



First Nations peoples and the law

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To understand the overrepresentation of First Nations peoples in the criminal justice system, we need to understand the historical context, together with unresolved contemporary issues of sovereignty, self-determination, and the need for truth-telling. In this article, we provide an overview of the current situation, we discuss the historical and contemporary contexts which contribute to the risk of young First Nations peoples coming into contact with the justice system, and we make recommendations for prevention and healing, from a First Nations perspective. Overall, we argue that offending behaviours lie at the end of a continuum of risk. This continuum includes exposure to intergenerational and current trauma within the historical context of genocide, and the ongoing issues of generational poverty, social disadvantage, and discrimination.

The overrepresentation of First Nations people in the criminal justice system has been well documented for many decades.¹ This overrepresentation is both as victims of crime as well as offenders and includes an ever-increasing proportion of women.² Although many attempts have been made to reduce these figures, little progress appears to have been made overall considering the current rates of crime in First Nations communities and the subsequent incarceration of its members. To really understand this situation, we need to consider a broad range of contributing factors as well as the potential pathways for prevention and healing.

Prior to colonisation, First Nations peoples had their own system of governance and law which included forms of punishment for offending behaviour if required. However, through the process of colonisation, there has been a continued eroding and denial of the rights of First Nations peoples. Furthermore, there has been an eroding of First Nations peoples' ways of knowing, being and doing, that have contributed to current levels of misunderstanding, mislabelling and criminalisation of First Nations peoples. Historically, when considering the many violent and potentially criminal acts carried upon First Nations communities through massacres, dispossession, and the forcible removal of children, with little recourse to colonial justice at the

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1 *Royal Commission into Aboriginal Deaths in Custody* (National Report, 1991) vol 1 [1.3] ('The Disproportionate Numbers of Aboriginal People in Custody').

2 Australian Bureau of Statistics ('ABS'), *Corrective Services, Australia, March Quarter 2021* (Catalogue No 4512.0, 3 June 2021).

time, it places First Nations communities within a broader society of hypocrisy, oppression, racism and discrimination. When First Nations peoples tried to protect their families or protest at the injustice, these acts often resulted in further violence, criminalisation or incarceration.³

These historical issues underlie the problematic relationship between First Nations communities and the law and the many unresolved contemporary issues of sovereignty, self-determination and the need for truth-telling if reconciliation is going to progress. In addition, the historical context continues to contribute to the high rates of intergenerational trauma; poor health and mental health outcomes; and high rates of child removal, incarceration, poverty and offending behaviour. However, despite the worst impacts of colonisation, including genocide, First Nations peoples have survived⁴ and continue to protect and promote their cultural ways of life that have contributed to wellbeing for many thousands of years. Many First Nations families and communities are now thriving, reviving languages, cultural stories and practices, and heritage sites, excelling in education and leadership, and developing innovative and holistic models of health care which are leading the world. We must acknowledge and learn from the many strengths as well as the difficulties facing First Nations communities if we are to develop appropriate strategies to address the disproportionate representation of First Nations people in the criminal justice system.

Clearly there is a great need for effective culturally safe and trauma-informed prevention and early intervention programmes to reduce the pathways to offending for First Nations young people. We suggest that young people ending up in the criminal justice system represents a failure of other systems to properly identify and provide support and effective interventions across development. However, there remains a great need for the criminal justice system to be as effective as it can, providing a greater level of therapeutic jurisprudence to contribute to positive outcomes for our First Nations young people. As many pathways to offending in adulthood have their origins within the many risk factors and early adverse experiences during childhood, this article will focus on juvenile justice.

Overview

Aboriginal and Torres Strait Islander peoples make up around 3% of the general population,⁵ while accounting for around 27% of the prison population.⁶ Further, in the March 2021 quarter, the overall adult imprisonment rate in Australia was 213 persons per 100,000 adult population. However, the Aboriginal and Torres Strait Islander imprisonment rate was 2,373 persons per 100,000 adult population accounting for a rate

3 *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, 1997).

4 *Ibid.*

5 ABS, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016* (Catalogue No 3238.0.55.001, 31 August 2018).

6 Australian Law Reform Commission, *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report 133, 2018) Executive Summary, Disproportionate Incarceration Rate.

