotional Wellbeing ............................................................................................ 8
  Self-determination .................................................................................................................................... 11
  Cultural safety ........................................................................................................................................ 12
  Developmental models .............................................................................................................................. 13
  Intergenerational trauma and the need for healing ................................................................................. 15

Culture and Healing ..................................................................................................................................... 19
  Connection to culture: promotion of resilience and healing ................................................................. 19
  Importance of cultural identity in building resilience ............................................................................. 21
    Case study: Connection to Culture to Enhance Resilience ................................................................. 23
  Promoting Wellbeing and Healing ........................................................................................................ 24
  Enhancing social and emotional wellbeing ............................................................................................ 25
  Healing programs and approaches ........................................................................................................... 28
    Ngangkari (Cultural Healers) ............................................................................................................... 28
    Red Dust Healing .................................................................................................................................. 29
    The Marumali Journey of Healing ....................................................................................................... 29
    Deadly Connections Community and Justice Services ........................................................................ 30
  Engagement in culturally appropriate programs reduces the likelihood of recidivism ....................... 31
    Circle Sentencing ................................................................................................................................. 33
    Weave Youth and Community Services .............................................................................................. 33
  Effective prison programs ......................................................................................................................... 34
  Adverse outcomes associated with lack of cultural competence in treatment and assessment .......... 35
  Justice reinvestment ................................................................................................................................. 40
    Case Study: Just Reinvest NSW ........................................................................................................... 41

Impact of Imprisonment ............................................................................................................................. 42
  Impacts on individuals with cognitive or psychiatric disabilities .......................................................... 43
  Impacts on children and families ............................................................................................................ 45

Conclusions .................................................................................................................................................... 49
Introduction

1 This report has been commissioned by the Bugmy Bar Book. Its purpose is to collate research regarding the significance of culture to Aboriginal and Torres Strait Islander people and the significant benefits of connecting to culture, family and community as part of culturally appropriate treatment and care to promote wellbeing, rehabilitation and healing.

2 The authors acknowledge the Aboriginal and Torres Strait Islander peoples of Australia and pay respect to their Elders, and their ongoing custodianship of Country. We acknowledge the diversity of our communities, and the inalienable rights of Aboriginal and Torres Strait Islander peoples to freely determine their political status, and freely pursue their economic, social and cultural development.

3 The authors acknowledge for the purpose of rule 31.23 of the Uniform Civil Procedure Rules 2005 (NSW) that they have read the Expert Witness Code of Conduct in schedule 7 to the Rules and agree to be bound by it.

4 This report aims to outline the importance of culture in the context of rehabilitation and healing. Specifically, the report is focused on the following issues:

   i) key elements of culture which are significant to Aboriginal and Torres Strait Islander people;

   ii) the significance of culture and connection to culture for Aboriginal and Torres Strait Islander people;

   iii) whether (and, if so, how) connection to culture and involvement in cultural activities can have the capacity to promote resilience and promote healing;

   iv) the significance of self-determination in relation to treatment options for Aboriginal and Torres Strait Islander people;

   v) whether (and, if so, how) engagement in culturally appropriate programs can have the capacity to promote wellbeing and healing, increase the likelihood of recovery and reduce recidivism;

   vi) whether there are any limitations and/or adverse outcomes associated with a lack of cultural competence in treatment and/or assessment and, if so, what they are;

   vii) whether there are any additional hardships or difficulties that imprisonment or detention may have on Aboriginal and Torres Strait Islander children and adults suffering mental illness and/or cognitive impairments, and, if so, what the relevant additional hardships or difficulties are;

   viii) the significance of Aboriginal and Torres Strait Islander children being placed in kinship care;

   ix) the potential effects imprisonment may have on the children of parents and/or caregivers who are imprisoned; and

   x) the effects imprisonment or detention may have on the connection to culture of Aboriginal and Torres Strait Islander people.

5 In addition to the expert opinions of the authors, this report draws on existing literature relevant to the social and emotional wellbeing of Aboriginal and Torres Strait Islander peoples, and, where relevant, Indigenous peoples more broadly, as well as developmental approaches and evidence regarding effective service delivery with Aboriginal and Torres Strait Islander communities. Case studies are included as illustrative examples of positive programs or approaches consistent with key principles. However, it should be noted that Aboriginal and Torres Strait Islander communities are diverse, and have the right to

---

1 See http://publicdefenders.nsw.gov.au/barbook
determine their own social, cultural and economic development. Programs or approaches developed and implemented effectively in one community may be less effective in other communities, or in different circumstances. They should not be imposed on communities by external decision-makers, but developed by and for Aboriginal and Torres Strait Islander peoples, tailored to their specific social and cultural circumstances.

6. The language of social and emotional wellbeing and healing is used to reflect Aboriginal and Torres Strait Islander and broader Indigenous perspectives. ‘Wellbeing’ is understood to include individual, interpersonal and community elements, as well as consideration of the broader social context. Similarly, from this perspective, ‘healing’ is not intended to invoke an over-simplified medical model, but rather recognises the context of historical and ongoing trauma and violence inflicted by colonisation, racism and oppression, how they are experienced individually and collectively, and the importance of actively addressing these issues. It is noted that these experiences vary both within and across Aboriginal and Torres Strait Islander communities.

7. There has been significant work carried out exploring these issues. Numerous, repeated reviews have hardened the well-worn ground of the social determinants of incarceration, the over-incarceration of Aboriginal and Torres Strait Islander people in Australia, and the characteristics of services of supports which promote wellbeing and healing, and reduce recidivism. As will be discussed below, Aboriginal and Torres Strait Islander communities, through their own approaches and drawing on the strength of their cultures, are critical. There is a need for greater investment in such approaches, as well as the expert, culturally informed evaluation of Aboriginal and Torres Strait Islander community programs.\(^2\) Aboriginal and Torres Strait Islander-led evaluations will generate further systemic improvements and strengthen current knowledge regarding the important role of culture in rehabilitation and healing.

8. However, existing data regarding the ongoing over-incarceration of Aboriginal and Torres Strait children and adults clearly demonstrates that, in our view, current approaches are not adequate in addressing these issues. There are long-standing community concerns regarding over-policing, over-incarceration, and their disproportionate impact on Aboriginal and Torres Strait Islander peoples and communities, including deaths in custody. The current evidence demonstrates that the ‘status quo’ approach is not effective or sustainable, nor conducive to community trust in the justice system. We have endeavoured to outline the general status of the evidence to support improved approaches that will be more likely to achieve better outcomes for Aboriginal and Torres Strait Islander individuals, families, communities, and the broader Australian community.

9. The intention of this report is to focus on matters of rehabilitation and healing for Aboriginal and Torres Strait Islander peoples, with consideration given to the social and cultural marginalisation arising as a result of past and ongoing injustices associated with colonisation, and the implications of psychological research linking experiences of marginalisation and trauma, early life stress/adverse life experiences, and later outcomes.

10. To promote the accessibility of this report, the key issues outlined above (see paragraph 6) have been grouped into three main areas of discussion within this report. First, the report will explore current conceptualisations of social and emotional wellbeing relevant to Aboriginal and Torres Strait Islander people, in response to issues 1, 2 and 4 in paragraph 6 above. Second, the relationship between culture and healing will be explored, including recovery and recidivism, and the impact of cultural safety in service provision, relating to issues 3, 5 and 6. Finally, the impact of imprisonment will be explored, both for the incarcerated individual (issues 7 and 10) and their families (issues 8 and 9).

Summary

This report brings together evidence and experience related to the key issues outlined above, including conceptualisation of social and emotional wellbeing for Aboriginal and Torres Strait Islander people, the relationship between culture and healing and rehabilitation, the impact of cultural safety in service provision, and the broader impacts of imprisonment with respect to individual and collective wellbeing and healing, both for incarcerated individuals, their families and communities.

Conceptualisations of wellbeing, and therefore efforts for healing and rehabilitation, are intrinsically tied to culture, with Indigenous perspectives of wellbeing and healing reflecting holistic worldviews that consider connections between physical, social and emotional wellbeing, individual and collective wellbeing, and the impact of social, political and historical factors.

There is substantial overlap between evidence regarding the social determinants of offending and incarceration, experiences of intergenerational trauma (understood through developmental models), and the ongoing presence of key life stressors that uniquely or disproportionately affect Aboriginal and Torre Strait Islander people. These elements should be considered in responses intended to promote healing and rehabilitation.

In considering the social and historical context of approaches towards healing and rehabilitation, a key theme is that ‘cultural wounds require cultural medicines’. As such, healing and rehabilitation approaches must be culturally grounded, and require community-level, rather than simply individual-level, responses that build on the strengths of community and culture to revitalise connections to community and culture. Aboriginal and Torres Strait Islander peoples must be at the centre of the design and delivery of policies and services that affect them, consistent with their right to self-determination. Aboriginal and Torres Strait Islander cultures are diverse, and these elements must be determined by Aboriginal and Torres Strait Islander peoples themselves through their own processes, consistently with the principle of self-determination. This is an evidence-based policy setting for improving outcomes for Aboriginal and Torres Strait Islander people.

Culture, connection to culture, and self-determination are therefore central to understandings of Aboriginal and Torres Strait Islander wellbeing, and the achievement of optimal outcomes for social and clinical programs and services for Aboriginal and Torres Strait Islander individuals, families and communities.

Promoting social and emotional wellbeing and healing for Aboriginal and Torres Strait Islander people requires consideration of these broader social, economic, political and historic circumstances that constitute each individual’s developmental context and lived experience. Developmental frameworks suggest that these factors continue to shape behaviour and wellbeing across the lifespan (and indeed across generations) and are important considerations in developing individually tailored supports oriented towards rehabilitation and healing. These frameworks also remind us of the intergenerational implications of these systems, policies and programs.

Responding in ways that enhance and enable social and emotional wellbeing, rather than entrenching the social determinants of ill health and incarceration, is critical to intervening effectively in ongoing cycles of harm. These insights should inform the development of individually tailored and community-based supports oriented towards rehabilitation and healing. Such approaches should be grounded in culture and self-determination,

---

challenging and reconceptualising dominant frameworks, systems and approaches from the perspectives of Aboriginal and Torres Strait Islander peoples.

18 The evidence notes the importance of culture as a foundation for individual and collective resilience, healing and wellbeing, and identifies key characteristics to promote healing and wellbeing, including self-determination, and the application of trauma-informed principles. These principles are outlined in detail, along with case studies that provide examples of community- and place-based initiatives. Other opportunities to alter criminal justice systems and practice are touched upon, including Circle Sentencing and Justice Reinvestment approaches, to demonstrate the potential for structural change, although this has not been a focus of this report.

19 In general, effective approaches to healing and rehabilitation empower communities and individuals, emphasise culture and supportive relationships (both within and across generations), and foster core capabilities such as emotional regulation. They also foster a sense of mastery and re-establish important social and cultural norms that foster healing and rehabilitation. These features represent protective factors and strengths that may buffer the impact of other social and economic stressors, providing space for the development of core capabilities, and shifting from autonomic/reactive stress responses to more strategic, planned and goal-directed behaviours. In operating at both the individual and community level, they restore community governance and centre Aboriginal and Torres Strait Islander world views, strengthen interpersonal relationships and belonging, and contextualise the individual’s experience and behaviours in a way that foster understanding and promote personal healing.

20 The evidence also outlines that systems and approaches that lack cultural competence and grounding are likely to exacerbate existing challenges and perpetuate cycles of harm. This includes the harmful impacts of incarceration, particularly for distinct cohorts including those with a disability, as well as the implications for children and families. Processes for assessment and treatment generally fail to centre Indigenous perspectives and lack evidentiary validity. Ill-fitting approaches can undermine the sense of safety that is critical to realising opportunities for healing and rehabilitation. The development of assessment and treatment tools and approaches that are culturally grounded and validated must be prioritised and supported by culturally competent assessment practices. The evidence also emphasises the importance of Aboriginal and Torres Strait Islander communities being at the forefront of the design and delivery of effective responses for themselves – achieving approaches that reflect the complex nature of their challenges, and their broad impacts across communities.

21 Systems and programs that are likely to be most effective in promoting healing and rehabilitation are those that comply with these principles, and empower Aboriginal communities to design and deliver the services and supports they need. Importantly, such approaches will have a broad scope because, rather than being individual in focus, their focus is on addressing social and systemic factors that contribute to poorer outcomes (including social determinants of incarceration) for many individuals, and will likely have benefits over many generations.
Social and Emotional Wellbeing of Aboriginal and Torres Strait Islander People

Aboriginal and Torres Strait Islander cultures and identities

22 Aboriginal and Torres Strait Islander peoples are comprised of hundreds of language groups, nations and clans with dynamic, living cultures. As such, there is significant diversity with respect to key elements of culture and cultural practices, and how this is maintained and strengthened within and across Aboriginal and Torres Strait Islander communities. While some relatively common characteristics are discussed in broad terms below, it is not intended as an exhaustive or authoritative analysis of all such cultures, which is beyond the scope of this report and the authority of both authors. Aboriginal and Torres Strait Islander communities through their own processes are the appropriate custodians of, and authorities on, their cultures.

23 In very general terms, Aboriginal and Torres Strait Islander cultures are considered to be collectivist, emphasising relationships and interconnectedness between community members, and shared obligations to each other. This includes a key role for family and extended family, as well as a focus on kinship and community relationships beyond direct biological relationships. Aboriginal and Torres Strait Islander cultures generally include sophisticated systems to define and manage these complex relationships, and cultural obligations and responsibilities that arise from them.

24 This focus on connectedness and mutual obligation goes beyond relationships between community members and extends to Country, including the physical or natural environment, flora and fauna, and spiritual considerations. This focus also extends across time – concepts of custodianship and responsibility to Country generally emphasise long-term responsibilities reaching both into the past and for future generations. This includes the importance of sustainable practices that respect the interrelationships between all things. Concepts of respect, cultural obligation, and reciprocity are common. The focus on connectedness is reflected in Aboriginal and Torres Strait Islander wellbeing models outlined in the next section.

25 Identity in Aboriginal and Torres Strait Islander cultures is similarly considered in terms of relationships and connections to family, community and Country. Aboriginal and Torres Strait Islander identity and belonging is a function of family and community relationships, according to the perspectives and concepts of kinship within each Aboriginal and Torres Strait Islander community. While descent is a feature of these connections, this is understood in terms of connection and belonging to family, community and Country, defined by family relationships and belonging to place, and is mutually claimed. Except where interrupted through the forced removal and destruction of relationships by government policy and practices, individuals assert their identity based on family and community relationships and connection to Country, which are in turn acknowledged and accepted by their community.

