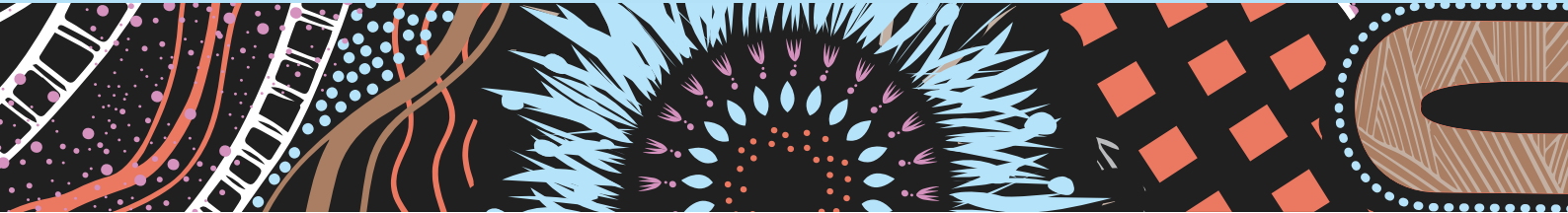




Improving mental health outcomes for Indigenous Australians in the criminal justice system

Summary paper



This paper is a summary of the *Improving mental health outcomes for Indigenous Australians in the criminal justice system* publication. It is published on the Australian Institute of Health and Welfare Indigenous Mental Health and Suicide Prevention Clearinghouse. It can be accessed online at www.indigenousmhspc.gov.au.

Some people may find the content of this report confronting or distressing. If you are affected in this way, please contact **13YARN (13 92 76)**, **Lifeline (13 11 14)** or **Beyond Blue (1300 22 4636)**.

Key findings

Aboriginal and Torres Strait Islander people are over-represented in the criminal justice system. Mental health conditions and self-harm are relatively common among Indigenous offenders. Many offenders, especially Indigenous women, have unmet mental health needs.

Systemic issues in criminal justice can intensify mental health problems:

- Correctional centres are often located away from family and community, limiting access to Elders and a support network.
- For Indigenous Australians, generally offences are minor, with corresponding periods of imprisonment short. Those serving short sentences are often unlikely or unable to access rehabilitation or mental health programs and are less likely to be eligible for assisted reintegration into the community.
- Indigenous people are often held unsentenced in custody making them ineligible to access services that are available to sentenced prisoners.

The lifelong impacts of incarceration – such as reduced employment and lack of stable housing – also contribute to adverse mental health outcomes.

Best practice learnings for Indigenous mental health and suicide prevention programs in the criminal justice system:

- Indigenous facilitators are important to the success of programs, as is continuity of a relationship with caseworkers to enable positive rapport. A facilitator or caseworker who is a stranger to prisoners will find it difficult to maintain rapport and earn respect, which are important qualities for discussing mental health and suicide.
- Culturally relevant programs are valuable, both in keeping young people out of the criminal justice system and in successfully engaging Indigenous offenders.
- Working with, and learning from, Elders strengthens cultural identity and self-esteem, which can protect against adverse mental health outcomes.
- Interagency collaboration is needed to connect people to services.
- Indigenous governance over programs is important, as is Indigenous-led design and implementation.
- The value of participation in pro-social activities, that is activities that involve groups of individuals, such as sport, music or gym.

Some approaches do not work well:

- Treating the mental health of Indigenous Australians from a non-Indigenous view fails to consider Indigenous understandings of wellbeing.
- Imprisonment does not typically improve mental health outcomes.
- Placing individuals into custody instead of referring them to support services does not improve mental health outcomes.

What we know

Aboriginal and Torres Strait Islander people are over-represented in the criminal justice system, being among the most incarcerated population groups worldwide. For example:

- Indigenous adults were imprisoned at 11 times the rate of non-Indigenous Australians in 2019–20 (Productivity Commission 2021).
- Indigenous young people aged 10–17 were 21 times as likely as non-Indigenous young people to be in detention on an average night in the June quarter, 2019 (AIHW 2020a).

