

**But-ton Kidn Doon-ga: Black Women Know**  
**Re-presenting the lived realities of Australian Aboriginal**  
**women with mental and cognitive disabilities**  
**in criminal justice systems**

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## Thesis/Dissertation Sheet

Title: But-ton Kidn Doon-ga: Black Women Know – Re-presenting the lived realities of Australian Aboriginal women with mental and cognitive disabilities in criminal justice systems

Moreton-Robinson's Indigenous women's standpoint theory, which relates to my being as a Goori woman through Worimi and Wonnarua bloodlines who has cultural and communal ties to other Aboriginal women, and critical disability criminology theory, which relates to my professional position and reputation as a mental health and disability criminal justice social worker, are blended into critical Indigenous disability criminology to provide a depth of understanding and explanation of this group of women's over-representation in criminal justice systems. To assist in arriving at a more complete understanding of their lives and to inform the development of theory and practice, narratives from criminal justice involved Aboriginal women with mental and cognitive disabilities who partnered with this study and Aboriginal and non-Aboriginal support women from families, communities, service providers and prisons were gathered. These narratives were thematically analysed using the theoretical lenses noted earlier to re-present the lived realities of those Aboriginal women. The key themes emerging were *management and control of Aboriginal women; segmenting Aboriginal women; surviving and not living; everyone becomes affected; siloed services versus wrap around supports and role and place of Aboriginal women supporters*. These drive theory development by suggesting a new way of understanding these groups of Aboriginal women's lived realities. The thesis makes a crucial and unique contribution to this field, so that the perverse outcomes documented and discussed can be addressed and ultimately prevented.

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## **DEDICATION**

This thesis is dedicated to the Aboriginal and non-Aboriginal women in my life who knowingly love, affirm and support each other to keep our minds, bodies and spirits well ‘to make good together’ (Murr-roo-ma Mur-rook Boo-larng).

## **ACKNOWLEDGEMENTS**

The first acknowledgement and thank you is to the Aboriginal women who partnered with this study and to the Aboriginal and non-Aboriginal women supporters from families, communities, services and prisons in New South Wales and the Northern Territory. Your lived realities compel me and other women to unlearn, learn, understand and do more to stop the insistent promotion of criminal justice systems, and in particular prisons, as the answer to reduce unmet complex support needs.

When I was ready to travel this unpaved research path, Eileen Baldry appeared. I thank my supervisor Professor Baldry for never leaving my side or my mind throughout such incredible learning years. Without her existence and brilliant intellect my transformation into a credible researcher and the writing of this thesis may not have happened at this time, if at all.

Thanks must also go to Debbie Barwick, Christine Corby, Tara Dever, Leanne Dowse, Sue Green, Melonie Hawke, Emma Jacobs, Jane Lloyd, Lucy MacMillan, Peta MacGillivray, Ruth McCausland, Desley Mason, Vivian Scott and Barbara Shaw for loving and supporting our Aboriginal sisters who are so deserving, and for assisting me in various stages of the study and thesis writing.

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## CHAPTER 1: INTRODUCTION AND THESIS OVERVIEW

Every so often my path crosses that of an endearing Aboriginal woman and sister who I have known for almost half my life and for more than half of hers. Today was one of those times. When I was once employed as a homecare aid I supported this woman to care for her two eldest children, drove her to hospital to birth her third child and then took her and baby home a few hours later. While I was working in another role she had needed medical treatment for a serious condition and I made sure she got it. Like most women, we caught up on what each other had been doing since we last met now several years ago, such as our children and growing families, and we also talked about how we were faring as we aged. Remarkably, she was still coping well despite her almost always overloaded traumatic and stressful life which regularly smashed her physical and psychosocial and mental wellbeing to pieces and also led to her involvement with police, courts and prisons. This time however I noticed she was different, and the change in her wasn't all about the new scarring on her forehead or the missing front teeth she now had due to her story of an attack in her own home by unknown aggressors. This time she was much more focused, confident and vocal as she told me of her responsibility to represent and advocate for other Aboriginal women and for non-Aboriginal women who needed her powerful knowledge, voice and support to get through each day. To become the Inmate Delegate for all women prisoners, this Aboriginal woman had obviously gained trust and respect from everyone, including the boss (Governor) of the facility, in order to be appointed to this important role. Granted, she had certainly earned it. Now together again, but for a short time inside this men's prison<sup>1</sup>, we were not an Aboriginal prisoner or Aboriginal Official Visitor, we were formidable Aboriginal women, sisters and family connected through our cultural identities and lived realities of criminal justice systems.<sup>2</sup> We are also two of those many Aboriginal women who are both supported and supporters.

It is not speculation to say that every Aboriginal and Torres Strait Islander family and community is affected in their own ways by European occupation and settlement. It is also fact that the lingering hurt felt by many Aboriginal individuals, families and communities from colonial interventions can be difficult for the majority of white Australia to understand. When I hear words 'they' say like: 'it (colonisation) happened so long ago and Aboriginal people need

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<sup>1</sup> In NSW, women were being held in a wing inside a maximum security men's prison because of the overcrowding in the system and while the only female juvenile detention centre was being converted into another women's prison.

<sup>2</sup> Each Australian state and territory has its own criminal justice system. The term 'criminal justice systems' is used to collectively identify those systems.

to get over it and move on', particularly around January 26 (Australia Day) each year, this thinking reinforces to me how much people can live in fear and how little they have been able to unlearn, re-learn and learn since the 'ethnocentric insensibility' of the 'bad old days' (Stanner 1979, vii).

While colonial experiences, past and ongoing, can be different for each Aboriginal and Torres Strait Islander individual, family and community, there is one experience which is intensely the same. Looking at progressive community crime, criminological records and correctional statistics for Australian states and territories, we can rightly assume that almost all Aboriginal and Torres Strait Islander families or communities have had some level of involvement with criminal justice systems. Decades of criminological research show extreme and rising rates of contact with police and courts and we are witnessing more Aboriginal and Torres Strait Islanders in custody, and in particular women, than at any other time in Australian history (Australian Bureau of Statistics [ABS] 2017; Butler and Milner 2003; Indig et al. 2009; Heffernan et al. 2012).

As Australia's First Peoples, we see the effects of these criminal justice statistics on everyday lives. Our loved ones are frequently missing from family photos, Christmas events, funerals, barbeques and community gatherings such as the annual Koori Knock Out<sup>3</sup> in New South Wales (NSW, the most populous State in Australia) and national NAIDOC<sup>4</sup> celebrations. My own family is no exception to this experience. Over time and across the generations my family has continued to commit crime and breach the law. They have also been imprisoned for their wrong doings. Evidence shows that my family's criminalisation began as early as 1869 when a story about John Jonas, a 26 year-old servant who had abandoned his work, was published as local court news. Jonas was found guilty of his crime and ordered to pay a substantial fine. The Maitland<sup>5</sup> Mercury newspaper reported:

BREACH OF THE MASTERS' AND SERVANTS' ACT. – John Jonas was charged by E. Gr. Cory with neglect of duty. Complainant deposed: Defendant is my hired servant, by verbal agreement, for six months, at 8s. per week, and rations; he is both lazy and

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<sup>3</sup> The Koori Knockout is held annually during the long weekend in October. More than 100 Aboriginal men and women rugby league teams and their supporters come together to compete for the title and the winning team holds the event in their community the following year.

<sup>4</sup> National Aboriginal and Islander Day Observance Committee (NAIDOC) Week is held in the first week of July. NAIDOC Week celebrates Aboriginal cultures and traditions and the achievements of Aboriginal and Torres Strait Islander peoples.

<sup>5</sup> Maitland is located in the Hunter Valley of NSW.

impertinent; I cannot get him out of a morning; on the 1<sup>st</sup> and 2<sup>nd</sup> instant, he did not return until after seven o'clock on the 14<sup>th</sup>, when I spoke to him about it, he made faces at me; on the 10<sup>th</sup> I ordered him to fetch up greenstuff with the horse and cart; he first fetched up a barrowful in the cart, and when he went again he did not fetch more than half a load; at another time I sent him to Tucker's, about a couple of miles – distant, in the morning, but he did not return until evening, and then did not bring what I sent him for. Defendant was convicted, and sentenced to pay a fine of £1 and Ss. 6d. court costs.

This article, treasured by my family, can tell us so much about the man called John Jonas. The article also shows us that John Jonas – my Aboriginal Great Great Grandfather from the Gringai Nation<sup>6</sup> – was subjected to the strictest of British rule and law during this early colonial period and that the penalties for disobeying the system were very harsh indeed. The conviction of young John Jonas<sup>7</sup> for breaching the Masters' and Servants' Act, to which he was regulated and controlled, is further evidence to how a colonial settler society like Australia and its legal system dealt with those it had colonised (Irabinna Rigney 2014).

This known experience of my family member provides good reason why I have devoted most of my working years to Aboriginal people involved with Australian criminal justice systems, and to transforming those systems which can typically criminalise, manage and control. This injustice against John Jonas, plus the disturbing influences of colonialism on his descendants and my family today with regard to their involvement with police, courts and prisons, provides a few more good reasons why I devoted time to understanding how this was still possible almost 150 years later. Therefore, the experiences of my family and in particular those women who are positioned as either 'supported' or 'supporter', compel a small, but principal place in this layered thesis, because their life accounts have also helped to drive this distinctive research to re-present the lived realities of Australian Aboriginal women with mental and cognitive disabilities in criminal justice systems.

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<sup>6</sup> Gringai Country in NSW covers the Allyn River, Paterson River and Valley, Williams River and Valley and its tributary, the Chichester. The Gringai belong to two larger neighbouring tribal groups being the Wonnarua of the Lower and Upper Hunter Valleys and the Worimi of Newcastle, Port Stephens and Great Lakes areas on the eastern coast.

<sup>7</sup> At the time of his conviction John Jonas was married to a non-Aboriginal woman. He married another non-Aboriginal woman after his first wife died from childbirth complications.

## **A BIT ABOUT THE REALITIES OF ONE ABORIGINAL FAMILY**

The women and men in my family involved in criminal justice systems are not and have never been high risk offenders; they were and are however mentally and emotionally unwell and cognitively impaired. Yet their stories are tragically commonplace. One woman with ongoing substance abuse and dependencies has been imprisoned a few times during her life. Prior to the first sentence, her partner was killed and their eldest child died from injuries sustained in a motor vehicle accident. When in custody, her father passed over. As a woman in her mid-fifties, she was released on parole orders to live with her ageing mother who supported her other child while she was in prison. Another of our women was imprisoned for years because she stopped the ongoing emotional torment received from her husband. Women in the family again supported her young child now without their father, and a mother living hours away in a prison.

Further, one of our men – well known to police, courts and mental health services – has remarkably skirted prison and instead been diverted to hospital psychiatric units and institutions for care and treatment. Supported by his mother for more than 20 years, and under NSW Trustee & Guardian orders to another woman in the family, he suffers from a manifold of mental and cognitive disabilities and physical limitations. He lived for many months in Morisset Psychiatric Hospital<sup>8</sup> as an involuntary patient before walking out of the hospital grounds and boarding a plane to the Northern Territory (NT). Our family, not the NSW mental health system, aided by our local police tracked his location. A few days later NT mental health professionals contacted us, not their NSW associates, to advise that he had been found by their police wandering the streets unhinged and admitted to Darwin Hospital for psychiatric care. Although this was sad news, we celebrated because he was still alive. He was readmitted to this NT hospital as a homeless and transient person twice, and discharged into the community the same way. With no treatment plan in place, he would not return to NSW for fear of confinement in the same system that had failed him dismally.

While living interstate alienated from family and country, he was supported by another woman from our family and received episodic mental health care. Similarly, he left without notice. Months later he arrived at his elderly mother's home; his body was tired from travel,

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<sup>8</sup> Morisset Hospital is operated by Hunter New England Local Health District. This is the same institution that, more than 45 years earlier, was often home for our Grandfather who had an early death from alcohol dependence and related diseases.

his feet were bloodied from walking and his mind severely impaired. In her supportive care once again, the cycle soon re-started with him living on and off in the psychiatric unit of the local hospital for months before he was returned to Morisset Psychiatric Hospital as an involuntarily patient. Aside from the questionable lack of mental health treatment and support he had first received when in this institution, and the risk to life after he had walked out, the NSW health system requested that he pay thousands of dollars from his Centrelink Disability Support Pension (DSP) for these 'services'. More recently, he was missing from the facility for five days and nights, and despite being an involuntary patient and civilian, the Local Health District avoided releasing a media statement to the wider community to seek their support in finding him. At the same time two younger men were missing from the local area and this was all over the news. The lack of responsibility and care provided to him on this second occasion was minimised by one professional as being a 'small setback' and others remained silent. My family were also told by a third National Disability Insurance Scheme (NDIS) provider that he was 'not suitable' for supports from their service.

## **SOME CRITICAL KNOWLEDGE AND INSIGHTS**

The lived experiences of my family members are not unique or exclusive. They are a mere snapshot of one Aboriginal family and as shown in this thesis, similar to the lived realities of the Aboriginal women who partnered in the study and their families. This relatedness became more evident to me while working for years as the Manager Aboriginal Health with Corrections Health Service, now Justice Health and Forensic Mental Health Network (JH&FMHN)<sup>9</sup> and

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<sup>9</sup> When appointed as the first Manager Aboriginal Health with Corrections Health Service, the position was not to be extended past two years without recurrent funding from NSW Department of Health, Aboriginal Health Branch, now Centre for Aboriginal Health. At this time strategic health priorities were determined by Aboriginal people and communities themselves and recurrent funding was provided to Area Health Services that showed accountability with expenditure on Aboriginal programs and services. After three months, recurrent monies were secured for the position because the Aboriginal Health Branch was satisfied with the outcomes related to the engagement and partnerships established with Area Health Services and Aboriginal Community Controlled Health Services. After three weeks in the role I was summoned to the Governor's office to meet with him, as well as male senior custodial officers, the male Nurse Manager and a female nurse who I had met briefly in the first days. I remembered the female nurse well because she had not appreciated my advocacy for a young Aboriginal man with a serious chronic health condition, or with me providing the support and care that an Aboriginal person who was unwell needed and deserved. This was not something that the health clinic was set up to do well. The nurse had made a complaint that my position needed immediate investigation. As per policy, the complaint should have been firstly dealt with by the Nurse Manager however the nurse had referred the complaint to the Governor of the prison. At the meeting this nurse vented her frustration at me because she thought I should have scolded this young man for saying effing in her presence. At the meeting she comfortably asked: 'why would you want to speak up for those people?' I proudly

much later as the sole Aboriginal Family Health Worker practising with imprisoned Aboriginal men and women who had committed violent related offences but also had serious mental and cognitive disabilities but who were largely undiagnosed.<sup>10</sup> Working within the correctional system still, but as an Aboriginal Official Visitor (Statewide Northern NSW) with the NSW Inspector of Custodial Services, I am meeting Aboriginal women and men with mental and cognitive disabilities, and sometimes co-occurring conditions, living serially in prisons and generally without access to professionals able to provide adequate clinical treatments integrated with culturally competent and responsive supports. This is because there are no cultural advisors to support clinicians to work more ethically when assessing those who are the most vulnerable in the prison setting.

Evidently, my personal and professional experiences provided me with some critical insights into the reasons Aboriginal women with mental and cognitive disabilities could become involved with police, courts and end up in prison at much higher rates than other groups (Baldry et al. 2015). Even so, as an Aboriginal woman and mental health and disability criminal justice social worker who uses my personal and professional knowledge and positioning to work against the criminalisation of Aboriginal women (Briskman 2007), I did not know enough about their lived realities, and, *what is it about those realities that lead to and results in their over-representation within criminal justice systems?* Also, I did not know for certain *how to better support those women by recognising and responding to their mental health and cognitive difficulties?* Furthermore, as an ethically practicing social worker, I was committed to 'acting to bring about social or systemic change to reduce social barriers, inequality and injustice' (Australian Association of Social Workers 2010, 8).

However, I did not know with surety, how to gain a deeper insight into this problematic that needed urgent attention because of the rising rates of imprisonment for Aboriginal women (and men) and since governments, social workers and other professionals, researchers and the

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responded: 'because I am one of those people'. The Governor abruptly ended the meeting and we were dismissed. A few weeks later I was made aware that the nurse was partnered with a high ranking correctional officer. This experience was an early warning sign of more to come over the years.

<sup>10</sup> Justice Health and Forensic Mental Health Network was a research partner with the *Indigenous Australians with Mental Health Disorders and Cognitive Disability in the Criminal Justice System (IAMHDCD) Project*. However it was not supportive of my participation in the project or to undertake PhD studies. The Centre for Aboriginal Health backed my involvement in the study and my development as a researcher. I moved from my senior role and worked on the frontline in the new Aboriginal Family Health Worker position while conducting research. After more than 12 months of scrutiny and barriers I resigned from this position and worked with the IAMHDCD project for the next three and a half years.

media did not really consider or talk about the lives of Aboriginal women with mental and cognitive disabilities. For those reasons, and my own personal and professional motives, I teamed up with academics from The University of NSW <sup>11</sup> who had acquired specific data and knowledge in this area and who could teach me how to do the research to find the answers to those questions. From our understandings that Aboriginal knowledge and western knowledge each has a validity and integrity of its own, and by emphasising our similarities rather than our differences, we combined our knowledges and insights to build on what was known and to accomplish a more in depth understanding about a dire situation that affected us greatly.

### **MENTAL HEALTH DISORDERS AND COGNITIVE DISABILITY DATASET LINKAGE PROJECT (MHDCD)**

The Australian Research Council (ARC) Linkage Project *People with mental health disorders and cognitive disability (MHDCD) in the criminal justice system* (2009) conducted by Baldry and others from University of NSW, is the first quantitative research to examine the experiences of people with mental and cognitive disabilities (intellectual disability, borderline intellectual disability and either of these with other diagnoses and acquired brain injury) and their contact with the NSW criminal justice system (Baldry et al. 2015). A major component of this project was the creation of the MHDCD Dataset by scholars Baldry and Dowse. The Dataset comprises 2,731 individuals whose diagnoses were known, who had participated in the 2001 NSW Inmate Health Survey while in prison or who were recorded as having a disability by Corrective Services NSW (Baldry et al. 2015). Data about these persons was also collected from NSW criminal justice agencies – Corrective Services, Police, Juvenile Justice, Courts, Legal Aid and government human service agencies including Housing, Family and Community Services Ageing Disability and Home Care, JH&FMHN and NSW Health (Baldry et al. 2015). The data from all agencies relating to each individual such as police incidents, court appearances, juvenile and adult custodial episodes, out-of-home care placements, disability care and public housing tenancy were matched and merged to create the Dataset (Baldry et al. 2015). The quantitative information about these individuals is of ‘extraordinary richness and depth’ showing each person’s ‘lifecourse pathway’ throughout both criminal justice and human service systems (Baldry et al. 2015, 20).

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<sup>11</sup> Eileen Baldry, Leanne Dowse, Julian Trollor, Patrick Dodson, Devon Indig

## **WHAT THE MHDCD DATASET SHOWED FOR ABORIGINAL PEOPLE**

In total, there are 676 Aboriginal people in the MHDCD Dataset, with men numbering 583 (86%) and women being 93 (14%). Aboriginal people have the highest rates of ‘complex support needs’<sup>12</sup> related to multiple diagnoses and disability of all persons in the cohort (Baldry et al. 2015, 10). This means that Aboriginal people experience a ‘greater disadvantage’ when compared to non-Aboriginal people including multiple contacts with police, contact at a younger age, higher rates of offending, convictions and juvenile justice supervision, and being remanded and sentenced in custody more often (Baldry et al. 2015). The findings from the MHDCD Dataset showed also how professionally based systems had not met the needs of Aboriginal people (Baldry et al. 2015; McEntyre 2015). Although this descriptive data was extremely important, it did not provide an Aboriginal informed interpretation and understanding of the broader experiences of contact with police, courts and prisons for those living with mental health and wellbeing issues and cognitive and developmental disabilities. This gap in Indigenous knowledges directed the need for further research into this social phenomenon to make sense of the data and for the narratives to tell us what this data meant.

## **INDIGENOUS AUSTRALIANS WITH MENTAL HEALTH DISORDERS AND COGNITIVE DISABILITY IN THE CRIMINAL JUSTICE SYSTEM LINKAGE PROJECT**

The *Indigenous Australians with Mental Health Disorders and Cognitive Disability in the Criminal Justice System* ARC Linkage Project (IAMHDCD project) brings to light the ‘multiple, interlocking and compounding disadvantageous circumstances’ experienced by Aboriginal people living with mental and cognitive disabilities and involved in NSW and NT criminal justice systems (Baldry et al. 2015, 27). The qualitative phase of the study was led by Aboriginal people and communities and comprised interviews with Aboriginal men and women with mental and cognitive disabilities who had contact with police, courts and prisons. Family members, carers, leaders and members of Aboriginal communities, as well as workers in government agencies, non-government organisations, Aboriginal Community Controlled Health Services (ACCHSs) and other Aboriginal governed services were also interviewed. When the findings from the MHDCD Dataset were combined with the qualitative data there was a

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<sup>12</sup> People having complex support needs ‘require high levels of health, welfare and other community-based services and include individuals who experience various combinations of mental illness, intellectual disability, acquired brain injury, physical disability, behaviour that are a risk to self and others, social isolation, family dysfunction, have problematic drug and/or alcohol use, insecure in inadequate housing, cultural, circumstantial intergenerational disadvantage, family and domestic violence and contact with the criminal justice system’ (Baldry et al. 2015, 24).

‘coherent and comprehensive account’ of the lived experiences of Aboriginal people with mental and cognitive disabilities, and individual and community responses and solutions and approaches for preventing further involvement with criminal justice systems (Baldry et al. 2015, 27; McCausland et al. 2015).

### **WHY FOCUS ON ABORIGINAL WOMEN?**

A gender specific analysis of the MHDCD cohort revealed detailed information about the 93 Aboriginal women.<sup>13</sup> The findings show that their lived realities are more profoundly disadvantageous when compared to Aboriginal men (with no disrespect) and non-Aboriginal men and women (Baldry et al. 2015). Aboriginal women have the highest rates of complex support needs (that is multiple disabilities and social disadvantages) of any group, which translated into poorer mental health and wellbeing, as well as multiple disabilities including cognitive impairment (such as intellectual disability and acquired brain injury) (Baldry et al. 2015; McEntyre 2015). The analysis also shows Aboriginal women’s contact with police and juvenile and adult custody was significantly higher overall, as was the number and yearly rate of convictions and remand episodes in prison (Baldry et al. 2015).

