

15 November 2019

Mr Jidah Clarke
Team Leader, Koori Youth Justice Taskforce
Commission for Children and Young People
570 Bourke Street,
Melbourne, Vic 3000

Via email: kae@ccyp.vic.gov.au

Dear Mr. Clarke,

Re: ‘Our Youth, Our Way’ Inquiry into the over-representation of Aboriginal children and young people in youth justice

The Victorian Aboriginal Child Care Agency (VACCA) welcomes the opportunity to provide input into the ‘Our Youth, Our Way’ - Inquiry into the Over-representation of Aboriginal Children and Young People in Youth Justice by the Commission for Children and Young People. VACCA recognises a significant demand for policy responses, with a particular focus on prevention and early intervention. The Victorian Aboriginal Child Care Agency (VACCA) is the lead Aboriginal child welfare organisation and the largest provider of Aboriginal family violence services in Victoria.

VACCA provides services to vulnerable Aboriginal children, families and communities. As an Aboriginal Community Controlled Organisation (ACCO), VACCA’s vision is Aboriginal self-determination- Live, Experience and Be. Our purpose is supporting culturally strong, safe and thriving Aboriginal communities. We believe in the principle of the right of Aboriginal people to self-determination and the rights of the child and we commit to upholding Victorian Aboriginal cultural protocols. Our services uphold Aboriginal self-determination and an understanding that the intergenerational trauma experienced by our children, young people and community requires community healing. We bring knowledge and appreciation that this healing occurs in the context of relationships, connection to culture, community, and land.

VACCA is one of the largest providers of justice support and advocacy to Aboriginal young people involved in the justice system in Victoria, both directly through our youth justice programs and as part of our response more broadly to vulnerable young people and families in our other services. This year we are leading the way in rolling out an innovative youth through-care program pilot, funded by the National Indigenous Australians Agency, which aims to reduce recidivism through the provision of intensive case management and holistic wrap-around support to Aboriginal young people, both pre- and post-release from custody.

Aboriginal children and young people are significantly over-represented in youth justice systems across Australia, with the proportion in detention compared to non-Aboriginal youth continuing to grow¹. The Royal Commission into Aboriginal Deaths in Custody (1991), made a number of policy and practice recommendations in response to over-representation however despite significant reform, data shows that Aboriginal people are still disproportionately represented in both the youth and adult justice system.²

¹ CCYP., & Victorian Equal Opportunity & Human Rights Commission. (2018). *Aboriginal cultural rights in youth justice centres*. Carlton, Victoria: Victorian Equal Opportunity & Human Rights Commission.

² Higgins, D., & Davis, K. (2014). *Law and justice: prevention and early intervention programs for Indigenous youth* (Resource sheet no. 34 produced by the Closing the Gap Clearinghouse). Canberra: AIHW & AIFS.

Connected by culture

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Incarceration rates of Aboriginal adults are disproportionately high, however Aboriginal young people are over-represented in all stages of the youth justice system to a higher degree, particularly in detention³.

What the evidence-base tells us:

- Aboriginal and Torres Strait Islander young people were 16 times more likely to be involved in both the youth and adult justice systems than non-Indigenous young people (AIHW, 2017).
- The younger someone enters youth detention the more likely they are to stay in or return to prison. Aboriginal children in out of home care (OOHC) are over-represented in this group⁴ The most recent statistics indicate that Aboriginal children are 9.8 times more likely than non-Aboriginal children to be in OOHC.
- As at December 2018, there were 1,868 Aboriginal children and young people in OOHC in Victoria, and 12.4 per cent of Victorian Aboriginal children and young people (0-17 years of age) are involved with child protection, compared to 0.6 per cent of non-Aboriginal children and young people.
- Indigenous young people are more likely to be involved in the youth justice system at a younger age, nine per cent of Indigenous young offenders entered when they were 12 years old and another 13 per cent when they were 13 years⁵
- High rates of incarceration and detention have a strong correlation with greater risk of ill health, substance abuse, complex health conditions and premature death⁶
- In 2015/2016, compared with the non-Aboriginal population, young people were 17 times as likely to be under supervision, 15 times more likely to be under community-based supervision and 25 times more likely to be in detention⁷

Extensive research has looked at risk factors for young people entering the youth justice system including; experiences in OOHC, family violence, trauma, alcohol and drug abuse, poor social and emotional wellbeing or mental illness and unstable housing or homelessness⁸ each of which have a disproportionate over-representation of Aboriginal peoples. Aboriginal people are almost three times as likely to experience high or very high levels of psychological distress (State of Victoria, 2017), suicide rates are twice as high within the Aboriginal population (DHHS, 2016) and 90% of Aboriginal children removed from their homes is due to family violence.⁹ We know that many Aboriginal young people involved in the justice system come from families with multiple and complex needs, including experiences of homelessness and housing insecurity, high unemployment, family violence and histories of intergenerational trauma.

As an Aboriginal child welfare organisation, over-representation is an issue of extreme concern to VACCA and one that must be addressed. The pathway from OOHC to youth detention and then into the criminal justice system has been well established¹⁰ with research showing young people with a history of involvement in child protection, OOHC and leaving care all at greater risk of involvement than those with no prior experience. This is alarming due to Victoria having the second highest rate of Aboriginal young

³ AIHW. (2019). *Youth justice in Australia 2017-18*. Cat. no. JUV 129. Canberra: AIHW.

⁴ Ibid.

⁵ Armytage, P., & Ogloff, J. (2017). *Youth justice review and strategy meeting needs and reducing offending*. Melbourne: Victorian Government, Department of Justice and Community Safety.

⁶ Australian Medical Association. (2012). The justice system and public health, *Health and Criminal Justice System*.

⁷ AIHW. (2017). *Youth justice in Australia 2015-16* (Bulletin 139). Canberra: AIHW.

⁸ Lewis, N., et al. (2019). *The family matters report 2019: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*. Eltham: Postscript Printing and Publishing.

⁹ Aboriginal Family Violence Prevention and Legal Service. (2015). 'Family violence in Aboriginal communities' in *Submission to the Victorian Royal Commission into Family Violence* (DVRCV Advocate Spring/Summer) Retrieved from [http://www.rcfv.com.au/getattachment/14CD545A-D0C8-4679-87DA-C022619D9C7D/Aboriginal-Family-Violence-Prevention-and-Legal-Service-Victoria-\(FVPLS\)](http://www.rcfv.com.au/getattachment/14CD545A-D0C8-4679-87DA-C022619D9C7D/Aboriginal-Family-Violence-Prevention-and-Legal-Service-Victoria-(FVPLS)).