Mental health conditions and self-harm are relatively common among Indigenous offenders:

- The 2018 National Prisoner Health Data Collection – for adults aged 18 years and over – reported 24% of Indigenous prisoners discharged had been told they had a mental health disorder (including alcohol and other drug disorders). This is likely to be an underestimate (AIHW 2010; McCausland et al. 2017).
- Many offenders, especially Indigenous women, have unmet mental health needs. For example, almost half (47%) of Indigenous women in Queensland prisons experience post-traumatic stress disorder (Heffernan et al. 2015).
- There is also a high prevalence of mental health conditions among young people in youth detention centres; in a sample of 100 Indigenous young people in custody in New South Wales, almost two-thirds (63%) experienced a substance-related disorder in 2015 (JHFMHN 2017).
- Suicide attempts have been shown to be more common among Indigenous adults than non-Indigenous adults in custody (Indig et al. 2010). There is also a high incidence of suicide attempts and ideation among Indigenous adults and young people in custody (Shepherd et al. 2018; JHFMHN 2017). Of deaths of Indigenous Australians in custody, almost a third (28%) were due to suicide or self-inflicted causes (Doherty and Bricknell 2020).

There are often lifelong impacts of incarceration – such as difficulties in securing employment, housing and health care. This exacerbated social disadvantage can result in adverse mental health outcomes such as feelings of isolation, depression and suicidal ideation (Cutcher et al. 2014).

Compared to the general New South Wales population suicide rates of ex-prisoners were 2.9 and 6.5 times higher for Indigenous males and females, respectively (Kariminia et al. 2012).

Australia's criminal justice system

There are many similarities in the operations of the criminal justice system across Australia. Each have separate justice systems for children and adults (AIHW 2020a).

Offenders from many geographical areas are located in a single correctional centre that is often located away from family and community. For Indigenous prisoners, this limits important access to support from an appropriate Elder or respected community person (CIRCA 2013; Palmer 2013).

Indigenous Australians have earlier and more frequent interactions with the criminal justice system compared with non-Indigenous Australians (Chen et al. 2005; Putt et al. 2005). On average, Indigenous young people entered youth justice supervision at a younger age than non-Indigenous young people (AIHW 2020b).

For Indigenous Australians, offences are generally minor, and corresponding periods of imprisonment are short. Those serving short sentences are often unlikely or unable to access rehabilitation or mental health programs (Abbott et al. 2018) or be eligible for assisted reintegration into the community (Alan et al. 2011; Blagg et al. 2005).

Indigenous people are often held unsentenced in custody. This makes them ineligible to access services that are available to sentenced prisoners (Alan et al. 2011; Blagg et al. 2005). Studies in Australia and internationally have shown higher rates of suicide among unsentenced than sentenced prisoners (Marzano et al. 2010; Marzano et al. 2016; Shaw et al. 2004).

Relevant policies, programs and initiatives

The mental health of Indigenous prisoners is a major public health concern for policy makers at the state and national level. The 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC) report found that the mental health of offenders and the over-criminalisation of Indigenous Australians are key factors relating to suicide and other deaths in custody (RCIADIC 1991). National frameworks and public inquiries have recommended changes in:

- the treatment of prisoners
- the provision of culturally appropriate mental health care services
- early intervention programs for Indigenous young people.

Generally, frameworks outline recommendations for best practice to reduce contact with the criminal justice system and to improve mental health and suicide prevention outcomes. Common strategies include:

- implementing Indigenous-led self-determination
- viewing health and wellbeing holistically
- implementing culturally appropriate practices
- delivering services in a timely manner
- practicing interagency collaboration (Sivak and Cantley 2017; State of Victoria 2017; State of Queensland 2019).

Another general recommendation was for undertaking justice reinvestment strategies whereby funding is redirected from the criminal justice system to strategies that address the underlying causes of crime (RCIADIC 1991; State of Victoria 2017).