The differences between Aboriginal women and Aboriginal men were further highlighted in a study focusing on the geographic distribution and concentration of individuals in the MHDCD cohort throughout NSW (Baldry et al. 2015). The MHDCD Geographic Distribution Study (2013) examined the suburbs and towns where Aboriginal people in the cohort had lived over their lifetimes (Baldry et al. 2015). Based on Aboriginality and gender, the study found that Aboriginal women moved more frequently and lived in more locations than Aboriginal men, but with 40.9% of women living in ‘one or more of just 3 suburbs indicating extreme concentration’ (Baldry et al. 2015, 69). The transience, mobility and lack of permanency for Aboriginal women and the high numbers in so few distinct social disadvantaged NSW suburbs and towns added to the complexity of disadvantage and need (Baldry et al. 2015).

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<sup>13</sup> Aboriginal people are the original inhabitants of NSW and the NT, and Aboriginal women from NSW and the NT were the partners and contributors to this study. As a Worimi and Wonnarua woman from Worimi and Wonnarua country, I do not lay claim to have a comprehensive knowledge of Torres Strait Islander women and culture. Therefore, the lived realities of Torres Strait Islander women are not documented in this thesis. This does not mean however that those Torres Strait Islander women with mental and cognitive disabilities do not have similar lived realities or involvement with the criminal justice system in their own communities.

## INTENT OF THIS THESIS

This thesis recounts the voices and perspectives of Aboriginal and non-Aboriginal women to represent the lived realities of Australian Aboriginal women with mental and cognitive disabilities involved in NSW and NT criminal justice systems. NSW was chosen as a site because it is the most populous Australian state, with 40% of Australia's prisoner population and with the highest actual number of Aboriginal prisoners and because the MHDCC Dataset had been collected in NSW. NT was chosen as it has the highest proportion (at 84%) of Aboriginal prisoners compared with non-Aboriginal prisoners in Australia and the highest rate (at 878 per 100,000 adult population) of imprisonment in Australia (ABS 2017). For cultural, personal and professional obligations and responsibilities – my role and place as an Aboriginal woman through Worimi and Wonnarua bloodlines and vast work experience in the NSW correctional health system – I focused primarily on Aboriginal women living in NSW. When in the NT however, I was always cognisant that I did not belong to that Country and was a grateful visiting insider who had been welcomed and accepted so warmly and openly by Aboriginal women and their supporters.

There were many reasons for women to develop this field of inquiry: the lived realities for Aboriginal women with mental and cognitive disabilities differed significantly to others in the MHDCC cohort, including Aboriginal men; the specific gendered and sensitive needs of Aboriginal women with mental health and wellbeing issues and in particular those with cognitive impairment were not talked about; Aboriginal women must be active partners in any ethical research effort to better understand the lives of Aboriginal women, otherwise all research is destined to fail; there was no social work disability research undertaken by an Aboriginal woman in this area; my knowledge and insights of Aboriginal health and correctional systems for Aboriginal women would enable me to better grasp the issues; and the felt relatedness between Aboriginal women could connect me more closely and as far as possible with their lived realities so that I was better able to see things that were 'so bleeding obvious' and that affected us so deeply and emotionally (Collard 2014).

Yvonne Jewkes', a criminologist at the University of Leicester, United Kingdom, supports that prison and criminal justice researchers should have different feelings and emotional experiences and should use their '*emotions as expression* to give life, vividness, and luminosity' to their writing, otherwise the criminological research remains 'blank and arid' (Jewkes 2014, 387-388). My feelings, which created energetic and empowered discussions between

Aboriginal women, are reflected in the findings. Without making Aboriginal women feel deficient or attempting to fix them or trying to control the research process and outcome, I became one among many women who could be open and exposed, and yet strong and formidable to hear the critical truths to substantiate what was, until now, an unknown.

## **GETTING THIS NEW KNOWLEDGE TO PEOPLE WHO NEED TO KNOW**

It is essential that the new knowledge generated from the research and conveyed through this thesis reaches people who need to know, and in particular educates the decision-makers who can use this knowledge to make some sort of positive impact. Their intentions can improve the lives of so many Aboriginal women whether they happen to be the 'supported' or 'supporters'. The findings show that political leadership and change is demonstrably needed. While drafting this thesis it became clearer that there is an invisibility of people, including community based practitioners and academics who have the cultural and professional knowledge, and the qualities and experience to provide interventions or extra resources and support for Aboriginal communities when critically needed. The time set aside for writing this thesis was often diverted into other important and demanding work priorities. For example, assisting philanthropic organisations to invest monies into filling service gaps to reduce the numbers of Aboriginal children in prison (detention); facilitating planning and action meetings to integrate government and non-government mental health and disability support services for a remote Aboriginal community; and with developing culturally informed resources for non-Aboriginal and Aboriginal led organisations to better engage and plan with Aboriginal people living with disabilities and their families in accessing community services and supports and in particular the National Disability Insurance Scheme (NDIS). This work also justifies why this research was needed and that the findings be shared with those who will best use them.

## **THESIS STRUCTURE**

The thesis consists of ten chapters and the conclusion.

Chapter 1 establishes why the research was needed based on the lived experiences of my own family members and the analysis of the MHDCC Dataset which shows Aboriginal women living with mental and cognitive disabilities involved with criminal justice systems have more complex support needs, poorer mental health and wellbeing and higher rates of cognitive impairment, including intellectual disability and acquired brain injury when compared to Aboriginal men and non-Aboriginal men and women.

Chapter 2 is a review of the most important and useful literature related to affected Aboriginal women and identifies the need to develop knowledge and theory in this field. The literature review was informed from my own being, perspective and thoughts as an Aboriginal woman and through knowledge passed onto me from other Aboriginal women, and non-Aboriginal women connected to me who have a racialised and gender-specific perspective in criminal justice. Together Aboriginal and non-Aboriginal women have developed their knowledge from decades of lived experience and from practical work within correctional and Aboriginal health environments and social justice research contexts. The literature selected describes the position for Aboriginal women in the context of history and their lives during the early periods of colonisation. The chapter shows how Aboriginal women in contemporary society harness their strengths through cultural association and take on the lingering historical challenges and encounters that come with ongoing colonial interventions.

Chapter 3 builds on the literature by presenting theoretical viewpoints on affected Aboriginal women and examines their complexity of need. The shortcomings in services and programs for meeting those needs with holistic or wrap around supports is demonstrated. The inconclusive literature, marginalisation of Aboriginal women from criminological research and the absence of research by Aboriginal women with Aboriginal women in criminal justice systems is discussed.

Chapter 4 outlines Indigenous research methodology literature and the new Indigenous methodology developed for this research with Aboriginal women. This Indigenous methodology is a blending of my standpoint as an Aboriginal Goori woman and my position as a mental health and disability social worker in criminal justice.

Chapter 5 explains how cultural, personal and professional integrity have been embedded into the methods used to conduct the research. As the IAMHDCD Project and thesis Project were conducted simultaneously, the quantitative and qualitative methods used for data collection overlapped.

Chapters 6 and 7 are the two findings chapters that re-count the voices and insights of the 21 Aboriginal women from various groups in NSW and the NT who partnered with the research and were interviewed both in their communities and in prisons. Their lives, as they saw them, give structure to the interview data and analysis. The two key themes that emerged from the analysis are *management and control of Aboriginal women* and *segmenting Aboriginal women*. These drive theory development by suggesting a new way of understanding these groups of

Aboriginal women's lived realities. Beginning from a young age and continuing into adulthood, the lives of women have been overpowered, managed, controlled and constructed by others. So many facets of the criminal justice system also managed and controlled this group of women and contributed to their disempowerment and pain. The enduring loss of control over their lives was not resolved because services in urban, remote and regional areas segmented women's lives into manageable and unmanageable pieces instead of providing holistic or wrap around supports to help meet their complex support needs.

Chapters 8 and 9 are the two findings chapters that examine the voices and insights of the 13 Aboriginal and 3 non-Aboriginal women supporters from families, communities, Aboriginal organisations, government and non-government services and criminal justice agencies (police, corrections, correctional health) who were related to, connected with or involved in some way with a number of those women who partnered in this research, and in a few cases with Aboriginal men with similar conditions who were also involved with criminal justice systems. Amongst them, the women contributors fulfilled multiple roles in the community such as family matriarch, leader, grandmother, mother, auntie, sister, cousin, nurturer, carer, kinship carer, service provider, community liaison officer, Aboriginal health worker, correctional officer, program manager and project officer, most having many roles simultaneously. Four themes emerged from the interview data and those themes are *surviving and not living, everyone becomes affected, siloed services versus wrap around supports* and *role and place of Aboriginal women supporters*. The insight from those women supporters shows why it is necessary for Aboriginal women to have access to and to receive the right wrap around supports and care, in order to keep them from entering and, most importantly, to help them stay out of criminal justice systems. The collective stories of Aboriginal women supporters show the love and care provided to Aboriginal women (and men and children) with mental and cognitive disabilities in their families and communities to prevent their interactions with criminal justice systems and increase their prospects of living well in the community.

Chapter 10, the discussion and conclusion, is my own interpretation of the four findings chapters and considers the critical contribution the research makes to the lives of Aboriginal women with mental and cognitive disabilities and their families as well as the scholarly fields of Aboriginal women, disability and criminal justice. The knowledge and realities of those Aboriginal women who partnered with the study and Aboriginal and non-Aboriginal women within families and communities who also contributed, establishes the 'women only' evidence for understanding what leads to and results in women's over-representation with criminal

justice systems, and with how women can be better supported by service providers and systems. The discussion focuses on the lack of power owned by Aboriginal women to improve or positively change their circumstances. The powerlessness started from a young age and has continued into adult life forcing them to do whatever is needed in order to survive. The findings also show that a lack of culturally competent and responsive interventions and wrap around supports strongly contributes to affected women becoming and staying involved with criminal justice systems. More professional and cultural cultivation is recommended for Aboriginal and non-Aboriginal professionals in the justice, health and disability sectors (executive management, senior supervisors, psychiatrists, nurses, allied health, mental health practitioners, mental health tribunal members, disability specialists, police, lawyers, magistrates, correctional officers) to understand and address the complex support needs of those Aboriginal women to prevent their contact with criminal justice agencies, as well as those identified issues confronting families, communities, services and prisons that are connected to women who are unwell and impaired. More effort is required from the social work profession and mental health social workers in particular to better meet their 'core obligation' to stand with Aboriginal (and Torres Strait Islander) women and better advocate for social justice, fairness, respect and protection for Australian Indigenous women's human rights, as expressed in the *Code of Ethics*, the guiding practice document of the Australian Association of Social Workers (Australian Association of Social Workers 2010, 13).

In ending this thesis, what we have seen in this study is what it takes for an Aboriginal woman to take another Aboriginal woman into her home and community to talk about surviving a life filled with ongoing trauma, pain and fear instead of living a dignified, self-designed and controlled existence outside of abnormal criminal justice environments and influences. That Aboriginal woman must be supported in her own way to shift the burdensome realities and take back her power and not accept her life as it is. And as Aboriginal women's culture and connections remain alive and strong, then Aboriginal women's dynamic knowledge, practice and processes must be central within any supports or care provided.

On a whole other level we have also learnt from this study that governments, politicians, human services, universities, researchers, media, community members, social workers and other professionals know almost nothing about the lives of Aboriginal women with mental and cognitive disabilities. And what they do know has come from a white male and settler colonial society context. Therefore, the onus is on them to critically look at themselves, and their power, and to stop being comfortable with what little they know. Many Aboriginal women

who are mentally unwell and impaired face perverse issues and outcomes, day in, day out and then bear the brunt of policies and systems which are not culturally affirming or culturally robust, and which create further struggles, confusion and pain. Aboriginal women should not be responsible for calling this out. It is for services to stop being desensitised to Aboriginal women's lives and to take ownership of leading the response. This begins with workers being at the forefront of high level and frontline discussions with women about their futures. Women working in those services in particular need to positively connect with Aboriginal women and support and encourage in the ways identified by Aboriginal women themselves. This can also have a far wider positive impact on Aboriginal families and communities.

## CHAPTER 2: LIVED REALITIES OF ABORIGINAL WOMEN IN LITERATURE

Consideration of Australian Aboriginal women and their contact with criminal justice systems in all states and territories has a relatively short history. In NSW for example, the situation for Aboriginal women held in custodial facilities was first examined over 30 years ago by the *NSW Women in Prison Task Force* (1985) as part of a significant review of women prisoners. In the NT, the increasing numbers of Aboriginal women in the female prison population were not adequately considered until the late 1990s; and not included as a key issue in the NT correctional services policy until 2007, with the development of the first female offenders action plan, *Addressing the Needs of Female Offenders in Prison: Policy and Action Plan 2007 – 2012*.

Regardless of the findings of the 1978 *Nagle Royal Commission* into NSW prisons, which recommended prison as the last resort, and the *Report of the NSW Women in Prison Task Force* several years later in 1985, the imprisonment of Aboriginal women has rapidly increased in NSW and nationally. Along with this increase, information has begun to emerge about Aboriginal women's contact with police, courts and prisons, and their post-release experiences. While it has been largely non-Aboriginal criminal justice scholars, lawyers, organisations and others who have descriptively researched and contributed to the discussion on Aboriginal women and criminal justice systems, publication of Aboriginal works on the issue has been limited. Of importance to this present study is that research, information and literature regarding the lived realities of Aboriginal women with mental and cognitive disabilities and their involvement with Australian criminal justice systems has been remarkably scant.

### Indigeneity and gender not considered

Law academic Lorana Bartels is critical of the existing literature about Aboriginal women in criminal justice systems. In the article *Painting the Picture of Indigenous Women in Custody in Australia* (2012), Bartels explains that much of the material is 'qualitative and/or anecdotal in nature' and that where quantitative information is presented it does not consider both Indigeneity and gender (Bartels 2012, 1). The author has also identified a lack of comprehensive data available to understand the full burden of mental illness among Aboriginal women prisoners, citing 'psychiatric issues' and 'severe psychological distress' to be prevalent for the majority of Aboriginal women in custody (Bartels 2012, 11). Bartels' critique of the

literature is supported, however she has not considered the fact that almost all of the information on Aboriginal women and criminal justice systems comes from a non-Aboriginal viewpoint and does not include insights and perspectives of Aboriginal women.

### **Why so little talk about such a huge issue?**

It is proposed that the scarcity of literature about the mental health, disability and social issues experienced by Aboriginal women in criminal justice systems can be explained by a lack of understanding of and interest from, for example, political leaders, state and territory governments, allied health professionals in mental health and disability institutions and services, criminologists, community development workers, activists and academics. Social workers in particular have not been engaged in this area of need and have had a 'low profile' in disability overall (Bigby et. al. 2018, 18). More so, considering the comparatively small numbers of Aboriginal women entering the correctional system in comparison to Aboriginal men and non-Aboriginal men and women, it can be argued that this issue is not considered worthy of attention. Their needs are therefore not being met by human service and criminal justice systems.

Grant and Paddick, both with decades of experience designing custodial environments in Australia and internationally, point out in their article *Aboriginal women in the Australian prison system* (2014) that various prisons, with a few exceptions such as the West Kimberley Regional Prison in Western Australia (WA) and Dillwynia Correctional Centre in metropolitan NSW, do not provide for the small numbers of Aboriginal women prisoners with complex support needs (Grant and Paddick 2014). The authors explain that the Australian system is not suitable for holding the overrepresented numbers of women who have experienced physical and sexual abuse, homelessness, racism and extreme poverty, and the increasing numbers of women with cognitive impairments commonly from violence, motor vehicle accidents or Fetal Alcohol Spectrum Disorder (FASD)<sup>14</sup> (Grant and Paddick 2014). Further, Aboriginal women who commit more serious crime are often held in maximum security facilities designed for men because they are not able to access a women's prison, let alone a maximum security women's facility that suits their program and personal support needs (Grant and Paddick 2014).

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<sup>14</sup> Fetal Alcohol Spectrum Disorders (FASD) cover the adverse conditions that can result from prenatal alcohol exposure, including Fetal Alcohol Syndrome (FAS), partial Fetal Alcohol Syndrome (pFAS), Alcohol Related Neurodevelopment Disorders (ARND) and Alcohol Related Birth Defects (ARBD) (Hayes et al. 2014). In Australia, the medical diagnoses covered under FASD are FAS, pFAS and Neurodevelopmental Disorders Alcohol Exposed (ND-AE).

## Providing the basis for targeted research

As discussed in Chapter 1, this thesis project is nested within the larger IAMHDCCD qualitative project that captures the lived experiences of Aboriginal people with mental health and wellbeing issues, as well as cognitive and developmental disabilities in the NSW and NT criminal justice systems. The literature review for this present study provides the basis for this targeted research with Aboriginal women to fill the gaps in knowledge and to build on the theory.

A self-reflective and critical Indigenous disability criminology (discussed in Chapter 3 below) understanding is vital for analysis of the literature discussing Aboriginal women's involvement in criminal justice systems. The importance of reflexivity and critical analysis in research is explained by Aboriginal scholar Mark Lock when reviewing literature in relation to *Aboriginal holistic health* (2007). In his analysis, Lock found that not one of the authors had considered the effect of their 'cultural lens' or their backgrounds including 'education, gender, organisation, training, experience, ideologies' on their understanding, interpretation and application of Aboriginal holistic health in their publications (Lock 2007, 9-13). In other words, the authors had not considered how their own realities may have slanted their awareness and perceptions in their writing (Lock 2007).

The literature review has been informed from my own being, experience and perspective as an Aboriginal woman and mental health and disability criminal justice social worker and from knowledge passed onto me from other Aboriginal women and non-Aboriginal women connected to me who have a racialised and gender-specific perspective in criminal and disability justice and research.

The literature review is centred on four key questions:

- Who are Aboriginal women with mental and cognitive disabilities?
- Where are Aboriginal women with mental and cognitive disabilities?
- What is known (and not known) about their lived realities of criminal justice systems?
- What role do service systems, including research, play in meeting the complex support needs of those Aboriginal women?

The review is sorted into two chapters conforming closely to those four questions. The first chapter sets the context for the research, including a short history of the lived realities for

Aboriginal women pre and post-colonisation to help provide an understanding of how and why increasing numbers of women are coming into contact with criminal justice systems. It then looks at the *Nagle Royal Commission into NSW Prisons* (1978) and *Report of the NSW Women in Prison Task Force* (1985) and their relevance for Aboriginal women in NSW. The gender-specific position of the *National Report of the Royal Commission into Aboriginal Deaths in Custody* (1991) and the consideration of the experiences of women is then examined.

The second chapter (Chapter 3) introduces the existing theoretical viewpoints on Aboriginal women living with mental and cognitive disabilities involved with criminal justice systems. The responses from relevant services for meeting the complex support needs of women are also discussed. As discussed in chapter one, people with more than one diagnosis (of mental illness and cognitive disability), who are socio-economically, geographically or educationally disadvantaged and who often experience discrimination have been referred to as people with multiple and complex support needs. Supporting and meeting those needs is extremely difficult because there are many levels of disadvantage stemming from extreme and repeated events. As discussed earlier, apart from the findings of the larger IAMHDCCD qualitative project, there is very little published and current research in Australia or internationally relating to Aboriginal women's complex support needs and their involvement with criminal justice systems. Therefore, although not being academic, it has been necessary to include relevant news and media articles in the review because they have a critical role in highlighting the operations of criminal justice systems and the treatment of Aboriginal women with complex support needs. For example, news reports were influential in bringing to public attention the plight of Roseanne Fulton. Rosie Fulton, a young Aboriginal woman from Mparntwe (Alice Springs) in the NT, had cognitive functioning issues from birth due to FASD. After being charged with driving offences and with no conviction, she was detained indefinitely for 22 months in the Eastern Goldfields Correctional Centre (Western Australia) because there was no alternative community-based accommodation (Stewart 2014). Ms Fulton's story was broadcast on the ABC's *Lateline* and more than 120,000 Australians signed a petition to have her released from prison. After advocacy from the Aboriginal Disability Justice Campaign (ADJC), now Australians for Disability Justice (ADJ), she was eventually returned to Alice Springs to live in supported community accommodation; however after only one week she was again arrested for allegedly assaulting a security guard and three police officers (AAP 2014). On Ms Fulton's release, her legal guardian and one of the ADJC coordinators had 'warned a safety net was necessary to ensure she didn't revert back to her old life' (AAP 2014, 1). It is very probable that if Ms Fulton's case was not widely reported in the media and resulting pressure

placed on state and territory health ministers, then her experience would have otherwise gone unnoticed by the wider community and governments. It is likely that Ms Fulton's case is representative of other Aboriginal women's realities but their stories rarely make for news.

## **PLACING ABORIGINAL WOMENS' LIVED REALITIES IN HISTORICAL CONTEXT**

The *NSW Women in Prison Task Force* forged the position that the situation for Aboriginal women involved with criminal justice systems should be contextualised through their collective and exceptional links to history (NSW Government 1985). Seen through a prism of Aboriginality and gender, the discussion first turns to briefly focus on Aboriginal women's roles and cultural association in traditional times before contact with Europeans, then follows by looking at women's experiences during early and later periods of colonisation. The latter period is exemplified by looking purposely at the removal of Aboriginal children from families and communities – and of Aboriginal girls and young women in particular. Most importantly, the impact of removing children on Aboriginal mothers is also revealed.

A more informed understanding of Aboriginal women's position in contemporary society – especially in relation to the legacy of intergenerational trauma and mental wellbeing, and the use of criminal justice systems to manage and control Aboriginal girls and women – is reliant on understanding Aboriginal women's history, cultural values and beliefs, lived realities and survival from the perspective of Aboriginal women themselves.