¹⁰ Mendes, P., & Baidawi, S. (2017). Pathways into youth justice: Strengthening policy and program supports for young people in the youth justice system who are transitioning from out-of-home care. *Children Australia*, 37(1), 10-22.

people in OOHC (16.4 per cent, second to Western Australia with a rate of 17.8 per cent).¹¹ For Aboriginal children in care, issues identified in relation to their longer-term life trajectories include:

- the trajectory into the youth justice system
- the poor support offered to children post care
- homelessness and associated contact with the criminal justice system
- unresolved trauma from abuse and its wide-ranging impact
- poor education outcomes
- limited employment opportunities
- poorer health outcomes

However, individual and family risk factors alone cannot explain over-representation. Mainstream approaches to youth justice often emphasize risk and protective factors on an individual level rather than recognising historical and societal factors and how these impact on entire communities. It is important to go beyond existing understandings of these factors, towards recognising the significant role played by historical, social, political and systemic structures in influencing the over-representation of Aboriginal young people in youth justice.¹² Failure to do so risks blaming the individual.¹³ There must be consideration of how the ongoing effects of colonisation impacts on families today and contributes to over-representation in the justice system. Structural risk factors shaping the justice system trajectories of Aboriginal children, young people and families include:

- historical policies of forced child removal and the intergenerational effects on families of the trauma experienced by the Stolen Generations
- dispossession and disconnection from community, culture and Country
- cultural loss and cultural denial
- over-policing of Aboriginal young people relative to non-Aboriginal youth, and the low age of criminal responsibility
- social exclusion
- relationships with the police and criminal justice system,
- systemic racism and discrimination

The factors intersect in producing an increased risk of involvement with the justice system, reinforced by intergenerational and historical trauma stemming from the ongoing impacts of colonisation.¹⁴ VACCA's practice approaches incorporate understandings of the impact of past policies on families today; understanding how intergenerational trauma, colonisation and racism must be addressed as part of effective responses.

Many Aboriginal children and young people who become involved in the justice system are also products of a failed child and family welfare system. A lack of culturally appropriate and culturally safe early intervention services and supports is a significant factor that drives Aboriginal young people's involvement in the justice system. At the same time, many Aboriginal families do not access mainstream services due to fear of these services, particularly in terms of not feeling culturally safe in these services. Systemic failures in the child and family services system frequently contributes to a situation where a

¹¹ Lewis, N., et al. (2019). *The family matters report 2019: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*. Eltham: Postscript Printing and Publishing.

¹² Lewis, N., et al. (2019). *The family matters report 2019: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*. Eltham: Postscript Printing and Publishing.

¹³ Ibid

¹⁴ Armytage, P., & Ogloff, J. (2017). *Youth justice review and strategy meeting needs and reducing offending*. Melbourne: Victorian Government, Department of Justice and Community Safety.

young person only receives supports once they are in a crisis. When family support systems fail, young Aboriginal people may resort to unacceptable conduct merely to call attention to their predicament.

The service system must take account of the impact of trauma on Aboriginal children and their families and must also take account of the extent to which basic needs for safety, security, accommodation and care are met. The child and family welfare system must also take the necessary action to collaboratively address these factors with Aboriginal organisations. Aboriginal self-determination, trauma-informed approaches, and connection to culture and community are now recognised as central to any approach to working with Aboriginal children, young people and their families.¹⁵ We know that providing Aboriginal services for the Aboriginal community is what works.

To adequately respond to each risk factor driving the over-representation of Aboriginal young people in the justice system, these risk factors must not be considered in isolation but instead thought of as a complex combination of social, political, historical, family and psychosocial factors that require holistic, wrap around support to reduce the adverse impact on Aboriginal children, young people and their families. A systemic approach is required.

Our submission responds directly to the three questions provided by the Commission

1. What strategies and programs are working well in Victoria that help reduce youth justice involvement for Aboriginal young people, and why do they work?

Therapeutic models of care

Children and young people involved in the youth justice system are a highly vulnerable population group. Many at risk of contact and those already in contact with the justice system have often experienced significant trauma, resulting in complex needs that cannot be addressed in isolation. The *Neither Seen nor Heard* report¹⁶ examined the legacy of trauma affecting Aboriginal children. It identified that models are needed which attend to the intergenerational effects of colonisation, as well as the more immediate consequences of family violence, sexual abuse, and loss of culture and family.

In order to divert young people from the system and to reduce recidivism, it is important to understand how this trauma impacts on a young person's circumstances, decision making and rehabilitation. This is particularly important for Aboriginal young people who are disproportionately exposed to trauma and risk factors as a result of colonisation and legacies of child removal policies. Services must recognise the impact of these experiences on offending behaviours and adopt culturally safe, therapeutic models of care that are appropriate to specific needs. Culture, trauma-informed approaches and self-determination are known to be protective factors for social and emotional wellbeing and mental health for Aboriginal children, young people and families.

Therapeutic models of care are key to providing appropriate and effective treatment and rehabilitation. The Inquiry into Youth Justice Centres in Victoria define therapeutic models of youth justice as 'treatment approaches which frame young offenders as vulnerable and in need of support and rehabilitation. Therapeutic approaches focus on behavioural change and personal development of young people, as compared to an approach focused on fear or punishment'.¹⁷ In recognising a young person's needs as a result of complex trauma, suitable services including alcohol and drug support, health or education should be incorporated to help support healing and improve justice outcomes.

¹⁵ Department of Health and Human Services. (2018). *Balit Murrup: Aboriginal social and emotional wellbeing framework 2017-2027*. Melbourne: Victorian Government

¹⁶ Commission for Children and Young People. (2016). *Neither seen nor heard – Inquiry into issues of family violence in child deaths*. Melbourne: Victorian Government.

¹⁷ Legal and Social Issues Committee. (2017). *Final report- Inquiry into youth justice centres in Victoria*. Melbourne: Parliament of Victoria.

Whilst therapeutic models vary and must be tailored depending on specific needs of young people involved, common features involved are;

- Teaching how to regulate emotions, particularly impulsiveness and anger
- Increasing social skills
- Addressing drug or alcohol abuse
- Engaging young people in education
- Teaching skills to support employment and offering support
- Teaching life skills necessary to live a healthy life, including cooking, finances¹⁸

A therapeutic model of care has been widely advocated for not only to address over-representation in the youth justice system, but to improve outcomes in all aspects of Aboriginal people's lives. Burra Lotjpa Dunguludja, Phase 4 of the Aboriginal Justice Agreement, support this model under Goal 2.4 'Fewer Aboriginal people return to the Criminal Justice System'. The Agreement outlines strategies to 'address underlying causes of offending through healing and trauma-informed approaches that explore the intergenerational experiences of people affected by violence, strengthen protective factors and increase coping strategies.'¹⁹

The recent Ngaga-Dji Report (2019) written by the Koorie Youth Council also highlights the demand for early intervention models, calling for support for children 'who are victims of crime with access to justice and early, community-centred services to address trauma resulting from removal, family violence, homelessness and other abuses. Majority of children who have contact with the justice system are victims of crime themselves'²⁰. Where children do not receive the support and opportunity to heal there is a likelihood of sustained risk-taking behaviours and increased likelihood of involvement with police and the justice system.