26 In general, the biologically reductive perspectives of identity and belonging that are commonly imposed on Aboriginal and Torres Strait Islander communities are not prevalent within communities. This problematic conceptualisation of Aboriginal and Torres Strait Islander identity was a common feature of harmful protectionist and assimilationist periods of Australian policy intended to ‘breed out’ Aboriginal and Torres Strait Islander peoples and absorb them into the settler-colonial nation. Tuck and Yang observe that such approaches are a core feature of settler-colonialism. They note that the intention of these approaches is to disappear Indigenous peoples from the landscape in order to diminish (and ultimately
extinguish) the reality of Indigenous peoples’ existence, which challenges settler-colonial claims of ‘settlement’ and the possession of Indigenous lands.\(^4\)

27 Approaches that define identity by percentages or Western perspectives of the ‘authentic’ Aboriginal or Torres Strait Islander person remain deeply flawed, although certainly not uncommon, and in the experience of the authors tend to be resisted by Aboriginal communities. Aboriginal and Torres Strait Islander peoples are those who are descended from the First Nations peoples of this land, identify as such, and are accepted by their relevant Aboriginal or Torres Strait Islander community.

28 International human rights frameworks emphasise the right of peoples, including Indigenous peoples, to determine their own membership or citizenship, as well as their own social, economic and cultural development.\(^5\) Similarly, the United Nations Convention on the Rights of the Child emphasises in particular the right of Indigenous children to exercise their cultural rights in community with other members of their community.\(^6\) This reflects the living nature of culture, and the important role that it plays in individual and community development, identity and resilience. In particular, guidance regarding the implementation of the Convention notes that its explicit emphasis on the rights of Indigenous (and other minority) communities to enjoy their cultural rights reflects the frequency with which States have failed to safeguard, and in some circumstances have actually undermined, the full enjoyment of these rights for Indigenous children.\(^7\)

**Models of Social and Emotional Wellbeing**

29 Understanding wellbeing and healing for Aboriginal and Torres Strait Islander people requires a clear concept of social and emotional wellbeing from the perspective of Aboriginal and Torres Strait Islander communities. While there is significant diversity across Aboriginal and Torres Strait Islander peoples, broadly consistent conceptualisations of health and wellbeing, and principles for promoting optimal outcomes for Aboriginal and Torres Strait Islander peoples, have been clearly articulated for decades.

30 In the 1980s, Aboriginal organisations promulgated a broad definition of health that included the broader social, emotional and cultural wellbeing of the community. One influential definition put forward by the National Aboriginal and Islander Health Organisation and the National Aboriginal Community Controlled Health Organisation (NACCHO), and endorsed by the National Aboriginal Health Strategy, defined health as follows:

> Health does not just mean the physical well-being of the individual but refers to the social, emotional and cultural well-being of the whole community. This is a whole of life view and includes the cyclical concept of life-death-life. Health care services should strive to achieve the state where every individual can achieve their full potential as human beings and thus bring about the total well-being of their communities.\(^8\)

31 Swan and Raphael (1995) outline key principles in the consideration of Aboriginal and Torres Strait Islander health and wellbeing. These principles set out a holistic concept of health, including cultural validity in the assessment, care and management of health, that


appreciates the context of trauma and dispossession associated with invasion and colonisation, and is grounded in the human rights of Aboriginal people, including the right to self-determination. In particular, Swan and Raphael note:

[The] Aboriginal concept of health is holistic, encompassing mental health and physical, cultural and spiritual health. Land is central to well-being. This holistic concept does not merely refer to the “whole body” but in fact is steeped in the harmonised inter-relations which constitute cultural well-being. These inter-relating factors can be categorised largely as spiritual, environmental, ideological, political, social, economic, mental and physical. Crucially, it must be understood that when the harmony of these inter-relations is disrupted, Aboriginal ill health will persist.9

Models of Indigenous social and emotional wellbeing (SEWB) draw on these holistic approaches, outlining an understanding of wellbeing that positions individuals within their broader social, historical and political context.10 Within this context, domains of wellbeing – including connection to family in kin, to community, culture and Country, as well as mind, body and spirituality – represent ‘fundamental needs’ that are interconnected and interdependent. The diagram below represents the model outlined by Gee et al (2014), cited in Dudgeon et al (2020):

---

9 Ibid 19.
In outlining this framework, Dudgeon et al (2020) explain:

The SEWB model acknowledges the multiple and interrelated social, cultural, historical and political determinants of Indigenous mental health and wellbeing. The determinants impact individuals differently at different transition points across the life course. They include risk factors associated with marginalization, exclusion, forced removal from Family and Country, assimilation, racism and discrimination. These determinants also include protective factors such as active engagement in cultural practices related to Country and community self-determination associated with a sense of connection to Country and kin for individual and collective identity. These unique cultural protective factors are a source of strength and resilience for Indigenous communities. Programs and services that strengthen Indigenous self-determination and governance, support traditional cultural practices, and enhance these protective factors are crucial to Indigenous SEWB.11

In summary, Aboriginal and Torres Strait Islander conceptualisations of health and wellbeing reflect a holistic world view that positions the individual within their broader context of family, community, and environment. These approaches emphasise social determinants of health, and the need to address broader political, social, economic and cultural factors that may undermine wellbeing or promote resilience.

International evidence likewise emphasises the importance of the broader context. A series of research studies examining adolescent wellbeing and the incidence of suicide in First Nations communities in Canada identified a number of broader contextual factors that were associated with improved wellbeing and reduced incidence of youth suicide. The authors described the following factors collectively as reflecting ‘cultural continuity’:

- Achievement of a measure of self-government
- Have litigated for Aboriginal title to traditional lands
- Accomplished a measure of local control over health
- Accomplished a measure of local control over education
- Accomplished a measure of local control over policing services
- Had created community facilities for the preservation of culture.12

In particular, First Nations communities in British Columbia, Canada who had achieved all six markers had no cases of suicide among young people, while those without these factors tended to have rates significantly above the national average. A later study added additional indicators, including local control over child welfare, and at least 50% representation of women elected to local governance.13

Drawing on similar themes, Chandler and Dunlop (2015) argue that, while the impact of poor health and wellbeing affecting Indigenous peoples can be seen at the level of individuals, it is better understood as the result of a broad range of ‘cultural wounds’ inflicted upon whole communities through processes of colonisation. Addressing these issues requires actions and initiatives at the community level in ways that rebuild and revitalise connections to community and culture, and empower Aboriginal and Torres Strait Islander peoples to shape their own collective futures – ‘cultural wounds require cultural medicines’.14

---

12 Pat Dudgeon et al, Solutions that Work: What the Evidence and Our People Tell Us (Aboriginal and Torres Strait Islander Suicide Prevention Evaluation Project Report, November 2016) 12.
13 Ibid.
14 Chandler and Dunlop, ‘Cultural Wounds Demand Cultural Medicines’ (n 3) 78.
Self-determination

Aboriginal and Torres Strait Islander peoples being empowered to shape the social, cultural and economic development of their communities reflects the right to self-determination as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples.\(^\text{15}\) Recognition for Aboriginal and Torres Strait Islander peoples’ right to self-determination has been a key aspiration and point of political advocacy over numerous decades. The importance of exercising this right is supported by existing evidence. The Harvard Project on American Indian Economic Development found that Indigenous decision makers ‘consistently out-perform external decision makers – on matters as diverse as governmental form, natural resource management, economic development, health care and social service provision’.\(^\text{16}\) Recognition of the right to self-determination has been described as a key evidence-based policy setting in achieving improved outcomes for Indigenous peoples.\(^\text{17}\)

Similarly, the National Agreement on Closing the Gap (‘National Agreement’) recognises the importance of Aboriginal and Torres Strait Islander control of service design and delivery in achieving optimal outcomes. The National Agreement ‘stems from the belief that when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of services that affect them, better life outcomes are achieved’.\(^\text{18}\)

In particular, the National Agreement seeks to implement a partnership approach that prioritises Aboriginal and Torres Strait Islander cultures and recognises the importance of cultural wellbeing and practices as part of a holistic approach to social and emotional wellbeing for Aboriginal and Torres Strait Islander peoples. It explicitly acknowledges that ‘strong Aboriginal and Torres Strait Islander cultures are fundamental to improved life outcomes for Aboriginal and Torres Strait Islander people’.\(^\text{19}\)

The National Agreement reflects this holistic approach to social and emotional wellbeing and the self-determination of Aboriginal and Torres Strait Islander peoples through the priority reforms proposed (formal partnerships and shared decision making, building the community-controlled sector, transforming government organisations, and shared access to data and information at a regional level) and the broad scope of targets included in the Agreement.

The central place of culture and self-determination in wellbeing and healing for Aboriginal and Torres Strait Islander people is also reflected in the Australian Health Practitioner Regulation Agency’s Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020–2025.\(^\text{20}\) The Strategy’s vision again centres the importance of culture in service provision and patient safety, which ‘includes the inextricably linked elements of clinical and cultural safety’.\(^\text{21}\)

---


\(^{18}\) Coalition of Aboriginal and Torres Strait Islander Peak Organisations and Australian Government, National Agreement on Closing the Gap (July 2020) 2 [6].

\(^{19}\) Ibid 4 [20].


\(^{21}\) Ibid 7.
Cultural safety

Cultural safety has been defined by the Australian Health Practitioner Regulation Agency as follows:

Cultural safety is determined by Aboriginal and Torres Strait Islander individuals, families and communities.

Culturally safe practice [sic] is the ongoing critical reflection of health practitioner knowledge, skills, attitudes, practising behaviours and power differentials in delivering safe, accessible and responsive healthcare free of racism.

... To ensure culturally safe and respectful practice, health practitioners must:

a. Acknowledge colonisation and systemic racism, social, cultural, behavioural and economic factors which impact individual and community health;
b. Acknowledge and address individual racism, their own biases, assumptions, stereotypes and prejudices and provide care that is holistic, free of bias and racism;
c. Recognise the importance of self-determined decision making, partnership and collaboration in health care which is driven by the individual, family and community;
d. Foster a safe working environment through leadership to support the rights and dignity of Aboriginal and Torres Strait Islander people and colleagues.

This approach to cultural safety in health care service provision aligns with a holistic conceptualisation of health and wellbeing as outlined above, and the central place of culture and self-determination both in individual and community wellbeing.

In summary, conceptualisations of wellbeing and healing are intrinsically tied to culture. Culture is not merely ‘important’ in the provision of rehabilitation, treatment and other healing or wellbeing services, but is a fundamental element of the concept of wellbeing for Aboriginal and Torres Strait Islander people. As noted above, ‘when the harmony of these inter-relations is disrupted, Aboriginal ill health will persist’.

Closely related to the practice of culture for Aboriginal and Torres Strait Islander peoples in the design and delivery of policies and services that affect them is the right to self-determination. Aboriginal and Torres Strait Islander cultures are diverse, and these elements must be determined by Aboriginal and Torres Strait Islander peoples themselves, through their own processes, consistent with the principle of self-determination.

Importantly, and as noted above, self-determination, and the exercise of control over policies and programs that affect Aboriginal and Torres Strait Islander peoples is associated with improved outcomes. When Aboriginal and Torres Strait Islander peoples are empowered to exercise control in these areas, approaches will reflect the cultural values and beliefs of the communities they serve and are likely to achieve significantly improved outcomes as a result.

Culture, connection to culture, and self-determination are therefore central to understandings of Aboriginal and Torres Strait Islander wellbeing, and the achievement of optimal outcomes for social and clinical programs and services for Aboriginal and Torres Strait Islander individuals, families and communities.

22 Ibid 9.
23 Swan and Raphael (n 8) 19.
**Developmental models**

49 Psychological models of development emphasise the ongoing interaction between genetic inheritance and the impact of the developmental environment for the developing brain, and the development of key social, emotional, cognitive and behavioural skills and patterns.24 This includes epigenetic mechanisms by which environmental factors influence the expression of various genes.25 These mechanisms describe not only the way that environmental factors influence long-term behaviour and health, but also the transmission to subsequent generations.26 Research suggests that both positive experiences (such as enriched early environments and supportive relationships) and adverse childhood experiences impact on these mechanisms, with implications for lifelong health and wellbeing.27

50 Significant research has examined the impact of Adverse Childhood Experiences (ACEs) on development, and associated lifelong health, social and behavioural outcomes.28 ACEs include childhood abuse and neglect, exposure to family violence, parental mental illness, substance use, incarceration or separation, and exhibit a dose-response relationship, such that exposure to increased ACEs are associated with significantly greater lifelong negative impacts. While the presence of at least one ACE is not uncommon, Aboriginal and Torres Strait Islander people tend to experience more ACEs than other populations.29

51 Developmental models offer an explanation for the impact of early life experiences on later health and wellbeing outcomes. These models emphasise the interaction of early environment (and particularly relationships) on the maturing brain, laying the foundation for future social, emotional and cognitive processes.30 Early calibration of the stress response system provides the foundation for future engagement with the environment and processing of perceived threats, and is dependent on both the incidence of stressful life events and mitigating factors including the critical role of caregiver relationships that can buffer the impact of stressors. In particular, evidence suggests that core capabilities including self-regulation (how we regulate our responses to our physical and social world) and executive functioning (including skills like working memory, mental flexibility, planning) are central to lifelong wellbeing, and assist how we manage social relationships, education and work, and parenting and caregiving responsibilities.31

52 The Center on the Developing Child at Harvard University has described how these critical core capabilities develop throughout childhood, adolescence and into adulthood, with the

---


25 Epigenetic influences ‘are one of the biological mechanisms through which the environment of relationships, the physical, chemical, and built environment, and early nutrition all get “under the skin” and influence lifelong learning, behavior and health’; research has shown that, as well as during early development, such changes can occur during pregnancy and can be transmitted to subsequent generations, ‘thereby affecting the health and well-being of children, grandchildren, and even their descendants’: Center on the Developing Child at Harvard University, *From Best Practices to Breakthrough Impacts: A Science-Based Approach to Building a More Promising Future for Young Children and Families* (Report, May 2016) 8.


27 Ibid.


29 Emerging Minds and Australian National University, *Adverse Childhood Experiences (ACEs): Summary of Evidence and Impacts* (Fact Sheet, January 2020) 1.

30 See Loman and Gunnar (n 24) and Bock et al (n 24).

31 *The Science of Adult Capabilities*, Center on the Developing Child at Harvard University (Web Page).
foundations developed early in life through experience, and are actively supported by attuned, responsive relationships with parents and other caregivers. These interactions provide the scaffolding for future development.

53 Drawing on existing research, the Center on the Developing Child notes:

Chaotic, stressful and/or threatening situations can derail anyone, yet individuals who experience a pile-up of adversity are often less able to deploy all of the skills they have to cope with challenging circumstances. Early in life, the experience of severe, frequent stress directs the focus of brain development toward building the capacity for rapid response to threat and away from planning and impulse control. In adulthood, significant and continuous adversity can overload the ability to use existing capacities that are needed the most to overcome challenges.  

54 The implications for this early development context persist over the lifetime:

As a result, many adults who have been raised in conditions of significant stress—or who are currently undergoing acute stress—struggle to keep track of the multiple problems in their lives, analyze those problems, explore options for dealing with them, and set priorities for how best to move ahead. Stress also hijacks our good intentions and increases the likelihood that we will be swept away by our impulses or automatic responses. So, even if we manage to develop a good plan, we will find it harder to stick to it if we are under a pile-up of stress.