### **Pre-European contact: Aboriginal women's role and place**

Prior to white settlement Aboriginal hunter-gatherer society had a well-developed and egalitarian subsistence economy – everyone was well fed, had ample leisure time and a full spiritual life – and women had a status comparable with, and equal to men (Johnston, cited in Cunneen and Libesman 1995, 3). While some roles of Aboriginal women Elders may have been gendered (that is, Women's Business), their cultural knowledge and authority was shared, recognised and adhered to within the whole tribal group (Behrendt 2012). Aboriginal woman and academic Pat Dudgeon, well-known for her leadership in Indigenous psychology, and co-author Roz Walker, also support that an Aboriginal woman 'held an equal and proud place within her family and her clan and tribal group' (Dudgeon and Walker 2010, 97). Aboriginal

woman and Elder Pat Kopusar<sup>15</sup> from Western Australia – who is a member of the Steering Committee for the *Western Australian Aboriginal Child Health Survey: The Social and Emotional Wellbeing of Aboriginal Children and Young People* (Zubrick et al. 2005) – explained that an ‘Aboriginal “state” was maintained’ prior to European contact and the rearing of children was shared between all families (Zubrick et al. 2005, v):

...families with their multiple roles practised the age-old Indigenous practices of bringing up children. Work, safety, shelter and food, culture, pride in being black and Aboriginal, truthfulness and honour were all vital parts of growing up. It also included sharing responsibility for the caring of each precious child which was cherished as a significant experience.

As providers, mothers and carers with many roles and responsibilities for the group, including the provision of different necessities for children born into the tribe, Aboriginal women raised strong matriarchal families from diverse bloodlines to ‘take their own places in society’ (Zubrick et al. 2005, v). The shared practise of child-rearing also taught the family group how to maintain good and productive relationships and in particular children with finding and sharing food with all members (Zubrick et al. 2005).

In 1988, Dingle had noted the strong and codified understanding of the social, cultural and spiritual roles among Aboriginal women, and divided between women and men. For example connected relationships, decision-making, teaching of lore, language, law enforcement, medicine, burial practices, sharing of labour for the camp’s daily rather than accumulated food resources and leisure; all of which were influenced by ancestral creator beings living harmoniously with the land and maintained through ceremonies, knowledge of sacred Law and a oneness with the immemorial spiritual and living world (Dingle 1988, 9; Dudgeon and Walker 2010).

Aboriginal woman, author and academic Larissa Behrendt raises an important point that Aboriginal women were not ‘inferior and subservient’ to or controlled by Aboriginal men; neither for sex, nor as victims of violence or slaves within Aboriginal society or culture (Behrendt 2002, 1). The sacred love and cultural respect for Aboriginal women practised in

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<sup>15</sup> In 2005, Aboriginal Elder Pat Kopusar was also the Chair, WA Aboriginal Health Information and Ethics Committee, Member of the WA Women’s Advisory Council and Member of the Southwest Land and Sea Council (Zubrick et al. 2005, ii).

traditional Nyoongar<sup>16</sup> society and passed through generations of Nyoongar men to those living and sharing culture in contemporary times was felt by non-Aboriginal woman and nutritionist Milly Taylor when visiting Nowanup Farm on Nyoongar Boodja (Nyoongar land) in the Western Australian Stirling Ranges. In *Women's business and men's business with the Elders* Taylor shares her cultural experience (2012, 12):

The women joined hands in a small circle around the fire and the men joined hands in a circle of support around us. The male Elder spoke, 'these are our women; we protect them with love, respect and openness'...I felt through my core exactly how it is meant to be between women and men, both with purpose, both with love and respect and perfect trust.

The white settlers or invaders that decimated and forcefully banished Aboriginal people from their homelands also disrupted the ancient cultural association between Aboriginal women and men and the whole tribal group. Goodall explains that Aboriginal girls and women in particular endured some of the most pervasive terror and trauma-related abuses from the colonisers and that the hardships and injustices brutally inflicted were the result of gendered policies and practices (Goodall 1995; Payne 1992).

It is important to appreciate that Aboriginal women's knowledge – which gives meaning to experiences, histories and cultural and spiritual materials – did not die with colonisation (Moreton-Robinson 2013). Speaking with the voice of her family, Kathy Malera-Bandjolan, a Malera woman and leader from northern NSW asserts: 'we are not extinguished. We are not a dead people. We are very much alive and we are very strong. We still practice our belief' (Malera-Bandjolan 2000, 64-65). Nyoongah Leader and activist Robert Eggington<sup>17</sup> explains in *Bulyer Boona Boodja* (Sacred Stick From the Land) *Koora Koorlong Ale* (Long Ago Is) *Nyoongah Myar* (South West Aboriginal People's Property) (2002) that Aboriginal culture is seen and

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<sup>16</sup> Nyoongar refers to the Aboriginal people from the southwest of Western Australia.

<sup>17</sup> In the 1990s Robert Eggington established the *Dumbartung Aboriginal Corporation* in Perth. *Dumbartung* 'demands that all cultural material, inclusive of sacred and significant objects, currently held in government and religious institutions, be handed back to their rightful traditional owners' (Eggington 2002, 23). The *Dumbartung Gallery and Keeping Place* holds for safe keeping significant cultural objects, items and materials that were wrongly acquired by non-Aboriginal people and now repatriated to Nyoongah people. Eggington also established the *Wall of Shame* 'exposing many examples and samples of the various ways that Aboriginal culture has been exploited and appropriated for financial gain by non-Aboriginal commercial interests' (Eggington 2002, 26). This includes the 'negative impact of eco-tourism on sacred or significant sites, appropriation of Aboriginal art styles and symbols, tourist commodities and products, cultural material exploitation, exploitation of ecological knowledge, exploitation of traditional music, dance and the arts, stolen cultural and ceremonial objects and identity appropriation' (Eggington 2002, 26).

known as a 'living culture' and that the connectivity of kin, land, materials and culture 'cannot be differentiated' because it is the 'same entity and understanding' (Eggington 2002, 9). Aboriginal ceremonies, language, medicine, burials, symbolic art, spirituality, the lore and what is right and wrong are continually shared with the next generations of women by Elders, wise women and keepers of stories through yarning times, storytelling and demonstration. The transfer of ancestral knowledge and learning develops proud women who know 'respect for our place within the world of living existence' (Eggington 2002, 9).

### **Distortion of Aboriginal women's lives**

It is the right time to point out here that Dudgeon and others have identified that the roles Aboriginal women held in traditional times have been frequently misrepresented or 'neglected' by early non-Aboriginal scholars studying, recording and writing about Aboriginal history and cultures (Dudgeon et al. 2014, 4). Eggington advances this argument in *Hamburger for Masterpieces* (2009), by stating that most historical writings by 'Wadjulla (white) academics, intellectuals and theorists' about Aboriginal women (and men) now found in state and university libraries and archives 'distort the truth' documented by the early colonists, historians and others (Eggington 2009, 5). As a result, they have 'created distorted realities of our traditional values of ways of life' (Eggington 2002, 5). Moreover, anthropologists, consultants, eco-tourism operators, new-age shamans, artists, academic institutions, students, scientific and medical researchers and those in the media and film continue to steal, desecrate, exploit, commercialise, mimic, experiment and distort realities of Nyoongah traditions and concepts (Eggington 2002, 5). Eggington condemns what he knows as the ongoing 'continued spiritual colonisation' of Nyoongah people and culture by Wadjallas in his declaration *Jangga Meenya Bomunggur – The Smell of the White Man Is Killing Us* (Eggington 2002, 5).

Apart from cultural tools and practices such as the didgeridoo, dancing and dot painting, most non-Aboriginal people have no other understanding of Aboriginal women and men, and in particular the connections between our ancient and contemporary cultural ways and protocols. Beliefs held by many non-Aboriginal people about Aboriginal lives are actually wrong and generic cultural framing practices distort the truth about Aboriginality. The two most common examples which make these distortions clear are that 'real Aboriginal people' are only 'found' in the NT, and, even though we are many Peoples and Nations, we are all called Aboriginal and Torres Strait Islander peoples. Perhaps if non-Aboriginal people knew us better, they would be more likely to treat us better and less likely to make ill-informed

criticisms and decisions about us. By keeping Aboriginal people not known, it is more comfortable to assert power to cause harm which in turn fragments lives and the narrative. It is also easier to enforce the widespread destruction of our sacred landscapes and heritage rather than preserving Country for future generations of Australians.

### **Post-European contact: Aboriginal women's lives and place**

Behrendt has traced the systematic subordination of Aboriginal women back to the time when patriarchy, racism, sexism and alcoholism were introduced into the country (Behrendt 2002). As features of colonialism, they had devastating impacts on women, whereby their female bodies made them vulnerable to sexual abuse and other physical, violent attacks (McConnochie et al. 1988; Haebich 2001). Represented as inferior and lacking morality, Aboriginal women's devalued sexuality justified the shameful atrocities committed against them by white men. Discussing the response of the legal system to Aboriginal women who were victims of sexual abuse in the early colonies, Behrendt explains (2002, 1):

The sexual abuse and exploitation of Aboriginal women contributed to the bonding of white men on the frontier. Ready access to Black women was one of the attractions of outback life. Aboriginal women were forcibly abducted in all parts of Australia. Burdened by a socioeconomic position inherited by their gender, race and class, Aboriginal women often found themselves in a position of cyclical poverty.

Dudgeon also notes that Aboriginal women's oppression throughout the colonising process was through the 'exploitation of their sexuality and commodification of their bodies' (Dudgeon, cited in Dudgeon and Walker 2010, 103). Evans further states that most Aboriginal women under post-colonial regimes experienced 'traumas of capture, rape, prostitution, concubinage, venereal disease and institutionalisation' (Evans 1999, 176). Historian Henry Reynolds argues in *Black Pioneers* (2000) that 'all too often, liaisons led to degradation, disease and premature death' for Aboriginal women (Reynolds 2000, 275). Writing further about the treatment of Aboriginal women by white men, Reynolds reveals that from the earliest years of settlement white men cohabitated with Black women, and those women on pastoral stations were 'preyed on' by any and every white man (Reynolds 2000, 148) who wanted a 'piece of Black Velvet' – a sexist and racist term used by men in the 19<sup>th</sup> Century to describe Aboriginal women (Shiels 2017). White officers also encouraged their troopers to take local women with them on patrol and to 'do what you like when you are in the bush' (Reynolds 2000, 148).

Moreover, Aboriginal women were used for sex trading and the slave-like conditions they were forced to live in continued well into the 20<sup>th</sup> century (Reynolds 2000, 273):

Women were raped, chained up, held against their will and forced to live with and work for white men. While frontiersmen were often fiercely protective of 'their gins', they rarely developed long-term relationships with the women in question, much less married them or took responsibility for the children they fathered.

As a result of those rape of women from the first years of settlement, thousands of children of mixed Aboriginal and European (and other) descent were conceived and born to Aboriginal mothers (Katon 2012). However tight colonial controls ensured that those 'part-Aboriginal' children would not be reared by the women who birthed them or the 'one, two or three mothers' from the families who looked after, cared for and grew children in a 'special way' (Zubrick et al. 2005, v).

### **Detaching and controlling Aboriginal children**

In *Bringing Them Home, the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997)<sup>18</sup>, noted historian Peter Read convincingly argues that by 1890, the growing 'wild race of half-caste' children became the target of Governments and ensuing policy was developed to remove children of mixed descent from their families (Human Rights and Equal Opportunity Commission 1997, 40). The Aboriginal and Torres Strait Islander children forcibly separated from their families and communities are known as 'removed' or *Stolen Generations* peoples (Gilbert 2012, 14).

Although the child removal policy in NSW was officially enforced through the *Aborigines Protection Act 1909*, the practice had started during the earlier periods of settlement with Aboriginal children being used to work the land (Katon 2012, 50). In 1814, the first Native Institution was opened at Parramatta by Governor Macquarie to 'distance' Aboriginal children from their families, 'civilise' them and to provide them with a decent 'European education'

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<sup>18</sup> The *Bringing Them Home* report made 54 recommendations for moving forward from the impact of forcible removal of Aboriginal and Torres Strait Islander Australians. This included a National Sorry Day to be held annually on 26 May. This date in 1998 was the first official Sorry Day to recognise the impact of forcible removal of Aboriginal and Torres Strait Islander peoples. On 13 February 2008 Prime Minister Kevin Rudd apologised to Aboriginal and Torres Strait Islander Australians for the policies that 'inflicted profound grief, suffering and loss on these, our fellow Australians'. Each year, the anniversary of the Apology is celebrated on this date. The Healing Foundation was established one year after the Apology to focus on building strong, community led healing solutions to right the wrongs of the past.

(HREOC 1997, 39). Later in 1823, the Blacktown Native Institution was established – a residential school for Aboriginal children removed from their parents and institutionalised. The native children not removed for white schooling were relegated to attend school on a Mission Station created by churches or religious people and governed by a superintendent responsible for ‘dealing with an uneducated people’ (Kartinyeri n.d., 64).

The Human Rights and Equal Opportunity Commission (HREOC), now the Australian Human Rights Commission (AHRC), noted that although the 1909 Act gave the NSW Aborigines’ Protection Board legal powers to ‘assume full control and custody of the child of any aborigine’ (HREOC 1997, 40), the Act was amended in 1915 to give ‘total power’ to the Board so that Aboriginal children could be hastily separated without the need for court procedures (HREOC 1997, 41). Further, the Board used the local police, who were also the appointed ‘guardians’ of Aboriginal people, to divide families and take control of the children, simply ‘for being Aboriginal’ (Cunneen and Libesman 1995, 33; HREOC 1997, 41-43). This amendment was debated by some parliamentarians because it was thought that it allowed the Board to ‘steal’ children from their parents, treat children as ‘prisoners’ and as ‘slave(s) without paying wages’ (HREOC 1997, 42). Regardless, the practice of removal continued for decades.

The role of the NSW Aborigines’ Protection Board and police in the taking of children was remembered by older Aboriginal people who had lived on the Talbaragar Reserve, which was land set aside on the outskirts of Dubbo in western NSW and Wiradjuri country. Recording the recollections of those old people who had grown up on the reserve, Aboriginal woman and academic Maggie Walter noted in *Lives of Diversity: Indigenous Australia* (2008) that children were taken by the ‘welfare officer coming out to Talbaragar in the side car of the police motorbike; when the bike was heard on the track to the reserve, children knew to head off into the bush’ (Walter 2008, 7).

Similarly, Aboriginal man Lester Bostock, a disability advocate living with disability himself, remembered that removal from family was always threatening for children like him living on managed reserves. When presenting *Surviving the System: Aborigines and disabilities* at a NSW International Disability Day Seminar, Bostock recalled (2004, 2):

...we always lived under the fear of ‘being taken’. As a child I remember when any white skinned visitors in suits came to the reserve, us kids would be sent off into the bush to hide until the visitors had left or until it was safe to return... children being

legally kidnapped by government and church authorities... all of these experiences are still within the living memory of my people.

The fixation on dislocating Aboriginal children of mixed descent placed untenable demands on the Board's budget and 'lesser castes' of Aboriginal people were forced to merge with the wider community (HREOC 1997, 42). To reduce government expenditure, the Aborigines' Protection Board instructed that only 'full-blooded' Aborigines and their children would meet the Board's constructed definition of Aboriginality and remain on the reserves (HREOC 1997, 42). The acting Premier of NSW at the time determined that (HREOC 1997, 42):

...quadroons and octoroons will be merged in the white population, and the camps will merely contain the full-blooded aborigines and their descendants...By this means, considerable savings will be effected in the expenditure of the Aborigines Protection Board...There is hope...in years to come, the expenditure in respect of Aborigines will reach vanishing point.

The government's strategy was a dismal failure as the Board did not account for the uproar from the dominant white population towards those Aboriginal people and children pushed from their homes and communities and no longer under the control of the government (HREOC 1997, 43). Therefore, the Board's definition of Aboriginality was changed again to regain control over those families and children estimated to be 'half of the Aboriginal population' (HREOC 1997, 43). It has been recorded that between 1912 and 1938 the Board had separated more than 1500 Aboriginal children from families and communities in NSW alone (Walter 2008).

### **Targeting Aboriginal girls and young women**

The HREOC reported that from 1893 to 1912 more than 300 Aboriginal girls and young women were removed from families and placed in a purpose built dormitory on Warangesda station near Darlington Point in southern NSW (HREOC 1997). Documents show that Aboriginal families were coerced with 'free rail tickets' to vacate their homelands and to leave their 'female children behind' to be trained in domestic service at the Warangesda Aboriginal School for Girls for middle-class white homes (HREOC 1997, 40). With the closure of the school, the girls were transferred to Cootamundra Training Home located hours further north and those girls between 14 and 18 years were placed into service (HREOC 1997). This example of removal in NSW is just one of many experienced by Aboriginal girls from the late 1800s until well into the 1900s and the removal practice was nation-wide.

Goodall has argued that for Aboriginal girls to be removed in such great numbers and placed into domestic service those removal policies were specifically gendered: the goals of the state were not consistent in regard to boys and girls and the impacts of policy affected Aboriginal females differently to males (Goodall 1995, 76-81). She advances her argument by stating that the child removal policy enforced in NSW between 1909 and 1969 was 'quite explicitly directed at removing girls reaching puberty from the Aboriginal community (and) intended to intervene in the rising birth rate by restricting and controlling young, fertile Aboriginal women's sexual activity' (Goodall 1995, 81). Available Board records show that from 1909 to 1921, 81% of the children removed were female, and overall, girls made up 72% of all the 12-and-over children who were taken by the Board (Goodall 1995, 82; HREOC 1997, 43). Evidence from government records cited in the *Bringing Them Home* report is convincing that Aboriginal girls were targeted because of their sex. For example, Aboriginal girls were forcibly removed by the Aborigines' Protection Board for reasons such as 'Being 14 years', 'At risk of immorality' and 'To get her away from surroundings' (HREOC 1997, 40-42). To provide a further understanding of the government's removal policy Wonnarua man and author James Miller claims that Aboriginal women 'were exploited in a sexist way to bring about a racist policy of biological genocide because the only way the race could have been bred out was through the women' (Miller 1991, 70). Miller states further that the 'breed them out' policy was designed to divide Koori women and Koori men and this 'form of hegemony was Australia wide' (Miller 1991, 69).

In the *Review of the NSW OATSIH Social and Emotional Well Being Program* (2006), Indigenous Psychological Services (IPS) noted also that by far the majority of the children removed by the Board were Aboriginal girls and young women, with fairer skinned girls being sent to Cootamundra Girls Training Home to be transformed into domestic servants for white families and 'suitable wives for white men' (IPS 2006, 32-33). IPS reported further that the Board's aim was to institutionalise Aboriginal women so that the Aborigine would be 'bred out' (IPS 2006, 33). However this was not to be, as many Aboriginal girls and young women who passed through Cootamundra became pregnant by non-Aboriginal men whilst in this institution; only to have their own children removed (IPS 2006, 33).

## **Institutionalisation**

Many Aboriginal women removed from their families when young documented their experiences in the *Bringing Them Home* report.<sup>19</sup> Evidence given to the HREOC Inquiry highlighted that, apart from the training homes, girls and young women had been placed into single or multiple institutions, including mental institutions, fostered or adopted by white families, or moved back and forth among all types of placements (HREOC 1997). Institutional life was described by female witnesses to be 'very harsh' and 'very cruel', with physical abuse such as 'bashings' and 'whippings' commonplace and no proper food for sustenance. They were often starving when locked into the dormitory or even the 'old morgue' for the night (HREOC 1997, 158-162). Moreover, girls and young women were at risk of sexual abuse and exploitation in every placement, with more than three in ten witnesses disclosing sexual molestation when in foster placement/s and one in ten experiencing sexual abuse while institutionalised and/or in a work placement organised by the Aborigines' Protection Board (HREOC 1997, 162-164).

Another method of social engineering used by the homes was to teach young women that Aboriginal cultural ways were evil, but 'worst of all they were led to believe Koori men were inferior and that they should seek a white husband' (Miller 1991, 69). In the text *Broken Circles Fragmenting Indigenous Families 1800-2000* (2001), Haebich writes that in the NT, young and single Aboriginal women were institutionalised in homes to 'stop the increase in the coloured population' (Haebich 2001, 195). Further, Cook, the Chief Protector of Aborigines and instigator had 'encouraged lighter skinned women to marry white men and in this way to breed out the colour' (Haebich 2001, 195).

## **Deinstitutionalisation**

When the NSW Aborigines' Protection Board was abolished in 1969 more than one thousand Aboriginal children had been adopted by white families, placed into foster care with a majority of non-Aboriginal families or were left in the institutions (HREOC 1997). Those children who became wards were then controlled by the Department of Child Welfare and Social Welfare (HREOC 1997). There is convincing evidence however that, despite the closure of the institutions after the Board had ceased, removals continued well into the 1970s as indicated by children taken from the far western NSW town of Wilcannia to a detention centre in Mt

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<sup>19</sup> Transcriptions are held in the *Bringing Them Home Oral History Collection* in the Australian National Library (Gilbert 2012).

Penang<sup>20</sup> on the NSW Central Coast (HREOC 1997, inquiry submission 775, Broken Hill Office of the Western Aboriginal Legal Service).

### **Criminalise and institutionalise: new means to remove Aboriginal girls**

The evidence supports that the removal and institutionalisation of Aboriginal girls and young women from far western NSW actually continued into the early 1980s. With the Aborigines' Protection Board and removal policies no longer in existence, the state's criminal justice system was instituted as the new means for removal. Kerry Carrington's doctoral research (1990) on far western NSW is convincing that the criminal justice system was used to remove girls and young women from families and communities in rural areas. Carrington highlighted the unquestionable links between the criminal justice system and the removal of Aboriginal girls from those highly Aboriginal populated towns of Bourke, Walgett, Brewarrina, Wilcannia and Moree. According to Carrington, high numbers of girls were 'detected, arrested and presented to court' by the police for counts of female delinquency (Carrington 1990, 18)<sup>21</sup>. Carrington revealed that Aboriginal girls from those five communities appeared before the Sydney Metropolitan Children's Courts for criminal violations such as 'bad home environment', 'educational failure', 'hanging around the streets' and 'idleness'; all used as grounds for punishment and for detention in far-away juvenile correctional facilities (Carrington 1990, 7). From an examination of court reports, including psychological records, Carrington concluded that the 'social visibility' of Aboriginal girls in public spaces was racially and gender specific, because the parklands and open leisure space used by the girls was over policed and their presence in these public areas was often recorded in court documents as 'harmful to the local community' (Carrington 1990, 8).<sup>22</sup> This response of the criminal justice system that lead to the

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<sup>20</sup> Mt Penang is the site of Kariong Correctional Centre for men and Frank Baxter Juvenile Detention Centre for young men. Kariong is operated by Corrective Services NSW and Frank Baxter by Juvenile Justice NSW. Kariong accommodates mostly those males classified as low risk repeat offenders and more than 50% of the young men held in Frank Baxter are Aboriginal.