The Royal Commission into the Protection and Detention of Children in the Northern Territory 2017 (RCIPDCNT) revealed accounts of abuse against children in youth detention (RCIPDC 2017). The conditions and experiences outlined were likely to result in lasting psychiatric damage to young people and children. The RCIPDCNT identified a need for greater comprehensive mental health screening when a young person is first admitted into detention and again during custody (RCIPDC 2017).

The National Agreement on Closing the Gap highlights the reduction of incarceration rates for Indigenous Australians as a key outcome with two separate targets: one to reduce the rate of adults incarcerated and one to reduce the rate of children in detention (Commonwealth of Australia 2020). Other key policies and recommendations related to Indigenous Australians and the justice system are summarised in Box 1. For more detail of relevant policies and frameworks, key recommendations and progress regarding implementation, see Appendix A of the full report.

Box 1: Key policies and recommendations related to Indigenous Australians in the justice system

National frameworks and plans have recommended actions in the following areas:

- Promotion of Indigenous self-determination and governance for community and health programs. For example, this was recommended by the National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017–2023 (the National Framework) (PM&C 2017).
- Adequate funding for services to target children with mental health conditions early in life. For example, this was recommended in *Balit Murrup: Aboriginal social and emotional wellbeing framework for Victoria* (State of Victoria 2017).
- Mental health training for police, leading to more diversions away from the justice system. For example, this was recommended by the *National Indigenous Law and Justice Framework 2009–2015* (SCAG 2009).
- More sentencing options as alternatives to prison. For example, this was recommended by the Australian Law Reform Commission in 2018.
- Incarceration as a last resort, as recommended by the RCIADIC (RCIADIC 1991).
- The use of solitary confinement and restraints as a last resort. For example, this is highlighted in *Guiding principles for corrections in Australia* (CSAC 2018).
- Thorough mental health screening routinely and on admission to youth detention. For example, this was recommended by the RCIPDCNT (2017).
- Continuity of care and exit-planning for after release from prison. For example, this was recommended by the National Framework (PM&C 2017).

Programs and initiatives

Fourteen programs and initiatives delivered to Australians involved with the criminal justice system were examined to assess best practice related to mental health and suicide prevention. Eight of these were Indigenous-specific programs. For more detail see Chapter 4, Appendix B and C of the full report.

The 14 programs covered the 4 stages of the criminal justice system: Early intervention; Court processing; During custody; and Post-release (Table 1).