A promising component of therapeutic models of care is to build on protective factors such as connection to family and community and strengthening these networks to support young people. The family network dominates community and family life, governing social interactions. Aboriginal people are connected through kinship, possessing a shared sense of identity, care, responsibility and control. Milroy, Dudgeon and Walker (2014) identify the pathways to healing and recovery as an interrelated connection between self-determination and community governance, reconnection and community life and restoration and community resilience. This inter-connectedness is applied by adopting a whole family and community response to early intervention models as well as rehabilitation and diversion programs.²¹

Aboriginal Children's Healing Team

An example of a therapeutic model of care that is family oriented and trauma informed is VACCA's Aboriginal Children's Healing Team (ACHT). The ACHT was funded in 2012 and involves a multi-disciplinary team of Therapeutic Practitioners experienced in working with traumatised children and their families. It is the central point for the development across VACCA of an integrated culturally grounded, trauma-informed and healing-driven approach to working with Aboriginal children and families. This approach acknowledges colonisation practices and how they have impacted on Aboriginal people. Theories of trauma, neurobiology, attachment and resilience underpin the work of the ACHT as they facilitate understanding and appropriate responses to Aboriginal children's trauma.

¹⁸ The Youth Court of New Zealand, 10 Suggested Characteristics of a Good Youth Justice System, The Youth Court of New Zealand, Auckland, New Zealand, 2014.

¹⁹ State of Victoria. (2018). *Burra Lotjpa Dunguludja*. Melbourne: Department of Justice and Regulation, State of Victoria.

²⁰ Koorie Youth Council. (2018). *Ngaga-Dji, Young voices creating change for justice*. Koorie Youth Council.

²¹ Milroy, H., Dudgeon, P., & Walker, R. (2014). Community Life and Development Programs – Pathways to Healing. In P. Dudgeon, H. Milroy, & R. Walker (Eds.), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (pp. 419-435). Barton, ACT: Australian Government Department of the Prime Minister and Cabinet

A sophisticated understanding of the trauma of dispossession and loss of culture & Country is central to the philosophy of ACHT. The Aboriginal Children's Healing Team operates from a basis that acknowledges the long-term traumatic impacts of colonisation, genocide and dispossession as well as the strength and resilience of the Aboriginal peoples.

There are four components to the work of the ACHT:

1. To undertake trauma-informed biopsychosocial assessments of identified children that the programs are responsible for and, from these, to develop a tailored therapeutic intervention plan for carers and other professionals to follow;
2. To promote trauma-informed approaches to understanding the needs of Aboriginal children in VACCA's care broadly across programs;
3. To undertake theoretical development work to integrate culturally appropriate Aboriginal Healing ways and existing theory regarding complex trauma and its developmental impacts;
4. To provide training to VACCA staff regarding culturally and trauma & attachment informed approaches and related theoretical understandings

By creating the ACHT, VACCA has entered a new arena of practice where biopsychosocial, clinically oriented assessments are undertaken, therapeutic interventions are devised and implemented, and their success or otherwise reviewed and monitored. Underpinned by a framework of biology, psychology and socio-environmental factors, the ACHT applies an integrated culturally grounded, trauma-informed and healing-driven approach to working with Aboriginal children and families. This means that culture provides the foundation for the clinical work that we do. The ACHT acknowledges that cultural identity represents who we are and where we have come from, and that connection to people and to Country is central to Aboriginal culture.

Early intervention

Over-representation of Aboriginal young people in the youth justice system also highlights the need for early intervention programs for at risk children and young people. The purpose of early intervention is to stop initial contact with the system and to provide support to those who may be struggling and facing a difficult phase in their lives.²² Whilst there is limited research on the effectiveness of early intervention programs at reducing offending amongst Aboriginal young people specifically, early intervention is widely regarded as an effective method to improving justice outcomes amongst the mainstream population.²³

The Youth Justice Review and Strategy Report into the Victoria's Youth Justice System in 2017 found that after Aboriginal children and young people enter the youth justice system, they are significantly more likely to return as repeat offenders. This is because it becomes significantly more challenging to alter their trajectory once their 'direction' has been reasonably determined by a number of risk factors that can no longer be effectively addressed by one single service or government agency.²⁴ What this shows us is the need for risk factors contributing to offending behaviour to be addressed prior to developing offending attitudes and prior to first contact with the system.

²² Higgins, D., & Davis, K. (2014). *Law and justice: prevention and early intervention programs for Indigenous youth* (Resource sheet no. 34 produced by the Closing the Gap Clearinghouse). Canberra: AIHW & AIFS.

²³ Farrington, D. P., & Welsh, B. C. (2003). Family-based prevention of offending: A meta-analysis. *The Australian and New Zealand Journal of Criminology*, 36(2), 127-151.

²⁴ Armytage, P., & Oglloff, J. (2017). *Youth justice review and strategy meeting needs and reducing offending*. Melbourne: Victorian Government, Department of Justice and Community Safety.

The aim of early intervention programs is to strengthen protective factors and reduce risk factors that may be contributing to the child or young person participating in offending behaviours. When protective factors are strengthened, they help to overcome adverse life events and build resilience. In literature and in practice, protective factors identified include connection to culture, community, Country and kinship. Being connected to culture creates a sense of connection with the past and assists in creating a strong sense of identity. When connection to culture is broken, families and communities are weakened, and Aboriginal people are at threat of being lost not only to their culture but also to themselves²⁵. Having the opportunity to be immersed in one's culture equips people with the confidence and knowledge to develop and function within their culture; drawing strength and contributing to the survival and development of their history and culture. For Aboriginal children separated from their family and culture, the opportunity to participate in local cultural events and learn of their culture by being immersed within it, is a critical step in their lifelong cultural development.²⁶

Barreng Moorop

An example of an early intervention program that provides wrap around support with the aim to strengthen protective factors and reduce risk factors is VACCA's youth justice Program, Barreng Moorop. VACCA is currently in partnership with the Jesuit Social Services and the Victorian Aboriginal Legal Service (VALS) to deliver the Aboriginal Children Family Justice Program (ACFJP), Barreng Moorop. The program provides integrated and intensive case management support to Aboriginal children, aged 10-14 years of age who are vulnerable or at risk of being involved with the justice system. Aboriginal children may have no criminal charges but placed at risk due to circumstances such as having a parent or sibling in prison, a history of family violence or are disengaging from school.

The purpose of this support is to address the issues that may lead to criminal activity. These may include however not limited to; family dysfunction and breakdown, mental health issues, trans-generational trauma, attachment difficulties, intellectual disabilities, experiences of violence and abuse, poverty, disengagement with the education system and lack of social and cultural connection.

A formal evaluation has not been conducted of Barreng Moorop however a case story is used to highlight the program model;

'The three Smith children, Taneisha (14), Nikita (12) and Richard (11) were referred to Barreng Moorop in March 2018.

The issues and concerns facing the family included:

- Abandonment
- Neglect
- Likelihood of physical harm and significant emotional abuse to children.
- Parents were struggling with drug misuse.
- Family violence
 - Criminal activity and inability to keep up with day to day duties for kids including getting ready for school and routines.
 - Eldest brother in prison for armed robbery

Barreng Moorop completed a Case Plan with each of the children where they set their own goals across education; wellbeing; cultural connections and practice and physical health. The caseworker began by establishing a morning routine to get the children to school, as

²⁵ SNAICC. (2012). *Healing in practice: Promising practices in healing programs for Aboriginal and Torres Strait Islander children and families*. Fitzroy, Victoria: SNAICC.