<sup>21</sup> Carrington found that in 1981, the average Aboriginal population in these five areas was 22 times the state average. There was a remarkably high detention rate for female delinquency in all five localities. The detention rate was four times the average rate for the rural regions in NSW and more than three times the average rate for metropolitan localities (Carrington 1990, 2).

<sup>22</sup> Although not statistically significant to Aboriginal girls, Carrington noted that Cunneen's research published a few years earlier in 1988 had reported similar findings regarding juvenile cautions and convictions in NSW; the highest rates were recorded in the north-west of the state including Wilcannia, Bourke, Brewarrina and Walgett.

detention and institutionalisation of Aboriginal girls and young women was highest overall for those Aboriginal populated communities outside the metropolitan areas (Carrington 1990).

Years after Carrington's research the history of child removal has impacted negatively on the interactions between the NSW criminal justice system and disadvantaged Aboriginal youth in the remote town of Bourke. In 2013, journalists Olding and Ralston noted that Bourke had 40 police for fewer than 3,000 people in order to deal with the highest rates of crime for assault, break and enter and motor vehicle theft found in the state (Olding and Ralston 2013). In the article *Bourke tops list: more dangerous than any country in the world*, Bourke's police crime manager said that crime in the town was committed primarily at night and during school holidays by young people preferring to be on the streets than at homes which were 'not ideal' (Olding and Ralston 2013, 2). Pheeney, a solicitor from the Aboriginal Legal Service (ALS), argued however that the over policing was 'also going to reflect in the crime rates' (Olding and Ralston 2013, 2). He explained that 'there's always that historical context to the relationship' between police and the Aboriginal community which (Olding and Ralston 2013, 2):

...goes back to perhaps the removal of children...There's always that mistrust there, that suspicion. It's an interesting environment, Bourke. It's a hard environment.

### **Disempowering Aboriginal women and mothers**

As the Manager of Law and Justice at the Aboriginal and Torres Strait Islander Commission (ATSIC), Aboriginal woman Sharon Payne stressed that 'one of the most disempowering acts of all' for Aboriginal women and mothers was the policy of forcibly taking their children (Payne 1992, 66). Devastated women and mothers in every state and territory wailed for babies stripped from their breasts, taken from their hips and removed from kin and country. WA Elder Pat Kopusar identifies that the 'taking away of our children' began the 'destruction of life as we knew it and our happiness' (Zubrick et al. v).

Link-Up NSW, established in 1980 as the first Aboriginal family tracing, support and reunion service in Australia, reported in their submission to the HREOC National Inquiry that for Aboriginal women, the trauma of forcible separation was so immense and the pain, grief and anguish suffered so grievous that they 'were unable to find a mother who had healed enough to be able to speak, and to share her experience with us and with the Commission' (HREOC 1997, 212). Now as adults, the children taken felt the deep hurt, shame and guilt experienced

by their mothers who had been denied the opportunity to care for and grow their children (HREOC 1997). Link-Up NSW explains (HREOC 1997, 212):

Our mothers inevitably say that they didn't want to hurt us. But also we realise that here is where our mothers were hurt most deeply. Here is where they were shamed and humiliated – they were deprived of the opportunity to participate in growing up the next generation. They were made to feel failures; unworthy of loving and caring for their own children; they were denied participation in the future of their community.

Goodall argues that girls and young women were taken from their mothers and placed into domestic service for white people because the traditional values and skills of Aboriginal women were regarded as 'corruptive' and 'primitive' and in need of intensive training in the domestic areas of mothering, childcare and homemaking (Goodall 1995, 76). This assessment of Aboriginal women's mothering was made on assumptions about women's sexual activity characterising them as promiscuous and irretrievably 'fallen'; therefore it was the control of Aboriginal women's sexuality to which government directed most attention (Goodall 1995, 76-81).

### **'Still here': women's voices, strengths and cultural connections**

The literature for this chapter provides the understanding that for a significant majority of Australian Aboriginal (and Torres Strait Islander) women, the European encounter has been much more than a racialised, gendered and socially disabling experience. The deliberate destruction of a generational way of life, the removal of children from families and in particular daughters are notable examples. While some gains have been made over the last few decades, the wellbeing of Aboriginal women – physically, genetically, socially, emotionally, culturally, spiritually and economically – remains worse than for other Australians: derived mostly from ongoing colonisation and overall systemic disadvantage.

The extent of disadvantage becomes clear when it is still the case that an Aboriginal baby girl born today will more likely grow to face traumatic experiences than a non-Aboriginal person. These experiences are also more likely to co-occur and be repeated throughout the life cycle, including sexual and physical violence, emotional and psychological abuse and social and economic disadvantage due to discrimination, inadequate schooling and diminished employment opportunities (Bartels 2012; Barson 2014). Such disempowering experiences can

account for the increasing overrepresentation of Aboriginal women in criminal justice systems and for those with mental and cognitive disabilities in particular.

Despite the disruption and displacement endured by many Aboriginal women amid a background of societal and structural disadvantage, they reach forward to maintain their kinship and cultural obligations to family. Women often provide social and economic support to families and are the primary parent or care giver to young children, including children in extended families. Without considerations of context however, those important roles are mostly not known about or well understood by non-Aboriginal women and men. The cultural and social cohesion and connected positions for Aboriginal people described earlier by Eggington are evident at the Saltwater Real Conciliation Women's Camp held on the Biripi<sup>23</sup> people's sacred site of Saltwater (National Park) each year. Aboriginal and non-Aboriginal women come together as sisters to participate in a blend of traditional and contemporary women's law, beliefs, customs, culture, dance, basket weaving, painting, music making and much more. Aboriginal women from Biripi and neighbouring Worimi<sup>24</sup> traditional families invite Aboriginal women from other communities and non-Aboriginal women who are mostly workers from government and non-government organisations and services to gather and participate in cultural and other activities. On country women celebrate the cultural association and achievements of Aboriginal women and non-Aboriginal women collectively. Having started several years ago with much smaller numbers, the camp now attracts more than 300 women and girls of all ages who join together to heal from trauma, improve overall health, promote social and emotional wellbeing and to strengthen community connections and working relationships. The camp ensures that Aboriginal women's roles and cultural authority are passed onto future generations and this symbolises the survival of Aboriginal women who are not letting go of a unique culture. Although roles and functions have been impacted by colonisation and have needed to be adapted to meet the challenges of contemporary environments, the Saltwater Real Conciliation Women's Camp shows how Aboriginal women, aided and supported by non-Aboriginal women, uphold their community standing, follow culturally significant traditions, maintain cultural association with country as observed prior to European contact, and contribute to making new Aboriginal history from the

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<sup>23</sup> Biripi Country covers most of the NSW mid northern coast and the Manning Valley. Purfleet Mission is located on Biripi lands near Taree. Purfleet is one of the oldest mission sites existing in NSW today. Biripi Aboriginal Corporation Medical Centre, the first Aboriginal Community Controlled Health Service located on the eastern coast of Australia, is co-located on the mission site. Saltwater (National Park) is located on the mid northern coast and is a culturally significant site for the Biripi people who communally camp in this area at the end of each year.

<sup>24</sup> Worimi and Biripi peoples share land boundaries.

perspectives of women. A further example of cultural connectedness and the strengthening of women's wellbeing is when hundreds of Aboriginal and non-Aboriginal women from the Newcastle area and surrounds gather together for the Aboriginal Women's Dinner held during NAIDOC Week celebrations. As noted by Wiradjuri woman<sup>25</sup>, activist and writer Kerry Reed-Gilbert on International Women's Day 30 years ago (1988), Aboriginal women are 'still here' as well as our living cultural practices and voices (Reed-Gilbert 2000, 7):

Women's Dreaming continues  
it is forever changing  
our business was never silenced  
before the whiteman came  
we are still here  
things may have changed  
but we still have business  
we are strong  
we will not be silenced

## **EARLY STUDIES RELATING TO ABORIGINAL WOMEN IN CRIMINAL JUSTICE SYSTEMS**

### **Nagle Royal Commission into NSW prisons: the omission of Aboriginal women**

The *Nagle Royal Commission into NSW Prisons* (1978) examined issues surrounding imprisonment in NSW correctional facilities. While Justice Nagle made a range of recommendations essential to reforming the correctional system, there was one chapter and only a few recommendations devoted specifically to women prisoners (NSW Legislative Council Select Committee 2001; Hall 2010). The NSW Inquiry into the increase in prison population reported that one of Justice Nagle's major recommendations was that 'prison should only be used as a punishment of last resort and that alternatives to prison should be used as extensively as possible' (NSW Legislative Council Select Committee 2001, 3).

Critical criminologist Eileen Baldry however identifies that since the Nagle Royal Commission, prison spaces in NSW have expanded to accommodate the increasing rates of women prisoners, and in particular Aboriginal women who are commonly living in poverty, homeless and suffering from mental illness (Baldry 2004). In the article *Women in Prison – 25 years after Nagle* (2004) Baldry has criticised the Government's non-adherence to Nagle's 'last resort

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<sup>25</sup> Wiradjuri Country is central NSW.

principle' and the rejection of non-prison alternatives for women (Baldry 2004, 101). Baldry concludes that (2004, 103):

The most outstanding developments regarding women in NSW prisons over the past 25 years have been the trebling of their rate and proportion in prison, the increase in drug and mental illness problems and the iniquitous and almost unbelievable rise in the rate of Aboriginal women in prison.

Critical criminologist Chris Cunneen argues that Aboriginal prisoners were only 'marginal' to the Nagle Royal Commission (Cunneen 2004, 98). In the article *Indigenous imprisonment since the Nagle Report* (2004), he identified that the 7% of the prison population indicated in the report as representing Aboriginal prisoners was an almost certain 'underestimation' because there were no formal identification processes to determine 'Aboriginality' other than by correctional officers (Cunneen 2004, 98). This argument is supported by Baldry's assessment that the number of 'Koori women' identified in the 100 or so women in prison at the time of the Nagle Royal Commission was 'not clear' (Baldry 2004, 102).

### **NSW Women in Prison Task Force: the first considerations of Aboriginal women**

More than thirty years ago, in 1985, the NSW Government established the *NSW Women in Prison Task Force* to examine the conditions for women held in NSW prisons and to review and make recommendations regarding the needs of women offenders, correctional policy, accommodation and research (NSW Government 1985).<sup>26</sup> This review was the first substantial investigation into the special needs of imprisoned women and – equally – of Aboriginal women offenders. The *Report of NSW Women in Prison Task Force* (1985) made 287 recommendations to the NSW Government regarding both women on remand and those sentenced to terms of imprisonment (NSW Government 1985).

From 1983 National Prison Census data, the Task Force members identified that 'for every seven non-Aboriginal women gaoled, 56 Aboriginal women were imprisoned' and the rate of recidivism for Aboriginal women prisoners was 73% compared with 54% among non-Aboriginal women (NSW Government 1985, 144). The report included more than 30 recommendations

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<sup>26</sup>Aboriginal woman Patricia O'Shane was a member of the NSW Women in Prison Task Force when she was Head of NSW Department of Aboriginal Affairs (NSW Government 1985). Ms O'Shane was the first woman and Aboriginal person to be head of a government department in Australia. Before this role, Ms O'Shane was the first Aboriginal person to become a lawyer (from University of NSW) and she became a barrister in 1976. After leaving the Department of Aboriginal Affairs and returning to law, O'Shane was appointed as a magistrate in 1986 (Behrendt 2012, 404).

specific to Aboriginal women and their involvement with criminal justice systems related to, for example, police relations, access to Aboriginal Legal Services, courts, sentencing, bail applications, prison services, probation and parole and post-release care (NSW Government 1985, 143-158).

Concerns were also expressed by the Task Force about the serious lack of research information and correctional policy specific to Aboriginal women prisoners and noted that government and non-government agencies lacked resources and workers dedicated to Aboriginal women and their unique needs (NSW Government 1985). Moreover, the report identified that a lack of funding and human resources had created barriers for Aboriginal researchers to authenticate important and much needed information on Aboriginal women in contact with the criminal justice system (NSW Government 1985). Most importantly, the Task Force reported to government that the criminal justice system 'must' recognise the principle that (NSW Government 1985, 143):

There can be no redress for Aboriginal women prisoners until Aborigines are identified as a nation(s) who are culturally different. As indigenous people of this country, we have been forced to gradually become bicultural since early colonial settlement. Without this recognition, it will remain the case that Aboriginal women, and Aboriginal people generally, are born to be institutionalised.

Above all, the members stressed to government that the 'situation for Aboriginal women in prison must be viewed in the light of historical and economic factors' (NSW Government, 143). They recognised that the critical position held by Aboriginal women in traditional society had been impacted and changed due to European contact, dispossession of country and through the colonisers' misinterpretation of Aboriginal women's roles in the post-contact period (NSW Government 1985).

### **The Royal Commission into Aboriginal Deaths in Custody: what about women?**

In 1987, more than 30 years ago, the Commonwealth Government established the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) to investigate the alarming number of Aboriginal deaths that had occurred in custody and police stations in the 1980s (Commonwealth Government 1991). The Royal Commission focused on the 'underlying issues' of Indigenous disadvantage including poverty and powerlessness, emphasising that Aboriginal

people should be sent to prison only as a 'last resort' (Commonwealth Government 1991; Payne 1992, 67).

Of the 99 deaths investigated, 11 were Aboriginal women. As identified by Payne, the histories of how these Aboriginal women came to be in custody and die in custody was significant for revealing the 'considerable disadvantage' experienced by women within both society and the criminal justice system (Payne 1992, 67). The lives of those 11 Aboriginal women are indeed respected, however the life of 14 year-old Karen Lee O'Rourke and her death as recounted by Commissioner Wyvill from the RCIADIC and outlined by Payne is put forward as a devastating example of Aboriginal women's lived realities (Wyvill, cited in Payne 1992, 67):

Both of Karen's parents, an Irishman and an Aboriginal woman, drank heavily and had a history of conflict with the law. Karen was born with a disfigurement (webbing between the fingers and toes), and was raped before she was three years old. She was placed in an institution when she was six, after her mother left. She was raped again at the age of twelve and after ten years, when she was finally reunited with her mother, was unable to communicate emotionally with anyone. Karen died after starting a fire at the Birralee Children's Home where she was being detained in yet another institution, before being sent back to Sydney. Before she died, the doctor who treated her asked 'Why did you want to kill yourself?' 'I didn't', she replied, 'I just wanted to get out of the place'.

To provide some explanation for the early deaths of those 11 young Aboriginal women, Payne identified a 'common thread' in their lives including chronic ill-health, alcoholism, violence, self-harm, illicit drug taking leading to overdose, family and cultural dislocation, as well as police intervention involving 'inadequate screening procedures' and 'neglectful and insensitive supervision' (Payne 1992, 67). Commenting further on the RCIADIC, Payne argues that while extreme family violence and sexual assault against Aboriginal women was known and acknowledged by the Commissioners, consideration of the specific issues faced by Aboriginal women and their children as victims was lacking (Payne 1992).

Payne's argument is supported by Elena Marchetti who examined the RCIADIC and its treatment of gender. Marchetti concluded that the diverse and gendered position of Aboriginal women was hardly given any consideration, with only five of the 339 recommendations referring specifically to Aboriginal women (Marchetti 2007). The feminist critique of the Royal Commission by Marchetti found 'no gender-specific analysis of any topic'

because young Aboriginal males who made up the bulk of the deaths investigated were given particular consideration for the national inquiry and report (Marchetti 2007, 7).

Aboriginal woman Megan Davis, the first Pro Vice Chancellor (Indigenous) at the UNSW, noted how Marchetti's research had identified that the methodology used by the Royal Commission did not allow for the voices of Aboriginal women to 'surface' and had largely resulted in the exclusion of women from the reports (Davis 2011, 27). While Davis acknowledges Marchetti's work as the 'only comprehensive gender analysis' of the RCIADIC to date, she is equally critical of Marchetti's reasons for the 'substantial omission' of Aboriginal women by the Royal Commission (Davis 2011, 27). Marchetti had concluded that the absence of gender specific recommendations by the RCIADIC occurred 'unintentionally' because the focus of the inquiry was on 'race' and the Commissioners had been tasked with gathering an enormous amount of information and material that needed to be interpreted and reported (Davis 2011, 26-27). Davis has challenged Marchetti's claims by stating that (2011, 27):

The absence of due consideration of Aboriginal women in the publicly available text of a national report is arguably equivalent to the state ignoring them, even if they were mentioned in part.

### **Post-Royal Commission and growing rates of incarcerating Aboriginal women: for what benefit, for whose safety and at what costs?**

Since the RCIADIC, Aboriginal women have become the 'fastest growing prisoner demographic' in Australia and among the most over-represented group of women in prison worldwide (Barson 2014, 2; Davis 2012; Baldry and McEntyre 2011). In 2017, NSW contributed the highest number (29%) of the national Aboriginal and Torres Strait Islander prisoner population and Aboriginal women represented one third (33%) of all females in custody despite making up only 2-3% of the female population (ABS 2017; CSNSW 1 June 2017). The NSW Inmate Census showed that the majority of Aboriginal women had come to prison from the areas of Sydney city and inner south, central and far western, Hunter Valley, New England and north western NSW (CSNSW 2014).

Baldry and Cunneen have continually drawn attention to the increasing imprisonment of Aboriginal women through many publications. In their most recent article *Imprisoned Indigenous women and the shadow of colonial patriarchy* (2014), they highlighted that the incarceration rate for Aboriginal women 'jumped' by 20% in 12 months (2011-2012) in comparison to 3% for non-Aboriginal women (Baldry and Cunneen 2014, 1-4). They also

identified that the numbers of Aboriginal women in prison may remain small compared to men, however their 'proportion of the total prison population has increased over the longer term' with rates increasing by 48% compared to 29% for men (Baldry and Cunneen 2014, 4). According to the authors, 'colonial patriarchy' – a combination of patriarchy and colonialism – can explain why Aboriginal women have 'become the targets of penal excess' by the colonial state (Baldry and Cunneen 2014, 1-8).

In 2014 the media focused attention on the tragic loss of 22 year-old Yamatji<sup>27</sup> woman Ms Dhu<sup>28</sup>. This young Aboriginal woman died when held in a police watch-house for two days for defaulting on around \$1000 in unpaid fines (Herbert 2014). Decades earlier, the detention and over-representation of Aboriginal women in police lock-ups for fine default was highlighted by the *NSW Women in Prison Task Force*, with the members remarking that Aboriginal women were being imprisoned for the 'crime of being poor' (NSW Government 1985, 152). Writing for *The Organiser, Australian Voice of Revolutionary Feminism* (2014), Hamblin criticises the treatment of Ms Dhu in the days leading up to her death as being neglectful, as Ms Dhu's repeated requests for assistance were disregarded by police as those of a 'druggie and mental case' (Hamblin 2014, 2). Hamblin concludes: the evidence of 'dry vomit in her nose, mouth and all over her body' acquired from the autopsy report supported evidence given from other prisoners held in nearby cells that Ms Dhu was heard to be in distress, vomiting and calling out for help (Hamblin 2014, 2). The autopsy showed that Ms Dhu had suffered from a 'head wound, bleeding in and around the lungs, two old rib fractures, and a possible refracture' (Hamblin 2014, 2). More recently in 2016, in NSW, a young Wiradjuri woman and mother died in police custody and her death is still being examined by the coroner. Ms Dhu's death in particular turns the focus to the 'unique socioeconomic reasons' Aboriginal women come into contact with criminal justice systems in the first instance (Herbert 2014, 4). Commenting further, Hamblin uses this case to exemplify the 'racism, sexism and class inequality' experienced by Aboriginal women who live their lives in abject poverty (Hamblin 2014). Rhiannon adds to the discussion by highlighting the gendered and racialised issues that face the rising numbers of imprisoned Aboriginal women (Rhiannon 2013). For HREOC however, the distinct experiences of Aboriginal women are not simply a combination of womanhood, Aboriginality and socio economic disadvantage (HREOC 2002, 14). Their lived realities are so much more: 'dispossession, disrespect of spiritual beliefs, economic disempowerment, but from traditional economies, not just post-colonisation economies' (HREOC 2002, 15).

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<sup>27</sup> Yamatji refers to Aboriginal people from WA.

<sup>28</sup> Ms Dhu's first name is not used for cultural reasons.

The learning flashpoints here include asking whether locking up Aboriginal women in police cells for unpaid fines is the most effective way to achieve a safer community; whether dealing with impoverished young women in this way for fine default is in fact criminalising and discriminatory; whether this appalling treatment is a continuation of the colonial power and colonial regime inflicted on Aboriginal women; and whether this happens to non-Aboriginal women who fine default? The WA Government responded to Ms Dhu's death with a public commitment to make lock-ups safer and to divert low level young offenders from entering and returning to custody as detailed by Perpitch in *Safer lock-ups, fewer jail terms for minor offenders after Ms Dhu death: WA Government* (Perpitch 2015). At the same time however, the government would not bend for fine defaulters to be kept out of prison and the details for how these initiatives would be funded have been void (Perpitch 2015).

Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner at the time of Ms Dhu's death wondered about the actions of government for dealing with the non-payment of fines (Herbert 2014, 3):

It's almost like the Royal Commission never happened. We're revisiting some of those sorts of issues right now. In WA particularly, you look at the number of people in jail and the number of people in jail with unpaid fines, for instance. And it's one issue that really puzzles me. Not only is the state missing out on collecting fines, they're actually costing the state money to keep people in jail who probably don't really need to be in jail just for the simple way of not paying a fine.