55 In this way, a family’s environmental and social circumstances influence the developmental outcomes of its children, forming a mechanism for intergenerational transmission. However, researchers stress that such outcomes are not pre-destined:

Young children who have been exposed to adversity or violence do not invariably develop stress-related disorders or grow up to be violent adults. Although children who have these experiences clearly are at greater risk for adverse impacts on brain development and later problems with aggression, they are not doomed to poor outcomes. Indeed, they can be helped substantially if reliable and nurturing relationships with supportive caregivers are established as soon as possible, and appropriate treatments are provided as needed.

56 In a review of the evidence, the Center of the Developing Child at Harvard University notes that a number of factors that can promote resilience despite the experience of adversity. These factors include supportive relationships, building a sense of self-efficacy and perceived control or empowerment, actively strengthening core capabilities of self-regulation and executive functioning, as well as the protective benefits of sources of faith, hope and cultural traditions. Further, resilience can be context specific.

57 Similarly, systems and programs can be designed in ways that reflect this evidence base, interrupting the intergenerational transmission of trauma and entrenched disadvantage and promoting resilience and improved outcomes for children and families trapped in cycles of adversity. Such approaches should aim to build and maintain responsive, supportive relationships for children and adults, address sources of stress in the lives of children and their families and strengthen core capabilities (see Figure 2). This includes developing service systems to alleviate the stress associated with poverty, fulfilling basic needs for families and ensuring that service access does not exacerbate the experience of stress or otherwise undermine the exercise of core capabilities.

---

32 Ibid (emphasis in original).
33 Ibid.
34 ‘8 Things to Remember about Child Development’, Center on the Developing Child at Harvard University (Fact Sheet).
35 ‘Resilience’, Center on the Developing Child at Harvard University (Web Page).
36 Ibid.
37 Center on the Developing Child at Harvard University, Three Principles to Improve Outcomes for Children and Families (Report, April 2021) 1.
38 ‘Building Adult Capabilities’, Center on the Developing Child at Harvard University (Web Page).
In addition to these broader systemic efforts, individualised approaches can be implemented that are tailored to the circumstances of families, and provide support and coaching to learn, practise and apply skills in self-regulation and executive functioning, including interrupting ‘automatic’ stress-related responses and applying more deliberative, goal-oriented responses.\(^{39}\)

**Intergenerational trauma and the need for healing**

Models of intergenerational trauma emphasise the way traumatic experiences for individuals or communities impact subsequent generations. The 2019 report of the Independent Review of Aboriginal Children and Young People in Out of Home Care, *Family Is Culture*,\(^ {40}\) provided a useful summary of the literature, noting the impact of colonisation on Aboriginal and Torres Strait Islander families and communities. Citing the work of Wesley-Esquimaux and Smolewski (2004), it was noted that intergenerational transmission of trauma includes biological, cultural, social and psychological mechanisms:

> Trauma memories are passed to next generations through different channels, including biological (in hereditary predispositions to post-traumatic stress disorder), cultural (through storytelling, culturally sanctioned behaviours), social (through inadequate parenting, lateral violence, acting out of abuse), and psychological (through memory processes) channels.\(^ {41}\)

The *Family is Culture* report noted that many of the ways in which intergenerational trauma manifests in the lives of Aboriginal and Torres Strait Islander people are associated with the justifications for the removal of Aboriginal and Torres Strait Islander children from their...

---

39 Ibid.
families – including impacts of mental health, domestic and family violence, substance misuse and homelessness.42

A 2017 literature review, Trauma, Child Development, Healing and Resilience: A Review of Literature with Focus on Indigenous Peoples and Communities, likewise emphasised the enduring impacts of colonisation and the destruction of Indigenous families and cultures, noting that ‘cross-generational impacts of these injuries as legacies of risk and vulnerability were passed from ancestors to descendants in unremitting fashion until ‘healing’ interrupts these deleterious processes’.43

Based on their review of the available evidence, LaBoucane-Benson, Sherren and Yerichuk concluded that there are

three conditions for the building and maintaining of family and community resilience and for healing from the effects of historic trauma: reclaiming an interconnected relationships-based worldview and legal tradition; reconciliation of damaged relationships; and recovering the power to respectfully self-determine.44

Their work also identified three key focus areas: ‘reclaiming the mediating role of the Indigenous family’ – building family resilience through respectful relationships within the family, and between the family and community and culture; ‘interconnected family services’ – providing holistic family services grounded in culture; and ‘healing theory and programs’ – approaches that include historical context (including the impact of colonisation), culture connectedness, and centre culture concepts in healing.45 This includes challenging or reconceptualising dominant Western concepts (such as self-actualisation and attachment) from Indigenous perspectives, providing a framework for being and a secure base for development that is grounded in the cultural worldview of Indigenous peoples, and the child’s development as an Indigenous person, in their family, community, cultural and historical context.46

The 2017 report of the Australian Law Reform Commission’s Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples, Pathways to Justice, identified intergenerational trauma as a key driver of the disproportionate incarceration of Aboriginal and Torres Strait Islander people.47 The Inquiry found that intergenerational trauma contributed significantly to the disproportionate experience of social and economic factors that are recognised as determinants of incarceration among Aboriginal and Torres Strait Islander communities.48

Trauma-informed policy settings are critical to disrupting the intergenerational transmission of trauma and achieving healing for Aboriginal and Torres Strait Islander children, families and communities.49 The Pathways to Justice report noted the following key principles of a trauma-informed approach:

- understand trauma and its impact on individuals, families and communal groups;
- promote safety;

44 Ibid 4.
46 Ibid.
47 Australian Law Reform Commission, Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples: Final Report (ALRC Report No 133, December 2017) 79–81 (‘Pathways to Justice’).
48 Ibid.
49 The Healing Foundation, Bringing Them Home 20 Years On: An Action Plan for Healing (Report, 2017) 30; Megan Davis, Family is Culture (n 40); Australian Law Reform Commission, Pathways to Justice (n 47).
Healing programs for Indigenous peoples operate both at the community and individual level, restoring community governance and centring community worldviews, and strengthening interpersonal relationships and community connections, contextualising the individual's experience and motivating personal healing:

healing programs must create an environment where individuals can situate their behaviour within the context of colonial and family history, understand (be responsible for) their own historic trauma informed behaviours, as well as create the desire to make amends and move forward on their own long-term healing journey.51

These diverse perspectives present a consistent conceptualisation of trauma, its impact on development, and its transmission across generations, and the key features of healing and rehabilitation for Indigenous people that include systemic, structural, community and individual dimensions. These healing approaches are necessary to interrupt circumstances of risk and vulnerabilities that will otherwise persist across the life course, and across generations.

There is substantial overlap between the social determinants of incarceration, the developmental impacts of ACEs and early life stress, and the experience of stressors that contribute to, and in some cases overwhelm, the core capabilities of Aboriginal and Torres Strait Islander individuals and families. This convergence across various sources of evidence regarding the intergenerational transmission of adversity (and the mechanisms thereof) informs the need for key policy settings and programs designed to address these impacts both in the lives of individuals, and across generations, through systems, policy reforms, and tailored services and supports.

The research described above demonstrates the importance of ‘trauma-informed’ systems, policies and programs, and the principles that characterise such approaches. This includes the importance of culture and the role of families (including extended family/kin) and communities in providing supportive relationships that may buffer the impact of other social and economic stressors, providing space for the development of core capabilities, and shifting from autonomic/reactive stress responses to more strategic, planned and goal directed behavioural sets. Such actions are likely to have important benefits both in lowering the incidence of offending behaviours, as well as increasing the experience of supportive environments for children and families in ways that intervene in the intergenerational transmission of trauma.

This framework also aligns with Aboriginal and Torres Strait Islander social and emotional wellbeing (‘SEWB’) models, which emphasise the interrelationship of family and community relationships, culture, and physical and mental health, in the context of broader social, economic and historic factors, and their importance in lifelong wellbeing. As such, the systems and programs likely to be most effective in promoting healing and rehabilitation are those that comply with these principles, and that empower Aboriginal communities to design and deliver the services and supports they need. Importantly, such approaches will have a broad scope because, rather than being individual in focus, the focus is instead on

51 LaBoucane-Benson, Sherren and Yerichuk (n 43) 93.
addressing social and systemic factors that contribute to poorer outcomes (including social determinants of incarceration) for many individuals and will likely have benefits over many generations.

70 The Aboriginal and Torres Strait Islander social and emotional wellbeing frameworks and the developmental literature discussed above outline the ways in which past and enduring social, political and economic circumstances affect individuals and communities, and the interactive relationship between them. These contribute to, and are affected by, the presence of social determinants of offending and their impacts over time. Promoting social and emotional wellbeing and healing for Aboriginal and Torres Strait Islander people requires consideration of these broader social, economic, political and historical circumstances that constitute each individual’s developmental context and lived experience. These frameworks suggest that these factors continue to shape behaviour and wellbeing across the lifespan (and indeed across generations) and are important considerations in developing individually tailored supports oriented towards rehabilitation and healing.

71 These frameworks also remind us of the implications of the actions taken today for subsequent generations. Responses that enhance and enable social and emotional wellbeing, rather than entrenching the social determinants of ill health and incarceration, are needed to intervene in cycles of harm. These conclusions must inform the development of individually tailored supports oriented towards rehabilitation and healing. Such approaches should be grounded in culture and self-determination, challenging and reconceptualising dominant frameworks, systems and approaches from the perspectives of Aboriginal and Torres Strait Islander peoples.
Culture and Healing

Aboriginal and Torres Strait Islander conceptualisations of wellbeing and healing are inextricably bound to cultural understandings of connectedness: our sense of self, identity, and sense of belonging to family, community and Country. Engagement in, and respect for these cultural frameworks and traditions promotes resilience and is critical to healing.

The Bringing Them Home report (1997) emphasised the need for culturally appropriate services and programs to address the social and emotional wellbeing of Aboriginal and Torres Strait Islander people. Since then, there has been significant research into the ways in which connection to culture and involvement in cultural activities has the capacity to promote resilience and promote healing:

Protective attributes – some of which (such as the continuing strength of kinship systems and the maintenance of connection to spiritual traditions, ancestry, country and community) can be seen to being unique to Indigenous people – have enabled many people to transcend painful and personal histories.

Healing refers to ‘recovery from the psychological and physical impacts of trauma [which] is predominantly the result of colonisation and past government policies.’ Voices from the Campfires, the report of the Aboriginal and Torres Strait Islander Healing Foundation Development Team’s findings from a national consultation process conducted from May to August 2009, explains healing as ‘a spiritual process that includes addictions recovery, therapeutic change and cultural renewal’. It explains that ‘healing is holistic and involves physical, social, emotional, mental, environmental and spiritual wellbeing’. Programs which incorporate these elements build strength in identity, enhance cultural resilience and aid in the recovery from past traumas in a culturally safe way.

The evidence outlined above identifies important insights from psychological models of wellbeing and development, including Aboriginal and Torres Strait Islander frameworks of Social and Emotional Wellbeing, emphasising holistic approaches that consider individual, relational, social and historical factors. It emphasises the importance of culture as a foundation for individual and collective resilience, healing and wellbeing, and identifies key approaches to promote healing and wellbeing, including self-determination, and the application of trauma-informed principles. Such approaches empower communities and individuals, emphasise culture and supportive relationships (both within and across generations), and foster core capabilities such as emotional regulation.

Connection to culture: promotion of resilience and healing

Since 2009, the Healing Foundation has partnered with communities across Australia to build culturally strong and locally designed and delivered healing programs, and communicate their impact and the benefits of healing. The creation of safe places where people can talk and access support is a crucial first step in the healing process, as this increases a sense of safety and enables the building of safe and healthy connections, which

---

53 Catherine Caruana, ‘Healing Services for Indigenous People’ (Information Sheet, Family Relationships Quarterly No 17, September 2010) 5.
55 Aboriginal and Torres Strait Islander Healing Foundation Development Team. Voices from the Campfires: Establishing the Aboriginal and Torres Strait Islander Healing Foundation (Report, 2009) 4.
56 Ibid.
are essential elements of healing from trauma.\textsuperscript{57} Healing activities can include yarning circles, gatherings, healing camps, counselling, art, dance, song, weaving, cultural ceremony and culturally safe referral pathways. Family and community healing is recognised as 'integral to Aboriginal and Torres Strait Islander peoples' wellbeing'.\textsuperscript{58} Aboriginal and Torres Strait Islander people have engaged in cultural practices that enhance their social and emotional wellbeing for thousands of years. These practices align with our concept of health as holistic and constitute our cultural wellbeing.

As well as strengthening a sense of identity and connectedness, neuroscience demonstrates that cultural practices such as dance, art, song and storytelling stimulate the part of the brain that manages emotion and memory.\textsuperscript{59} Tyng et al explain:

> Emotion has a substantial influence on the cognitive processes in humans, including perception, attention, learning, memory, reasoning, and problem solving. Emotion has a particularly strong influence on attention, especially modulating the selectivity of attention as well as motivating action and behavior ... Emotion also facilitates encoding and helps retrieval of information efficiently.\textsuperscript{60}

Past traumas elicit memories which in turn create an emotional response. By stimulating the part of the brain that manages emotion and memory through rhythmic patterned responses, traumatic memories and emotions can be regulated through sensory activities to change the brain and assist the integration of these memories.

Perry further supports Tyng et al by emphasising that patterned, repetitive activities shape the brain in patterned ways, while chaotic experiences create chaotic dysfunctional organization. Therapeutic activities, then, are most effective when implemented with focused repetition targeting the neural systems one wishes to modify.\textsuperscript{61}

It is well established in neuroscience research that trauma significantly impacts on brain development.\textsuperscript{62} Early developmental trauma (in utero and/or during the first four years of life) and neglect can have a significant impact on the brain's organisation and functioning. This can result in an individual experiencing difficulty with regulating their emotions, impulsivity, cognition, language development and attention/concentration difficulties.

Neuroscience research explicitly discusses regulating activities that help the brainstem increase its window of tolerance to stress.\textsuperscript{63} These regulating activities have been part of our cultural practices for thousands of years.

Reinforcing the observations of Tyng et al, the Healing Foundation indicates that 'cultural practices that involve repetition and rhythm, such as weaving, playing didgeridoo, drumming and dance, are calming, trauma-informed processes that were central to Aboriginal and

---

\textsuperscript{57} The Healing Foundation, \textit{Growing Our Children up Strong and Deadly: Healing for Children and Young People} (Report, 2013) 9.
\textsuperscript{60} Chai M Tyng et al, ‘\textit{The Influences of Emotion on Learning and Memory}’ (2017) 8:1454 \textit{Frontiers in Psychology} 1.
\textsuperscript{61} Bruce D Perry, ‘Examining Child Maltreatment Through a Neurodevelopmental Lens: Clinical Applications of the Neurosequential Model of Therapeutics’ (2009) 14 \textit{Journal of Loss and Trauma} 240, 252.
\textsuperscript{62} See, eg, Bessel A Van Der Kolk, \textit{The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma} (Penguin Books, 2015).
Torres Strait Islander life. Healing restores pride in cultural identity and connection to country.  