²⁶ Ibid

the attendance for all three was poor and was impacting on their learning. Mum had trouble organizing the mornings and so together with the CW a timetable was created, and alarm clocks were purchased to wake everyone up in time.

Early on the children also shared that they didn't like Mum and dad swearing at them all the time. The caseworker started talking to the parents about communication and how it could change. Mum and children agreed to try and limit swearing, and house rules were established.

The CW organized cooking classes for Mum and the two girls which helped nurture and develop their relationship with each other. It also assisted budgeting and taught the girls an important life skill and they continue to help mum at home by cooking dinner one night a week.

Richard joined the Barreng Moorop didgeridoo making program which ran for 8 weeks and was mentored and guided by Uncle Ron Murray. The program connected him to other Koorie boys from the community and positive male role models guiding the process.

Due to the chaos in the home extra-curricular activities had never been considered. Richard really wanted to play soccer. The CW helped the parents register Richard into the local soccer club and for the first 6 weeks supported them in taking him to training once a week. When the game's first started the whole family would go along! A few weeks into the season Richard scored his first goal and everyone was so proud! The Dad now takes Richard to training twice a week and gets him to his games and a positive relationship has developed between them both.

The girls showed an interest in the VACCA cultural programs and Taneisha has joined the VACCA Art Mentoring Program which runs for 8 months and culminates with the young people creating a body of work to showcase at the end of program exhibition. Nikita has joined the VACCA Koorie Tiddas choir where they are learning songs in traditional languages and have opportunities for performances. The girls are mentored by Aboriginal singers and songwriters and mentored by Elders supporting them to translate their songs into language.

Mum identified she was stressed by the constant arrival of visitors and people staying at their house. The case worker assisted Mum to minimize this by placing boundaries with visitors. A timetable was developed which assisted Mum and Dad with day to day duties and the children started commenting that "mum and dad are doing really well!"

Dad participated in a rehabilitation program and completed it successfully. He identified how he could support the family and started to feel more involved in raising the kids and being involved in decision making.

We have seen positive changes and a willingness from all family members to get on board with the changes and come up with strategies as a family to resolve issues and concerns.

The family have become each other's greatest supports and are thriving with the new boundaries in place that best support the family's needs.

At the VACCA whole agency in-service in July this year, Mum got on stage in front of 400 people and introduced the music film clip her three children had been involved in creating. She spoke from the heart and talked of the pride she had in her children and the changes she has seen since their involvement in Barreng Moorop. It was a huge achievement and highlighted to all of us how far she had come.'

This case story demonstrates how a holistic response is created by bringing together the child, family and a number of service providers to provide wrap-around support. Case plans are created for each young person and practice is determined by goals that are set by the young person and their family/carer. A strength of this model is that it recognises the importance of an approach that engages with all members of the family including siblings, parents, carers, and Elders. Family members and the young person identify the support they require and are linked in with appropriate services. Through the program, young people and their families access relevant welfare, housing, family and education services, and are supported to engage in cultural practices and attend community events. Having a model that is Aboriginal led creates a culturally safe service that is reflective of the right to self-determination. Where opportunities for early intervention are missed, there is a likelihood that involvement in the justice system and related challenges will carry through into adult hood.

Family-centered program approaches to family services and justice support services

As indicated above, family-centered approaches are crucial to improving outcomes for Aboriginal young people and reducing the risk of involvement in the just system. Our approach to family services and justice support services is trauma-informed, and we recognise that working with and strengthening vulnerable families as a whole directly benefits children and young people, by reducing family risk factors such as homelessness, family violence, drug and alcohol misuse and mental health issues. We centre connection to Culture and Community as crucial to healing from intergenerational trauma and building the strengths of families, with positive outcomes in terms of reducing risk of justice system involvement and recidivism within families. Example of these programs include our:

Koorie FACES (Families and young fellas Connecting & Sharing) program

VACCA has delivered the Koorie FACES parenting program to Aboriginal men and women across Victorian prisons including Dame Phyllis Frost. Koorie FACES is a 5-week group program that builds confidence and strengthens the relationship between parents and families of Aboriginal children focuses on understanding of self, grief, loss and trauma and strengthening Aboriginal culture & parenting practices to build resilience against drug and alcohol misuse in children.

Aboriginal Family Led Decision Making Program (AFLDM)

Aboriginal Family Led Decision Making (AFLDM) provides a culturally safe decision-making and planning process for children and families involved with the Child Protection system that:

- builds on the strengths in family and kinship networks to meet the safety, stability and developmental needs of children
- empowers families to make good decisions and plans in relation to the safety and wellbeing of their children
- is guided by and respectful of the family's culture
- actively involves the child's family, Elders and other significant people in the child's life.

The AFLDM program is conducted jointly by convenors employed by DHHS and community convenors employed by VACCA. Both convenors work in partnership to ensure a culturally safe and respectful process for Aboriginal children and families.

Integrated Family Services

This program is a voluntary program that provides in-home support to vulnerable Aboriginal children and families to address issues and improve their quality of life. The program focuses on the strengths of the

Connected by culture

individual and family, supporting them to identify goals and work towards achieving these. Caseworkers draw on culture as a strength and protective factor in their support of families. Individuals and families in contact with the service generally have between 1 to 6 hours of contact with their caseworker per week. The type and level of contact with the individual and family varies and is determined through the caseworker's assessment.

The program is delivered as a casework service that includes comprehensive needs assessment; child and family care planning; referral, information and advocacy support, practical assistance, outreach as well as community engagement.

Aboriginal Stronger Families

This placement prevention and reunification program provides intensive in-home support for up to 12 months (with varying levels of intensity depending on the child and family's needs) and on-call support, for families where children are at risk of entering out-home care or have been placed in out-of-home care for the first time.

The Aboriginal Stronger Families program is based on a whole of family response with access to specialist support services, including therapeutic services. Flexible support funds are used to purchase additional services to meet the child and family's needs.

Caseworkers support parents to address the issues that place their children at imminent risk of being removed, or that have resulted in their children being placed in care, and to build their capacity to safely care for their children.

Local Justice Worker Program

This program provides culturally appropriate support to Aboriginal adults in the LaTrobe Valley who are subject to community corrections or parole orders or have outstanding fines or warrants. The primary functions of the program are to work with Community Corrections Services to provide support to Aboriginal people who are subject to community corrections or parole orders to successfully complete their order, work with the Sheriff's Office to assist clients to successfully resolve their fines and warrants, provide appropriate support and supervision for clients undertaking mandatory community work - VACCA conducts one continuous culturally appropriate work site for people who must undertake court directed community work and provide community education.