Although the imprisonment for those who just 'refuse to comply' with the payment of fines has been defended by the WA government (Herbert 2014, 3) the Deaths in Custody Watch Committee Chair Marc Newhouse pointed out in *The Guardian* that Bandyup Women's Prison was the most crowded custodial facility in WA and was 'akin to torture or other degrading treatment' because of 'systemic racism and systemic sexism in the justice system' (Wahlquist 2014, 3). As the numbers of Aboriginal people imprisoned in that state solely for the non-payment of fines has increased almost five fold since 2008 (480%), Newhouse suggests that suspending the 'jail for fines' policy would immediately reduce imprisonment for disadvantaged Aboriginal women who have little choice but to clear out their fines in jail rather than to live with their children in hardship (Wahlquist 2014). The National Aboriginal and Torres Strait Islander Legal Services (NATSILS), the peak body for Aboriginal Legal Services, and the Human Rights Law Centre, both conclude that for the Aboriginal women's

imprisonment 'trajectory to change course', there needs to be a 'significant policy shift within all Australian governments that looks to stop imprisoning and to start addressing disadvantage' (Barson 2014, 2).

## CONCLUSION

This chapter has revealed an historical chain of events for Aboriginal women, which has largely been one of colonial power and control. The literature has shown that before white settlement Aboriginal women's lives and roles such as provider, nurturer and teacher were recognised and appreciated by the whole tribal group. After colonisation however, many Aboriginal women were subjected to brutal sexual and physical violence and slavery, with many having a slow and rotting death from venereal disease. Moreover, power and control perpetuated over Aboriginal women and mothers continued with the targeting and taking of Aboriginal girls and young women from their families and communities where they were institutionalised, trained in gendered domestic work and placed within white households as servants for white women who were largely part of the colonising force. The control over Aboriginal young women continued, for example, in the far western towns of NSW through police, courts and juvenile detention centres. For many years consideration of the high level of involvement of Aboriginal women in criminal justice systems has been hardly balanced, as exemplified on the one hand by the *NSW Women in Prison Task Force* recommendations being largely ignored and on the other, the substantial omission of gender specific recommendations by the RCIADIC and the growing women's imprisonment. In many ways this chapter has painted a life of adversity, trauma and oppression for Aboriginal women post colonisation. Arguably, these distressing experiences have helped to shape the lives of many women today. While women continue to face challenges in contemporary times, empowering solutions have also come from strong and committed Aboriginal women and communities themselves to meet their mental health and social and emotional wellbeing needs. Maintaining cultural association with traditional lands and following culturally significant traditions as observed prior to European contact provides a solid sense of purpose in dealing with the past and present, not only at an individual level, but also for families and communities.

The following chapter addresses the critical theories to understand the lived and different realities of Aboriginal women with mental and cognitive disabilities who are criminal justice involved and discusses how relevant services respond to meeting their complex support needs.

### CHAPTER 3: ABORIGINAL WOMEN AND SERVICE SYSTEMS RESPONSES

Having access to available services and supports and response to unmet needs are considered important determinants of health and social wellbeing for the general population. The extent of disparity in health and wellbeing between the Aboriginal and non-Aboriginal population however suggests that access to and the responsiveness of human, health and social service systems, even within urban areas, has been – and still is – lacking significantly compared with those for non-Aboriginal persons.

An example of this is seen in the paper *Health Care Access for Aboriginal and Torres Strait Islander People Living in Urban Areas, and Related Research Issues* (2008) published by Margaret and David Scrimgeour. The authors noted that despite the establishment of the Redfern Aboriginal Medical Service in central Sydney<sup>29</sup> by Aboriginal activists decades ago in response to persisting access issues, general health care for Aboriginal people living in this and other metropolitan areas have been restricted by ‘problems of availability, affordability, acceptability and appropriateness’ (Scrimgeour and Scrimgeour 2008, 14). They also argued that Aboriginal prisoners were a distinct ‘urban sub-population with particular access needs’ because prisons were mostly located in urban areas (Scrimgeour and Scrimgeour 2008, 28).

This claim is supported by prisoner health research conducted over the years (Butler et al. 2001; Indig et al. 2009, JH&FMHN 2015) and evidence indicates that Aboriginal women experience further barriers to accessing general population health care and with mental health and disability services in particular, due to their poorer health and mental wellbeing when coming into prison (Indig et al. 2009; Heffernan et al. 2012; Oggloff et al. 2013). Little has been achieved however with understanding why this is for women and with providing culturally competent and responsive services to meet their health, mental and emotional wellbeing and disability support needs. The need to urgently develop Aboriginal services to address mental health issues facing Aboriginal people overall has been an ongoing battle for advocates, influencers and agitators for over 40 years, beginning with the first Aboriginal Mental Health Conference in 1979 held at the Prince Henry Hospital in eastern Sydney (Hennessy 1996).

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<sup>29</sup> In 1974, Aboriginal Medical Service (AMS) Redfern was established as the first AMS in Australia. Today, there are 143 ACCHSs across the nation.

## **EVIDENCE OF MENTAL AND COGNITIVE DISABILITIES FOR ABORIGINAL WOMEN**

### **WAYS FORWARD: NATIONAL CONSULTANCY REPORT ON ABORIGINAL AND TORRES STRAIT ISLANDER MENTAL HEALTH**

The research and evidence to confirm the seriously high levels of mental ill-health and unmet need for Aboriginal and Torres Strait Islander people and communities came much later than that first Aboriginal Mental Health Conference, with the release of *Ways Forward: National Consultancy Report on Aboriginal and Torres Strait Islander Mental Health* (1995). It is widely recognised that the participation from all states and territories in the consultative process, and the subsequent investigation and analysis by Aboriginal woman Pat Swan (Delaney) and non-Aboriginal woman Beverley Raphael was one of the most significant contributions towards advancing the mental health and wellbeing of Aboriginal and Torres Strait Islander Australians, including those in contact with criminal justice systems. The researchers confirmed what Aboriginal people and supporters had identified almost 20 years earlier and have been advocating ever since: to recognise the high level of unmet mental health need and to respond with culturally and clinically competent mental health and wellbeing services. The authors also emphasised that meeting those needs could be achieved only through critical measures such as considerable resourcing, Aboriginal cultural education for mental health providers and support from government and non-government organisations (Swan and Raphael 1995, 1).

The *Ways Forward* report highlighted the shortage and failure of mental health services and systems to address the lingering effects of history and colonisation, identified as ‘primary causes’ of mental and psychological distress and subsequent behavioural issues among Aboriginal people (Swan and Raphael 1995, 67). Further, the lack of awareness on the part of general population (mainstream) services about the impacts of ongoing colonial interventions was emphasised by almost all respondents (Swan and Raphael 1995). From the consultations Swan and Raphael identified that Aboriginal people experienced higher rates of depression, anxiety and self-harming behaviours and that multiple risk factors contributed to their mental ill-health including racism and stigma, extreme social disadvantage, poverty, low self-esteem, sexual assault, alcohol and other drug abuse and exposure to violence (Swan and Raphael 1995, 68). Aboriginal people, and in particular those in custody, said they had experienced feelings of helplessness and thought that they lived in a hopeless situation where ‘there was nothing that could be done’ (Swan and Raphael 1995, 69).

## **Trauma, loss and grief**

The individuals, groups and Aboriginal Medical Services (AMSs) that contributed to the research repeatedly identified the 'extensive' impact of ongoing trauma, loss and grief on the health and mental wellbeing of Aboriginal people (Swan and Raphael 1995, 41). This was so 'prevalent' that the adverse effects felt from ongoing colonisation – the taking of land and children, the many deaths of close family and community members, the extreme levels of imprisonment and death in prisons, violence, abuse and other traumatic life events – were not always recognised as impacting on the health and mental wellbeing of Aboriginal people (Swan and Raphael 1995, 68). *Ways Forward* recognised the need for non-Aboriginal services to be educated about the realities of trauma, loss and grief for Aboriginal people. In particular, the ongoing effects of child removals from families and deaths of family and community members in custody should be taken into consideration in the assessment of mental health conditions and that the trauma and grief should be eased by providing short term and specific counselling services (Swan and Raphael 1995, 42).

## **Aboriginal women with mental and cognitive disabilities**

The unique issues facing Aboriginal women and high rates of mental illness were highlighted by those individuals and agencies consulted. In the absence of national systemic data related to Aboriginal women and mental health, it was identified that women's mental ill-health had stemmed from experiences that were more common among women or related specifically to women such as violence from men, sexual abuse in childhood, early birthing and parenting responsibilities and the high numbers of young women in prison for drug related charges (Swan and Raphael 1995).

At the time *Ways Forward* was released adequate information on Aboriginal people living with disability had not been collected by the Australian Bureau of Statistics (Swan and Raphael 1995). Swan and Raphael noted the only known study at that time, by Thompson and Snow (1994) conducted with Aboriginal communities that documented the level of disability amongst Aboriginal people (Swan and Raphael 1995, 27)<sup>30</sup>.

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<sup>30</sup> The work by Gething also noted by Swan and Raphael was conducted with unidentified Aboriginal communities and with Aboriginal and non-Aboriginal service providers located near a large town and in outer lying areas (Gething 1994; Swan and Raphael 1995, 27). Although not specific to Aboriginal women, Gething reported that Aboriginal people with disabilities were often identified in a 'haphazard manner' and mostly from conversations between service providers (Gething 1994, 29-34). An employment agency, a Local Aboriginal Land Council and Commonwealth Rehabilitation Service

Non-Aboriginal academics Thompson and Snow – in partnership with the Biripi Aboriginal Corporation Medical Service located at Taree – and Aboriginal researchers, surveyed 907 Aboriginal people living in the area. A total of 438 (48.3%) of those interviewed in the community were Aboriginal women with an average age of 22.5 years (Thompson and Snow 1994). The study found that among those women, 25% had one or more disabilities and were 2.9 times more likely to have a disability when compared to the Australian population (Thomson and Snow 1994; Swan and Raphael 1995). More than two-thirds of those women in the study aged 45-49 years stated that they had a disability, with more than one third responding that they were severely handicapped (Thompson and Snow 1994). The survey found women to have ‘unspecified mental, nervous and/or emotional disorders’ causing disabilities that made up 10.9% of all disabling conditions (Thompson and Snow 1994, 15; Swan and Raphael 1995, 27). A higher prevalence of slow learning and developmental delay was reported (8.2%) among the women participants, and more women experienced this type of disability together with ‘mental retardation and mental degeneration due to brain damage’ than in the general community (Thompson and Snow 1994, 16-18). Further, almost one-quarter of girls in the 5-9 year age group were reported as having a disability.

## **MENTAL HEALTH AND WELLBEING SERVICES FOR ABORIGINAL WOMEN**

### **NSW: Aboriginal women impacted by removal**

The 2006 review of Social and Emotional Well Being Programs (S&EWB), mental health and Bringing Them Home (BTH) services in NSW by Indigenous Psychological Services (IPS) mentioned in chapter two, found that Aboriginal women affected by removal as children were the easiest clients to engage by the BTH workers (IPS 2006). Grief and loss, depression, alcohol and other drug issues, trauma, sexual abuse, violence, suicide and family conflicts rated as the top reasons women made contact with these services (IPS 2006, 20-21)<sup>31</sup>. The review findings

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reported to Gething that they had been providing services to 17 Aboriginal people with an intellectual disability (Gething 1994, 33). Further, the Aboriginal Liaison Officers and other public servants at the Commonwealth Employment Service (CES) had reported that a ‘majority’ of Aboriginal people identified with a disability had ‘some form of psychiatric disability’ or alcohol related disability (Gething 1994, 33; Swan and Raphael 1995, 27).

<sup>31</sup> The review also found that 82% of the S&EWB and BTH workforce identified as Aboriginal people and over half of the workforce had no formal qualifications in mental health (IPS 2006, 18). This result, and a reluctance to refer clients with complex needs to a lack of mainstream services, and having ‘no

therefore supported that *Stolen Generations* women needed specific services to wholly meet their mental health and wellbeing needs (IPS 2006). Almost a decade earlier the NSW Department of Health, through its Aboriginal Health Branch, had consulted with Link-Up NSW and had committed to developing a responsive policy and dedicated programs for Aboriginal people affected by child removal, including follow-up counselling for those witnesses giving evidence to the National Inquiry (HREOC 1997). However, no programs or service eventuated. Instead in 2003, an '*Aboriginal Men's Health Implementation Plan*' was developed and funded by the Aboriginal Health Branch (IPS 2006). Aboriginal men were provided 'gender and culturally appropriate services' through alliances between Aboriginal communities, the NSW Department of Health and Department of Aboriginal Affairs and Corrections Health Service<sup>32</sup> (IPS 2006, 82). It could be argued that this response to Aboriginal men's health diverted equity considerations for Aboriginal women's health issues. A point of interest is that at the time the plan was developed and implemented, the most senior positions in Aboriginal health were held by Aboriginal and non-Aboriginal men respectively, and Aboriginal women were mostly represented in lower positions in Aboriginal health policy and program development.

### **NSW: Aboriginal women in prison tracing links to family and community**

Some key recommendations from the Indigenous Psychological Services review were for *Stolen Generations* people to have increased access to training workshops to address their specific needs (Rec 29), and to independent family tracing services (Rec 31) (IPS 2006, 27-28). Almost a decade earlier, HREOC, in the *Bringing Them Home Report*, had made similar recommendations related to the establishment and delivery of family tracing services and family history research training for Aboriginal workers to become skilled in research, genealogy and counselling (Rec 30a; 30b). Despite these recommendations made by HREOC in 1997

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confidence' in these services, may have accounted for the rapid burnout indicated by those Aboriginal workers interviewed (IPS 2006, 20-21).

<sup>32</sup> At the time the Associate Director of the Aboriginal Health Branch was also a member of the Corrections Health Service (CHS) Board. In 2004, CHS was rebadged to become Justice Health to improve the organisational culture and image of correctional health services. It was also a means for those working Justice Health and for prisoners to better identify the difference with accountabilities between prison health and custodial services. After a few more name changes, the statewide health service became Justice Health and Forensic Mental Health Network, a Statutory Health Corporation established under the Health Services Act (NSW) 1997 and funded by NSW Ministry of Health. As a Specialist Health Network for the NSW health system, the health service has accountability for health care to adults and young people in contact with the criminal justice system (Indig et al. 2010). This includes the provision of services pre-custody, during incarceration with specialist care, pre-release and with post release into community forensic mental health, drug and alcohol and primary health care services (Indig et al. 2010).

however, professional training services to meet those recommendations still did not exist at the time of the 2006 review.

A few years after *Bringing Them Home* was released and prior to the 2006 review, a non-Aboriginal researcher in NSW established the consultancy services *Indigenous Identities*. Kim Katon<sup>33</sup>, who was uniquely skilled in the research of Aboriginal family and community history, restored family life for members of the *Stolen Generations* by tracing links to their family and community. Through specifically developed training, Katon transferred her special knowledge to Aboriginal organisations, BTH and Link-Up workers to more effectively help Aboriginal people in finding their families. Supported by the Corrections Health Service Aboriginal Health Unit, Katon was connected with Aboriginal women imprisoned at Emu Plains Correctional Centre located in western Sydney. In collaboration with Corrective Services, State Records NSW (Kirsten Thorpe, the only Aboriginal Archivist in NSW) and NSW State Library (Melissa Jackson, the only Aboriginal Librarian in NSW), Katon trained 26 Aboriginal women in family history research and tracing methodology (NSW Department Corrective Services 2004).

Because of the long lasting impact of the government's removal and assimilation policies, Aboriginal women who had been dislocated and culturally disassociated from country and kin had little understanding about themselves, their families and their own histories. Many women who completed the program found answers to questions they had been seeking for years; for instance, the traditional country they were from and community life from an Aboriginal perspective, with one woman stating that: 'many black spots had (now) been filled in' (McEntyre 2004, 8). Vivan Scott, Regional Aboriginal Project Officer (RAPO) employed by NSW Corrective Services commented on the enthusiasm shown by Aboriginal women undertaking the family and community history research training (National Indigenous Times 2004, 14; NSW Department Corrective Services 2004, 6):

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<sup>33</sup> 'I have been working with Aboriginal people searching for their identity, their families and their histories for the past twenty five years and the single most common thing people have said, and continue to say, is that I want this information so I can pass it on to my children so they will know who they are and where they come from. Many of the people I have worked with, and continue to work with, are members of the *Stolen Generations* and their children, and people that have been dislocated from their family and community, for example the many Aboriginal people in prison. For Aboriginal women in prison, knowing who they are, where they come from and who they are related to, is the utmost importance as the women want to give this information to their children, especially since they are not there with their children and given that many of the children of these women are in foster care' (Kim Katon, personal communication, 1 March 2015).

...usually we are lucky to keep our girls in a training program for more than an hour, and here we had them working solidly for two days, many of the girls not even wanting to stop for a lunch break.

Despite the twofold recommendations made in the *Bringing Them Home Report* and the Indigenous Psychological Services review for *Stolen Generations* people to have access to family tracing and history research, and the ability of Katon's program to successfully deliver on these recommendations, the federal government and funder for BTH services and S&EWB programs disregarded Katon's offer to train service providers in ways to research Indigenous family and community history, and for Aboriginal women in prison to find answers about their cultural identity and families. The *2001 Inmate Health Survey* reported that a third of Aboriginal women in NSW prisons had been separated from their families before ten years of age and placed into out-of-home care and that their parents had been forcibly removed as children from their parents and families (Butler and Milner 2003, 26). The much later *2009 Inmate Health Survey* showed that child removal and placement into care had increased for Aboriginal women in NSW prisons (Indig et al. 2010, 21), but formal and funded training in family and community history research or similar instruction on re-connecting with family and community is denied to these women. Nevertheless, as a non-Aboriginal woman giving back to Aboriginal women who have been denied a sense of family and place, Katon continues to use her specialist skills for accessing archival records, materials and resources for removed Aboriginal women to re-establish family contacts<sup>34</sup>.

### **NSW: Aboriginal women accessing health care in prison**

Prison health services not meeting the needs of Aboriginal and Torres Strait Islander peoples in custody was a key concern of the RCIADIC and a number of recommendations were made for the reform of health systems to prevent more Aboriginal people from dying in custody (Commonwealth Government 1991). Recommendations on: better quality training for non-Aboriginal health professionals in Aboriginal Primary Health Care (247), knowledge of how Aboriginal Community Controlled Health Services (ACCHSs) operate (248) and access to health

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<sup>34</sup> Kim Katon works voluntarily with *Stolen Generations* people, mostly Aboriginal women, to search complicated record systems and procedures to trace family and community histories for their children. She has also provided training to government funded non-Aboriginal organisations providing out-of-home care placements for Aboriginal children to develop 'Cultural Support Plans' for Aboriginal children in statutory care.

care services for the Aboriginal population to be of community standards (251) are just three examples (Commonwealth Government 1991).

The earlier *NSW Women in Prison Task Force Report* (1985) had expressed similar concerns regarding prisoner health care. The members also noted that misleading information had been reported by the Department of Corrective Services in an official government document claiming that an Aboriginal Medical Service was providing health care services to Aboriginal prisoners in several prisons (NSW Government 1985). Much earlier again, *The Nagle Royal Commission into NSW Prisons* (1978) doubted claims made by Corrective Services that 'comprehensive' medical and psychiatric care was given to prisoners (Baldry 2004, 102). Collectively, these responses indicated that health care provided to Aboriginal women (and men) in prison was inadequate. It was not until several years after the RCIADIC however that improving the health and wellbeing of Aboriginal women was seriously considered.

The first systematic review of health care for Aboriginal women in NSW correctional facilities was undertaken by the NSW Department of Health and Department of Corrective Services. After examining Aboriginal women's experiences of prison health care, the *Better Access to Health Services for Aboriginal Women in Custody* (1998) project concluded that women were experiencing serious challenges to accessing health services while imprisoned (NSW Department Health and NSW Department Corrective Services 1998). The findings from interviews with 67 Aboriginal women at three women's correctional facilities showed that although women had an awareness of the health services available to them, their health needs were not being met due to 'waiting times', 'cultural awareness of staff', 'Aboriginality of health providers' and 'availability of the health services' (NSW Department of Health and NSW Department of Corrective Services 1998, 17). The report outlined 13 key recommendations on the 'future development and provision of health services' for Aboriginal women in prison however there were no specific recommendations related to the needs of those with mental illness or disabilities (NSW Department of Health and NSW Department of Corrective Services 1998, 17).

The review of health care for Aboriginal women in prison instigated by the state's Action Plan for Women (1996) was endorsed by a taskforce, the Commissioner of Corrective Services and the Director General of NSW Health (NSW Department of Corrective Services and NSW Department of Corrective Services 1998, 1). Despite such high level support however, most of the recommendations were not implemented. The failure to employ female Aboriginal Health Workers and to establish regular dedicated clinics by visiting Aboriginal Medical Services in all women's facilities are two examples. It could be argued that the review conducted now more

than 20 years ago was more of a descriptive exercise that contributed little to Aboriginal women's health and wellbeing but could have possibly changed the way health care is provided to Aboriginal women in prison today (Sanson-Fisher et al. 2006).

## **MENTAL AND COGNITIVE DISABILITIES AFFECTING ABORIGINAL WOMEN PRISONERS**

### **NSW: Mental illness, traumatic head/brain injury and intellectual disability among women prisoners – what about Aboriginal women?**

The health of prisoners in the NSW correctional system was first reported in the *1996 Inmate Health Survey* (Butler 1997). Although the research was recognised nationally and internationally for measuring the health needs of those imprisoned, it lacked detailed information on mental illnesses and the mental health needs among the prisoner population (Butler and Allnutt 2003). Due to the shortfall of reliable data on mental illness among NSW prisoners and elsewhere nationally, the *2001 New South Wales Inmate Health Survey* that followed investigated the prevalence of mental illness, head injury and intellectual disability (Butler and Milner 2003).