Table 1: Program details and evaluation information

Name and brief description	Location / Indigenous-specific?	Evaluation
Early intervention		
<p>The Yiriman Youth Project</p> <p>This on-Country, cultural immersion program is aimed at improving connection to culture, wellbeing, and reducing contact with the criminal justice system. Yiriman includes men’s trips, women’s trips, foraging and harvest, video-making projects, and bush medicine workshops. Participants exchange stories, learn to care for the land and build relationships with peers and Elders. Yiriman has a focus on maintaining connections with culture and community (Dudgeon and Walker 2017; Gee et al. 2014).</p>	<p>West Kimberley and nearby bush locations, Western Australia</p> <p>Indigenous-specific – yes</p>	<p>‘We know they healthy cos they on country with old people’: demonstrating the value of the Yiriman project (Palmer 2013)</p>
<p>Balunu Indigenous Youth Healing Program</p> <p>Balanu is an on-Country, residential healing camp to engage youth with their culture, community, educational services, reduce criminal behaviour, and build resilience. The program incorporates cultural healing practices in a safe environment to improve the social and emotional wellbeing of Indigenous young people and aims to increase self-esteem, confidence and self-respect (Blignault et al. 2013).</p>	<p>Darwin and nearby bush settings, Northern Territory</p> <p>Indigenous-specific – yes</p>	<p>Case Study of the Balunu Indigenous Youth Healing Program (Blignault et al. 2013)</p>
<p>Youth on Track</p> <p>This voluntary, early intervention program is for all young people who have had formal contact with the criminal justice system. Participants are encouraged to engage in pro-social activities including sports, music and gym, and participate in behavioural training to build confidence in social situations. The program aims to reduce future contact with the criminal justice system and refer young people to appropriate programs and support services.</p> <p>Engagement in social activities is a recognised factor relating to mental health and suicide prevention (Ding et al. 2015; Saeri et al. 2017).</p>	<p>Multiple sites in New South Wales</p> <p>Indigenous-specific – no</p>	<p>Youth on Track Evaluation Social Outcomes (CIRCA 2017)</p>
Court processing		
<p>Mental Health Courts</p> <p>These are alternative sentencing courts where the interdisciplinary court team works with mental health professionals to address the underlying causes of criminal behaviour. They exercise a therapeutic approach rather than a punitive approach (Davidson 2015). Participants are offenders with mental health conditions who require criminal sentencing.</p>	<p>Vic, WA, SA, Tas</p> <p>Indigenous-specific – no</p>	<p>No evaluation available on outcomes specific to mental health, suicide or key mental health and suicide protective factor.</p>
<p>Indigenous sentencing courts</p> <p>These alternative courts involve the Indigenous community in the sentencing process in a culturally appropriate setting (Bennett 2016). They are designed according to the context of the local Indigenous community and are used to sentence Indigenous young people or Indigenous adults depending on the criteria of the court (Marchetti and Daly 2004). Also known as Koori Courts, Nunga Courts, Murri Courts, circle courts or community courts.</p> <p>Indigenous ownership and community development are key factors of these courts (Dudgeon and Walker 2017; Gee et al. 2014).</p>	<p>Vic, Qld, WA, SA, ACT, NT</p> <p>Indigenous-specific – yes</p>	<p>No evaluation available on outcomes specific to mental health, suicide or key mental health and suicide protective factors</p>

Name and brief description	Location / Indigenous-specific?	Evaluation
During custody		
<p>The Family Wellbeing program</p> <p>This program supports Indigenous adults, families and children who have mental health conditions, substance misuse issues, or who have experienced violence. The program teaches skills that participants can use to gain control over their lives and sustain healthy lifestyles. The program aims to improve cultural connection and social and emotional wellbeing by learning how to respond to family conflict and manage relationships (Cassels et al. 2018).</p>	<p>National Indigenous-specific – yes</p>	<p>Connecting and strengthening young Aboriginal men: A Family Wellbeing pilot study (Whiteside et al. 2016)</p>
<p>Mothering at a Distance</p> <p>This parenting program is run in correctional facilities for mothers in custody to maintain relationships with their children under 5-years in the community. As well as helping to maintain positive relationships with their children, mothers engage in craft-making activities with other mothers and have opportunities to build relationships and share experiences with each other (Rossiter et al. 2016).</p>	<p>New South Wales Indigenous-specific – no</p>	<p>Breaking the cycle for incarcerated parents: towards pro-social parenting (Rossiter et al. 2016)</p>
<p>Dthina Yuwali</p> <p>This alcohol and other drugs program for Indigenous young people currently in youth detention or outside custody is delivered in a group setting where participants engage in cultural and educational activities. It includes learning circles and exchanging stories with Elders. It aims to reduce harmful substance use and to discourage re-offending.</p>	<p>New South Wales Indigenous-specific – yes</p>	<p>Evaluation of Indigenous Justice Programs (CIRCA 2013)</p>
<p>Red Dust Healing</p> <p>This Indigenous-led cultural healing program is aimed at Indigenous men, women and families. The program has been implemented at juvenile detention centres, adult prisons, as well as in the community and schools. It encourages participants to recognise issues in their lives that arise from rejection and grief, and to improve positive decision-making. Participants are taught about LORE (Land, Origin, Respect, Elders), which is about where Indigenous people belong and maintaining earned respect for one's self, land, people and Elders (Thompson 2018).</p>	<p>Australia, New Zealand Indigenous-specific – yes</p>	<p>Red Dust Healing Program Evaluation (Thompson 2018)</p>
<p>Indigenous Mental Health Intervention Program (IMHIP)</p> <p>This program is an Indigenous-led, social and emotional wellbeing service that provides care during custody to identify mental health conditions and transitional support before leaving prison.</p>	<p>Queensland Indigenous-specific – yes</p>	<p>No evaluation currently available.</p>
Post-release		
<p>Changing Habits and Reaching Targets (CHART)</p> <p>This cognitive behavioural therapy program is delivered by caseworkers to reduce re-offending of young people after their release from custody.</p>	<p>NSW, Vic, Qld, SA, Tas, ACT Indigenous-specific – no</p>	<p>No evaluation available on outcomes specific to mental health, suicide or key mental health and suicide protective factors</p>