The Dardee Djeetgun Women's Diversion Program

The Dardee Djeetgun Women's Diversion Program provides intensive case management, in a culturally and gender appropriate manner to support Aboriginal women and their family where appropriate for up to 12 months, dependent on need. The program adopts a holistic and trauma informed approach to addressing the underlying factors which contribute to the women's offending or reoffending. Support is provided to Aboriginal women in the Morwell area and Northern Melbourne on court orders, bail, community corrections and parole orders to:

- successfully complete their orders
- reduce the risk of reoffending
- divert Aboriginal women from deepening contact with the criminal justice system and reduce risk of child protection involvement with Aboriginal mothers and their children
- provide a referral pathway to programs and services in order to reduce offending or reoffending
- navigate relevant service systems, including the justice system.

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Beyond Survival

VACCA delivers the Beyond Survival program across Victorian prisons including Tarrengower and Dame Phyllis Frost Centre. Beyond Survival is a 3-day group program that provides trauma informed facilitation of narrative group work for prisoners including yarning circles to support healing and strengthen each person's connectedness to family, community and culture. The program also provides a point of contact upon release for people who have attended the yarning circles to support access to local Aboriginal and non-Aboriginal services and to connect to family, community and culture upon their release and sustain the changes they have made in prison, build their protective factors to maximise effective reintegration into the community and reduce the likelihood of reoffending.

Youth Programs

Another approach to reducing over-representation is through youth programs. Youth programs provide the opportunity for Aboriginal young people to engage and participate in activities, helping to build positive relationships and renew ties to Aboriginal culture and community. These programs can act as protective factors in order to avoid future contact with the justice system.

Better Futures

VACCA's Better Futures program helps Aboriginal young people leaving OOHC to make steps towards independence and a rewarding life ahead. It is the new leaving care program targeting Aboriginal young people aged from 15 and nine months to 21 years of age. The key cohort is Aboriginal young men involved in the youth justice system or have spent a period of time in detention.

VACCA offers support to young people and works with them to connect with their family and culture, access practical help when leaving care, connect with their communities and local support networks and navigate the steps towards independence and a rewarding life. Better Futures provides an opportunity for young people to be engaged with a local Aboriginal mentor and to attend community events. Youth advocates and a key worker deliver this program with four partners led by Life Without Barriers. VACCA has found the Aboriginal worker is able to engage with young people and young men have reported that previously they have been unable to connect with professional support.

Empower Youth

Empower Youth is a community-based volunteer program for young men and women aged 12 to 24 years of age. It aims to engage young people in education, training and/or employment. The program achieves this by developing plans with the young people that identify goals and actions for their health and wellbeing, community participation, education and training and pathway to employment, intensive case management support, partnerships with schools, training providers, local businesses and employers, information sessions on health and wellbeing and education and training, cultural and other programs and co-design opportunities for young people. A large cohort of this program is young people involved in OOHC who may be on a trajectory to youth justice and require support to connect with their culture and strengthen their social and emotional wellbeing.

Strong and Deadly

Strong and Deadly is a community based, early intervention program aimed at young men aged 12-21 who are engaging in criminal behaviour or are disengaging in school and are at risk of contact with the justice system. The aim of the program is to promote social health leading to better social outcomes. Originally the program was offered across two mornings during the week, however young men identified

Connected by culture

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Friday nights as a period they felt most at risk of engaging in high risk behaviour. Consequently, the program is now offered on Friday nights and involves taking young men to participate in social or cultural activities and have a meal together. To promote positive relationships within the local community, Elders and the local Aboriginal Liaison Officer frequently attend. Having a member of police speak with the young people helps to build trust and rapport. These relationships have been identified as being extremely beneficial to the young people in reducing offending behaviours.

2. What systemic changes are required to reduce youth justice involvement for Aboriginal young people in Victoria?

Raising the age of criminal responsibility

A key systemic change required to reduce Aboriginal youth justice involvement is to raise the age of criminal responsibility from 10 to 14 years of age, in line with the United Nations Committee on the Rights of the Child²⁷. The Royal Commission into the Protection and Detention of Children in the Northern Territory made a recommendation for the Northern Territory to raise of the age of criminal responsibility²⁸. Research has shown that between the ages of 10-14, children are experiencing substantial physical, mental and emotional development²⁹ and a child under the age of 14 is not sufficiently developed or has the capacity to understand why their actions are wrong and the repercussions³⁰.

Not only are young people under the age of 14 incapable of understanding the extent of their actions, but evidence has shown the severity of punishment, including the length of incarceration influences offending trajectories of young people³¹. Harsher punishments were found to be linked to higher levels of reoffending, whilst even shorter incarceration periods were found to significantly increase subsequent offending³². This means that by entering the youth justice system at a younger age, young people are more likely to end up in a life-time cycle of reoffending. The Sentencing Council of Victoria (2019) reported that of children first sentenced aged between 10-14 years of age; 1 in 2 were the subject of a child protection report, 1 in 3 had been in OOHC and 1 in 4 experienced residential care.

The majority of offences committed by this age group in Victoria are property and deception offences (Sentencing Council of Victoria, 2019). Given the over representation of Aboriginal and Torres Strait Islander children in child protection, we know these statistics, along with the greater likelihood of recidivism for young offenders identifies a deeply concerning risk for our children and young people in out of home care. The 'Care not Custody Report' conducted by Victoria Legal Aid (VLA), identified that one in three young people they support with child protection matters who are placed in OOHC return with assistance for criminal charges³³. The young people they assist in OOHC are twice as likely to face criminal charges. Whilst some charges are serious offences, the report recognised that others had received criminal charges for minor property damage. This is the result of the criminalization of young people without recognising causal drivers for behavioural issues such as trauma or mental health. Alternatively, diversionary programs, with therapeutic interventions would be more beneficial for such young people to avoid early contact with the justice system.³⁴

²⁷ Committee on the Rights of the Child. (2007, 25 April). General Comment No. 10 Children's rights in juvenile justice, 44th sess, UN Doc CRC/C/GC/10, paras 32–33.

²⁸ Commonwealth, Royal Commission into the Protection and Detention of Children in the Northern Territory. (2017). *Final Report*, vol 2B, 420.

²⁹ Richards, K. (2011). What makes juvenile offenders different from adult offenders?, *Trends & Issues in Crime and Criminal Justice*.

³⁰ Human Rights Law Centre, "Explainer" for raising the age: <https://www.hrlc.org.au/factsheets/2018/2/8/explainer-raising-the-age>

³¹ Lynch, M., Buckman, J., & Krenske, L. (2003). Youth justice: Criminal trajectories. *Trends & Issues in Crime and Criminal Justice*. Canberra: Australian Institute of Criminology.

³² Ibid

³³ Victoria Legal Aid (2016) Care not Custody Report

³⁴ Armytage, P., & Ogloff, J. (2017). *Youth justice review and strategy meeting needs and reducing offending*. Melbourne: Victorian Government, Department of Justice and Community Safety.