Working from a trauma informed perspective requires developmentally appropriate use of the body to ‘restore and regulate the brain’s response to stress, sensory responses, implicit memories, self-protective reflexes; and fight, flight, survival responses’.  

There is significant research that notes that the body retains a memory and contains traumatic memories therefore ‘trauma resolution cannot be completed without learning to use the body as a resource in the healing process’.

The involvement of cultural practices that use the body and are regulating through patterned, repetitive and rhythmic activities assist in developing new implicit memories that are culturally safe and culturally responsive and assist in regulating levels of arousal, emotions and behaviour. Perry emphasises that repetition and routine are crucial to a person’s recovery, observing that patterned, repetitive experiences change the brain, and the more this is repeated the more ingrained it becomes:

The only way to move from high anxiety states to calmer more cognitive states is rhythm … Patterned, repetitive rhythmic activity use brain stem-related somatosensory networks which make the brain accessible to relational reward and cortical thinking … Patterned, repetitive, rhythmic somatosensory activity elicits a sensation of safety.

Perry further observes:

Rhythm is regulating. All cultures have some form of patterned, repetitive rhythmic activity as part of their healing and mourning rituals – dancing, drumming, and swaying.

Western therapies which do not use the body through somatosensory activities to regulate to restore safety, and rely on accessing cognitions through talking therapies alone, often ‘force, or push people to open up when they aren’t ready’, which can cause considerable damage and can be re-traumatising:

Cognitive behavioural therapy (CBT) and other verbal therapies require a developed frontal cortex. If a person is in a persistent fear state, it is unlikely that they are able to access their frontal cortex until their brain stem is regulated by safe, predictable, repetitive sensory input.

**Importance of cultural identity in building resilience**

As discussed above, culture and identity are a key part of Aboriginal and Torres Strait Islander Social and Emotional Wellbeing (SEWB) frameworks. Evidence suggests that a strong cultural identity is associated with a sense of purpose and belonging, increased social support (relational health) and self-worth:

---

66 Ibid.
69 Perry and Szalavitz (n 63) 275.
70 Ibid.

---
[Possessing] a strong cultural identity has been found to promote resilience, enhance self-esteem, engender pro-social coping styles and has served as a protective mechanism against mental health symptoms. Moreover, cultural identity may buffer discrimination-induced distress.72

The maintenance and cultivation of cultural identity is through strong bonds to country, family, connection to Elders, kinship obligations, participating in cultural practices, self-determination principles and community governance. Drawing on the evidence regarding recovery from addiction for Aboriginal people, Milroy, Dudgeon and Walker state that ‘Aboriginal culture is more collective than individualistic, held together through a kinship system involving a shared sense of identity, responsibility, care and control’.73 As Gee and colleagues explain, maintaining or restoring SEWB is about supporting Aboriginal and Torres Strait Islander peoples to maintain a secure sense of cultural identity and cultural values, and to participate in cultural practices that allow them to exercise their cultural rights and responsibilities.74

The experience of our history of trauma and loss has significantly impacted on our social and emotional wellbeing. It has created significant disadvantage and adverse life events that have had a profound impact on Aboriginal people. Despite these adverse life events, Aboriginal and Torres Strait Islander people are strong and resilient because of their cultural identity and their connectedness and belonging to family, community and Country. Further, the strengthening of culture is a protective factor which serves to build resilience, enhanced health outcomes, improvements in education and employment, and positive coping strategies to deal with life stressors and the continued impacts of colonisation.75 For Milroy, Dudgeon and Walker, ‘the notion of being Aboriginal – of being connected to family, kin, and community – continues to inform cultural identity’.76

72 Ibid 1.
75 Ibid 61–2.
76 Milroy, Dudgeon and Walker (n 73).
Case study: Connection to Culture to Enhance Resilience

In 2019 a 19-year-old Aboriginal male was charged by police. He was remanded in custody and released two weeks later to the care of his father and Uncle. His Uncle started to take him fishing every day. His Uncle had a vast knowledge of the river and the water systems on their country. His Uncle took him to look for the appropriate bait to catch particular fish. Their collective knowledge of the river system allowed them to fish in particular areas to catch different fish. This was also important to ensure that each species of fish survived and continued to be plentiful. During this time together, important conversations around culture, the importance of caring for country and strength in Aboriginal identity occurred.

As a result of their time together, the young man’s Uncle developed a series of 12-week programs to assist other Aboriginal youth who were experiencing significant problems in their lives and were before the criminal justice system. Uncle designed these programs in recognition that these young people required the support of Elders and connecting back to culture as a means of healing. Uncle could see that the young people, including his nephew, shared in common poor self-esteem, were lost and had no purpose, lacked cultural knowledge and pride in their culture and identity. Uncle stated ‘This society has not instilled one positive thing in Aboriginal kids. This creates a sense of hopelessness and a lack of pride in their identity’.

Uncle and his nephew collectively designed the programs. His nephew played an active role in organising the equipment, activities and being a mentor to the younger youth who participated. During these cultural camps, the young people learnt that Aboriginal people were astronomers. This was evidenced by 20,000-year-old rock carvings at Ku-ring-gai Chase depicting the Milky Way. Next to this carving, a large emu is engraved, reflecting the emu in the sky and its constellations. They learnt about the 29 Aboriginal clans in the Sydney Basin also depicted in the rock carvings. They listened to stories about Pemulwuy, a great Aboriginal warrior from the Eora nation, who led the resistance against the British. They travelled back to their Country and it was here they learnt the importance of caring for Country. They learnt what you could hunt, what species you could hunt and how to hunt them. They learnt how to catch the feral goats with dogs by using the appropriate commands. They learnt how to go ‘pigging’, again relying on the knowledge of commanding the dogs. They learnt how to make bamboo rods to snare birds. They learnt to walk softly and where to walk so as to not make a noise whilst hunting or snaring birds. They learnt about the seasons and how this impacted on what food was available and when it was ready to hunt and eat. They learnt to fish and to find the right bait to catch different species of fish. They learnt to find witchetty grubs in the trees, bardi grubs in the ground and yabbies in the creeks. They went turtle diving in the Manning River and caught turtles to eat. They learnt how to cook these turtles in the ground with coals and what part of the turtle to eat to get the most meat. They went to the North Coast and swam in the bottomless freshwater pools. They travelled to Moree and swam in the naturally occurring thermal pools in paddocks and along the roadside. They would have campfires each night and talk about how strong Aboriginal people are. Uncle would show photos of Aboriginal men who were strong, black and proud. They were hunters and warriors. He would tell the young people, ‘This is who we are, and this is what we have come from. Be proud to be who you are and where you have come from’. Uncle would tell them stories about how clever Aboriginal people were and are. He told them that Aboriginal people created aviation through their knowledge of what creates ‘lift’ in the use of the boomerang. ‘There is a boomerang on every plane. Can’t improve on perfect’. These young men left these camps stronger and taller.
**Promoting wellbeing and healing**

90 Despite the impacts of colonisation, kinship systems continue to be strong today: ‘The family network governs almost all social interactions and these extended family networks play an important role in promoting wellbeing and healing across generations’.\(^{77}\) Connection to family continues to reinforce and maintain interconnectedness through the maintenance of cultural ties and important relationships, supporting a sense of belonging that promotes wellbeing and healing.

91 Figure 3 below, from Milroy, Dudgeon and Walker (2014), shows the ‘interrelatedness of the ways in which the ongoing history of transgenerational trauma impacts on individual, family and community SEWB, and specific pathways to recovery’.\(^{78}\) According to the authors:

> While each of the circles encompass the specific pathways to recovery related to each of three trauma themes, in combination they affirm that recognition of cultural strengths and facilitation of Aboriginal ways of working (and of leadership, healing and empowerment) is fundamental to promoting sustainable recovery. At the centre where the circles overlap each of the pathways of recovery come together containing the overall strength and recovery which in combination provide the holistic sense of health and SEWB (for individual, family and community).\(^{79}\)

---

\(^{77}\) Ibid 423.

\(^{78}\) Ibid.

\(^{79}\) Ibid.
The importance of self-determination, and the positioning of Aboriginal and Torres Strait Islander peoples as experts in their own lives and recovery, is central to the development of wellbeing. Culturally appropriate programs to enhance social and emotional wellbeing need to be developed from community, with community protocols and community governance structures. Milroy, Dudgeon and Walker have observed that [to] redress the generational and current levels of loss and grief it is necessary to strengthen connections to culture, community, family and spirituality. Importantly, reclaiming the history of the group and creating an ancestral and community story of connection to family and country, will help to restore a sense of cultural continuity.

Such programs, which may include men’s and women’s groups, Link-up and family reunification services, and programs aimed at recording, strengthening and maintaining culture (such as language programs, art and dance programs and community cultural celebrations) understand the ‘historical legacy of loss in the broadest sense’ and are directed towards cultural and community initiatives that ‘enhance a sense of connectedness, inclusion and cohesion, and contemporary processes that can assist in recovery’.

Programs should also foster a ‘sense of mastery’, seen as critical for resilience and self-confidence, and strengthening of the role of self, family and community necessary to re-establish important social and cultural norms that form the ‘social fabric that keeps us grounded in supportive relationships’ and provides the foundation for resilience. Milroy, Dudgeon and Walker identify that the goal in designing such programs is ‘to build community capacity for the establishment of wellbeing, as well as strengthen positive coping and recovery’ through ‘enhancing the individual, family, and community’s ability to recognise problems, deal with them proactively, seek help as required, and improve the responsiveness and appropriateness of services’.

Enhancing social and emotional wellbeing

The evidence outlined above demonstrates that enhancing Aboriginal and Torres Strait Islander peoples’ social and emotional wellbeing requires ‘programs that focus on restoring and building on Aboriginal strengths’. The importance of Aboriginal and Torres Strait Islander community-led programs is a central feature of successful program-building strategies. This is because of their understanding that ‘the promotion of culture and the facilitation of the voice of their communities and children are essential in building the resilience of their children in the context of their hybrid, colonised world’. They understand the centrality of ensuring programs foster good SEWB by working ‘upstream’, to enable Aboriginal people to enhance and build on their unique sources of strength and resilience linked to their social cohesion and connections to family and kin, country and cultural identities...

A review of violence prevention programs for Australian Aboriginal and Torres Strait Islander peoples by Memmott et al found the key elements of good practice to be cultural and

---

80 Ibid 426.
81 Ibid 427.
82 Ibid 428.
83 Ibid 429.
86 Pat Dudgeon et al (n 84) 438.
community grounding of projects; ensuring elders were involved; engaging men in projects; individual capacity building (increasing self-esteem and self-empowerment); the examination of intergenerational family history and colonial experience as a feature of healing; group approaches rather than individual approaches; community capacity building and capacity building through networks and partnerships; collecting information and disseminating the information; skills acquisition; and flexibility and adaptability of projects.87

The Aboriginal and Torres Strait Islander Emotional and Social Wellbeing (Mental Health) Action Plan 1996–2000 was developed in response to the findings and recommendations of the Ways Forward report (1995), the Royal Commission into Aboriginal Deaths in Custody (1991) and the Report of the National Inquiry into the Human Rights of People With Mental Illness (1993).88 The findings from these reports emphasised the ‘need for culturally appropriate and accessible mental health services to address the critical issues of deaths in custody, youth suicide and transgenerational loss and trauma’.89

The Action Plan included nine guiding principles to enhance the mental health and social and emotional wellbeing of Aboriginal people with a focus on strengthening culture within the context of mental health services:


1. Holistic health, encompassing mental health, physical, cultural and spiritual health;
2. Self-determination;
3. Culturally valid understandings;
4. Recognition that the experiences of trauma and loss have intergenerational effects;
5. Recognition and respect of human rights;
6. Racism, stigma, environmental adversity and social disadvantage have negative impacts;
7. The centrality of family and kinship and the bonds of reciprocal affection, responsibility and sharing;
8. Recognition of individual and community diversity;
9. Great strengths, creativity and endurance and a deep understating of the relationship between human beings and their environment.90

These principles recognise that Aboriginal people’s social and emotional wellbeing is intrinsically bound to ‘the physical, spiritual, cultural, social and emotional connectedness of the individual, family and community’.91 In doing so, the principles acknowledge ‘the need for programs that strengthen cultural values and commitments, systems of care and control and responsibility as an intrinsic aspect of healing and facilitating cultural, social and emotional wellbeing’.92

In a 2014 Issues Paper, Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People, Dudgeon et al identify related policy settings, noting:

These principles reaffirm the importance of working in partnership with the Indigenous community-controlled sector and facilitating Indigenous people’s fundamental right to determine the types of services they receive. Finally, these principles highlight the necessity of programs and initiatives recognising the profound effects of colonisation as the starting point for addressing

89 Ibid.
90 Ibid.
91 Pat Dudgeon et al, Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People (Issues Paper No 12, Closing the Gap Clearinghouse, November 2014) 12.
92 Ibid.
Indigenous people’s pervasive grief and loss, transgenerational trauma, and ongoing stress and dislocation.\textsuperscript{93}

101 These guiding principles and Action Plan have contributed to the development of ‘Aboriginal-led initiatives including the development of culturally appropriate mental health models and therapies such as the We Al-li Indigenous Therapies in Lismore; and the establishment of Social Health Teams in ACCHOs to provide SEWB counselling’.\textsuperscript{94}

102 Despite these initiatives, there is continued recognition of the ongoing need for culturally appropriate programs underpinned by the above principles. Working in partnership with communities to develop programs that reinforce self-determination, are strength-based, recognise the impacts of colonisation, and that are culturally safe and continue to work within the SEWB framework for Aboriginal people are imperative for ongoing healing and recovery.