Apart from one known Aboriginal male nurse<sup>35</sup>, non-Aboriginal nurses employed with the health service and forensic psychology master's degree students formed the interviewing team to examine the health of those in custody compared to the general community (Butler and Milner 2003). The study sample comprised 167 women, of which 29 were Aboriginal. Results showed that 39% of the women interviewed had sustained at least one head injury where they 'blacked out' and 4% had encountered five or more injuries of the head (Butler and Milner 2003, 66). Close to half (41%) of those women reported 'unresolved side effects', with memory loss and poor concentration being the most common (Butler and Milner 2003, 68). Among women, 20% with a reported head injury had suffered a 'skull fracture' and 12% had medically confirmed damage to the brain (Butler and Milner 2003, 68). On the question of intellectual disability, the 2001 Survey found that 18% of women failed to score over the pass rate on the intellectual disability screener<sup>36</sup> and a further psychological assessment<sup>37</sup> determined 59% of women had an intellectual disability or were functioning cognitively in the borderline range (Butler and Milner 2003, 8).

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<sup>35</sup> Michael Griffiths was the only Aboriginal person to interview prisoners for the survey.

<sup>36</sup> Women were screened using the Hayes Ability Screening Index.

<sup>37</sup> Women were assessed using the Wechsler Adult Intelligence Scale – Revised (WAIS-R).

As a companion to the 2001 Survey, Butler and Allnutt compiled a more detailed mental health report, *Mental Illness Among New South Wales Prisoners* (2003). For this survey, two groups of prisoners were interviewed by nurses: those entering the prison system for the first time, and those sentenced for some time and previously interviewed as part of the 2001 Survey (Butler and Allnutt 2003). Reporting on female reception inmates, the survey noted 90% as having a psychiatric disorder in the 12 months prior to the interview and 86% as having 'any psychiatric disorder' that had been prevalent for a 12-month period (Butler and Allnutt 2003, 15).

The findings from the surveys were useful for providing first time evidence of the high prevalence of intellectual disability, acquired brain injury and mental illness among women in NSW prisons. However, while 29 Aboriginal women prisoners participated in the 2001 survey, the health differentials between Aboriginal and non-Aboriginal women were not examined. Given the known poorer health of Aboriginal people compared to the general population and because Corrections Health Service was responsible for health care services to Aboriginal women (and men), the lack of a comparative analysis was disappointing.

For the 2003 survey focusing on mental illness, the numbers of Aboriginal women interviewed were also not identified in the report (Butler and Allnutt 2003). The recommendations made to address mental illness among the prisoner population however are important. The improvement of screening procedures for reception prisoners, the review of mental health treatment and programs, case management of those who are mentally unwell using evidence-based psychiatric interventions and expanding the Statewide Community and Court Liaison Service (SCCLS) to divert individuals with a mental illness appearing at court for minor offences to mental health services are a few noted examples (Butler and Allnutt 2003). Although realistic, the recommendations were inconsiderate of Aboriginality and gender – they did not account for the mental health and wellbeing needs of Aboriginal prisoners and Aboriginal women in particular.<sup>38</sup>

### **Too little, too late**

In 2007 Kariminia, Butler and Levy<sup>39</sup> utilised dated findings from the *2001 New South Wales Inmate Health Survey* for the article *Aboriginal and non-Aboriginal health differentials in*

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<sup>38</sup> These recommendations seem to be reasonable approaches to address the issues of mental health, imprisonment and appropriate mental health care for prisoners; however the increased numbers of prisoners identified with mental health disorders in the 2009 Inmate Health Survey (2010) indicates that not all of the recommendations may have been fully implemented over 2003–2009.

<sup>39</sup> The authors claimed the articles were the result of a review of the Justice Health Aboriginal Health Strategic Plan 2000 *Care in Context*. No literature was found to show the outcomes of this review.

*Australian prisoners.* The article, a brief comparison of the physical and mental health status in Aboriginal and non-Aboriginal prisoners, reported that of the 29 Aboriginal women who participated in the 2001 survey, 64% had a prior physician-diagnosed mental health problem compared to 52% of non-Aboriginal women (Kariminia et al. 2007). Significantly lower scores in 'social functioning' and 'role-limitations' due to emotional issues were also reported among Aboriginal women (Kariminia 2007, 368).

Also in 2007 Butler and others published the article *Mental health status of Aboriginal and non-Aboriginal Australian prisoners* using data drawn from the 2003 Survey. Although the publication was mostly a recycle of text of the previous article, the information regarding mental illness among Aboriginal women in prison is important. The authors reported higher levels of psychosis (20.3%), depression (28.8%) and obsessive-compulsive order (6.9%) in the previous 12 months for Aboriginal women when compared to non-Aboriginal women (Butler et al. 2007, 432). Further, almost half (49.2%) of Aboriginal women experienced Post-Traumatic Stress Disorder (PTSD)<sup>40</sup> and more than one quarter (25.4%) were diagnosed with generalised anxiety disorder (Butler et al. 2007, 432). From these findings, the authors concluded Aboriginal women prisoners to be 'one of the most psychologically vulnerable groups in the community' (Butler et al. 2007, 432).

It is worth discussing that the authors noted a 'number of indigenous interviewers' were used for the study (Butler et al. 2007, 433). However, I know that only one Aboriginal male nurse was involved in the survey as an interviewer. Despite this anomaly in reporting, the authors pointed out that more research was needed to 'understand the culturally specific needs of Aboriginal prisoners with a mental illness' (Butler et al. 2007, 433).

The estimated rates of mental illness among Aboriginal women in prison were becoming clearer because their health and wellbeing needs were finally being included in health and criminal justice research. Years earlier, HREOC had highlighted that it was 'as far back as 1985'

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<sup>40</sup> 'PTSD is a mental health condition that is triggered by a terrifying event or multiple events, either experienced or witnessed. It may occur as a result of a one-off trauma such as a car accident, or repeated events such as childhood sexual abuse. The sufferer has four types of problems: (a) re-living the traumatic experience, (b) high levels of anxiety, (c) avoiding reminders of the event, and (d) negative thoughts and feelings. The impact of PTSD varies between individuals; however in the more severe forms it can be chronic and pervasive, affecting all major life domains. People with PTSD are more likely to experience poor physical and mental health and are at higher risk of suicide than the general population. Examples of day-to-day difficulties include feeling anxious and struggling emotionally, having trouble sleeping or concentrating, interpersonal and relationship difficulties, as well as poor self-esteem, difficulties trusting others and problems functioning in the workplace' (Heffernan et al. 2014, 7).

when the *NSW Women in Prison Task Force* reported on the scarcity of research or data on Aboriginal women and criminal justice systems (HREOC 2004, 4). Prior to this time, criminologist and barrister Paul Moyle similarly reported in his *Scoping Exercise Concerning the Delivery of Health Services to Aboriginal and Torres Strait Islander Peoples in Judicial and Custodial Settings* on the lack of literature or national health data related to the health needs of Aboriginal and Torres Strait Islander women (and men) in prison or the types and quality of health services generally available (Moyle 2001, 12).

It is worth noting that research in the NSW correctional environment had been dominated by non-Aboriginal male researchers and authors. Although the numbers of Aboriginal prisoners and Aboriginal women in particular had increased substantially since the *NSW Women in Prison Task Force Report* and the RCIADIC, there remained limited investment of Aboriginal principles, innovations and knowledge into health and criminal justice research and related reports and literature.<sup>41</sup>

## **INCLUSION OF ABORIGINAL KNOWLEDGE AND CULTURAL INTEGRITY**

For the third prisoner health survey resulting in the *2009 NSW Inmate Health Survey: Key Findings Report* (2010), an Aboriginal woman (and the author of this thesis) was included on the investigating team by the first woman to be Head of Research with Justice Health. With the inclusion of Aboriginal knowledge and cultural integrity into the research methodology, Aboriginal women (and men) were better represented to inform on the delivery of prison health care services to improve wellbeing.

For the 2009 Survey, women and Aboriginal men and women were overrepresented in the sample to better estimate the prevalence of poor health conditions and the social determinants of health among Aboriginal women and men with, for example, housing, schooling, education, employment and access to primary health care services outside of the correctional setting: all of which had been found to influence high levels of contact with criminal justice systems (Indig et al. 2010; Cooperative Centre for Aboriginal Health 2006)<sup>42</sup>.

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<sup>41</sup> An important point to be raised relates to approval for the surveys to be conducted and for the publication of literature from research involving Aboriginal people. Hundreds of Aboriginal women and men formed part of the overall sample of reception and sentenced prisoners however there was no indication that ethics approval had been sought from an appropriate Aboriginal health advisory body, such as the Aboriginal Health & Medical Research Council of NSW.

<sup>42</sup> Demographical questions were also reframed to ask Aboriginal participants what country or homeland they originated from in NSW or elsewhere in Australia.

Reporting on disabilities among women prisoners, Indig and others noted that the second most common disability lasting for six months or more was psychological problems (17%), with neurological (7%) rating as the next most common condition causing disability (Indig et al. 2010, 52). More than one third of women (35%) also had a history of sustained head injury which resulted in a loss of consciousness, with 21% having sustained two or more head injuries and 5% having reported five or more such injuries (Indig et al. 2010, 63). For 52% of these women, the head injury was caused by being 'struck by an object or person', with 84% experiencing at least one symptom following the injury, including headaches, problems with coordination, concentration, retrieving appropriate words when speaking and psychiatric difficulties related to anxiety and/or depression (Indig et al. 2010, 65).

In 2010, the first quantitative report on the health and wellbeing of Aboriginal prisoners was also published. By comparing the findings from all three Inmate Health Surveys (1996, 2001, 2009), the *2009 NSW Inmate Health Survey: Aboriginal Health Report* provided a clearer picture of the health needs and social adversity for Aboriginal prisoners over an extended time (Indig et al. 2010). The report noted that the general health of Aboriginal women had declined over several years, with 23% reporting fair to poor health in 1996 compared to 32% in 2009 (Indig et al. 2010, 5). Further, detailed information on mental health for Aboriginal women showed that one in five (22%) women had been admitted to a psychiatric unit or hospital; 31% currently used psychiatric medications (the highest proportion of all prisoners interviewed); and one third of women received treatment and support from a psychologist or counsellor compared to 51% of non-Aboriginal women (Indig et al. 2010, 45) suggesting that Aboriginal women have high levels of mental health disorder but do not seek psychological assistance at the same rate as non-Aboriginal women.

The *2015 Network Patient Health Survey – Aboriginal People's Health Report*, a subsequent report on the health and wellbeing of Aboriginal prisoners using data from the recently released fourth NSW prisoner health survey, reveals Aboriginal women have a range of diagnosed mental health illnesses and disabilities (depression, psychotic disorder, personality disorder, alcohol abuse or dependence, drug abuse or dependence, drug induced psychosis, PTSD, head injury) and at higher prevalence than among Aboriginal men and non-Aboriginal men and women (JH&FMHN 2015, ix-28). More than one-third (37.4%) of Aboriginal women who participated in the survey reported they had received at least one head injury that resulted in unconsciousness, a figure higher than for all other groups (JH&FMHN 2015, 22).

Further, assault had been the cause of head injury for 60% of those women (JH&FMHN 2015, 23).

## **IMPACT OF IMPRISONMENT ON ABORIGINAL WOMEN WITH DISABILITIES**

### **NSW: Aboriginal young women and at-risk mental states**

Blake Hamilton's doctoral research *Detection of at-risk mental states for psychosis in young Aboriginal and non-Aboriginal people* (2008) provides some useful information regarding psychosis for Aboriginal young men, but less so for young Aboriginal women. For his PhD thesis, Hamilton, a non-Aboriginal Clinical Psychologist, his supervisor Blaszczyński and co-researcher and Aboriginal academic Anthony Dillon, examined early psychosis in 'psychotic' and 'healthy' Aboriginal young people compared to 'psychotic' and 'healthy' non-Aboriginal young people (Hamilton et al. 2008, 21). Aboriginal and non-Aboriginal males (80.2%) formed the majority of the sample, with four Aboriginal females with psychosis and five in the healthy Aboriginal female group interviewed for the study (Hamilton et al. 2008, 21). While the researchers had recruited over one-third of the non-Aboriginal psychotic participants from the community, they had difficulty with finding Aboriginal psychotic participants in a comparable community setting (Hamilton et al. 2008, 48). As a result, Hamilton drew 100% of young psychotic Aboriginal males from the Metropolitan Reception and Remand Centre (MRRC), the largest metropolitan prison in NSW, with most participants being psychiatric in-patients held in the Mental Health Screening Unit or the mental health cell-block (Hamilton et al. 2008, 23-48).

Although the findings did not differentiate for gender, the results showed that the Aboriginal psychotic sample in prison were likely to be more 'severely unwell' than the non-Aboriginal psychotic sample who had been mostly drawn from the community (Hamilton et al. 2008, 48). Further, the differences between the young Aboriginal psychotic group in prison and the young non-Aboriginal healthy group related to 'education, occupation, drug use, social and occupational functioning and family functioning' (Hamilton et al. 2008, 49).

### **NSW: Aboriginal women researching with imprisoned Aboriginal women**

The first serious examination and analysis of the rising imprisonment rates of Aboriginal women in NSW was led by an Aboriginal woman. The 2003 *Speak Out Speak Strong Aboriginal Women in Custody Research Project* conducted by Rowena Lawrie, then a senior policy officer with the NSW Aboriginal Justice Advisory Council (AJAC), identified Aboriginal women as the 'fastest growing population of prisoners in this country' (Lawrie 2003, 5). Lawrie found

however there was little understanding or information related to the reasons for the disproportionate numbers of Aboriginal women cycling through police and court systems and subsequently imprisoned (Lawrie 2003).

To capture a telling picture of the prison experiences of Aboriginal women, a research team of five Aboriginal women interviewed 50 Aboriginal women in three of the state's correctional centres (Lawrie 2003). The study found that 98% of the women had prior adult convictions and more than one-quarter had been convicted between 15 and 30 times (Lawrie 2003, 6). A significant number of women also had histories of drug abuse and more than 70% had been sexually assaulted as children and 44% were adult victims of sexual assault (Lawrie 2003, 6). The relationship between 'child sexual assault, drug addiction and the patterns of offending behaviour' that led to women's imprisonment was made evident in the discussion of the findings (Lawrie 2003, 7).

The study showed that the rising numbers of Aboriginal women prisoners pointed to a lack of education and employment opportunities, housing options, access to therapeutic treatment services and that being both a victim of crime and multiple convictions had led to numerous prison sentences (Lawrie 2003). While the research did not establish an association between Aboriginal women with mental and cognitive disabilities and increased contact with criminal justice systems, the underlying factors associated with Aboriginal women's disadvantage and long histories of offending had been realised (Lawrie 2003).

Some years later, the 2008 qualitative study of Aboriginal women prisoners with dependent children conducted by Baldry, Ruddock and Taylor confirmed that the situation for those women in NSW prisons had not improved. A total of 17 Aboriginal women were interviewed by two Aboriginal women researchers (a lawyer and a project officer) about their lived experiences prior to prison and post-release and in particular with accessing services while in prison and in the community. Overall, the findings showed that women: sensed such a 'deep loss' for their young children who were growing up without them; could not identify any services that were really helpful prior to their imprisonment and after release; were in unstable or unsafe housing prior to sentencing, and again post-prison, which left them with little choice but to return to their 'old environments', placing them at risk of relapse into using alcohol and other substances and not staying 'clean'; were separated from their families and disconnected from culture and cultural ways of life; and had experienced unresolved trauma from childhood and ongoing sexual abuse and violence which resulted in those women acting out the 'pain' and 'anger' through offending (Baldry et al. 2008, 27-33). One Aboriginal woman

expressed her strong feelings of adversity about her life situation with the statement: 'I think I'm tired of being an Aboriginal woman' (Baldry et al. 2008, 27-33). Although Baldry's study did not focus on Aboriginal women with mental and cognitive disabilities specifically, it highlighted how Aboriginal women who had been involved in criminal justice systems had not been provided with the kinds of support they had needed to stay out of prison, such as opportunities to learn and utilise cultural strengths for healing, trauma specific counselling, adequate and safe housing and culturally responsive drug and alcohol rehabilitation programs (Baldry et al. 2008).

### **Queensland: mental health of Aboriginal and Torres Strait Islander women in prison**

More recently in Queensland (Qld), *Inside Out – The Mental Health of Aboriginal and Torres Strait Islander People in Custody Report* was released. The 2012 project led by Ed Heffernan Director of Forensic Mental Health Services, and managed by Aboriginal and Torres Strait Islander woman Kimina Anderson, Statewide Coordinator for Aboriginal and Torres Strait Islander Mental Health, is noted as the largest study of its kind to examine the social and emotional wellbeing and mental health status of Australian Indigenous prisoners (Heffernan et al. 2012). A total of 72 Aboriginal and/or Torres Strait Islander women and 347 men with a mix of low and high security classifications in six of Qld's high security correctional centres were interviewed by a team of researchers, the majority of whom were Aboriginal and/or Torres Strait Islander persons (Heffernan et al. 2012). The prisons held near to 90% of the Indigenous women remanded or sentenced in Qld (Heffernan et al. 2012).

The interviewers used the Indigenous Risk Impact Screen (IRIS) and Composite International Diagnostic Instrument (CIDI)<sup>43</sup> to examine the emotional wellbeing and mental health status of Indigenous participants (Heffernan et al. 2012).

Based on the responses to the IRIS and CIDI, close to two-thirds (63%) of Indigenous women were found to be at 'high risk for mental health problems' and the majority of women (86.1%) had been diagnosed with a 12-month prevalence of any mental health disorder including anxiety (50.7%), depressive (29.2%), psychotic (23%) and substance use (69.2%) (Heffernan et al. 2012, 26). The authors also noted that psychotic disorders were more than 50 times higher for Indigenous women in prison than estimated among the Australian population (Heffernan et al. 2012, 27). Although PTSD was found to be the most common anxiety disorder for

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<sup>43</sup> A modified version of the Composite International Diagnostic Instrument (CIDI) was used for the 2003 Survey describing *Mental Illness Among New South Wales Prisoners* and in the 1997 *National Survey of Mental Health and Wellbeing* by the Australian Bureau of Statistics (ABS).

Indigenous prisoners, PTSD was more than double the rate among women, with 32% reporting a prevalence of the condition for more than 12 months (Heffernan et al. 2012, 28). The high number of Aboriginal women in Qld's prisons experiencing PTSD is not surprising when the rate of PTSD for Aboriginal women in NSW prisons was also extreme (49.2%). Depressive disorders among Indigenous women in Qld's prisons were significantly higher than for Indigenous men, with more than one third (33.3%) of sentenced women having had persistent and marked mood disturbances in comparison to 9.6% for men (Heffernan et al. 2012, 30). Experience of suicidal ideation was reported by more than half of the women (53%) interviewed and 30.5% had attempted to end their lives through suicide (Heffernan et al. 2012, 26-38). The results of the *Inside Out* study primarily related to issues associated with workforce, services and a general awareness about mental health. For example, two of the respondents expressed the need for mental health awareness programs to be provided for correctional officers and to prisoners due to concerns that a 'misunderstanding of mental health problems could lead to punitive actions from staff and aggression from other inmates' (Heffernan et al. 2012, 51).

### **Queensland: Post Traumatic Stress Disorder**

As noted, the findings from the *Inside Out* (2012) study supported that PTSD was the most common mental health disorder among Aboriginal and/or Torres Strait Islander women in six of Qld's prisons. To further understand this complex mental health condition Heffernan, Anderson and others conducted the 'first comprehensive and culturally informed study' of PTSD amongst incarcerated Indigenous women (Heffernan et al. 2014, 6). *The Family Business, Improving the understanding and treatment of Post Traumatic Stress Disorder among incarcerated Aboriginal and Torres Islander Women*<sup>44</sup> (2014) study examined the prevalence of PTSD in 116 Indigenous women remanded or sentenced in Qld's largest women's correctional centre (Heffernan et al. 2014).

Among those women who participated in a structured interview and assessment, more than half (52%) were diagnosed with PTSD and disturbingly, most had experienced PTSD for the 'majority of their adolescent and adult life' (Heffernan et al. 2014, 12). The investigators found that women presenting with PTSD, as young people, had spent time in prison at twice the rate of the non PTSD group (Heffernan et al. 2014, 11). Key messages in the report focused on, for example, the experiences of trauma being central to the development of PTSD, early onset of

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<sup>44</sup> The study was funded by *beyondblue* (Heffernan et al. 2014).

PTSD in adolescence, misdiagnosis, lack of treatment for PTSD and the availability of mental health care for women in prison and post-release (Heffernan et al. 2014, 4). When identifying the implications for policy and practice regarding Aboriginal and/or Torres Strait Islander women in prison, the project team concluded that (Heffernan et al. 2014, 4):

There are clear links between the extremely high rates of mental disorder in this group, limited access to appropriate mental health care in community and custody, and the vast-overrepresentation of Indigenous women in custody. It is critical that culturally capable mental health care is made available to Indigenous women in custody and as they transition back to the community.

### **Victoria: Koori<sup>45</sup> women with mental and cognitive disabilities**

Similar to other Australian jurisdictions the imprisonment rate in Victoria has increased dramatically. In the article *State of imprisonment: Victoria is leading the nation backwards* (2015) Segrave and other criminology academics from Monash University explained that the once 'most progressive state' had moved to having the fastest prisoner growth in Australia (Segrave et al. 2015, 1). Also, the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) reported that the prison population over the decade 2003–2013 had increased at rates greater than the general population (VEOHRC 2013, 17). Moreover, with women's imprisonment climbing 41% between the ten years 2004–2014, the government announced that the women's prison system would be expanded by 158 beds, including a 44 bed mental health unit at the women's maximum security centre to cope with the expected 35% increase in women over the next two years (McColl 2015, 1). Segrave and others also highlighted the 'disproportionate impact of prison expansion' for the Victorian Koori (Aboriginal) population that was identified a few years earlier in the 2013 VEOHRC report *Unfinished Business: Koori women and the justice system* (Segrave et al. 2015, 2). In this report VEOHRC noted that Koori people represented 7.4% of all prisoners despite making up only 0.9% of the population; were imprisoned at 14 times the rate of the non-Koori population; and that Koori imprisonment had increased 105% over the decade 2002–2012 compared to 20% for non-Koori people (VEOHRC 2013, 17). Although smaller numbers than elsewhere in the country<sup>46</sup>, Koori women in Victoria represented one in ten prisoners, were more likely to be remanded, more likely to re-enter

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<sup>45</sup> 'Koori is used by south-eastern Victorian Aboriginal people to define a collective Aboriginality (Victorian Equal Opportunity and Human Rights Commission 2013, 15).