Access to diversion programs

One of the key policy principles underpinning the youth justice system in Victoria is ‘diversion of young people from entry into the youth justice system, or from progressing further into a life of crime’.³⁵ Diversion helps to avoid further progression into the criminal justice system and reduce any negative consequences. It builds on opportunities to increase protective factors of young people and helps to reduce the likelihood of re-offending or becoming an adult offender. Diversion programs recognise contributing factors leading to offending behaviours including victimisation, homelessness, socio-economic disadvantage, substance abuse and cognitive impairment.³⁶

The Youth Justice Review and Strategy report requested for detention to be the last option and for young Aboriginal people to have access to diversion programs. Whilst it has been suggested diversionary processes could reduce Aboriginal over-representation in youth justice, research has found Aboriginal young people to be much less likely to be diverted than non-Aboriginal young people.³⁷ This results in a missed opportunity to benefit from diversionary programs and consequently more likely to end up in the youth justice system than a non-Aboriginal young person who may have committed the same offence.³⁸

In Victoria a number of beneficial diversionary programs are offered including; the Koori Youth Justice Program, Koori Early School Leavers and Youth Employment Program and the Koori Intensive Support program. However, consistent rates of over-representation reflect an ineffective system. Limited accessibility of diversion programs, in particular in regional and rural areas and the reluctance of some police members to refer Aboriginal children and young people to diversion mean opportunities are missed.

This concern has been highlighted in Burra Lotjpa Dunguludja outlining a new opportunity to ‘deliver community based intensive diversion programs for Aboriginal children and young people who had or are vulnerable to involvement with the criminal justice system to address factors contributing to offending’.³⁹ Diversion programs, specific for Aboriginal children and young people need to be made more accessible to be able to be more effective.

Transfer of responsibility of Aboriginal Children and Young people to ACCOs

At present, if a young person in the care of child protection offends, child protection often walks away from the child or young person, surrendering them to the youth justice system. Following on, the justice system is ill-equipped to provide help for those young people with primarily social, cultural or family problems. Aboriginal children and young persons are often abandoned and left to their own resources, sometimes for years. When presenting to the justice system, our current response is to respond in a narrow, legalistic fashion, resulting in social dysfunction and further progression into the criminal justice system.

There is an unfortunate lack of cohesion between family service agencies, the Youth Justice service system, the police and the Youth Justice court system. Aboriginal children and young people involved in crime are often simply in need of additional and appropriate support services from Aboriginal community-controlled welfare services. Early intervention and prevention services for Aboriginal children and young people often focus only on the parents. Better referral pathways to ACCO’s could work with the young person on the issues leading to their offending. Improving referral pathways to ACCO’s could divert children and young

³⁵ Ibid

³⁶ Department of Justice. (2012). *Practical lessons, fair consequences: Improving diversion for young people in Victoria*. Melbourne: State of Victoria, Department of Justice.

³⁷ Allard, T., Stewart, A., Chrzanowski, A., Ogilvie, J., Birks, D., & Little, S. (2010). Police diversion of young offenders and Indigenous over-representation. *Trends and Issues in Crime and Criminal Justice*. Canberra: Australian Institute of Criminology.

³⁸ Ibid

³⁹ State of Victoria. (2018). *Burra Lotjpa Dunguludja*. Melbourne: Department of Justice and Regulation, State of Victoria.

people from the justice system through police and courts. When such cases must be dealt with in court, youth justice court judges should involve family service agencies where their services might be more appropriate than the correctional ones.

As the lead Aboriginal child and family welfare service it is disheartening to see a justice system trying to deal with what are essentially problems of families and communities in crisis often with much of these issues stemming from poverty, family disfunction and weak cultural links.

VACCA appreciates the Department of Justice through the Aboriginal Justice Agreement working with us on a response to the current over representation of Aboriginal children and young people in the Justice system and of our community's skepticism due to our child welfare system not addressing the over representation of Aboriginal children in OOHC. However there has been a significant investment, learning and stronger move to Aboriginal self-determination in Aboriginal child and family welfare particularly through Aboriginal Guardianship that is changing outcomes for children.

Whilst not in a position to deliver Aboriginal parole services, there should also be a plan to build the capacity to build and transfer oversight to Aboriginal control. The move to a justice system predominantly child protection, we understand as undesirable, but the current criminal approach is inappropriate. We need to have coordinated and cooperative approaches to the problems of our Aboriginal children and young people with the sharing of information. We should be working together not in silos and our children and young people should be receiving services from both sectors.

VACCA have been working for a number of years and we are well accepted by the Aboriginal community. We believe that our mandate could include to deal with Aboriginal children and young people and their probation particularly for 10-14-year old's. We also believe that we have the capacity to work with the police to accept referrals and offer after hours supports. We believe this to be the case for ACCO's across the state but they too will need additional resources, and these should be provided. These agencies alongside VACCA we believe, are in the best position to bring about the change in philosophy and approach that we think necessary.

Increased Aboriginal community control

A key message from the Royal Commission into Aboriginal Deaths in Custody (1991) is that to eliminate disadvantage and improve justice outcomes, there needs to be an end to domination and the empowerment of Aboriginal people through returning control of their lives and their communities to Aboriginal hands. The distressing loss of cultural and spiritual identity has been identified as a core cause of many problems in Aboriginal communities including the dissemination of communities. Placing control back with community has the potential to counteract this problem in a number of ways, in particular by enabling the community to be strong enough to have control of justice initiatives⁴⁰. Milward argues that 'calls for greater Aboriginal control over justice are motivated in large degree by a desire for autonomy to develop community-based alternatives to incarcerations'⁴¹

An example of this practice is the Koori Courts Division, offered at a number of locations across Victoria. The purpose of the courts is to ensure greater involvement of the Aboriginal community in the sentencing process of Aboriginal community members. This is done through the role of the magistrates Court being fulfilled by an Aboriginal Elder or respected person and others⁴². Similar models also exist in New

⁴⁰ McAsey B. (2005). A critical evaluation of the Koori court division of the Victorian Magistrates' court. *Deakin Law Review*, 10 (2), 654-685

⁴¹ Milward, D. (2012). *Aboriginal Justice the Charter*. Vancouver: UBC Press. 31

⁴² Ibid

Zealand with the Pasifika Youth Court and the Rangatahi Courts established in response to the over-representation of Pacific youth becoming involved in the youth justice system⁴³.

Justice Reinvestment

An example of placing control back into the community is through justice reinvestment. Justice reinvestment is a promising practice approach that originated in the US in response to the significant growth in imprisonment rates.⁴⁴ It involves redirecting money that would be used in prisons to fund community services, rebuild human resources and physical infrastructure in an area with high rates of incarceration. Rather than locking people up, justice reinvestment works to reduce criminality through investment in social justice⁴⁵.

The first example of this in Australia has been the ‘Maranguka Justice Reinvestment Project’ in Bourke NSW⁴⁶. The project emerged as community were concerned with the number of Aboriginal families experiencing significant social disadvantage and rising crime. Since 2013, Just Reinvest NSW have been working in partnership with community groups in Bourke to redirect resources back into the community to address underlying causes of imprisonment and to support vulnerable families.

Maranguka adopts a model of Indigenous self-governance that places power back into the community to manage the appropriate mix and timing of services through an Aboriginal community-owned and led team, working in partnership with the necessary government and non-government organisations. Community leaders are able to make decisions about what needs to happen based on community input and informed data and research.