103 Dudgeon et al (2014) identify a number of important factors that are considered imperative for programs to reflect cultural responsiveness and work within the SEWB framework. Culturally appropriate programs:

- ‘prioritise and emphasise wellness, harmony and balance rather than illness and symptom reduction’;
- reflect ‘Indigenous people’s experiences and beliefs about the interconnectedness of health and wellbeing and the connections between the individual and their community, traditional lands, family and kin, ancestors and the spiritual dimension of existence’;
- foster a sense of control as an ‘effective strategy for enhancing Indigenous people’s mental health and wellbeing’;
- ‘empower Indigenous individuals, families and communities to cultivate and restore a strong sense of self and identity’;
- incorporate ‘Indigenous knowledge and ways into program services and practices’;\textsuperscript{95}
- are ‘culturally safe and enable people to maintain a secure sense of cultural identity and exercise their cultural rights and responsibilities’;
- incorporate ‘local Indigenous ways of knowing and being in the world and acknowledging the past and learning together’;
- respect familial, language and gender groups;
- uphold Indigenous people’s individual rights to health, as well as their collective right to maintain and use their own health systems and practices in pursuit of their right to health;
- address racism at ‘individual, organisational, and system levels’ through the provision of ‘training and education to enhance staff cultural competence; consulting with Indigenous people and facilitating their genuine input and advice in policy, planning, service delivery and resource allocation; and demonstrating a commitment by service providers to Indigenous knowledge, ways of working and decision making that acknowledges and is respectful of Indigenous cultures’;
- integrate ‘family and community into all aspects of mental health planning … in order to incorporate the social and cultural realities of Indigenous people’s lives, beliefs and circumstances’;
- recognise ‘the role of strong social and familial relationships as determinants of mental health and social and emotional wellbeing’;
- recognise cultural diversity, respond to ‘the large variation and increasing complexity of Indigenous identity’, and acknowledge the significance of different language and family groups, gender relationships, belief systems and experiences; and
- promote and enhance ‘cultural resilience’ by recognising ‘the role that culture and a strong cultural identity can play as a source of strength, identity, structure and continuity for whole communities in the face of ongoing change, stress and adversity’.\textsuperscript{95}

\textsuperscript{93} Ibid.
\textsuperscript{94} Zubrick et al (n 88) 76.
\textsuperscript{95} Ibid.
\textsuperscript{96} Dudgeon et al, \textit{Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People} (n 91) 12–16.
The My Life My Lead report (2017) recognised culture as the number one priority for positive change, and posits culture at the ‘centre of change’. The report further noted that ‘Aboriginal and Torres Strait Islander cultures are the oldest living cultures in the world, which [exemplifies] the dynamic and adaptive nature of these cultures’. It is imperative for Aboriginal people to be provided with culturally appropriate healing, whereby ‘cultural determinants are enabled, supported and protected through traditional cultural practice, kinship, connection to land and Country, art, song and ceremony, dance, healing, spirituality, empowerment, ancestry, belonging and self-determination’.

More recently, Dudgeon and colleagues have continued to emphasise the importance of culture and cultural practices in promoting social and emotional wellbeing for Aboriginal and Torres Strait Islander individuals and communities:

Practising culture can involve a living relationship with ancestors, the spiritual dimension of existence, and connection to Country and language. Individual and community control over their physical environment, dignity and self-esteem, respect for Aboriginal and Torres Strait Islander peoples’ rights and a perception of just and fair treatment are also important to social and emotional wellbeing.

Similarly, the Gayaa Dhuwi (Proud Spirit) Declaration identifies access to cultural healers and cultural healing as a critical component of Aboriginal healing and addressing the wellbeing and mental health problems of Aboriginal people. Examples of such programs and services are the Ngangkari Healers, Red Dust Healing and Marumali Journey of Healing, which will be discussed below. Whilst these programs have significant merit for their communities, it is important to acknowledge that Aboriginal cultural programs ideally should be developed and led within and for their specific communities, so as to meet the specific needs of individuals in that community.

Healing programs and approaches

As discussed above, the literature outlines key characteristics of effective healing programs for Indigenous peoples, including Aboriginal and Torres Strait Islander peoples. In general, these programs are holistic in nature, culturally grounded, and respect the cultural perspectives and worldview of the Aboriginal and Torres Strait Islander people they serve. Consistent with the principle of self-determination, Aboriginal and Torres Strait Islander peoples themselves are best placed to design, develop and deliver such programs. The following examples are intended to demonstrate how the principles can be operationalised by Aboriginal and Torres Strait Islander communities to develop tailored programs and approaches to promote social and emotional wellbeing and healing. Approaches that are effective in one community or context may not be appropriate or effective in other contexts.

Ngangkari (Cultural Healers)

Ngangkari are cultural healers from central Australia. ‘Ngangkari have looked after people’s physical and emotional health for thousands of years’.

Cultural healers are now practising across Australia to assist Aboriginal people with their physical and mental health. The

---

97 Department of Health (Cth), My Life My Lead: Opportunities for Strengthening Approaches to the Social Determinants and Cultural Determinants of Indigenous Health: Report on the National Consultations (Report, December 2017) 9 (‘My Life My Lead’).
98 Ibid 7.
99 Ibid.
100 Pat Dudgeon et al, Wellbeing and Healing Through Connection and Culture (Report, Lifeline Australia, 2020) 27, quoting Department of Health (Cth), My Life My Lead (n 97) 9.
101 National Aboriginal and Torres Strait Islander Leadership in Mental Health, Gayaa Dhuwi (Proud Spirit) Declaration (2015).
Ngangkari healers and other cultural healers ‘have been instrumental in developing cross-cultural healing practices across Australia and their work has attracted national and international recognition and awards’.103

Ngangkari are now working alongside doctors in hospitals across Australia and have their own clinic days. Naomi Kantjuriny, Ngangkari from Central Australia, reports ‘depressed people can feel a lot better within themselves after a Ngangkari treatment. That’s one of our specialities. Their spirits are out-of-sort, and not positioned correctly within their bodies. The Ngangkari’s job is to reposition their spirits and to reinstate it to where it is happiest’.104

Red Dust Healing

Red Dust Healing is an Indigenous-led program for men, women and families which was established by two Indigenous men, Tom Powell and Randal Ross, who had worked previously in juvenile justice and recognised that ‘locking people up was not changing anything’.105 The program focuses on four core values that they believe have been irreparably changed due to the impact of colonisation on culture and lifestyle: identity, responsibilities, relationships and spirituality.106 The program offers guidance and support with the social and cultural determinants of social and emotional wellbeing, such as, for example, law and justice, employment and education, and disability, as well as a broader focus on substance misuse, family violence issues, trauma, grief and Wellbeing and Healing Through Connection and Culture loss, and cross-cultural issues.107

The program ‘provides an example of how a holistic, culturally relevant and strengths-based approach can achieve immediate and lasting change in the lives of the participants to the benefit of their families, colleagues, clients and communities.108

The Marumali Journey of Healing

The Marumali Journey of Healing is an Indigenous designed and led program which ‘seeks to restore the SEWB of all those who have been impacted by the forced removal of children, the Stolen Generations, and has the support of Link-Up, which is dedicated to restoring lost family and kinship connections’.109 The word ‘marumali’ is Kamilaroi for ‘put back together’. The central focus of the healing program is ‘reconnection to culture, community, Country, spirituality, family and rebuilding identity through the strengthening of these connections is understood to support holistic health’.110

The Marumali Journey of Healing recognises that a ‘profound disconnection from culture engineered by the forced removal from parents, family and kinship, and community, has had a lethally destructive impact on mental health’.111
Deadly Connections Community and Justice Services

114 Deadly Connections is an Aboriginal community-led not-for-profit organisation located in Sydney, NSW that recognises that disadvantage and trauma have contributed to the over-representation of Aboriginal people both within the criminal justice system and child protection. Founders Keenan Mundine and Carly Stanley have had both lived and professional experiences as Aboriginal people and community members.

115 Deadly Connections places a strong emphasis on community-led solutions for Aboriginal people. They have a number of projects aimed at breaking the cycle of intergenerational disadvantage, loss, grief and trauma by providing interventions and services to Aboriginal people that are holistic and culturally responsive. These projects are Deadly Jargums, Breaking the Cycle, Deadly Families Project, Street Smart, and the Bugmy Justice Project.

116 Deadly Jargums is an early intervention project for primary school age children that aims to enhance cultural identity, cultural connections and improve school engagement/attendance,

117 Breaking the Cycle is a culturally responsive intervention, prevention and diversion program for Aboriginal people who are at risk or are involved in the justice system. It provides community-based interventions and behaviour change programs with the aim of reducing recidivism and promoting healing.

118 The Deadly Families Project is an early intervention and prevention program for Aboriginal mothers and fathers who are at risk of involvement with child protection services or the justice system. The program is designed to enhance the capacity of parents to reduce the risk of their children being removed.

119 Street Smart is a youth program targeting at-risk Aboriginal youth in the inner city of Sydney. This is a community-led project in conjunction with ‘Street Industries’. The aim of this program is to reduce anti-social behaviour to minimise the risk of these Aboriginal young people coming into contact with the justice system.

120 The Bugmy Justice Project aims to provide sentencing courts with improved and more comprehensive background material in relation to Aboriginal and Torres Strait Islander people, in response to the principles set out in the 2013 High Court case of Bugmy v The Queen. This project aims to improve sentencing processes and outcomes for Aboriginal people by providing courts with additional information that addresses the personal and community circumstances of the individual and relevant sentencing options. ‘Bugmy Justice Reports’ are a comprehensive document that identifies the unique cultural and historical factors specific to First Nations offenders, which may otherwise contribute to a high-risk assessment. They include background information about the offender’s specific circumstances, with respect to sociocultural factors such as trauma and mental health, and their personal experiences as an individual within the wider First Nations community.

112 Street Industries (Web Page).
113 Bugmy v The Queen [2013] HCA 37.
114 Deadly Connections Community and Justice Services Limited, Submission No 126 to Legislative Council Select Committee, Parliament of New South Wales, Inquiry into the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody (30 September 2020) 21.
Engagement in culturally appropriate programs reduces the likelihood of recidivism

121 The Royal Commission into Aboriginal Deaths in Custody drew attention to the acute disparity between Aboriginal and Torres Strait Islander and non-Indigenous rates of imprisonment. However, in the 30 years since the Royal Commission’s National Report was tabled, the overrepresentation of Aboriginal and Torres Strait Islander people incarcerated in Australia has grown, while many of the key recommendations made by the Royal Commission (and subsequent reports, such as the Australian Law Reform Commission’s Pathways to Justice report) remain unimplemented. According to The Guardian’s Deaths Inside database, more than 450 Aboriginal deaths in custody have occurred since 1991, with recent data from the Australian Institute of Criminology finding that, in 2019, Aboriginal and Torres Strait Islander people were 13 times more likely to be incarcerated, and died in police custody at 6 times the rate of non-Indigenous people (by population).

122 The disproportionately high levels of contact with the criminal justice system highlighted by the Royal Commission continue to prevail for Aboriginal people across Australia. To reduce this significant disparity, investment in psycho-social healing, culturally responsive counselling, empowerment, self-determination, education and rehabilitation are considered key factors to reduce recidivism. It is widely reported in the literature, Aboriginal and Torres Strait Islander offenders are generally required to participate in non-Indigenous programs to address criminogenic needs. There has been considerable criticism of this approach due to the lack of recognition of the importance of working within an Aboriginal SEWB framework, with an emphasis of enhancing cultural identity and social connectiveness.

123 Hovane, Dalton and Smith argue that culture-specific offender rehabilitation programs ‘have been relatively neglected, largely due to a lack of recognition of Aboriginal knowledge bases as legitimate and valuable sources of information in this area’: Aboriginal cultures already have a comprehensive and legitimate evidence-base of knowledge that may be used to inform prevention, early intervention, diversion and programmatic intervention with those who come into contact with the criminal justice system.

124 For rehabilitation programs to benefit Aboriginal and Torres Strait Islander people, they must operate within an Aboriginal or Torres Strait Islander community governance and culture framework, so that they may effectively respond to the rehabilitation needs of Aboriginal and Torres Strait Islander people within the criminal justice system.

125 Programs delivered to Aboriginal offenders ‘need to recognise the importance of understanding Indigenous-specific disadvantage’, including the ways in which ‘historical, systematic and wholesale intervention into the lives of Indigenous people has contributed

---

118 Ibid.
119 Ibid 510.
120 Hovane, Dalton (Jones) and Smith (n 117) 509.
to the deculturation, separation, displacement, discrimination and disconnection from heritage among Indigenous persons.\textsuperscript{121}

126 Hovane, Dalton (Jones) and Smith argue that an Aboriginal psychological perspective which is grounded in Aboriginal and Torres Strait Islander Law and culture, and which incorporates an understanding of the processes of colonisation and oppression, and how these processes have impacted on observance of Law and culture, is critical for responding effectively to the rehabilitation needs of Aboriginal and Torres Strait Islander peoples within the criminal justice system.\textsuperscript{122}

127 This perspective is consistent with similar research regarding healing approaches for First Nations peoples in North America.\textsuperscript{123}

128 Rehabilitation programs need to incorporate the cultural determinants of health, which originate from and promote a strength-based perspective, acknowledging that stronger connections to culture and Country build stronger individual and collective identities, a sense of self-esteem, resilience, and improved outcomes across the other determinants of health including education, economic stability and community safety.\textsuperscript{124}

129 Similarly, Hovane, Dalton (Jones) and Smith argue that culturally strong environments promote both sustainable impacts of offender rehabilitation programs, as well as supporting community efforts to address the social determinants of offending:

Creating such pro-social and culturally strong environments is essential for supporting and reinforcing not only positive gains made by Aboriginal people through engaging in offender rehabilitation programs once they return to the families and communities, but also for changing the environments which have given rise to offending behaviour in the first instance—for reducing recidivism.\textsuperscript{125}

130 It is recognised that, often, Aboriginal offenders have experienced significant social and economic disadvantage, exposure to family and community violence, drug and alcohol misuse and disconnection. The importance of addressing the environmental context to reduce exposure to this disadvantage is seen as an important factor in reducing recidivism. Aboriginal offenders returning to their communities without significant support and pathways to engage in culturally appropriate programs to recovery and healing, places them at risk to reoffend due to the continued exposure to the known risk factors. Strong cultural supports and programs in communities that help facilitate the building of healthy communities ‘will facilitate the successful reintegration of Indigenous offenders once they leave custody, while also reducing the likelihood of Indigenous people commencing a criminal trajectory’.\textsuperscript{126}

131 Hovane, Dalton (Jones) and Smith emphasise the importance of adopting an ‘Aboriginal psychological approach to offender rehabilitation programs’ as a means of ‘legitimising Aboriginal cultural knowledge so that new culturally grounded perspectives, concepts, theories and ideas may be included in this space’ and shifting ‘the emphasis from identification of psychological deficits … to emphasising cultural strengths and positive cultural perspectives’.\textsuperscript{127}

\textsuperscript{121} Queensland Corrective Services, \textit{Rehabilitative Needs and Treatment of Indigenous Offenders in Queensland} (Report, 1993).

\textsuperscript{122} Hovane, Dalton (Jones) and Smith (n 117) 509.

\textsuperscript{123} See LaBoucane-Benson, Sherren and Yerichuk (n 43).

\textsuperscript{124} Dudgeon et al, \textit{Wellbeing and Healing Through Connection and Culture} (n 100) 27 (citations omitted).

\textsuperscript{125} Hovane, Dalton (Jones) and Smith (n 117) 510.

\textsuperscript{126} Queensland Corrective Services (n 121) 16.

\textsuperscript{127} Hovane, Dalton (Jones) and Smith (n 117) 513.
**Circle Sentencing**

132 Circle Sentencing in NSW refers to an alternative sentencing option involving the full sentencing power of a traditional court, in which the presiding magistrate works with local Aboriginal communities – specifically, Elders and respected community members, victims and their representatives, and the offender and their family – when making sentencing decisions regarding Aboriginal offenders.\(^{128}\) This restorative justice approach is available in some localities and circumstances across NSW.