<sup>46</sup> According to 'stock data', on 28 February 2013 there were 30 Koori women in Victorian prisons. However, a total of 89 Koori women flowed 'in and out of prison' over 2012 and 67 of the 89 Koori women entering prison were on remand (VEOHRC 2013, 18–19).

prison and comprised the ‘fastest growing segment of the Victorian prison population’ (VEOHRC 2013, 2-18). The Commission also noted that 85% of Koori prisoners had been assessed as having mental health issues or cognitive disabilities (VEOHRC 2013, 2). In McColl’s article *Victoria female prison rates soar – but are women in jail for crimes they didn’t do?*, Jesuit Social Services claim that acquired brain injury and intellectual disabilities affected up to 60% of women in Victoria’s prisons (McColl 2015, 2). These reports together suggest that a high proportion of Koori women prisoners have one or both mental and/or cognitive disability.

VEOHRC used evidence from Ogloff’s *Koori Prisoner Mental Health and Cognitive Function Study* (2013) to conclude that Koori women prisoners experienced disproportionate rates of mental illness (VEOHRC 2013, 29). The investigators from a collaborative study between the Centre for Forensic Behavioural Science at Monash University, Victorian Institute of Forensic Mental Health and the Victorian Aboriginal Community Controlled Health Organisation (VACCHO), reported to the Victorian Department of Justice that 92.3% of 15 Koori women in prison (33% were on remand) had received a ‘lifetime diagnosis of mental illness’ or experienced mental illness at some stage in their lives (Ogloff et al. 2013, 12-13). The study also found that the ‘rates of all disorder’ for women were ‘dramatically higher’ than the general population and along with major depression, PTSD was the most prevalent mental health condition among women, with almost half (46%) having met the criteria for PTSD (Ogloff et al. 2013, 13). With respect to cognitive functioning, Ogloff and others found that while 4% of participants (women and men) were below the borderline IQ range, more than 12% were significantly deficient when it came to decision making and concrete thinking (Ogloff et al. 2013, 14). Further, the report *State of Victoria, Sentencing Advisory Council, Comparing Sentencing Outcomes for Koori and non-Koori Adult Offenders in the Magistrates’ Court of Victoria* (2013) had concluded that the higher rates of mental and cognitive disabilities among the Koori population ‘further contributed’ to the increase in prison numbers and Koori people with those disabilities were a ‘significant proportion’ of the prisoner population (VEOHRC 2014, 33). In 2014, VEOHRC’s submission to the Victorian Ombudsman’s investigation into the rehabilitation and reintegration of prisoners focussed on those with disabilities and the experiences, needs and extreme rates of mental illness among Koori women prisoners (VEOHRC 2014, 1).

### **Northern Territory: scarcity of research or data on mental and cognitive disabilities**

Madeleine Rowley’s paper *The invisible client: people with cognitive impairments in the Northern Territory’s Court of Summary Jurisdiction* presented at the 2013 Criminal Lawyers

Association of NT Conference focused on how the NT criminal justice system, through the Court of Summary Jurisdiction, dealt with the volume of people, particularly Aboriginal people with cognitive impairment before the court for lower-level offences (Rowley 2013). Rowley, a lawyer with the Central Australian Aboriginal Legal Service (CAALAS) in Alice Springs who frequently represented Aboriginal people with cognitive impairment, explained there was ‘no legislative scheme in place’ to assist the court to deal with her clients resulting in the court system ‘failing some of the most vulnerable members of our society’ (Rowley 2013, 2). There was also no certainty as to the numbers of Aboriginal and non-Aboriginal people with cognitive disabilities who had come before the courts on either a day-to-day or annual basis (Rowley 2013). Further, Rowley cited the 2008 Ombudsman’s *Report of the Investigation into complaints from women prisoners at Darwin Correctional Centre* to highlight that the numbers of women with mental and cognitive disabilities in prison was unknown due to evidence being anecdotal and unreliable data (Rowley 2013, 3). The CAAALS lawyer indicated however that there were ‘too many’ Aboriginal people with cognitive disabilities in the criminal justice system in need of legal representation who were socially disadvantaged and experienced mental health issues, lack of safe housing, family violence and barriers with language (Rowley 2013, 4-5)<sup>47</sup>.

## **ABORIGINAL AND TORRES STRAIT ISLANDER SOCIAL JUSTICE COMMISSIONERS**

The position of the Aboriginal and Torres Strait Islander Social Justice Commissioner, created in 1993 within HREOC was formed in response to the findings of the RCIADIC. Since then, four appointed Commissioners – Mick Dodson (1993-1998); Dr William Jonas AM (1999–2004); Tom Calma (2004–2010); and Mick Gooda (2010–2016) have collectively exposed the failure of

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<sup>47</sup> In 1973, Jim Lester, a translator for ‘his people’ at Alice Springs court, delivered a speech to a conference on Aborigines and the Law held in Sydney. Lester highlighted in his speech that Aboriginal people had many difficulties in understanding and dealing with the court due to language problems. The lack of understanding in court procedures, including police, had led to considerable fear about ‘what is going on’ as explained by Lester:

‘... people don’t understand court language and procedures...they are severely limited in their understanding of English. Court language is very hard to understand and most don’t understand the charges against them...Aboriginal languages are very different to English...as soon as Aboriginal people enter the courtroom they feel different, they become afraid...people who are frightened of court will often plead guilty, even when they are innocent, so as to get finished and out of court quickly. They can also plead guilty because they don’t know what’s going on. One old lady from Maryvale Station was picked up on a “drunk” charge. She doesn’t drink at all. She went into the hotel looking for her daughter; she was worried about her. I said, “why did you say guilty?” She said, “I didn’t understand what was happening, so I said the same as the woman in front of me” (NSW Department of Child Welfare and Social Welfare New Dawn Magazine 1973, 14).

public policy and systems that have led to the ever-rising incarceration levels of Aboriginal and Torres Strait Islander peoples and women in particular. The first Aboriginal woman, June Oscar, was appointed as Commissioner in 2017 for a five year term.

Commissioner William Jonas first raised the 'profoundly distressing' situation of Aboriginal and Torres Strait Islander women's contact with criminal justice systems in the HREOC *Social Justice Report 2001* (HREOC 2002, 1). Jonas established that the specific needs of Indigenous women were 'largely invisible to policy makers and program designers' despite their imprisonment being significantly higher and rising at faster rates in comparison to men (HREOC 2002, 1). Commissioner Jonas continued to expose the 'gravity' of the unacceptably high rates and risk of incarceration for Indigenous women throughout Australia in the *Social Justice Report 2002* (HREOC 2002). The chapter dedicated to this compelling situation, 'Indigenous women and corrections – A Landscape of Risk', highlighted the need to understand and address the gendered and urgent needs of women in contact with criminal justice systems (HREOC 2002). Jonas soundly placed Aboriginal and Torres Strait Islander women as the most imprisoned group in Australia (HREOC 2002).

The *Social Justice Report 2002* showed that custodial episodes for Aboriginal and Torres Strait Islander women for the ten-year period 1991-2001 had ballooned 255.8% and they were 19.6 times more likely to be imprisoned than non-Indigenous women (HREOC 2002, 3). During this time, in NSW, Aboriginal women represented 30% of all women prisoners and were 26 times more likely to be imprisoned than non-Aboriginal women despite being only 2% of the female population (HREOC 2002, 4). In the NT in 2001, 57% of women in prison were Indigenous (HREOC 2002). The *Social Justice Report 2002* also highlighted that many of the women entering custody had 'poor physical or mental health' (HREOC 2002, 9). A key consideration for Jonas was that the rising rates and over-representation of Aboriginal women in Australian prisons was occurring in the (HREOC 2002, 2):

...context of intolerably high levels of family violence, over-policing for selected offences, ill-health, unemployment and poverty. Studies of Indigenous women in prison reveal experiences of life in a society fraught with danger from violence...once imprisoned, recidivism statistics also indicate that Indigenous women are at greater risk of returning to gaol (and) despite these factors, very little research has been conducted to explain the causes...

Commissioner Jonas identified that the causes of imprisonment for Indigenous women were not well known or understood due to very little research in the area (HREOC 2002). The needs of women with cognitive disabilities systems was not raised in the *Social Justice Report 2002*, however Jonas argued for targeted health services and other programs to be delivered in custody and post-release for Aboriginal and Torres Strait Islander women due to their disengagement from health care and other community support services (HREOC 2002).

From 2004, Tom Calma continued to report on the legal disadvantage facing Aboriginal and Torres Strait Islander women in Australia. Commissioner Calma considered Indigenous women to be the 'fastest growing prison population' in the country (HREOC 2004, 4). The rates of imprisonment for women had increased 343% for the decade 1993-2003 and the over-representation rate was 20.8 times that of non-Indigenous women (HREOC 2004).

The chapter 'Walking with the Women – Addressing the needs of Indigenous women exiting prison' in *Social Justice Report 2004* provided an overview of available support programs for women released from custody to the community, such as housing and trauma counselling services (HREOC 2004). Consultations with Indigenous women both in and out of prison, Aboriginal Community Controlled Services, community organisations, government agencies and academics identified supportive ways to better assist Aboriginal and Torres Strait Islander women to 'reconnect' with their families and communities post-release (HREOC 2004, 2). While the consensus was that corrections had responsibility for post-prison services, only involuntary women on parole or community-based orders were supported, and women who had served a fixed sentence without parole, which was most women, were not eligible to access departmental programs because they were no longer considered to be clients of corrections (HREOC 2004). Calma identified that Indigenous women with mental health and wellbeing issues were exiting Australian prisons without specific support or services and with inadequate accommodation and public housing support in particular (HREOC 2004).

The consultations revealed that the levels and types of post-release programs differed in states and territories and many issues were identified regarding service delivery for Aboriginal women pre and post-custody. For instance, the need for improved communication, information sharing and coordination of activities between service providers involved with women; increased knowledge for community-based, non-government agencies and women themselves regarding government services; continuum of care prior to prison and after release; and the inadequate consideration of programs and services for Aboriginal women

involved with criminal justice systems within policy documents (HREOC 2004, 9). Both Jonas and Calma identified that the lack of coordination between service systems had negatively impacted most on the 'successful re-integration' of Aboriginal and Torres Strait Islander women back into the community (HREOC 2004, 9).

Years after both reports, mental ill-health for Aboriginal people in NSW still contributed 10% of the disparity of the burden of disease when compared to non-Aboriginal people in the state (NSW Ministry of Health 2012, 52). *The health of Aboriginal people of NSW: Report of the Chief Health Officer* (2012) noted that levels of mental illness and hospitalisation for intentional self-harm were 2.9 times the rate of the general population (NSW Ministry of Health 2012, 52). Although the data did not account for differences in gender, it shows that more needs to be done by the NSW health system to improve the mental health and wellbeing for Aboriginal communities. The 'unavailability' of data from community-based mental health services regarding services to Aboriginal people noted in the Chief Health Officer's report supports this argument (NSW Ministry of Health 2012, 52). A study by Lee and others, academics in addiction medicine at the University of Sydney, also supports this claim. In the article *Needs of Aboriginal Australian women with comorbid mental and alcohol and other drug use disorders* (2014), the researchers identified that the 21 Aboriginal women who participated in the study from urban and regional communities were severely impacted by mental health disorders attributable to past traumas and negative life events (Lee et al. 2014).

### **Young Aboriginal women with cognitive disabilities in juvenile prisons**

The HREOC report *Indigenous young people with cognitive disabilities & Australian juvenile justice systems* (2005) noted the prevalence of mental illness and cognitive disabilities amongst young Aboriginal and Torres Strait Islanders. At the time, young people were shockingly over-represented in juvenile justice systems, with proportionally more Aboriginal females than males (57% vs 46% of the respective female and male youth justice population) detained in juvenile prisons (HREOC 2005). When preparing the report HREOC found difficulties with acquiring national data on both mental illness and cognitive disabilities and with Indigenous and gender specific data in particular, because data had not been comprehensively collected or reported by criminal justice agencies (HREOC 2005). By using the state-based data that was available, and given the dramatic over-representation of young Aboriginal people and especially girls and young women in juvenile justice systems nationally, and the evidence of very high rates of mental and cognitive disability amongst juvenile detainees, the HREOC

concluded that Aboriginal and Torres Strait Islander young people were more likely to experience cognitive disabilities than non-Aboriginal and Torres Strait Islanders in youth detention (HREOC 2005; AHRC 2012). This was later confirmed by NSW Young People in Custody Health Surveys (Indig et al. 2011; NSW Justice Health and Forensic Mental Health Network and Juvenile Justice 2016).

### **Aboriginal prisoners with mental and cognitive disabilities: a human rights approach**

After Calma, Mick Gooda continued to report publicly on the immense and growing over-representation of Aboriginal and Torres Strait Islander peoples in Australian criminal justice systems, noting this as a ‘public health catastrophe’ (Sweet 2015, 1). Commissioner Gooda was particularly alarmed by the serious human rights violations against women, men and young people who had both mental illnesses and cognitive disabilities (HREOC 2005; AHRC 2012, 2). Gooda’s paper *Mental illness and cognitive disability in Aboriginal and Torres Strait Islander prisoners – a human rights approach* delivered at the 2012 National Mental Health Services Conference in Cairns helped to keep the issue on the national public agenda. Supported by the AHRC Disability Discrimination Commissioner, Graeme Innes, Gooda highlighted that Indigenous peoples with cognitive impairment in criminal justice systems was a ‘most under-researched area’ despite an awareness by people ‘on the ground’ in disability and legal areas ‘working hard’ to help people with those health concerns (AHRC 2012, 3). Gooda concluded that Indigenous people with cognitive impairment had been ‘forgotten’ in the literature, policy and practice, and called for comprehensive research to be conducted and national data to be collected to better understand cognitive disability in the Aboriginal and Torres Strait Islander population, including prisons (AHRC 2012, 4).

### **USING PRISONS TO ‘MANAGE’ ABORIGINAL PEOPLE WITH COGNITIVE IMPAIRMENT**

The report *No End in Sight: The Imprisonment and Indefinite Detention of Indigenous Australians with a Cognitive Impairment* (2012), prepared by the Aboriginal Disability Justice Campaign (ADJC), now Australians for Disability Justice (ADJ),<sup>48</sup> and authored by Sotiri, McGee and Baldry for the National Justice Chief Executive Officers, brought to light the current

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<sup>48</sup> In 2010, the Aboriginal Disability Justice Campaign was formed to respond to, and campaign against the indefinite detention of Aboriginal and Torres Strait Islander people with cognitive impairment in Australian prisons. A collection of individuals and a coalition of agencies came together in a common belief that Australian states and territories could and should do better in response to people and particularly Aboriginal and Torres Strait Islander peoples with mental and cognitive impairments that may commit crimes and may be of harm to others (Sotiri et al. 2012, 6).

situation for Aboriginal and Torres Strait Islander people with cognitive impairment in state and territory criminal justice systems (Sotiri et al. 2012). The authors reported that Indigenous people with cognitive disabilities were over-represented in prisons and, when compared to those without a disability, were more likely to be charged, remanded in custody, sentenced, imprisoned for longer and less likely to be granted parole (Sotiri et al. 2012, 7).

The authors identified that in some state and territory jurisdictions Indigenous people with cognitive impairment were being held indefinitely in prisons and psychiatric hospitals, despite not having a criminal conviction (Sotiri et al. 2012, 7). At the time in the NT for example, the nine people on supervision orders due to mental impairment and detained under the NT Criminal Code were all Aboriginal men (Sotiri et al. 2012, 66). In a similar case in South Australia, ABC News court reporter James Hancock uncovered that a 22 year-old Aboriginal man who was cognitively impaired and had breached a supervision order was forced to spend almost a year in custody because of a lack of disability housing (Hancock 2015). One of the ADJC Coordinators, Patrick McGee, made comment on this case (Hancock 2015, 1):

You have to stack it up against the fact that you or I, if we committed a crime, would not spend one minute longer in jail than the sentence with which we were given.

The report also focused on the 'over-use' of prisons for those 'not able to comprehend criminal justice processes' like police and court procedures, which resulted in Indigenous people with cognitive disabilities entering and re-entering custody and being disconnected from their families and community support services (Sotiri et al. 2012, 7). The authors noted that meeting the needs of this sub-population through service systems had been impacted by historical relationships between Aboriginal communities and government social and welfare agencies, geographic locations and inadequate program funding (Sotiri et al. 2012).

The authors however provided examples of community based services that offered a 'just, rights based and compassionate approach' to Indigenous people with cognitive impairment to prevent them from being 'managed' in criminal justice systems (Sotiri et al. 2012, 9-10). For instance, Queensland's *Sisters Inside* supporting women remanded in prison; community-based housing and treatment programs in NSW; Victoria's Disability Act of compulsory treatment and the NT's disability forensics team in Darwin that provided post-release support in the community (Sotiri et al. 2012, 9-10).

In late 2014, the ADJC and First Peoples' Disability Network (FPDN Australia)<sup>49</sup> facilitated a national summit *A Line in the Sand* with lawyers, academics, researchers, disability service users and justice and welfare groups to develop an action plan to stop the imprisonment of Aboriginal people with mental and cognitive impairment (intellectual disability, borderline intellectual disability, fetal alcohol spectrum disorder and acquired brain injury) and without a recorded conviction. At the summit the *Position statement on the inappropriate incarceration of Aboriginal people with a cognitive impairment* was drafted and forwarded to the Australian Government seeking 'an end of the widespread and unwarranted use of prisons for the management of unconvicted Aboriginal persons with cognitive impairments' (ADJC and FPDN 2014, 2).

### **'WORKING TOGETHER': INCLUSION OF MENTAL AND COGNITIVE DISABILITY**

The first edition of *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (2010) edited by Purdy, Dudgeon and Walker was welcomed as a leading resource for mental health practitioners and workers across a range of professions and for students in training to understand mental health and wellbeing for Aboriginal and Torres Strait Islander peoples. However, the increasing over-representation of Aboriginal and Torres Strait Islander peoples in Australian criminal justice systems and in particular the extent of mental and cognitive disabilities for Aboriginal prisoners had been overlooked. After discussions between one of the editors and the author of this thesis, the second edition of the text published in 2014 included the chapter *Mental Disorder and Cognitive Disability in the Criminal Justice System* (Heffernan et al. 2014). Although the chapter includes information already examined as part of this literature review, such as the *2009 Inmate Health Survey: Aboriginal Health Report* (Indig et al. 2010) and the *Inside Out* study (Heffernan et al. 2012), the chapter highlights the area as another national priority. Most importantly, the chapter recognises cognitive disability among Aboriginal people in contact with criminal justice systems as a 'component of broader social and emotional wellbeing' (Heffernan et al. 2014, 168) and

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<sup>49</sup> In 2012, FPDN Australia was formally launched as a strong voice of and for Aboriginal and Torres Strait Islander peoples with disabilities, their families and carers. Damian Griffiths, Chief Executive Officer explains that the 'role of FPDN is to educate both government and non-government sectors about the needs of Aboriginal and Torres Strait Islanders with disabilities' (FPDN Australia 2012, 2). The national peak organisation has three key priority areas: 'advocating and ensuring that the National Disability Insurance Scheme (NDIS) can meet the unique needs of Australian Indigenous peoples with disabilities; the successful implementation of the National Disability Strategy from an Aboriginal and Torres Strait Islander perspective; and supporting the development of networks for Aboriginal people with disability in jurisdictions where they do not currently exist' (FPDN Australia 2012, 2).

the gendered experiences and needs of Aboriginal women as being unique in comparison to Aboriginal men.

### **‘UNJUST AND PERVERSE OUTCOMES’**

In the article *Disability at the margins: limits of the law* (2014) Eileen Baldry used a new critical disability criminology approach to analyse criminal justice systems and supports provided by human service systems for people with mental and cognitive disabilities. The approach initiated by Baldry and disability scholar Leanne Dowse (Baldry and Dowse 2013) and refined over subsequent publications combine critical disability and critical criminology studies to form the ‘hybrid critical disability criminology’ (Baldry 2014, 9). Baldry explained the approach as being (Baldry 2014, 9):

...elements of both approaches. Integrating these critical approaches with their unique understandings of disability and criminal justice provides a framework for understanding and conceptualising the interactions among a range of individual, institutional and systemic factors that appear to propel increasing numbers of disadvantaged people with mental and cognitive impairment into the control of criminal justice agencies.

Baldry, lead researcher on the study *People with Mental Health Disorders and Cognitive Disability in the Criminal Justice System* (MHDCD) uses evidence from the research to show the ‘pathways’ into criminal justice systems taken by people with mental and cognitive disability (Baldry 2014, 5). For the MHDCD study, as discussed in chapter one, data on individuals who had been in prison one or more times between 2000 and 2008 and had participated in the 2001 and 2009 Inmate Health Surveys, was merged with the Corrective Services NSW Disability Service database to develop a cohort of 2,731 individuals whose mental and cognitive disability diagnoses were known (Baldry 2014). By linking and merging lifelong administrative information, including case notes and records from NSW criminal justice agencies (Corrective Services, Police, Juvenile Justice, Courts, Legal Aid) and human service agencies (Health, Housing, Justice Health, Family and Community Services Ageing Disability and Home Care), for all members of the cohort, a Dataset detailing lifelong institutional involvement and events for each person was created. The data were analysed to establish pathways taken into, around and through the human service and criminal justice systems (Baldry 2014).