11.14 times higher than for non-Indigenous Australians. In addition, according to recent reports, the number of Aboriginal and Torres Strait Islander women in prison is growing.⁷ On a global scale, this suggests that Indigenous peoples in Australia are one of the most incarcerated peoples in the world.⁸

Children and adolescents

Although overall First Nations people account for 3% of the general population, the age distribution is different and tells quite a unique story for our young people (see Fig 1). First Nations young people make up about 6% of the Australian youth population. In the 2016 census among Indigenous peoples, 34% were under 15 years old (compared with 18% for non-Indigenous Australians), and 4% were aged 65 and over (compared with 16% for non-Indigenous Australians). In addition, the median age of the Indigenous population was 20.3 years compared to the non-Indigenous population of 37.8 years.⁹

The distorted population pyramid is a result of the many historical and contemporary factors that contribute to the burden of chronic disease and lowered life expectancy. What this age distribution also reveals, however, is that although there is a large number of young people, there are relatively fewer, healthy adults and older people, such as grandparents and elders, to provide the level of support, supervision and guidance required to enhance wellbeing. In addition, due to the burden of chronic disease, young people may play additional roles to support younger children or to provide care for ailing adults contributing to a greater level of stressful life events, including grief and loss, across development.¹⁰ This context must be understood when designing programmes to support children and families to be able to set realistic expectations and provide the actual level of resourcing and support that will be required.

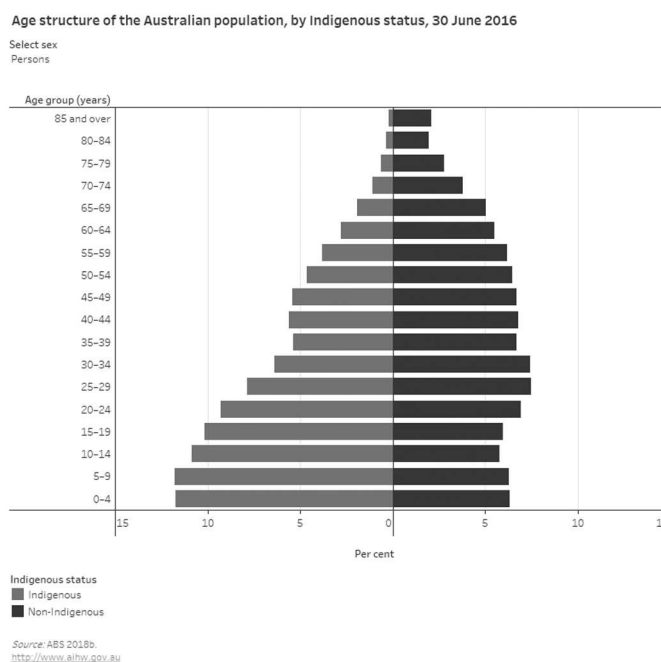
7 ABS, *Corrective Services, Australia, March Quarter 2021* (n 2). Nayri Black and Justin S Trounson, 'Intersectionality in Incarceration: The Need for an Intersectional Approach toward Aboriginal and Torres Strait Islander Women in the Australian Prison System' (2019) 22(1–2) *Journal of Australian Indigenous Issues* 45.

8 Thalia Anthony and Eileen Baldry, 'FactCheck Q&A: Are Indigenous Australians the Most Incarcerated People on Earth?', *The Conversation* (online, 6 June 2017) <<https://theconversation.com/factcheck-qanda-are-indigenous-australians-the-most-incarcerated-people-on-earth-78528>>; Mike Roettger, Krystal Lockwood and Susan Dennison, 'Indigenous People in Australia and New Zealand and the Intergenerational Effects of Incarceration' (Research Brief, 26 December 2019) <<https://www.indigenousjustice.gov.au/wp-content/uploads/mp/files/publications/files/intergenerational-effects-of-incarceration-fa.pdf>>.

9 'Profile of Indigenous Australians', *Australian Institute of Health and Welfare* (Web Page, 11 September 2019) <<https://www.aihw.gov.au/reports/australias-welfare/profile-of-indigenous-australians>>.

10 SR Zubrick et al, *The Western Australian Aboriginal Child Health Survey: The Social and Emotional Wellbeing of Aboriginal Children and Young People* (Report, 2005) vol 2.