133 In 2020, the NSW Bureau of Crime Statistics and Research (BOCSAR) conducted an evaluation of Circle Sentencing, specifically with respect to the probability of imprisonment being determined as the appropriate sentence, and the likelihood of subsequent reoffending.\(^{129}\) This study involved comparing Circle Sentencing with traditional sentencing approaches over a given period (1 March 2005 to 31 August 2018). The study found that offenders participating in Circle Sentencing:

i) are 9.3 percentage points less likely to receive a prison sentence;

ii) are 3.9 percentage points less likely to reoffend within 12 months; and

iii) if they do reoffend, take longer to reoffend than recidivist offenders who have been sentenced by the traditional process.\(^{130}\)

134 While acknowledging that the study’s results should be interpreted with caution due to limitations in the available data,\(^{131}\) the authors conclude that Circle Sentencing ‘clearly has the potential to lower the Indigenous incarceration rate’.\(^{132}\) They note that the study has several important implications for researchers and policy makers, including the suggestion that at least some of the association between Circle Sentencing and recidivism ‘is due to circle groups assigning different, potentially more effective, penalties [which] could be because circle groups have a deeper insight into the circumstances of the offender and are therefore able to identify more appropriate penalties’.\(^{133}\)

135 Circle Sentencing facilitates culturally appropriate ways of working with Aboriginal people to reduce the likelihood of reoffending. The process reaffirms the importance of Elders within communities. Aboriginal offenders are sentenced via a discussion with local Elders and family. Seeing Aboriginal Elders guiding decisions in the context of sentencing is powerful and highlights the importance of our cultural practices. It reduces the impact of cultural bias and this has a positive impact on accountability.

**Weave Youth and Community Services**

136 Weave Youth and Community Services is a non-profit community organisation based in Waterloo, NSW that has been providing ‘a way up and a way forward’ for children, young people, women, families and communities facing complex social situations for the last 45 years.\(^{134}\)

---


\(^{129}\) Ibid.

\(^{130}\) Ibid 1.

\(^{131}\) Ibid 11.

\(^{132}\) Ibid.

\(^{133}\) Ibid 15.

\(^{134}\) ‘About Weave’, Weave Youth and Community Services (Web Page).
Weave has developed an intensive support service for young people leaving custody or on bail, community orders or court diversion. The Creating Futures program is a strengths-based approach and provides ‘court support and advocacy and wraparound casework tailored to the needs and goals of each client’ and focuses on ‘client capacity to improve their circumstances’.  

Creating Futures works to address the specific criminogenic risk factors associated with the Risk Needs Responsivity (RNR) model. A three-year independent evaluation of the program between 2017–2019 found:

The recidivism figures for Creating Futures clients compare very favourably with the recidivism rates of Aboriginal people of the same age range in NSW. According to BOCSAR data, in 2016, 55.7% of Aboriginal people aged 18-30 reoffended within 12 months of being released from custody. In 2017, the rate was 57.3%. The average rate of reoffending among Creating Futures clients across the evaluation period is 4.11%. While these figures are descriptive only ... they are still compelling.

The opportunity to access supports should be extended to all involved with the criminal justice system. These supports should promote wellbeing, address the circumstances that contributed to their involvement with the criminal justice system, and reduce the likelihood of recidivism. As discussed above, there are a number of psychosocial stressors and broader environmental factors that may impact on the wellbeing of Aboriginal and Torres Strait Islander people, and increase the likelihood of their involvement in the criminal justice system. Therapeutic supports for individuals and their families can provide a network of support for Aboriginal people who have and continue to experience significant psychosocial stressors that impact on their wellbeing. There needs to be a genuine therapeutic approach to care to provide these psychosocial supports to reduce recidivism. It is imperative to work therapeutically with offenders, carers, family and community to provide a therapeutic web of support to assess mental health and social and emotional wellbeing, minimise risk factors through culturally appropriate treatment options that are responsive to the cultural values and perspectives of Aboriginal and Torres Strait Islander people.

Effective prison programs

The Pathways to Justice Report noted a number of ‘best practice elements’ that characterise effective prison programs for Aboriginal and Torres Strait Islander people, including that they are designed and delivered by appropriately experienced Aboriginal and Torres Strait Islander organisations; take a strengths-based approach that is grounded in culture, builds resilience and reduces vulnerability; include a focus on building self-esteem and wellbeing; and strengthen community connections. Further, programs should be trauma-informed and practical in nature, including content that addresses offending behaviour, builds basic skills and practical assistance required for reintegration with the community (including accessing housing, education and employment supports), and case management that provides active support throughout the transition from custody to reintegration into the community.

These characteristics invoke, and are consistent with, the holistic models of Aboriginal and Torres Strait Islander social and emotional wellbeing and developmentally grounded child and family support frameworks discussed above, including the important role of family and community relationships, building self-efficacy and core capabilities, and are grounded in

---

135 Melanie Schwartz and Mareese Terare, Creating Futures: Weave’s Intensive Support Service for Young People Leaving Custody or Involved in the Criminal Justice System (Evaluation Report, April 2020) 1.
136 Ibid 2.
137 Australian Law Reform Commission, Pathways to Justice (n 47) 294–6.
138 Ibid.
culture as well as being responsive to the specific needs of families and communities, including broader social factors associated with offending and adversity. In addition, Aboriginal and Torres Strait Islander communities must be empowered to exercise self-determination, including being properly resourced to develop and implement the necessary programs and supports. These principles must apply both to services and supports provided during periods of incarceration, as well as in the community or following periods of remand or imprisonment. Aboriginal and Torres Strait Islander communities and their organisations should be invited to and adequately resourced to develop and deliver these critical programs.

**Adverse outcomes associated with lack of cultural competence in treatment and assessment**

142 It is widely acknowledged that Aboriginal and Torres Strait Islander people have a distrust of mental health services and psychological assessments due to past policies and interventions that caused significant trauma. This historical legacy continues to prevail as Aboriginal and Torres Strait Islander people's continued experiences with established mental health services grounded in non-Indigenous perspectives are less than satisfactory.

143 Many Aboriginal and Torres Strait Islander people feel they are not respected or understood when accessing services.\(^{139}\) They feel that services have limited knowledge or understanding of Aboriginal culture and history, and the impact that colonisation has had on their wellbeing, and they describe feeling tired of constantly having to educate service providers about Aboriginal culture and history and the impacts of past policies on their SEWB.\(^{140}\) They also describe feeling stigmatised within non-Indigenous services on the basis of their Aboriginality and that assumptions are made based on their Aboriginality, such as drug and alcohol misuse.\(^{141}\)

144 Aboriginal people further reported general cultural insensitivity, including 'a lack of awareness that many Aboriginal families fear their children will be taken from them, which can make them wary and reluctant to seek help for a mental health problem'.\(^{142}\)

145 It is further acknowledged that:

The prevailing paradigms that inform mental health and wellbeing policy and service planning tend to be universal in their approach: they do not take into account Indigenous cultural and social circumstances. Failure to 'join the dots' can present a real obstacle to adequately responding to the many causes of poor mental health and wellbeing among Indigenous Australians. It can also be a form of institutionalised racism that can be difficult to reveal and challenge.\(^{143}\)

146 There has been significant criticism directed at mental health and wellbeing programs due to their strong focus on the individual's pathology as opposed to taking into account the many aspects that contribute to Aboriginal social and emotional wellbeing and the impacts this has on a person. As noted above, Aboriginal and Torres Strait Islander social and emotional wellbeing approaches take a more holistic perspective, positioning the individual within a broader social and historical context. These approaches emphasise the need for interventions to consider both individual and collective elements – 'cultural wounds require

---

139 *Aboriginal Communities*, Mental Health Commission of New South Wales (Web Page, 28 June 2017).

140 Ibid.

141 Ibid.

142 Ibid.

143 Dudgeon et al, *Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People* (n 91) 10.
cultural medicines’. Dudgeon and Pickett argue that ‘the presumption of universality and a preoccupation with individualism are the core reasons why Western psychological concepts are inappropriate and potentially damaging to Indigenous people’.145

147 Gee et al (2014) have noted that while there are specific symptom patterns congruent with Western mental health diagnoses that can be detected in Aboriginal and Torres Strait Islander clients (making it all too easy for practitioners to simply tick the box), there are additional symptom patterns of distress that need to be recognised. The meanings, determinants and causal theories attributed to these distress patterns can often differ dramatically. Therefore, practitioners also need to consider the pathways of healing and recovery that are most congruent with the client’s needs and world views. For example, traditional healing methods may be a preferred option for a client, or they may wish to use such practices in conjunction with the services offered by the practitioner.146

148 Frequently, non-Indigenous programs are adapted so they can be used with Aboriginal and Torres Strait Islander people. These adaptations often fail to take into account or reflect Aboriginal and Torres Strait Islander understandings of mental health. An example of such a program is the group-based program for Aboriginal offenders running alongside the non-Indigenous Custody-Based Intensive Treatment (CUBIT) sex offender program in NSW. In interviews with Aboriginal sex offenders for the 2006 Breaking the Silence: Creating the Future report,147 many of the Aboriginal men withdrew from the program due to feeling that ‘it stripped their spirit away and they had nothing to help rebuild them again’.148

149 The Aboriginal Child Sexual Assault Taskforce (ACSAT) found that it was not known whether the sex offender programs being run in [Department of Corrective Services] facilities were effective for Aboriginal people. While DCS has developed an Aboriginal cultural program that runs in parallel with its sex offender program and aims to help Aboriginal inmates access the program information more effectively, ACSAT believes that an Aboriginal specific program needs to be developed.149

150 Similarly, assessment must also be properly developed and validated to reflect Aboriginal and Torres Strait Islander perspectives and needs. The need for culturally appropriate and validated assessment tools for Aboriginal people is crucial to ensuring that culturally valid understandings ‘shape the provision of services and … guide assessment, care and management of Aboriginal and Torres Strait Islander people’s health problems generally, and mental health problems, in particular’.150

151 The impact of poorly designed and culturally unsafe assessments can have negative consequences for Aboriginal and Torres Strait Islander people. Dingwall and Cairney have argued that, without culturally appropriate assessments, ‘the process relies heavily on the abilities and skills of the clinician which may lead to poor diagnosis’.151 Additionally, Adams, Drew and Walker argue that inappropriate assessments ‘resulting in poor “test” outcomes

144 Chandler and Dunlop, ‘Cultural Wounds Demand Cultural Medicines’ (n 3) 78.
145 Patricia Dudgeon and Harry Pickett, ‘Psychology and Reconciliation: Australian Perspectives’ (2011) 35 Australian Psychologist 82
146 Gee et al, ‘Aboriginal and Torres Strait Islander Social and Emotional Wellbeing’ (n 74) 59.
147 Aboriginal Child Sexual Assault Taskforce, Breaking the Silence, Creating the Future: Addressing Child Sexual Assault in Aboriginal Communities in NSW (Report, 2006).
148 Based on interviews conducted by author Vanessa Edwige in her role as senior researcher on the Breaking the Silence report.
149 Ibid 11.
150 Commonwealth of Australia, National Strategic Framework for Aboriginal and Torres Strait Islander Peoples’ Mental Health and Social and Emotional Wellbeing 2017–2023 (October 2017) 3.
not only perpetuate the marginalisation of Aboriginal people, but can result in inadequate treatment and access to appropriate services'.

According to Adams, Drew and Walker, testing is a very small part of the assessment and provides potentially limited information. A culturally appropriate clinical interview conducted with culturally valid understandings is ‘currently considered the most appropriate way of assessing psychological problems among Indigenous Australians’. A clinical interview that takes a narrative approach and has an emphasis on relationship-building and engagement is considered ‘more holistic and includes the qualitative dimension, which more appropriately supports the SEWB model of working with Aboriginal people’.

There are a small number of culturally appropriate, evidenced-based assessment tools that have been developed. One example is the Westerman Aboriginal Symptom Checklist for Youth (WASC-Y), the first validated tool developed specifically for Aboriginal Australian youth. The WASC-Y identifies youth at risk of depression, suicidal behaviours, drug and alcohol misuse, impulsivity and anxiety, and considers cultural resilience as a moderator of risk.

However, despite the importance of valid assessments in effective mental health and wellbeing service provision, the disproportionate demand for mental health and healing supports within Aboriginal and Torres Strait Islander communities, and growing recognition, as discussed above, that Indigenous conceptualisations of mental health and wellbeing differ from non-Indigenous frameworks, there continues to be insufficient attention paid to the development of such tools, or the implications of their absence for Aboriginal and Torres Strait Islander individuals and communities. Adams, Drew and Walker note:

Assessment remains an important, yet problematic area to help address the magnitude and nature of issues being faced by Aboriginal individuals, families and communities. The low levels of confidence among practitioners in using many existing assessment tools for Aboriginal clients means that fewer assessments are undertaken than within the wider population. There are concerns regarding under-diagnosis of Post Traumatic Stress Disorder (PTSD) and other mental health issues. The potential cultural bias and monoculturalism, lack of understanding of Aboriginal culture, pervasive transgenerational impacts of colonisation upon Aboriginal children, and more holistic conceptions of mental health and SEWB among Aboriginal families and communities, creates real challenges for both mental health practitioners and services.

Further, Adams, Drew and Walker argue that while some tools have been developed, there remains a key challenge to accurately identify mental health concerns and for mental health services and practitioners to engage effectively with Aboriginal and Torres Strait Islander individuals and communities to promote mental health and wellbeing. They conclude that culturally competent assessment is a decolonising practice that requires practitioners to simultaneously acknowledge the importance of Aboriginal terms of reference and the impacts of white privilege to overcome marginalisation and alienation. Culturally competent assessment promises to be transformative in its intention and practice for both individuals and the wider Aboriginal community. Practitioners require increased knowledge and abilities and culturally

---


153 Dingwall and Cairney (n 151) 22.

154 Adams, Drew and Walker (n 152) 272 (citations omitted).


157 Adams, Drew and Walker (n 152) 286.
appropriate assessment tools to assess and treat Aboriginal people. Culturally competent assessment offers the promise of a shift from ‘discourses of distress’ to ‘discourses of hope’.  

An additional challenge when applying established (Western) tools and assessments is that such tools do not generally consider that Aboriginal and Torres Strait Islander people may not have English as a first language, and, even where they do, may use language in distinct ways (such as Aboriginal English) that can have additional implications for the validity and reliability of language-dependent tools. Dingwall and Cairney note that ‘poor English literacy, a lack of formal education, as well as differing concepts of numbers, time and space can mean that Indigenous Australians may have limited experience with the knowledge base from which such tests are derived’.  

Effective assessment must consider these factors. Non-verbal psychometric assessment tools may be more appropriate for Aboriginal and Torres Strait Islander people, where the use of tools is necessary, to minimise the impact of language differences. As noted above, culturally competent clinical interview has an important role to play in identifying the mental health and wellbeing needs of Aboriginal and Torres Strait Islander people, particularly given the paucity of validated tools that are grounded in Aboriginal and Torres Strait Islander perspectives.  