Name and brief description	Location / Indigenous-specific?	Evaluation
<p>The Program for Adolescent Life Management (PALM)</p> <p>This program is a residential treatment service for young people who have had recent contact with the criminal justice system and experience mental health conditions or substance dependency. Entrants receive individualised treatment plans and structured treatment, which includes living skills training, creative group work, individual therapy and recreation activities.</p>	<p>Sydney, New South Wales</p> <p>Indigenous-specific – no</p>	<p>Predictors of retention, and client perceptions of treatment satisfaction and outcomes, among young people presenting residential drug and alcohol treatment with alcohol as a primary or secondary substance of concern (Howard and Arcuri 2005)</p>
<p>Babiin-Miyagang</p> <p>This Indigenous-led parenting program is for Indigenous male parents and caregivers who have had contact with criminal justice system. Participants learn about cultural heritage, tradition and understanding the effects of colonisation (Rossiter et al. 2016).</p>	<p>New South Wales</p> <p>Indigenous-specific – yes</p>	<p>Breaking the cycle for incarcerated parents: towards pro-social parenting (Rossiter et al. 2016)</p>
<p>ReSET</p> <p>ReSET supports people transitioning into the community by delivering services in the areas of accommodation, education, parenting and family. Participants are provided with individualised plans on how to reconnect with family, community and culture upon release. Pro-social life skills, independent living skills and parenting skills are developed. Participants are men and women in custody due to be released within 6 months.</p>	<p>Perth, Western Australia</p> <p>Indigenous-specific – no</p>	<p>There is no publicly available information about a review or evaluation of this program (WAC 2018).</p>

What works

Of the 14 programs assessed in this paper, evaluation evidence concerning mental health outcomes was available for 12 programs; however, 3 of those 12 evaluations did not directly assess impacts on social and emotional wellbeing. Six of the 14 programs assessed were not Indigenous-specific.

For many of the criminal justice systems programs examined, improving mental health and preventing suicide were not the focus of the program, but additional outcomes of the program. Further, it was not always possible to definitively attribute the mental health and suicide outcomes to the program interventions.

Early intervention programs

Facets important for the success of the 3 early intervention programs – Yiriman Youth Project; Balunu Indigenous Youth Healing Program; and Youth on Track – were as follows:

- Interagency collaboration to connect young people to services.
- Timely support and early referrals to services.
- Individualised discussion about mental health and suicide.
- Indigenous governance of program design and implementation.
- Indigenous coordinators and staff successfully building rapport.
- Cultural activities to connect with cultural identity.
- Pro-social activities and opportunity to build relationships.

There was also evidence of aspects that did not assist positive outcomes for participants, as follows:

- Lack of rapport built between caseworker and participant.
- The temporary nature of the program could be insufficient for those with severe mental health disorders, such as substance dependency.

During court processing

Two programs supporting people during court processing were assessed – Mental health courts and Indigenous sentencing courts. While specific mental health and suicide outcomes are unknown for alternative courts, available evidence indicates they may positively affect aspects of social and emotional wellbeing, namely community building (Richardson 2019). Evaluations have highlighted the following positive facets of these programs:

- Interagency collaboration to connect young people to services.
- ‘Giving a voice to the accused’.
- Indigenous-led design and implementation.

There were also learnings to suggest that participants in mainstream court systems can feel as though their voices are overlooked.