Figure 1: Age distribution of Indigenous and Non-Indigenous Australians¹¹



Youth justice

According to the Australian Institute of Health and Welfare (‘AIHW’) *Youth Justice in Australia 2018–19* report, on an average day in 2018–19, of the young people aged 10–17 years under supervision, 50% were Indigenous, and of the young people aged 10–17 years in detention, 58% were Indigenous.¹² According to the AIHW report (2021), on an average night in the June 2020 quarter, the rate of youth justice detention for young people aged 10–17 was 23 per 10,000 for young Indigenous Australians, and 1.3 per 10,000 young non-Indigenous Australians. This means that young Indigenous people aged 10–17 years were 17 times more likely to be in detention on an average night.¹³

The gross overrepresentation of First Nations young people in the juvenile justice system has been cited for decades despite attempts to introduce programmes aimed at reducing incarceration. Tamara Hage and Jamie Fellows (2018) found that diversion programmes in Queensland have had little impact

¹¹ Ibid.

¹² Australian Institute of Health and Welfare (‘AIHW’), *Youth Justice in Australia 2018–19* (Report, 2019).

¹³ AIHW, *Youth Detention Population in Australia 2020* (Report, 2021).

on rates of juvenile offending. There is a growing call for a broader group of tailored, early intervention and longer-term programmes under the rubric of a Justice Reinvestment strategy to reduce offending behaviour and provide a greater capacity for recovery.¹⁴

What factors are associated with offending behaviours and youth justice engagement?

According to the AIHW, young people under youth justice supervision were 15 times more likely to be engaged with child protection services in the same year, compared with the general population.¹⁵ Indeed, 71% of people aged 10–13 years had received child protection services by the time of their first contact with the justice system. Further, more Aboriginal and Torres Strait Islander youth (61%) under justice supervision had received child protection services compared to non-Indigenous youth (48%).¹⁶

Youth involved with the justice system were also more likely to be engaged with specialist homelessness services, and were more likely to return to unstable and unsafe accommodation.¹⁷ Youth engaged with homelessness services *and* youth justice also had higher rates of trauma, drug and alcohol problems, as well as mental health issues compared with a matched cohort not involved with youth justice.¹⁸

Health-related factors associated with justice-involved youth include substance abuse, mental health problems, cognitive disability (for example, foetal alcohol spectrum disorder), and exposure to trauma.¹⁹ For example, 28% of youth under community-based supervision and 34% of youth in detention were survivors of abuse or neglect.²⁰ Furthermore, young people who received treatment for substance abuse were 30 times more likely to be under youth justice supervision compared with the general population, where Indigenous youth were 14 times more likely to be engaged with both drug and alcohol services and youth justice supervision, compared to their non-Indigenous counterparts.²¹

Overall, behaviour which increases the risk of encounters with the youth justice system has a context of significant trauma, developmental disability and social disadvantage. *We are imprisoning traumatised, developmentally compromised and disadvantaged young people, where imprisonment itself*

14 Tamara Hage and Jamie Fellows, ‘Combating Over-Representation of Indigenous Youth in the Queensland Criminal Justice System through “Justice Reinvestment”’ (2018) 24 *James Cook University Law Review* 147.

15 AIHW, *National Data on the Health of Justice-Involved Young People: A Feasibility Study 2016–17* (Report, 2018) (‘*National Data on the Health of Justice-Involved Young People*’).

16 AIHW, *Young People under Youth Justice Supervision and in Child Protection 2018–19* (Report, 2020).

17 AIHW, *Vulnerable Young People: Interactions across Homelessness, Youth Justice and Child Protection: 1 July 2011 to 30 June 2015* (Report, 2016).

18 *Ibid.*

19 AIHW, *National Data on the Health of Justice-Involved Young People* (n 15).

20 AIHW, *Young People under Youth Justice Supervision and in Child Protection 2018–19* (n 16).

21 AIHW, *Overlap between Youth Justice Supervision and Alcohol and Other Drug Treatment Services: 1 July 2012 to 30 June 2016* (Report, 2018).

adds to the re-traumatisation and complexity of supporting rehabilitation and recovery. In addition, we are separating Indigenous young people from their families and communities on a background of historical trauma, dispossession and the Stolen Generations, placing them at greater risk for mental health challenges.