Culturally inappropriate assessments and ineffective treatments can significantly impact on the ability of Aboriginal and Torres Strait Islander people to engage and participate in mental health services or seek support through treatment options. This largely leaves Aboriginal and Torres Strait Islander people to manage their own mental health.  

From her own practice with Aboriginal people who have come into contact with the criminal justice system, Ms Edwige has identified a number of consistent themes regarding the access to psychological or wellbeing supports. These include:  

- they do not want to speak to a non-Aboriginal person as they ‘don’t understand what I have been through’;  
- they have experienced racism in established non-Indigenous mental health settings and there was no other option for them to go to get support;  
- they have never felt safe or comfortable enough to tell anyone about their life;  
- they fear that if they spoke to someone then they would report them to authorities such as the Department of Communities and Justice;  
- they have sought support from a non-Indigenous psychologist and they ‘tried to rush me to get the story out and I wasn’t ready’;  
- ‘The psychologist kept asking me to repeat my story over and over again. I got sick of it and didn’t go back’;  
- ‘I felt judged’; and  
- they found it difficult to understand what the psychologist was talking about and ‘it made me feel stupid’.  

---  

159 Dingwall and Cairney (n 151) 22.
160 A lack of cultural competence, and an inability to engage and form a therapeutic relationship, impacts on the client/clinician relationship. Without this relationship, valuable information pertaining to that person’s life history is not able to be obtained, thereby impacting on the clinician’s ability to accurately diagnose and implement an effective treatment plan. This is particularly relevant for Aboriginal and Torres Strait Islander people before sentencing courts, where psychological reports require an in-depth knowledge and understanding of that person’s history, the impact that their history has had on their life and offending behaviour, and mutually devising a treatment plan that is culturally appropriate and psychologically supportive to address their SEWB needs to reduce recidivism.

161 A culturally competent assessment demonstrates understandings of the social and historical context of Aboriginal and Torres Strait Islander communities, and the enduring impacts of trans-generational trauma on individuals and communities. It recognises and demonstrates that loss, grief, trauma and ongoing experiences of marginalisation and oppression have significantly impacted on Aboriginal and Torres Strait Islander people’s social and emotional wellbeing and continue to do so.

162 Fundamental to an appropriate assessment is cultural competence. This involves a ‘culturally competent assessment involves a commitment by the practitioner to self-exploration, critical self-reflection and recognition of the implications of the power differentials inherent in the role of clinicians and clients’. It is also recommended that all clinicians and service providers working with Aboriginal and Torres Strait Islander people undertake ongoing Cultural Competency Training. It is important that this training is ongoing and viewed as integral to providing culturally competent and safe psychological interactions and treatment.

163 Dudgeon et al (2014) outline what they consider to be ineffective strategies to strengthen the mental health and wellbeing of Aboriginal and Torres Strait Islander people. These are:

- Programs that fail to take account of Indigenous values, lifestyles, aspirations, family and differing needs and capacities of Indigenous people in diverse, complex economic and social circumstances.
- Programs and services developed with inadequate timeframes, funding and program support that fail to address health in a holistic manner and focus on the individual without regard for the family and community context.
- Provision or adaptation of mainstream programs by mainstream providers for Indigenous people without Indigenous community involvement or consultation.
- Programs that are short-term, inflexible and designed and delivered without consultation, engagement and partnership with the community and the Aboriginal Community Controlled Health Service sector.
- Poor engagement with research evidence by the mainstream sector can lead to systemic racism, lack of cultural understanding and appropriateness, and a reliance on ‘one size fits all’ approaches.
- Performance indicators and reporting requirements, developed in accordance with the values and principles of the mainstream mental health system, that do not always align with Indigenous cultural ways of working and views of social and emotional wellbeing.

164 Recovery from trauma is about relationships. Rebuilding trust, regaining confidence, returning to a sense of security and reconnecting to culture and community is seen as crucial elements for healing. Building a strong sense of self and cultural identity instills confidence and security knowing that you belong. According to Perry and Szalavitz, because trauma at its core is an experience of utter powerlessness and loss of control, recovery requires that the patient be in charge of key aspects of the therapeutic interaction. Over and over again the research finds that if you use force, if you push people to open up when they aren’t

160 Adams, Drew and Walker (n 152) 278.
161 Dudgeon et al, Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People (n 91) 3.
Psychological interventions that address these psychosocial stressors should acknowledge that ‘talking therapies’ may be inappropriate and in some cases psychologically damaging. Until people’s state of fear and their alarm state is decreased through somatic therapeutic interventions, the ability to process, retrieve and act on information will elicit a more reactive response. Cultural practices (such as art, dance, music, and weaving) which work to regulate heightened states through patterned, repetitive and rhythmic movements, reduce stress response and arousal, fostering a sense of calm and safety and allowing for more complex parts of the brain to process and act on information.

**Justice reinvestment**

The Australian Law Reform Commission’s *Pathways to Justice* report noted that some of the solutions to addressing the over-incarceration of Aboriginal and Torres Strait Islander people, including addressing higher rates of re-offending, lie outside the scope of the criminal justice system. Broader action is needed to address the social determinants of incarceration that disproportionately affect Aboriginal and Torres Strait Islander families and communities.

As discussed above (see *Social and Emotional Wellbeing of Aboriginal and Torres Strait Islander People*), developmental models and Indigenous social and emotional wellbeing frameworks present a somewhat consistent idea of the principles and characteristics of the broader social change that is likely to be most effective in addressing these social determinants, both for individuals and communities. These principles are likewise reflected in the best practice elements for healing supports and prison programs discussed elsewhere in this report (see *Effective Prison Programs*).

Justice reinvestment is one approach that has been presented as seeking to address the broader social factors associated with offending, and orienting systems and programs towards prevention. Justice reinvestment redirects resources from responding to the incidence of offending towards addressing the causes (or social determinants) of offending, through place-based, community-led, and data-driven reform strategies. These strategies can range from criminal justice reforms to broader social justice initiatives, and can be thought of as a continuum of justice reinvestment approaches that are focused on different elements of the social and political context to achieve the necessary change for communities and individuals.

Such approaches represent an important element of healing and rehabilitation support, and are consistent with the key characteristics identified by the converging domains of inquiry outlined above. In particular, justice reinvestment approaches tend to prioritise community governance and empowerment, with communities designing and implementing supports tailored to the needs of the local community, grounded in local culture and social circumstances, and focused on addressing the broader social causes of risk and vulnerability to promote individual and community resilience.

---

162 Perry and Szalavitz (n 63) 275.
164 Ibid 125.
165 Ibid.
Case Study: Just Reinvest NSW

One justice reinvestment approach piloted in Bourke, NSW has demonstrated significant positive benefits. The Maranguka Justice Reinvestment Project takes a community-led, life course approach to guide decision-making about supports for children and young people, adults and families. Coordinated by Just Reinvest NSW, the Maranguka Justice Reinvestment project aims to demonstrate that ‘sustained outcomes can be achieved through redirecting funding from adult prison and youth detention towards preventative, diversionary and community development initiatives that address the underlying causes of crime’.

KPMG was engaged to conduct an impact assessment of the changes in Bourke during 2017, corresponding to the operation of the Maranguka Justice Reinvestment Project. A diverse range of key indicators were included, broadly associated with family strength, youth development and adult empowerment. An impact analysis comparing outcomes relative to the previous year reported a reduction in police recorded family violence, increase in student academic engagement, reduced juvenile justice charges, and reduced adult bail breaches and time spent in custody. Compared with the previous year, the results for the 2017 calendar year showed improvement in the following areas:

- Family strength, with a 23 per cent reduction in police recorded incidence of domestic violence and comparable drops in rates of re-offending.
- Youth development, with a 31 per cent increase in year 12 student retention rates and a 38 per cent reduction in charges across the top five juvenile offence categories.
- Adult empowerment, with a 14 per cent reduction in bail breaches and a 42 per cent reduction in days spent in custody.

Economic analysis of the project’s impacts on the justice system and broader regional economy suggested impacts five times greater than the operational costs of the pilot (excluding in-kind contributions).

The positive results of this Aboriginal-led model indicate that Aboriginal leadership within the context of community, undertaken by those who understand the needs of their own people, has the capacity to effect change through working collaboratively across sectors to deliver an Aboriginal-led model of justice which has an impact on offending rates. Working across community and developing culturally appropriate projects that have a significant impact on the entire community’s social and emotional wellbeing reduces recidivism.

---

167 Ibid 11.
169 Ibid 8.
Impact of Imprisonment

According to Howard-Wagner and Evans (2020), imprisonment ‘is having wide-reaching effects on Aboriginal and/or Torres Strait Islander detainees, their children, families and communities’. These impacts include being away from home, isolation from family and community, and impaired access to cultural activities.

Through the lens of developmental and Indigenous social and emotional wellbeing frameworks discussed above, the disruption of critical relationships and disconnection from Country and culture is likely to undermine wellbeing.

Various inquiries have heard how imprisonment disrupts important connections for Aboriginal and Torres Strait Islander people. Given the distributed networks of care and focus on extended family and community relationships, the absence of family and community members (and particularly the incarceration of Aboriginal and Torres Strait Islander women) can disrupt these processes.

It is perhaps worth noting that the harm inflicted on Aboriginal and Torres Strait Islander cultures and futures through the disruption of community relationships is a function of colonialism, and both contributes to, and is perpetuated by, current over-representation in the criminal justice system, the disproportionate removal of Aboriginal and Torres Strait Islander children from their families and communities, and even the disparities in health outcomes. That is, the disruption to family, community and cultural relationships, including through the over-incarceration of Aboriginal and Torres Strait Islander children, youth and adults, is a continuation of the traumatic experiences of invasion and colonisation experienced by Aboriginal and Torres Strait Islander communities over generations. These disruptions are likely to continue to entrench the social determinants of offending (and undermine wellbeing).

The implications of this disconnection are reinforced through the characteristics of best practice that were outlined above. The consensus regarding the importance of community-based, culturally embedded and holistic supports in promoting healing and rehabilitation within the custodial setting emphasises both the importance of these elements in healing (as outlined in the models above), but also the potential for disruption of these connections and subsequent isolation as a result of incarceration, further entrenching adverse trajectories.

The 2013 Inquiry into the Value of a Justice Reinvestment Approach to Criminal Justice in Australia noted evidence of the social and financial costs of incarceration for Aboriginal and Torres Strait Islander communities, the risk of disconnection from Country, culture and community, and subsequent impacts on identity and wellbeing, that can result. This can further undermine efforts to healing and rehabilitation.

Similarly, a review by PwC’s Indigenous Consulting noted the risk of social exclusion for Aboriginal and Torres Strait Islander people arising from incarceration, particularly those from remote communities. This can contribute to a loss of connectedness to culture, undermining a key protective factor that promotes resilience and increases the likelihood of successful rehabilitation.

---

173 Ibid 32.
Impacts on individuals with cognitive or psychiatric disabilities

181 Aboriginal and Torres Strait Islander people living with cognitive or psychiatric disabilities are also over-represented in criminal justice systems and appear to be particularly adversely affected.\(^{174}\) Issues of under-diagnosis, conflation of cognitive disabilities and mental health disorders, and difficult relationships with police and the criminal justice system all contribute to these challenges.\(^{175}\)

182 Submissions to the Commonwealth Senate Community Affairs References Committee Inquiry into the Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia noted that those with intellectual disability, mental illness, acquired brain injuries or other similar conditions are over-represented in custodial populations.\(^{176}\) While, for many, diagnosis comes at the point of entry to prison, rarely is this responded to through the timely provision of appropriate services and supports while in prison. Baldry et al, writing as part of a joint submission by the First Peoples Disability Justice Consortium, outlined five principles that should underpin support in this area, including self-determination, person-centred care, a holistic and flexible approach, integrated services, and culture, disability and gender-informed practice.\(^{177}\)

183 The National Aboriginal and Torres Strait Islander Legal Service (NATSILS) noted that the ‘experience of being in prison or detained can be traumatic and stressful for people who are already highly vulnerable and have poor coping mechanisms’.\(^{178}\) Similarly, Sisters Inside submitted that the increasing use of imprisonment and other justice system responses applied to people with cognitive and psychiatric disabilities is inappropriate and in breach of Australia’s human rights obligations.\(^{179}\)

184 Noting the connections between unmet mental health needs or cognitive disabilities and the burden of incarceration, particularly for Aboriginal and Torres Strait Islander women, Sisters Inside submitted that imprisonment inexplicably remains a preferred response rather than the provision of adequate supports in the community setting:

> In other words, women are being penalised for the failure of Commonwealth, state and territory systems to deliver assessment and early intervention, appropriate accommodation, treatment evaluation, training and personnel, and specialist support and programs.\(^{180}\)

185 Similarly, Anthony and Marchetti observed that ‘across Australia, thousands of Indigenous people with mental and cognitive disabilities are being “managed” by police, courts and corrections rather than being supported in the community’.\(^{181}\)

186 NATSILS also raised concerns about the use of punitive or corrective settings in response to difficult behaviours, in the absence of necessary health and welfare services that might more appropriately provide supports and promote improved outcomes within community: ‘As a consequence, behavioural issues associated with disabilities are diverted to the


\(^{175}\) Ibid.

\(^{176}\) See, eg, Sisters Inside Inc, *Submission No 9* to Senate Community Affairs References Committee, Parliament of Australia, Inquiry into the Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia (5 April 2016) 1.


\(^{178}\) National Aboriginal and Torres Strait Islander Legal Services, *Submission No 34* to Senate Community Affairs References Committee, Parliament of Australia, Inquiry into the Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia (April 2016) 9.

\(^{179}\) Sisters Inside (n 175) 1.

\(^{180}\) Ibid 2.

\(^{181}\) First Peoples Disability Justice Consortium (n 177) 54.
criminal justice system rather than being appropriately dealt with as health, care and welfare issues.  

Dr Linda Steele submitted that the use of diversionary programs and approaches is an ‘underutilised opportunity’, however effective diversion must address the deeply entrenched cycle of offending and incarceration. In particular, the submission notes that ‘diversion which has punitive, coercive and/or supervisory dimensions will not only fail to address these issues of entrenchment and cycling but likely exacerbate them’. 

Steele also submitted that effective, tailored supports are needed to intervene in the cycle of offending that inappropriately views ongoing contact with the criminal justice system as a ‘failure of the individual to rehabilitate’, escalating towards more punitive responses. The specific needs of Aboriginal and Torres Strait Islander people in these settings requires tailored solutions, including consideration of cultural and geographic fit.  