Spent Convictions Scheme

Victoria is the only state or territory not to have a legislated spent convictions scheme, nor does it protect against discrimination on this basis. We are deeply concerned that the ramifications of not having a legislated spent convictions scheme, nor protection against discrimination on this basis is unfairly affecting the opportunity of those affected in the Victorian Aboriginal community, particularly our children and young people and is contributing to over-representation. Not having a spent convictions scheme makes it extremely challenging to reintegrate into society after incarceration, and to effectively rehabilitate due to discrimination on the basis of their criminal record.

We are also concerned that with the introduction of WWCC for all kinship carers that having a criminal record, without a spent convictions scheme, will negatively impact and deter potential community members from becoming kinship carers. There should be a mechanism for review, or appeal rights included in any spent conviction’s legislation for this purpose. As raised above, the safety of our children and young people remains our paramount concern, however where someone has a criminal record for committing an unrelated minor criminal offence, we do not want to further impede their ability to care for their family in a safe and nurturing home. We are aware that someone with a criminal record can become a kinship carer, unless the nature and timing of the criminal offence indicates that there may be a risk to a child’s safety. As this must be assessed before a person can be approved as a carer, some Aboriginal people do not feel safe to put themselves forward. VACCA can support Aboriginal people with historical criminal records through this process, however implementing an appropriate spent convictions scheme would further support those potentially affected.

⁴³ Tuimavave. L. (2017). *The Pasifika youth court: A discussion of the features and whether they can be transferred*. Wellington, New Zealand: Victoria University of Wellington.

⁴⁴ Australian Law Reform Commission. (2018). *What is justice reinvestment?* Canberra: ALRC.

⁴⁵ Ibid

⁴⁶ Just Reinvest NSW. (2019). Justice Reinvestment in Bourke. Retrieved from <http://www.justreinvest.org.au/>

Having a spent convictions scheme and protections against discrimination on this basis would have a significant affect in addressing the over-representation of Aboriginal children and young people in the youth justice system. These reforms would ensure that the state of Victoria is meeting its international human rights obligations, particularly the United Nations Convention on the Rights of the Child, the United Nations Declaration of the Rights of Indigenous Peoples as well as the rights detailed in the Charter of Human Rights and Responsibilities Act 2006 (Vic).

3. How could the system become more culturally appropriate in its responses to Aboriginal youth offending?

When working with Aboriginal children, young people and families, it is critical for response models and services to be culturally appropriate, underpinned by culture, connection and healing. The impacts of colonisation and dispossession, a legacy of assimilation policies and systemic disadvantage have resulted in Aboriginal communities being rightfully suspicious of mainstream and government attempts to address their needs. Too often, Aboriginal peoples are forced to access services that are racist or culturally unsafe. This can be retraumatising and a missed opportunity for support and intervention to reduce over-representation.

A combination of both culturally specific and culturally safe services are key to providing respectful, effective and efficient services to Aboriginal peoples. It is critical that all services are client driven and promote self-determination, recognising cultural factors and individual experiences that lead to risk taking behaviours and involvement in the youth justice system. The system could be more culturally appropriate by implementing the following;

Mandatory cultural competency training

In order to provide beneficial and appropriate services to Aboriginal peoples and children, it is important for all community service organisations to be able to apply a cultural lens.⁴⁷ Cultural competence involves *'a set of congruent behaviours, attitudes and policies that come together in a system, agency, or among professionals that enable them to work effectively in cross cultural situations.'*⁴⁸ Organisations need to have an understanding of cultural competence that goes beyond a checklist approach to one that is respectful to the unique identity of every child. Having mandatory cultural competency training would mean Aboriginal children and their families are given the respect and honour as First Peoples and enable the broader community to understand the resilience of Aboriginal communities. A history of child removal policies in Victoria has created an understandable distrust with many community service organisations today having been involved in past policies and therefore need to be accountable in rebuilding trust.⁴⁹

Offering culturally specific programs

Research on the social and emotional wellbeing of Indigenous people across Australia and internationally, have long identified the benefits of maintaining connection to Country, culture and community.⁵⁰ Strengthening connections create protective factors that help to overcome adverse life events and build

⁴⁷ State of Victoria., & VACCA. (2008). *Aboriginal cultural competence framework- October 2008*. Melbourne, Victoria: Victorian Government Department of Human Services.

⁴⁸ Tong, C., & Cross, T. (1991). *Cross Cultural Partnerships for Child Abuse Prevention with Native American Communities*. Portland, Oregon: Northwest Indian Child Welfare Institute, 1.

⁴⁹ State of Victoria., & VACCA. (2008). *Aboriginal cultural competence framework- October 2008*. Melbourne, Victoria: Victorian Government Department of Human Services.

⁵⁰ Stephen R. Zubrick et al. (2010). 'Social determinants of social and emotional wellbeing' in Nola Purdie, Pat Dudgeon and Roz Walker (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Well-Being Principles and Practices*. Barton, ACT: Commonwealth of Australia.

resilience. When Aboriginal people are immersed in their family, culture and community, they feel supported and able to thrive in their identity.⁵¹ A study conducted in Victorian Prisons in 2017 found Aboriginal people who are encouraged and supported to participate in cultural activities while in detention are less likely to reoffend upon release.⁵² This was explained as the result of having a strong cultural identity and being immersed in culture enhancing self-esteem, encouraging resilience, supporting positive social and emotional wellbeing as well as enhancing pro-social coping styles. When these connections are weakened, young people become vulnerable and traditions and norms of appropriate social and cultural behaviour can become unclear.

Being connected to culture is not only a protective factor but also a human right, set out in both the United Nations Convention on the Rights of the Child and the UN Declaration on the Right of Indigenous people. The United Nations ‘enshrines and upholds the right of self-determination for different cultures, and identifies, as a survival and development right, the right of children to learn about and practice their own culture, language and religion’.

There are currently few Aboriginal specific programs available to address and reduce offending behaviour in Victoria and also an absence of effective supervision for community corrections in rural and remote communities. Consequently, Aboriginal young people have fewer opportunities for rehabilitation, contributing to higher recidivism rates⁵³. Rehabilitation programs that were available, were not specifically tailored to the needs of Aboriginal young people. Effective rehabilitative programs need to incorporate traditional principles of healing and culture and be adequately resourced to provide ongoing assistance to avoid future offending.

Youth Through Care (YTC) Program

An example of a culturally specific program is the Youth Through Care Program, recently commenced in Victoria, the Northern Territory and Queensland. In 2018 Abt Associates was commissioned by the Department of the Prime Minister and Cabinet to work collaboratively with State and Territory Jurisdictions in Victoria, the Northern Territory and Queensland to co-design a new model of Youth Through-Care (YTC) to help address underlying factors contributing to re-offending behaviours and better support Aboriginal and Torres Strait Islander young people, their families and communities to reduce recidivism rates. Three programs were selected to participate in the project including;

- The Victorian Aboriginal Childcare Agency from Victoria.
- North Australian Aboriginal Justice Agency (NAAJA), based in Darwin.
- Aboriginal and Torres Strait Islander Legal Service (ATSILS) based in Queensland.