In addition to these profiles on young people in contact with the youth justice system, what additional factors are contributing to their high burden of stress and potential pathways to offending behaviour? Although it can be difficult to define causative pathways to offending, the accumulation of risk factors related to serious adverse events in childhood which include child maltreatment, grief and loss, parental mental illness, poverty, violence and drug use, and parental incarceration appear to be common in the background stories of young people who encounter the youth justice system.²² Being exposed to multiple adverse experiences in childhood places a young person at risk of poor development across all domains throughout their life.²³ This includes disrupted neurodevelopment leading to social, emotional and cognitive impairments, which can lead to permanent changes in brain development.²⁴ The resultant impacts can include poor educational outcomes and social problems such as unemployment,²⁵ developing health risk behaviours such as smoking and drug use,²⁶ disability,²⁷ poorer health-related quality of life,²⁸ and early death.²⁹

According to the AIHW Aboriginal and Torres Strait Islander adolescent and youth health and wellbeing report (2018), the current developmental outcomes for Indigenous young people aged 10–24 include the following:³⁰

- Almost two-thirds experienced significant stressors including difficulty

22 Ed Heffernan et al, 'Mental Disorder and Cognitive Disability in the Criminal Justice System' in Pat Dudgeon, Helen Milroy and Roz Walker (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Commonwealth of Australia, 2nd ed, 2014) 165.

23 VJ Felitti et al, 'Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study' (1998) 14(4) *American Journal of Preventive Medicine* 245.

24 Robert F Anda et al, 'The Enduring Effects of Abuse and Related Adverse Experiences in Childhood: A Convergence of Evidence from Neurobiology and Epidemiology' (2006) 256(3) *European Archives Psychiatry and Clinical Neuroscience* 174; Julia I Herzog and Christian Schmahl, 'Adverse Childhood Experiences and the Consequences on Neurobiological, Psychosocial, and Somatic Conditions across the Lifespan' (2018) 9 *Frontiers in Psychiatry* 420:1–8.

25 Marilyn Metzler et al, 'Adverse Childhood Experiences and Life Opportunities: Shifting the Narrative' (2017) 72 *Children and Youth Services Review* 141.

26 Earl S Ford et al, 'Adverse Childhood Experiences and Smoking Status in Five States' (2011) 53(3) *Preventive Medicine* 188; Elizabeth A Swedo et al, 'Adolescent Opioid Misuse Attributable to Adverse Childhood Experiences' (2020) 224 *Journal of Pediatrics* 102.

27 Sophia Miryam Schüssler-Fiorenza Rose, Dawei Xie and Margaret Stineman, 'Adverse Childhood Experiences and Disability in US Adults' (2014) 6(8) *PM&R* 670.

28 Phaedra S Corso et al, 'Health-Related Quality of Life among Adults Who Experienced Maltreatment during Childhood' (2008) 98(6) *American Journal of Public Health* 1094.

29 David W Brown et al, 'Adverse Childhood Experiences and the Risk of Premature Mortality' (2009) 37(5) *American Journal of Preventive Medicine* 389.

30 AIHW, *Aboriginal and Torres Strait Islander Adolescent and Youth Health and Wellbeing 2018: In Brief* (Report, 2018).

finding a job, and 1 in 3 reported being treated unfairly because they were Indigenous.

- 61% of First Nations people aged 10–24 recognised their traditional homelands, and over two-thirds (69%) were involved in cultural events in the previous 12 months.
- Most First Nations people aged 15–24 (67%) experienced low to moderate levels of psychological distress, while 33% experienced high to very high levels.
- Burden of disease analyses show that for First Nations people aged 10–24, the leading contributors to the disease burden were suicide and self-inflicted injuries (13%), anxiety disorders (8%), alcohol use disorders (7%) and road traffic accidents (6%).