Consistent with the above reviews and evidence, in its 2011 report Doing Time – Time for Doing, the Commonwealth House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs had urged healing-focused approaches grounded in culture. The Committee heard that access to mental health supports were needed, and that such programs should have a stronger Aboriginal and Torres Strait Islander foundation, including a strong and appropriately trained Aboriginal and Torres Strait Islander mental health workforce, and investment in initiatives that are designed and delivered in partnership with Aboriginal and Torres Strait Islander communities. In particular, the Committee recommended that

the Commonwealth Government recognise mental health as a significant issue affecting Indigenous youth and collaborate with the states and territories to direct funding where possible to successful Indigenous community developed and led programs with a focus on healing, culture, emotional wellbeing and reconnection with family.  

The concerns raised above outline the potentially counterproductive implications of delivering necessary supports in the context of coercive or potentially punitive orders or settings. It provides a clear reminder that the circumstances associated with mental illness or cognitive impairment require a clear health and wellbeing framework, which does not always align with the coercive nature of custodial settings. While, for many, diagnoses and therefore a key opportunity for support may come in the institutional setting of the criminal justice system, this is often a key milestone of a broader path of entrenched, cyclical involvement with the criminal justice system. This appears to be particularly relevant for those with complex needs, including the intersection of disability, intergenerational trauma, and social and economic marginalisation.  

This approach appears to fit well with existing Aboriginal and Torres Strait Islander frameworks of disability within a ‘cultural model of inclusion’. Avery (2018) describes Aboriginal and Torres Strait Islander conceptualisations of ‘disability’, reflecting an acceptance of diversity in individual functioning, in contrast to Western constructs that tend to view disability in terms of deficit compared to some understanding of ‘normal’ functioning.

---

182 National Aboriginal and Torres Strait Islander Legal Services (n 178) 22.
183 First Peoples Disability Justice Consortium (n 177) 31.
184 Ibid.
185 Ibid 33.
186 Ibid 38.
188 Ibid 108 [4.74].
189 See Scott Avery, Culture is Inclusion: A Narrative of Aboriginal and Torres Strait Islander People with Disability (First Peoples Disability Network, 2018).
Avery outlines how these two approaches differentially frame solutions, with deficit models focused on negating the adverse implications of those ‘deficits’, while inclusive models aim to enhance wellbeing through social inclusion, including active participation in community and cultural activities. This aligns with Indigenous social and emotional wellbeing frameworks, positioning individuals and their circumstances within broader contexts of family, community and culture.

These various models converge on the need for holistic supports, recognising individuals in their broader social, cultural, and political context. Custodial settings are unlikely to be the optimal environment for long-term supports, however other community-based supports are under-resourced, creating significant gaps in the identification and long-term support of those in our community with cognitive and psychiatric impairments. As plainly stated by NATSILS, ‘the criminal justice system is not an appropriate vehicle for addressing a person’s needs stemming from disability or mental illness’.

Anthony and Marchetti submitted that a holistic approach is needed particularly for Aboriginal and Torres Strait Islander people experiencing mental illness, including appropriate services and supports addressing the various systemic, social and economic challenges that contribute to their disproportionate incarceration, as well as providing specialised rehabilitative programs and sentencing options:

Ultimately, a holistic approach is needed to decarcerate Indigenous people with mental illnesses from prison. This requires appropriate services and programs for Indigenous people with mental health issues and, importantly, addressing systemic issues including institutional discrimination (eg in the over-policing Indigenous people on streets; disproportionately removing Indigenous children from families rather than supporting families), socio-economic disadvantage and providing substantive access to early-intervention services as well as adequately resourced community-based sanctions in the form of rehabilitative programs and services (such as drug, alcohol or mental services). There is also a need for greater specialised sentence options that accommodate the intersections of Indigenous background and gender and/or mental, cognitive or physical impairment.

**Impacts on children and families**

The developmental models outlined above note the critical role of supportive relationships, including family and kin, in positive developmental outcomes and setting the foundations for resilience in face of adversity. Similarly, the characteristics of effective programs and supports for children and families facing adversity and disadvantage include strengthening relationships for families and across broader community networks, and note the need for truly cross-generational supports.

The developmental literature (Adverse Childhood Experiences research in particular) identifies parental incarceration as an adverse experience that represents a potential risk to later developmental outcomes. Parental incarceration, and particularly the significant increase in the incarceration of Aboriginal and Torres Strait Islander women, has significant implications for the welfare and wellbeing of Aboriginal and Torres Strait Islander children and families. The *Pathways to Justice* report noted that parental incarceration, and particularly the incarceration of Aboriginal and Torres Strait Islander women, can contribute

---

190 Ibid 191.
191 National Aboriginal and Torres Strait Islander Legal Services (n 178) 21.
192 First Peoples Disability Justice Consortium (n 177) 56.
193 Ibid.
195 See Australian Law Reform Commission, *Pathways to Justice* (n 47) 347.
to the removal of children by statutory child protection systems. These processes are seen as criminogenic in themselves.

A key implication of the developmental and social and emotional wellbeing models outlined above, and the critical role of family relationships across development, is the importance of relational continuity. Developmental models in particular emphasise the impact of disruptions to relationships with key supportive adults with whom children share important bonds and rely on to scaffold ongoing developmental processes and buffer from environmental and other stressors. Parental incarceration interrupts these relationships.

Roettger, Lockwood and Dennison (2019) similarly outline the intergenerational impacts of parental incarceration, noting both the developmental impacts of exposure to social disadvantage associated with the social determinants of incarceration, and the ways in which these circumstances can be exacerbated by parental separation as a result of incarceration, including ‘disrupted social bonds and social capital, and the removal of role models’.

Roettger, Lockwood and Dennison note that parental incarceration generally confers a range of risks to children, including poorer social, emotional, communicative and cognitive developmental outcomes. Further, these impacts may differ on the basis of paternal or maternal incarceration, with paternal imprisonment ‘more likely to result in economic deprivation, ongoing paternal absence and maternal hardship’, while maternal imprisonment has impacts both prenatally and postnatally and in potentially more impactful ways, including increased risk of placement in foster care and loss of a primary carer, impacts of substance use and domestic violence.

Similarly, Anthony and Sentance (2020) draw on the perspective of Aboriginal social justice organisation Deadly Connections, noting the profound impact on Aboriginal and Torres Strait Islander children arising from over-incarceration, contributing to the disruption not only of parental relationships, but the broader extended family and kin connections that often characterise Aboriginal and Torres Strait Islander child-raising approaches. This is particularly relevant with respect to First Nations women, with each instance of incarceration likely to affect multiple children by disrupted parenting or other caregiving ties.

These disruptions can contribute to poorer outcomes via a number of pathways as outlined earlier. In addition to disrupting important caregiving relationships, such separations contribute to trauma, grief and anxiety, and undermine health and wellbeing for incarcerated parents and carers. Research has also identified concerns for the impact of incarceration across networks of care on others in the network, who continue providing care despite reduced social and possibility economic supports. These impacts represent additional stressors that challenge and potentially threaten to overwhelm core capabilities that foster resilience and contribute to other adverse outcomes for children and families.
resilience for themselves, their children, and other children for whom they may hold caregiver responsibilities.

Adding to this stress, Aboriginal mothers in one study were desperately aware of these potential consequences of incarceration on their children and families, and the risk of further intervention in their lives.\textsuperscript{204} As discussed in the developmental literature above, this increase in external stressors and reduction in social relationships necessary to mitigate these harms can have significant adverse impacts for Aboriginal and Torres Strait Islander children that span their lifetime, and across generations, if not addressed.

However, this research also demonstrates the importance of leveraging these broader networks and perspectives in healing and rehabilitation. While disruptions to caregiver relationships were traumatic for First Nations mothers and caregivers, these relationships also represented an important source of hope, strength and resilience, with many invoking the responsibilities to children as driving their aspirations post-release.\textsuperscript{205}

Policy and program responses again suggest a multi-faceted approach. This includes empowering Aboriginal and Torres Strait Islander communities to design localised approaches grounded in culture and self-determination and working to reduce incarceration through social justice and criminal justice reforms. Efforts should also focus directly on the impacts associated with parental incarceration. This includes initiatives to maintain and strengthen parent–child relationships during custodial terms through supported visitation and ongoing contact, mother and baby units (although the authors note that there is limited evidence regarding their effectiveness and long-term impacts), parenting skills interventions and other holistic supports akin to those identified in the developmental models noted above. These supports for children and families should be provided across the span of parental incarceration and their reintegration to the family and community.\textsuperscript{206}

Promoting continuity of key relationships during periods of parental incarceration is likely to promote the best interests of Aboriginal children and young people. Child protection research suggests that, where children are considered unable to remain safely with their parents, remaining within the family through kin care is considered the preferred option, supporting ‘preservation of family, promotion of cultural identity and reduced separation trauma’,\textsuperscript{207} as well as promoting a sense of security, connectedness and belonging for children and young people.

The disruption of these familial and cultural connections may be particularly harmful for Aboriginal and Torres Strait Islander children and young people, undermining key elements of social and emotional wellbeing and resilience. Retaining children within family and kin networks, and supporting appropriate continuity of important adult–child relationships despite separation and parental incarceration through tailored supports and ongoing contact, is likely to be key to mitigating the negative impacts of parental incarceration and promoting longer term wellbeing (alongside broader supports).

Involvement in the child protection system has been demonstrated to confer unique risk of later involvement with the criminal justice system in both adolescence and adulthood. This relationship was clearly outlined in the \textit{Family is Culture} report.\textsuperscript{208} The Independent Review of Aboriginal Children and Young People in Out of Home Care identified an intergenerational cycle of care-criminalisation (see Figure 4 below) in which the social

\textsuperscript{204} Ibid 25.
\textsuperscript{205} Ibid 26.
\textsuperscript{206} Ibid.
\textsuperscript{208} Megan Davis, \textit{Family is Culture} (n 40) 235–46.
determinants of incarceration, including poverty and marginalisation, and parental incarceration contribute to children being assessed as being at risk of harm and subsequent removal.\footnote{Ibid 242.}

Experiences in out-of-home care, including placement instability, lack of cultural and family connection and poor support leaving care, as well as the unique contribution of the out-of-home care system increase the likelihood of contact with the juvenile or adult justice systems, thereby increasing the risk and vulnerabilities experienced by the next generation.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure4.png}
\caption{"Care Criminalisation" from Megan Davis, \textit{Family Is Culture: Independent Review of Aboriginal Children and Young People in OOHC} (NSW Government, 2019) 242}
\end{figure}

In addition to the social, historical and developmental factors outlined above which are associated with poor developmental outcomes and risk of incarceration, research has identified that children and young people in out-of-home care have a different, more negative experience of the criminal justice system, entering at a younger age, being more likely to experience custodial remand, less likely to access supports when interacting with police or at court, and were at times excluded from diversionary systems and other supports.\footnote{Kath McFarlane, ‘Care-Criminalisation: The Involvement of Children in Out-of-Home Care in the New South Wales Criminal Justice System’ (2017) 51 Australian and New Zealand Journal of Criminology 412.}

The care-criminalisation relationship provides a clear demonstration of the way factors associated with disadvantage and the social determinants of incarceration are perpetuated across generations, unless interrupted by effective healing initiatives. They emphasise the need for healing and rehabilitation in meeting the over-arching purpose of criminal justice systems – reducing the incidence and social impact of crime. Care-criminalisation also emphasises the importance of the key characteristics of effective healing programs, as discussed throughout this report. In particular, they note the importance of key relationships and the development of core capabilities, such as emotion regulation, taking place in the context of trauma-informed, culturally grounded approaches that provide opportunity for skill development and that reinforce elements of social and emotional wellbeing for Aboriginal and Torres Strait Islander children and young people.
Conclusions

210 This report explores the concept of social and emotional wellbeing for Aboriginal and Torres Strait Islander people, the relationship between culture and healing, and the impact of imprisonment. In doing so, we draw on extensive research as well as our qualifications in psychology and our professional experience and expertise, including our work regarding various institutional systems disproportionately impacting Aboriginal and Torres Strait Islander people.

211 In summary, it is recognised that wellbeing and healing for Aboriginal and Torres Strait Islander people is holistic and incorporates not only the physical health of the individual but the health of the community, which includes physical, social, emotional, spiritual and cultural wellbeing. Such an approach emphasises connections between individuals, family, community, culture and Country, and positions them socially, historically and politically. An understanding of Indigenous perspectives of social and emotional wellbeing is critical to promote healing for Aboriginal and Torres Strait Islander people. The right to self-determination is described and viewed as an essential requirement for achieving improved outcomes for Aboriginal and Torres Strait Islander peoples.

212 This report explores the importance of culturally appropriate and responsive services and programs to address social and emotional wellbeing, and outlines research in this area which has found that connection to culture promotes resilience and healing. Cultural identity is highlighted as important to promote resilience, self-esteem, self-worth and is seen as a protective factor. Strong cultural identities are maintained through ongoing connection to Country, family, Elders and participation in cultural practices. Evidence demonstrates that the social and emotional wellbeing of Aboriginal and Torres Strait Islander people requires programs that focus on building strengths, which are grounded in culture and designed and delivered by our communities.

213 Finally, the impact of imprisonment on Aboriginal and Torres Strait Islander people is considered through the social and emotional wellbeing framework and explored the disconnection from Country, culture and critical relationships as a result of imprisonment. In relation to the impact of imprisonment on Aboriginal and Torres Strait Islander people who have a cognitive or psychiatric disability, research in this area consistently urges healing-focused approaches that are grounded in culture and access to mental health supports. Providing these supports in the context of a punitive environment is potentially counter-productive and approaches which address systemic issues and disadvantage have far better outcomes for Aboriginal and Torres Strait Islander people and communities. In relation to the impact of imprisonment on children and families, imprisonment of a parent is viewed as an adverse childhood experience and poses a potential risk to developmental outcomes. Retaining children with family and kin networks, providing tailored supports and ongoing contact with the parent are key to mitigating the negative impacts of parental incarceration.

214 In conclusion, this report highlights the significance of culture to Aboriginal and Torres Strait Islander peoples, and the importance of connecting to culture and culturally appropriate treatments to facilitate healing, including in a criminal justice setting. It highlights the importance of the social and emotional wellbeing framework for Aboriginal and Torres Strait Islander people, the need to understand this holistic world view and the need to take into account both individual and social factors in how healing is promoted. Finally, the report identifies culture as a strength that builds capacity in Aboriginal and Torres Strait Islander people, which is seen as a protective factor.

Vanessa Edwige  Dr Paul Gray
June 2021
This report was commissioned by the Bugmy Bar Book (www.publicdefenders.nsw.gov.au/barbook) and was made possible by the support of the Australian Bar Association.

© Vanessa Edwige and Dr Paul Gray, 2021

Cover artwork:
Jeremy Worrall, returning to lore (2021)

My name is Jeremy Worrall I am a proud Ngarabal and Gomeroi man from Emmaville, NSW.

This piece is called returning to lore.

The bottom half represents the process of reconnecting to cultural practice, from song lines and dance to hunting and being on country. The middle is the outcome of connection, learning crafts such as weaving, storytelling and painting as well as the effects that has on those undertaking this process. The top half is the healing that is achieved and the snake represents the ever changing nature of this process of growth.