Unintended negative outcomes could arise for offenders sentenced in Mental health courts because many such courts require the offender to plead guilty to the charges against them before they can participate (AIC 2011). This can result in offenders receiving a criminal record, which is a major barrier to finding employment and housing.

Providing consent to participate in a Mental health court may not be possible for offenders with severe intellectual disability or mental illness, but these offenders are the most in need of alternative court systems (AIC 2011).

The evidence that Indigenous sentencing courts are effective in reducing re-offending is mixed; some reviews found reductions (Department of the Attorney-General 2014) and some reviews found no significant reductions (CIRCA 2013; Morgan and Louis 2010).

During custody

Programs for Indigenous Australians in custody generally focus on developing life skills and their connections to family and culture. Five such programs were assessed – The Family Wellbeing Program; Mothering at a Distance; Dthina Yuwali Aboriginal Alcohol and Other Drug Program; Red Dust Healing; and The Indigenous Mental Health Intervention Program (IMHIP). Evaluation evidence from IMHIP was not available.

The following factors for success were identified:

- Indigenous facilitators.
- Cultural activities to connect with identity.
- Strengths-based approach.

Learnings were also made about the less successful facets of programs, as follows:

- Not having plans for continuity of care, since many prisoners serve short sentences.
- Unsented prisoners may not be eligible to participate in custodial setting programs.
- Connecting to services, such as health services, not built into the design of the program.

Post-release

Four post-release programs were examined – Changing Habits and Reaching Targets; PALM; Babiin-Miyagang; and ReSET.

There is less structure outside prison and, for some ex-prisoners, less social contact (Abbott et al. 2018) as the community and family networks they had before entry might no longer exist. The resulting need to rebuild social connections can be difficult, especially considering the stigma of being an ex-prisoner and other prejudice that can be experienced (Sivak and Cantley 2017).

The need for social and mental health support is particularly apparent for prisoners that return from prison to violent households or to social groups with high levels of substance use. There is a lack of continuity of care into the community after release.

The following aspects were highlighted as working to improve social and emotional wellbeing for Indigenous Australian clients of post-release programs:

- Indigenous facilitators.
- Sharing experiences with others and expressing emotions non-judgementally.
- Knowledge passed down by Elders.
- Pro-social activities.
- Learning within a group and community connectedness.

Social or family functioning did not improve for Indigenous participants in the PALM program. Clinical staff suggested that this could be because the community services the participants were referred to were not Indigenous-specific. The CHART program also noted the need for effective strategies to reduce participants' early exit of the program, with those who did not complete the program at greater risk of re-offending.

Conclusions

There are few programs and even fewer evaluations of programs that focus on improving the mental health of Indigenous Australians involved with the criminal justice system. Establishing the impact of such programs on Indigenous mental health and suicide prevention is problematic. Often mental health and suicide prevention outcomes are not measured, as they are rarely the focus of the program. Evaluations of the mental health courts, for example, explore re-offending but there are no data for mental health or suicide outcomes as a result of the courts.

This problem is exacerbated by likely under-reporting of mental health issues in the Indigenous prison population (McCausland et al. 2017). It is also made more challenging by the under-reporting of Indigenous status (AIHW and AIFS 2010).

Currently, there are no available national data measuring the various types of mental health diagnoses prevalent among Indigenous Australians in custody. Some Australian state-based studies have produced prevalence estimates. However, there are challenges in disaggregating such data by Indigenous status and gender, because of small sample sizes.

Culturally appropriate tools are also not always used to assess the mental health of Indigenous Australians in the criminal justice system. Tools used often consider neither the individual experiences of the person nor the holistic concept of social and emotional wellbeing (Heffernan et al. 2014). As a result, the accuracy of mental health outcomes could be improved by the use of culturally appropriate tools (Abbott et al. 2018).

Often programs implemented in the criminal justice system have broad objectives and outcomes. For evaluations of such programs, there can be confusion as to what constitutes success. And where the effects of a program occur over the long term, establishing the impact on mental health and suicide prevention can be difficult (Abbott et al. 2018).

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