First Nations young people also reported that they experienced unfair treatment (most commonly racism) in educational settings. In 2018, the proportion of young First Nations people aged 20–24 who had completed year 12 or equivalent was 65%, compared to 89% of non-Indigenous people. Further, in 2016, First Nations students in years 5, 7 and 9 were more likely to meet national minimum standards for reading, writing and numeracy if they lived in major cities compared with very remote settings.³¹ Finally, First Nations children continue to be overrepresented among children receiving child protection services, where they were eight times as likely to receive child protection services as non-Indigenous children, and the most common forms of abuse they faced were emotional abuse (47%) and neglect (32%).³²

This pervasive sense of risk is present across the entire population, and it can potentially place the more vulnerable young people at even greater risk due to the loss of resilience, buffering, and feelings of hopelessness, and distress across some communities.³³ The distorted population age structure previously outlined also means there are less available social resources to adequately address the levels of need. The impact of trauma, disadvantage and discrimination cannot be underestimated for First Nations young people, their families and communities, and recovery or restoration of wellbeing must be considered within a broader collective model of community healing. In addition, the developmental context of adolescence is an important factor to consider. Although earlier risk and distress may have been present, it is often during adolescent development that these cumulative risks become manifest in the form of acting out behaviours, substance misuse, suicidal ideation and offending behaviours.

Adolescence is a time of separation and individuation, as well as identity-formation. As young people find their own way in the world and form stronger and more intimate relationships with peers, they are more open to broader societal influences and new ways of understanding their own, as well as their families' and communities' experiences. This is especially relevant to developing an understanding of genocide, intergenerational trauma, injustice

31 Ibid.

32 AIHW, *Child Protection Australia 2019–20* (Report, 2021).

33 Department of Health and Aged Care (Cth), *Promotion, Prevention and Early Intervention for Mental Health: A Monograph* (Report, 2000).

and other unresolved issues such as sovereignty and reconciliation. They may develop issues associated with who they are, how they want to be, as well as their place in the world. This may lead to role confusion and a poor sense of self and may heighten earlier experiences of trauma and loss. Young people who have already experienced many adverse early life events may experience a heightened sense of loneliness and isolation, have difficulty forming trusting relationships and have little sense of a positive future. This can contribute to further difficulties with emotional regulation and behaviour and contribute to mental health challenges. Difficult emotions such as anger and rage or sadness can result in acting out behaviours and substance use resulting in contact with the criminal justice system. From adolescents to elders, trauma impacts a person's ability to engage and sustain relationships and connection, which is the very thing that young people need to recover from trauma and develop a sense of a positive future.³⁴

Given this context, it is not surprising to see the common principal offences for young people include acts intended to cause injury, theft and illicit drug offences which may well have their origins in unresolved trauma, and ongoing disadvantage.³⁵ While juvenile offences may require a justice response, they also require a comprehensive approach to how this young person arrived at this point in their life and what is required to provide healing and restoration of healthy physical, psychological, behavioural and cultural development. Once a young person is engaged in youth justice, this does provide an important opportunity for effective intervention to prevent the progression of offending behaviours and further psychological, social and physical health problems. The earlier an intervention is provided, the greater the capacity for recovery and for normal development to take place. It is far more cost-effective to intervene early in the development of distress, trauma and illness than later when entrenched neural pathways, behaviours and maladaptive coping strategies are far more difficult and costly to shift.

Interventions and ways forward

Ideally, the way forward would include prevention, early intervention and comprehensive clinical and community intervention should a child or young person encounter the youth justice system. We argue that we are missing the prevention and early intervention pathways, and that current interventions are insufficient to stem the flow of youth into detention. For people already involved in the justice system, there is a need to understand offending behaviour from a holistic perspective to provide appropriate, comprehensive and potentially longer-term interventions that consider the outcome for the young person over their development rather than just during their contact with the youth justice system. Changing abnormal or maladaptive developmental pathways built up over the early years requires a long-term approach to ensure

34 Graham Gee et al, 'Aboriginal and Torres Strait Islander Social and Emotional Wellbeing' in Pat Dudgeon, Helen Milroy and Roz Walker (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Commonwealth of Australia, 2nd ed, 2014) 55.

35 ABS, *Recorded Crime: Offenders, 2019–20 Financial Year* (Catalogue No 4519.0, 11 February 2021).

healthy developmental trajectories for the future. That is, offending behaviour exists at the end of a continuum, and this continuum would have likely included exposure to trauma, developmental disability, social disadvantage and discrimination. The need for collaborative, integrated systems that can see a young person through to adulthood is required.