The YTC Program is aimed at reducing reoffending of Aboriginal young people through an intensive, holistic, client-centred, culturally appropriate and trauma informed model with a strong connection to family and Country. It aims to support young people returning to their family and communities safely and to break the cycle of reoffending. The new model is based on offering support through intensive, individual case management from entry into detention and then for up to 24 months or as required during the post release period.

The YTC Program will be offered to;

⁵¹ SNAICC. (2012). *Healing in practice: Promising practices in healing programs for Aboriginal and Torres Strait Islander children and families*. Fitzroy, Victoria: SNAICC.

⁵² Shepherd, S. M., Delgado, R. H. Sherwood, J., Paradies, Y. (2017). The impact of Indigenous cultural identity and cultural engagement on violent offending. *BMC Public Health*. 18. doi:10.1186/s12889-017-4603-2

⁵³ Mahoney, D. 2005. *Inquiry into the Management of Offenders in Custody and in the Community*. Perth: Department of Premier and Cabinet.

- Aboriginal young people age 10 -17 years in detention, sentenced or on remand in each of the selected sites
- All eligible Aboriginal young people who are detained more than once or for longer than one week.
- Both males and females
- An eligibility check will be undertaken for each young person prior to enrolment
- The program is not mandated; clients will participate on a voluntary basis. They may choose to leave the program at any stage'

To create a model that is individually responsive to Aboriginal young people, seven key principles have been developed to provide the basis for delivery including; building trusting relationships based on respect for human rights, promoting a positive childhood experience, promoting participating in decision making, building on strengths and protective factors, being flexible, culturally safe service delivery and trauma-informed service delivery. Throughcare models are essential to ensuring young people receive the appropriate support services to prevent the cycle of crime and reoffending⁵⁴

Culturally safe programs and services

Whilst not all Aboriginal peoples may wish to engage in Aboriginal specific services, it is imperative for all mainstream support services and programs to be culturally safe. Cultural safety involves services and staff being educated on Aboriginal culture in addition to Aboriginal people being given equal power through equal strategic policies, funding, relationships, programs, joint decision-making procurement and evaluation.

Cultural safety is the positive recognition and celebration of cultures. It is more than just the absence of racism or discrimination, and more than cultural awareness and cultural sensitivity. In a culturally safe environment, the service provider looks for guidance from Aboriginal children and families on how to provide the service and considers the impact of their culture on the way they deliver the service. Program design and services must not ignore, challenge or deny cultural identity, it must respect and empower people, enabling them to contribute and feel safe to be themselves. Cultural safe practices sit in the context of culturally safe organisations and therefore require an organisation wide response to achieving cultural safety.

The benefits of this is highlighted in a study by Chandler and Proulx (2006) on the prevalence of suicide among First Nations young people. Their study found that as measures for culturally based services and self-determination increases, suicide amongst young people dramatically decreases. The more tribal or Nation groups have cultural input and control over governance, policing, education, health, resources and seeking title to land, the lower the incidence of young people suicide. It is shown that by providing services that are responsive and consistent with Aboriginal beliefs, values and practices as well as creating a physical environment that reinforces and reflects the culture and values of participates, health and social outcomes will be improved.

Cultural therapeutic ways

An example of this is VACCA's cross-organisational framework called 'Cultural Therapeutic Ways' (CTW). A whole of agency approach to guide VACCA's practice of healing for Aboriginal children, young people, families, Community members and Carers who come into contact with our services, as well as creating a safe and supportive workplace for staff. It is the intersection of cultural practice with

⁵⁴ Burrows, J. Clarke, A., Davison, T, Tarling, R., & Webb. S. (2000). The nature of effectiveness of drugs throughcare for released prisoners. *Research findings*, (109). London: Home Office. Retrieved from <https://apo.org.au/sites/default/files/resource-files/2008/09/apo-nid7991-1169941.pdf>

trauma and self-determination theories. The aim of CTW is to integrate Aboriginal culture and healing practices with trauma theories to guide an approach that is:

- Healing (trauma informed based on neurological care);
- Protective (providing safe spaces and safe relationships); and
- Connective (to culture).

The realisation of self-determination is about “enabling people to negotiate spaces and situations to survive and flourish”. It will see the creation of frameworks that place culture and trauma-informed theory at the heart of VACCA’s policy and practice. It enables an organisational model underpinned by principles of the rights of the child and self-determination, setting a completely new precedent across Australia for how ACCOs work within the sector, and with communities. All VACCA programs contribute to developing monitoring and evaluation plans, and staff are supported to plan, implement, evaluate and adapt throughout the program cycle. The primary toolkit for this implementation is a newly built database which allows each program to track how they are working towards self-determined goals.

Prevention methods to reduce inequalities

Aboriginal people are significantly disadvantaged in social and situational factors affecting justice outcomes including education, employment, housing and accessibility.⁵⁵ In order for the youth justice system to be more culturally appropriate, prevention strategies specific to these factors must be adopted to prevent crime and criminal attitudes before they happen.⁵⁶ Intervening early through community development, access to social and health services are considered critical to breaking the cycle of crime. Both prevention and early intervention programs must be adopted to make long-lasting change rather than only being reactive after contact with the justice system has been made.

⁵⁵ State of Victoria. (2018). *Burra Lotjpa Dungaludja*. Melbourne: Department of Justice and Regulation, State of Victoria.

⁵⁶ Richards, K., Rosevearm L., Gilbert, R. (2011). *Promising interventions for reducing Indigenous juvenile offending* (Brief 10), Written for the Indigenous Clearinghouse. Canberra: Australian Institute of Criminology.

Recommendations

VACCA recommends the following;

- Raise the age of criminal responsibility from 10 to 14 years of age
- Implement a Spent Convictions Scheme
- Transfer of responsibility of children and young people to the age of 14 to Aboriginal agencies similar to Aboriginal Children in Aboriginal Care
- Aboriginal Children and Family Welfare Services role to be funded to expand to provide services to Aboriginal children and young people at risk or in juvenile justice
- Aboriginal Child Welfare and youth justice services to be fully integrated and coordinated so that all services are available to both young people at risk of offending and those charged with offences
- Mandatory training in “implicit bias” and culturally safe ways of working for workers who may work with Aboriginal families
- Additional investment in early intervention and prevention programs particularly in areas of high risk where Aboriginal families are at increased risk of entering the child welfare and juvenile justice systems
- Undertake more research on the connection between the pathway between child welfare and juvenile justice
- Evaluation of existing programs
- In line with Phase 4 of the Aboriginal Justice Agreement,
 - ‘deliver community based intensive diversion programs for Aboriginal children and young people who had or are vulnerable to involvement with the criminal justice system to address factors contributing to offending’
- For investment to be provided to ACCOs to develop and implement community programs directed to Aboriginal children and young people at risk of entering the youth justice system
 - Implement a justice reinvestment model
- Long term support for young people leaving custodial sentences

VACCA looks forward to supporting and working with the Committee for this Inquiry to ensure this important and necessary reform progresses

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Yours sincerely,

Muriel Bamblett AO, CEO