Interventions need to have broader-based, historical and contemporary understandings of the pathways into the justice system and what is required for healing. For example, an intervention targeting substance abuse which does not also account for trauma exposure, social determinants of wellbeing (for example, stable housing), and the social and emotional wellbeing ('SEWB') of Aboriginal and Torres Strait Islander people (for example, connection to country, community wellbeing) would not address the underlying risk and causal factors of any drug-related offending behaviour. In addition, providing a comprehensive mental health and SEWB assessment of a young person in the juvenile justice system is complex and complicated by a number of factors, including the lack of culturally valid assessment tools; conflated with issues of longstanding disadvantage and discrimination; unresolved trauma; as well as developmental, clinical and cultural complexity. This can lead to inappropriate diagnoses and treatment plans and not address the many underlying factors contributing to the young person's offending behaviour or wellbeing.

Unfortunately, our current system responses to First Nations youth within 'the system' are that of independent silos (mental health, child protection, police, drug and alcohol services) who manage within their remit and lack meaningful collaboration and coordination. This service fragmentation reinforces the trauma dynamics of isolation, disconnection, re-traumatisation and disempowerment. Trauma is associated with relational mistrust and seeing the world as unsafe through a lens of fear, confusion and threat. Hence when young people are engaged with various services, they can feel overwhelmed when confronted by numerous services, workers and the re-telling of their story. The cycle between incarceration, out-of-home care and being in the family/community can add additional stress to a young person especially where services lack cohesion and are viewed as culturally unsafe. If the young person has difficulty with services, this can be misunderstood and mislabelled as uncooperative, unreliable or refusing a service.

Young people may be living in family environments with high levels of trauma and socioeconomic disadvantage, familial issues, mental ill health, substance misuse, domestic violence and offending behaviour. This may make recovery difficult for the young person due to the ongoing experiences of trauma and community pressures which may place the young person at further risk. The intergenerational effects of parental imprisonment can also impact on the young person's development through compounding existing adversities and disrupting social bonds and attachment relationships and may increase the risk for offending behaviour.³⁶ In some communities with high rates of incarceration, offending behaviour may become normalised in being a young

36 Roettger, Lockwood and Dennison (n 8).

Aboriginal male and fighting against injustice.³⁷ Unfortunately, incarceration for some young people may be seen as a safer option to have time away from difficult circumstances where basic necessities such as food, accommodation and education are provided in detention, and where sadly, the young person may have increased contact with family members also incarcerated.

Clinicians need to be aware that when assessing First Nations youth within a custodial setting, a comprehensive assessment may yield co-morbid issues, the effects of which are cumulative. These include depression, psychosis, anxiety, post-traumatic stress disorder, intellectual impairment, neurodevelopmental disorders, substance misuse, and conduct disorder, some of which may not have been previously identified.³⁸ With such a level of complexity to care, addressing the needs of First Nations youth in custody needs to be within a SEWB framework with trauma- and healing-informed, culturally competent approaches. Although there has been a lot of development worldwide into trauma-informed approaches across human services, many of the principles are similar and may include safety, trustworthiness and transparency, peer support, collaboration and mutuality, empowerment, voice and choice, and an understanding of historical, gender and cultural issues as outlined in the Substance Abuse and Mental Health Services Administration's guidance for a trauma-informed approach.³⁹ There also needs to be the appropriate staffing, including First Nations staff, and resources to meet the needs in custody, on remand and on release to the community.

There is a growing recognition of the need for First Nations cultural consultants to work with youth in the justice system. Their role in assisting with cultural concerns, understanding behaviour and experiences through a cultural lens, their ability to engage and support young people in cultural ways and act as role models as well as creating a cultural bridge and vouching for mainstream practitioners is critical. They are also more able to engage with families back in the community, create referral pathways and increase support and successful transition into other services. However, recruiting, supporting and retaining a First Nations workforce remain difficult and would benefit from a dedicated workforce strategy.

37 Emma Ogilvie and Allan Van Zyl, 'Young Indigenous Males, Custody and the Rites of Passage' (Trends and Issues in Crime and Criminal Justice Paper No 204, Australian Institute of Criminology, April 2001).

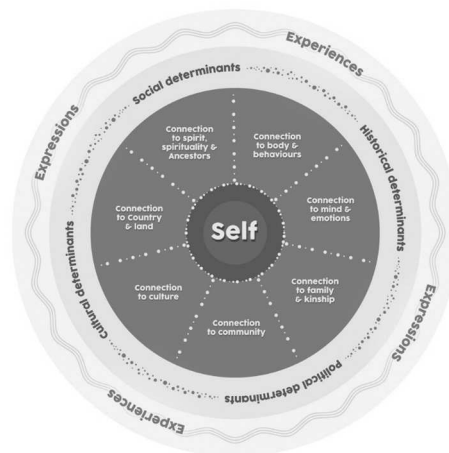
38 AIHW, *National Data on the Health of Justice-Involved Young People* (n 15).

39 Substance Abuse and Mental Health Services Administration, *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach* (Guidance, July 2014).

Models of care

Understanding a SEWB framework

Figure 2: SEWB Diagram⁴⁰



SEWB Diagram adapted from Gee et al., (2014)

First Nations peoples conceptualise health as the social, emotional and cultural wellbeing of their community and is influenced by relationships between individuals, family and community. SEWB also results from connection to land, culture, spirituality and ancestry.⁴¹ Therefore, the SEWB of First Nations peoples today has been impacted on by cultural, social, historical and political factors described earlier in this article.

Applying the Dance of Life Model

Figure 3: *The Dance of Life*, painting by Helen Milroy, 2006



40 Gee et al (n 34).

41 Ibid.

The Dance of Life Model⁴² was developed to assist in understanding the many factors, layers and levels of complexity impacting on development, SEWB, health, and mental health for First Nations peoples, families and communities. As the matrix unfolds, it is easy to see how many factors overlap and interact across life and development. It also allows the reader to see where their responsibility may be relevant and the need to collaborate, coordinate and integrate with other services to meet all needs identified.

The Dance of Life Model includes the physical, psychological/emotional, social, spiritual and cultural dimensions of development, incorporating First Nations' traditional views, beliefs and practices, historical experiences, contemporary issues, gaps in knowledge and potential pathways for recovery across each dimension. For example, when considering how to assess a young person, one must consider any physical health issues such as malnutrition, hearing loss, diabetes or rheumatic heart disease that may be impacting on their general wellbeing. In addition, psychological issues such as trauma exposure, developmental or cognitive disability or other mental health challenges such as grief and loss need consideration. Level of educational achievement also needs to be assessed and understood in the context of social disadvantage and level of cognitive development.

Social circumstances, support, family connections and capacity for care also need to be understood in terms of what social supports may need to be developed in the community. Spiritual and cultural factors also need consideration as they contribute to identity, symptom-formation, understanding of behaviour and whether a cultural solution may be appropriate for some of the issues identified.

In addition, factors such as racism and re-traumatisation within the system can be considered within this approach. Within this model, all the risk and protective factors for offending behaviours can be identified and addressed within the developmental context and allow for a strengths-based perspective to be developed.

With this comprehensive approach to identifying what is contributing to the overall wellbeing and behaviour of the young person, a broader-based, healing-informed plan can be developed that incorporates all the dimensions of development and allows for a greater understanding of what is required for the young person under care.

Conclusion

Overall, we argue that exposure to intergenerational and current trauma within the historical context of genocide, and the ongoing issues of generational poverty, social disadvantage and discrimination, are associated with an increased risk of First Nations young people coming into contact with the justice system. Offending behaviours lie at the end of this continuum of risk and partly as a failure of previous systems to identify support and intervene

42 'The Dance of Life', *Royal Australian and New Zealand College of Psychiatrists* (Web Page) <<https://www.ranzcp.org/practice-education/indigenous-mental-health/aboriginal-torres-strait-islander-mental-health/the-dance-of-life>>.

effectively. Hence the focus on prevention and early intervention needs to be strengthened to stop the development of pathways into offending behaviour. However, for those already involved with the justice system, a comprehensive understanding of the wellbeing needs of the young person needs to be considered if an effective rehabilitation and healing approach is to be developed, fully resourced and implemented.