In a subsequent ARC research project *Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System* (2011-2015) Baldry and the research team analysed the MHDCD data specifically looking at the Aboriginal members of the cohort and invited a number of Aboriginal communities to participate in a qualitative aspect of the project. This analysis showed that the 676 Aboriginal people in the cohort (25% of the cohort) were more likely than non-Aboriginal people to have 'multiple and complex support needs' (one or more diagnoses and other disadvantages), to have been in juvenile detention, to have earlier and higher rates of contact with police and to have entered adult prison more often (Baldry 2014; Baldry et al. 2015). Moreover, when compared to non-Aboriginal people, Indigenous people with disability had 'significantly worse outcomes on all measures' (Baldry 2014). Aboriginal women were more likely to be homeless, and to have higher police contacts and higher episodes of custody than anyone else (Baldry et al. 2015). From the information collated, Baldry identified that an 'outstanding and deeply concerning pattern' had emerged for those Aboriginal people in the cohort (Baldry 2014, 7). For instance, beginning from childhood and into their adult years, they had experienced a lack of support for their disability, poor connection to schooling, unstable housing and foster placements and poverty (Baldry 2014, 7). Despite education, welfare workers and police being aware that these individuals were *at risk* when children or young people, there was a 'reluctance or inability' for agencies to work together to meet their complex needs (Baldry 2014, 7). The police 'managed' the child or young person simply because there was nowhere safe to place them and then as they turned into *a risk* they were arrested and charged 'early and often' by police (Baldry 2014, 7; Baldry and Dowse 2013). These studies and the publications from them highlight the 'systematic failure' of human services to provide coordinated supports for Aboriginal women (and men) with mental and cognitive disabilities and complex support needs at an appropriate time in their lives so that they are not 'pushed' into criminal justice systems (Baldry 2014, 7-8).

## **POLICY RESPONSES IN NSW**

In an attempt to improve the provision of services to people with an intellectual disability and mental illness, the NSW Department of Health and NSW Ageing, Disability and Homecare (ADHC) 'committed' to working cooperatively together to improve access to mental health and disability services in the state (NSW Health and ADHC 2010, 5). The *Memorandum of Understanding Between Ageing, Disability and Homecare, Department of Human Services NSW and NSW Health In the Provision of Services to People with an Intellectual Disability and a Mental Illness* (2010) was developed as government policy. The document outlined that

Aboriginal and Torres Strait Islander peoples had the 'right' to be provided with 'culturally appropriate services including the use of Aboriginal mental health services and specialist services' (NSW Health and ADHC 2010, 24). The policy noted that collaborative practices were currently in place between NSW Health and ADHC for people with an intellectual disability involved with criminal justice systems (NSW Health and ADHC 2010, 25). For those individuals, NSW Health and ADHC aimed to improve 'general community wellbeing and the quality of life' by (NSW Health and ADHC 2010, 24):

Reducing the prevalence of people with an intellectual disability in the criminal justice system by helping them succeed in the community and ensuring that both agencies and the criminal justice system respond appropriately and equitably to the circumstances of these clients.

The two government departments encouraged research to be undertaken to advance the understandings of intellectual disability and mental illness to meet local area needs (NSW Health and ADHC 2010). The research project *Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System* between the UNSW, Legal Aid NSW, Housing NSW, ADHC and Justice Health (representing NSW Health) is one example of government policy being turned into collaborative action.

### **National Disability Insurance Scheme: much more is needed**

The NSW Council for Intellectual Disability (CID), the lead advocacy organisation in NSW for people with cognitive disabilities, has been critical of the Australian Government's National Disability Insurance Scheme (NDIS) regarding supports for people with intellectual disability who 'live on society's fringe'. This can be the case for Aboriginal people with mental and cognitive disabilities involved in criminal justice systems (NSW CID 2014). The CID has continually lobbied government to ensure that the needs of people on the fringe are accommodated by the national government, particularly as the government's disability service will no longer exist from July 2018 when the NDIS is fully operational and there is no provider of last resorts. As the leading Aboriginal disability advocate FPDN Australia has also been disapproving of the NDIS and has called for an 'overhaul' of the scheme to 'capitalise on the critical opportunity' for Aboriginal people to access and receive services to meet their needs (Michael 2018, 1). FPDN Australia suggests that the NDIS must recognise that the needs of Aboriginal people with disability will be 'different' depending on where they live, in particular those living remotely. FPDN advocates for the delivery of disability services by Aboriginal

community controlled organisations that are already engaging with Aboriginal individuals and families and for investment in Aboriginal communities to support 'their own members with disability' and create employment opportunities in those communities (Michael 2018, 1).

## DISCUSSION

This chapter examines previous research and articles related to Aboriginal girls and women with mental and cognitive disabilities who are involved in criminal justice systems, as well as the responses of service systems, including primary health, mental health, disability, and research, in meeting their health and mental wellbeing needs. You can see that, apart from some work led by Aboriginal researchers and the involvement of Aboriginal people in a few projects led by non-Aboriginal people, most of the literature is authored by non-Aboriginal men and women researchers, academics, lawyers and other professionals working in the fields of mental health, disability and criminal justice, and there is no social work disability research identified in this area. Another shortcoming is the lack of theory to explain the lives of these Aboriginal women and their involvement in criminal justice systems and how service providers engage with and connect to affected women.

As discussed in Chapter 2, as far back as 1985, the *NSW Women in Prison Task Force* expressed concerns about the scarcity of research information and data on Aboriginal women and criminal justice systems to understand their unique needs and provide reasons for so many Aboriginal women being imprisoned and returning to prison (NSW Government 1985). Since this time however, Aboriginal led and women informed research to bring clarity to the lives of criminal justice involved Aboriginal women and in particular those with mental and cognitive disabilities has been non-existent, and a number of opportunities to use publicly funded research to gain this insight and for theory development overlooked. For instance, in NSW, the four prisoner health surveys (and three for young people in custody), have helped to define a picture of the health status of the prisoner population. Although the findings are important, such as the high prevalence of psychological issues, psychiatric difficulties, head injury and neurological disabilities for Aboriginal women in prison identified in the third survey, and that women's health had declined since the first survey in 1996, the investigative approaches used for these surveys are limited in their design because they do not look beyond the data reported nor are they able to provide those *reasons*, from the perspectives of the Aboriginal women participants, and certainly the most important voices, for their overrepresentation in criminal justice systems and in particular prison. This also raises the important question of who decides how the information provided by Aboriginal women with mental and cognitive

disabilities is gathered and analysed and what evidence is used to inform policy, practice and service development to improve their wellbeing while in prison, and to support women to keep well when released and prevent them from returning to prison. Looking at the history of research in the correctional setting and from my own experience, I know that these decisions are typically dominated and authorised by those who are part of the settler colonial society and can talk from positions of power and influence. Therefore, drawing on my cultural, personal and professional knowledge and experience as an Aboriginal woman, mental health and disability criminal justice social worker, and researcher, allows for me to take the next step to define the methodology and research needed to fill in the pieces missing from previous studies and the literature and to develop the theoretical framework needed to analyse the findings and make sense of the lived realities of Aboriginal women with mental and cognitive disabilities and their involvement with criminal justice systems.

## **CONCLUSION**

The recent concern regarding and the intentions expressed to do something about the high levels of mental and cognitive disabilities of Australian Aboriginal women involved with criminal justice systems are encouraging however research into the area has been inadequate. The literature shows that studies conducted by Aboriginal women with Aboriginal women in particular have been far too infrequent, and there has been no research undertaken with Aboriginal women who have mental and cognitive disabilities and are involved with criminal justice agencies by an Aboriginal woman and researcher to investigate and understand this important issue from the standpoint of an Aboriginal woman and mental health and disability social worker in criminal justice. The literature has identified that Aboriginal women living with mental and cognitive disabilities have many complex vulnerabilities and that meeting their support needs is required to prevent involvement with police, courts and prisons. However state and territory governments, mental health and disability institutions and services, criminologists, community development workers, activists and social work scholars have not viewed the unique health and mental wellbeing needs of criminal justice involved Aboriginal women as deserving of special attention. Improving access to appropriate, adequately funded and integrated mental health and disability support services in remote, regional and urban areas – not only for the women affected but also for their families and carers – can significantly reduce the increasing numbers of women with disability coming into contact with criminal justice agencies and in particular cycling through prisons.

As noted briefly in this chapter, I need to forge a new theoretical approach to try to explain and understand why Aboriginal women with mental and cognitive disabilities are so deeply enmeshed in Australian criminal justice systems. The following chapter discusses theoretical approaches that will assist me to do this.

## **CHAPTER 4: DEVELOPING A CRITICAL THEORETICAL FRAMEWORK AND A CREDIBLE INDIGENOUS METHODOLOGY**

I first met Koorie Dhoulagarle at a Reconciliation Week event at Muloobinbah located on the eastern coast of NSW and now known as the city of Newcastle. The event was hosted by the Awabakal Local Aboriginal Land Council (LALC) which is the representative LALC for this area. Many Aboriginal and non-Aboriginal people had gathered together in good faith to learn about their shared histories from some of the Worimi traditional families. Not culturally associated with this country, Koorie had travelled a few hours to attend the event. He turned down my offer to find him seat in the crowd, and instead carefully lifted a book with an ochre-coloured cover from the protection of a grey plastic shopping bag. He proudly claimed authorship of the book and offered to share it with me. Accepting the offer, I saw that the inside cover had been adorned with childlike blue-biro artistic creations. Further, many contact addresses had been penned and then crossed out, an obvious indication that Koorie had often moved residence. Nevertheless, this book represented so much more. It was a document of the author's lived experience, and of a time when strength, courage and the memories of a loving family helped to triumph over near destruction and death from alcohol dependence and imprisonment.

From the late 1970s to mid-1980s, after release from prison and treatment for a head injury, Koorie lectured non-Aboriginal student doctors on Aboriginal health and alcohol abuse at the now closed Prince Henry Hospital (in the Eastern suburbs of Sydney). No payment was received for this Aboriginal knowledge. Today, Koorie is grog free and a staunch advocate for the need for Aboriginal specific programs for rehabilitation of Aboriginal young people and adults who become involved with criminal justice systems when intoxicated due to alcohol or other drugs. Koorie knows from his lived reality that Aboriginal people – and in particular young people with mental and cognitive disabilities and addiction issues – need to be better supported and cared for to prevent them from offending, re-offending and being institutionalised in juvenile and adult prisons. Having this proper care and support can help to prevent them from ending their lives through suicide or from being another death in custody.

Koorie Dhoulagarle shares his life story with anyone who will read it. As a First Australian he tells us something about his intimate lived reality, including what he knows and values, his hopes and fears and the relationship between Aboriginal and non-Aboriginal people at this time. The poor treatment from hospital emergency departments, a scarcity of human recognition from governments and the wider white community, and the lacking intent to properly address suffering are a few examples. From this reality, Koorie argues (1979, 111):

Why bother to try to make it in the white man's world, when they can't even recognise us as part of the human race? I always thought the human race was supposed to be the superior of all living things on this earth. But apparently not in Australia. Why doesn't the Australian government stop putting everything into theory? When the Aboriginal people want something the government works it out on paper. That's where it stays. The only way they are going to learn what the Aboriginal people need is by going out and searching through the practical life. In other words, go out and live with them and put it into practice. Then you might see some of the treatment the Aboriginal people get. I reckon you people would only last five minutes before you'd ask how long we had been treated like this? Then we could turn around and say "ever since this country has been discovered". Or should I say, ever since the white men saw the Aboriginal person and put him in the background, and stacked him way in the back. The Australian community is having itself on.

Koorie Dhoulagarle's work is an example of an Aboriginal person using Indigenous understandings and knowledges to develop their own theory and method, in order to analyse, understand and document the impact of white colonial power imposed on Aboriginal peoples. This chapter recognises these intellectual and culturally deep knowledges as foundations for theories and for Indigenous research methodologies. Such approaches and contributions have been developed to gain Indigenous informed knowledge about important things that are not already known or well understood by the non-Indigenous world (Tuhiwai-Smith 1999).

### **'MULTICENTRED'<sup>50</sup> THEORIES**

As discussed briefly in the previous chapter, a number of theoretical perspectives are needed to create a theoretical framework in which to analyse and understand the findings of this study as well as to develop a methodology by which to approach and gather knowledges and information. This study requires both criminology and disability frameworks in which to position the realities of Aboriginal women and their families and carers. Firstly, critical theory provides an approach which concerns itself with changing the structures and systems within society that control, use, exploit and oppress those who are marginalised and to provide them with 'insights and intellectual tools they can use to empower themselves' and become free from domination (Leonard, cited in Mullaly 1997, 109). In the same vein as structural social

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<sup>50</sup> 'Theory is useful; it enables, it helps us to better understand what we already knew, intuitively, in the first place. But theory is always plural, *theories*, and multicentred' (Beilharz 1991, cited in Camilleri 1999, 25).

work theory which seeks to change social, economic and political institutions and practices in society that oppress less advantaged people (Mullaly 1997, 109), critical disability theory supports that 'social, cultural, political and economic factors' in society such as experiencing unemployment, poverty, reduced access to specific services, discrimination and other obstacles can further marginalise those with mental and cognitive disabilities (Baldry 2014). Finally, when critical disability is combined with critical criminology, a new perspective is developed that relates to the influence of those same structural and systemic factors on the lives of those with mental illness and impairment that can also lead to their contact with and control by criminal justice agencies (Baldry 2014). However, centring Aboriginal women with mental and cognitive disabilities who are criminal justice involved within these critical theories and understanding their lived realities to develop this body of knowledge also requires an Indigenous informed theoretical approach to gathering and understanding what is gathered.

The Indigenous methodology developed for this research provides an Indigenous informed approach to partnering with Aboriginal women and their families and communities to tell us more about Australian Aboriginal women with mental and cognitive disabilities involved with criminal justice systems and a critical disability criminology set within critical Indigenous theory will assist to understand and draw meaning from these lived realities. To re-present the knowledge and the position of the women as true, the methodology is situated 'within the wider framework of self-determination, decolonization and social justice' of which preconceives those women as respected persons and knowledge bearers of their histories and thus, their lived realities (Tuhiwai Smith 1999, 4). As no-one can see it or tell it like those with an actual lived appreciation of the issues, their narratives, unique insights and messages of importance are worth exploring, knowing and writing about.

The Indigenous methodology used for this research is framed from my standpoint as a Worimi and Wonnarua (a First Nations) woman and as a mental health and disability criminal justice social worker (Moreton-Robinson 2000). These elements, of me, provided the 'cultural proficiency' (Walker, Schultz and Sonn 2014, 203) and professional skills needed to make sure this investigation was not another account of 'research without transformation' (Irrabinna Rigney 2014). For that very reason, the Indigenous methodology is packed with 'subjectivity' and 'partiality' (Moreton-Robinson 2013, 333) to garner useful results from the gendered, racialised, disability and criminal justice experiences (Pollack 2003) of those Aboriginal women with 'exceptional needs' (Australian Association of Social Workers 2010, 13) who partnered in the study, as well as cultural and professional integrity and credibility to preserve their lived

realities. This methodology, a combination of Indigenous women's standpoint and Indigenous critical disability criminology, gives 'traditionally invalidated voices' (Australian Association of Social workers 2010, 470) the most power for providing evidence to inform and shape policy and professional practice, and importantly for the social work profession.

In developing this methodology my western disciplinary knowledge was not fiercely rejected. Instead, my academic training and engagement with non-Aboriginal academics and systems enhanced my cultural and professional abilities to develop this new Indigenous methodology (Moreton-Robinson 2013). Moreton-Robinson supports this declaration with: 'To recognise our disciplinary knowledges and academic training as part of our standpoint...does not diminish our claims to an Indigenous women or men's standpoint theory. It strengthens them' (2013, 339).

Together, Indigenous and non-Indigenous knowledges give this project the best potential to contribute new knowledge about how a settler society like Australia, established from a penal colony, deals now with those it has colonised (Irabinna Rigney 2014). For instance, how does the dominant white system respond to the devastation experienced by Aboriginal women, their criminalisation and the destruction of their ways of life? What role do police, courts, legal, custodial, health, disability and human services, including research, play in addressing and enabling the social, cultural and environmental changes needed for the survival of Aboriginal women, and in particular those with mental and cognitive disabilities? There have been only a few Australian Aboriginal scholars (Moreton-Robinson 2000; Nakata 2007; Sherwood 2010) who have also focused their research 'on non-Indigenous subjects and disciplines' (Moreton-Robinson 2013, 337) and attempted to shift a western research discourse that has long preserved inequities and injustice for Aboriginal and Torres Strait Islander Australians. Rather than these efforts being viewed as part of academic rigor and as equal and significant contributions to theory development and future Indigenous/non-Indigenous relations however, this important work is often seen as an attack on non-Aboriginal people, systems, institutions and academics.

## **DOMINATION OF NON-ABORIGINAL RESEARCHERS**

For so long, non-Aboriginal scholars trained in western methods of research and in pursuit of academic careers dominated the field of investigation and were supported to use their privileged position to study human societies and cultures other than their own. For too long,

the lives of Australian Aboriginal peoples were studied and wrongly represented through western theoretical knowledge, experiences, photographs, media and the written word (Moreton-Robinson and Walter 2009). Western scientists have used these studies to compare Aboriginal peoples' lives with their ways of knowing and living. Their views of Aboriginal knowledges were 'determined by whose knowledge *is* and *what* was legitimate...at the exclusion of the scientific standpoint of the subject – the Aborigine' (Foley 2003, 44). With little criticism of, or challenge to, western knowledges, Indigenous peoples were objectified, constructed, problematised and marginalised from the larger community (Sherwood 2010). This 'othered' positioning was of great interest to university scholars and their intellectual sciences, mainly in the field of social and cultural anthropology (Moreton-Robinson and Walter 2009). Men and women anthropologists used their standardised methodological frameworks 'shaped by colonialism' (Moreton-Robinson 2000, 91) to observe Aboriginal peoples and to produce knowledge which returned benefits only for the researcher and their academic institution (Sherwood 2010). Western researchers were rewarded with higher degree qualifications for their author bias, and status from the sharing of new learnings in anthropological circles. This mode of research practice continued unquestioned for years. With no debate, this dismissal and the disregard of Indigenous knowledges was problematic and the results ominous for the wellbeing of Aboriginal and Torres Strait Islander peoples.

Aboriginal women in particular have been subjected to the anthropological gaze and analyses that have caused additional complexities for Aboriginal peoples (Moreton-Robinson 2000). For instance, the ideologically and racially constructed 'traditional versus contemporary Indigenous woman binary' has been generally used to determine an Aboriginal woman's cultural 'authenticity' and the 'degree of oppression' experienced from colonialism (Moreton-Robinson 2000, 76-90). The distorted representation of Aboriginal women, specifically within earlier literature published by many white women anthropologists and feminists has impacted negatively on their gender status and communal responsibilities with for example positioning and decision-making, acquiring and forging cultural knowledge, claiming traditional ownership of lands, caring for country and relationships with Aboriginal men and other Aboriginal women (Moreton-Robinson 2000, 76-85).

Since these earlier days, it has been debated whether knowledge about researching with Aboriginal peoples has improved. Although many Aboriginal and non-Aboriginal researchers and academics argue that research has progressed a 'long way' (Laycock et al. 2011, 8), others

have said that social research involving Aboriginal peoples has 'changed little' (Moreton-Robinson and Walter 2009, 1). While there seems to be evidence to support both claims, Foley's assertion that 'western science has been excruciatingly slow to recognise Indigenous knowledge' (Foley 2006, 27) certainly resonates with me when my family were involved in the Australian Government's native title system. Using social anthropology again as the example, we found that the research approaches of the past simply had not moved far enough. The knowledge and 'power of the expert' (Sherwood 2010, 97), which in this case was a male non-Aboriginal social anthropologist, could still control and construct Aboriginal people's positioning, history, identity and culture, and in particular with land and country. In their text *Resolving Indigenous Disputes*, Aboriginal authors Behrendt and Kelly identify 'several key flaws within the native title regime' and one standout is the 'inability of native title industry professionals to come to grips with the complexities of Aboriginal communities and families' (Behrendt and Kelly 2008, 9).

My family's pre and post-colonial connection to Worimi and Wonnarua country, the land and waterways from Newcastle north to Port Stephens and west to the Hunter Valley in NSW, can be substantiated through our direct ancestral bloodlines and with our continued cultural association and customs. A few years ago (2013) in Newcastle, a Native Title Authorisation meeting was convened by those stating to be Awabakal and Guringai Peoples, for the purposes of filing a Native Title claim in the Federal Court of Australia. These Aboriginal people were asserting their rights and interests over the lands and waters of Worimi and Wonnarua country and supported by a male non-Aboriginal anthropologist from interstate who had been engaged by the claimants to determine their traditional ownership over the stated area. When he was asked about his cultural and geographical knowledge of the lands and waters under study, he advised that the information had been sourced from documents written by white historians and the genealogy completed on the day would be used to support the claimant's application for individual ownership.

The anthropologist however didn't get it right with the ancestral, cultural and ecological connections, and known Worimi and Wonnarua families and Elders were refused entry to the meeting. Regrettably, the textbook knowledge was presented as more superior to Worimi and Wonnarua knowledge about land and the keepers of cultural traditions and oral histories (Behrendt and Kelly 2008). From this case (and many like it), it can be seen that even in the 21<sup>st</sup> century, anthropology has a strong association with the historical and imbalanced perception

that Indigenous knowledge is 'primitive and culturally inferior' (Foley 2006, 27). More so, anthropological ideology is still 'grounded in male subjectivity' (Moreton-Robinson 2000, 73).

Exercising our judicial rights, we (the Worimi and Wonnarua peoples) challenged the processes used to prove this claim to our country through the Native Title Tribunal and applied to the Federal Court to be joined as respondent parties to the proceedings. At the Hearing the Registrar mentioned the improper processes used by the anthropologist to exclude our family and others from the claim. Despite being duly connected to the claim by the court, this example shows the shortfalls of this type of systematic research legislated by the Australian Government (Behrendt and Kelly 2008). Of note is that four years later (2017) the claim was discontinued by the government as the Awabakal and Guringai Peoples could not provide sufficient evidence to establish the necessary connections.

## **CRAFTING INDIGENOUS METHODOLOGIES AND THEORIES**

As discussed, Aboriginal peoples can still be subjected to disparate researchers who may use thin findings to influence government decision-making to our social, cultural, spiritual and economic detriment. However, this once-assured foothold is becoming less secure. Fittingly, those 'well intentioned' researchers and those who may lack cultural and professional integrity and credibility in their approaches are being phased out and attitudes to and about Aboriginal research are being transformed for the better.

Over the past three decades a number of Aboriginal scholars and leaders collectively have shifted the control of how research is conducted, how information is sought and how knowledge is produced and shared about Aboriginal people and the communities in which they live and to which they are connected (Putt 2013). Some communities made the move to Indigenous led and informed research as early as 1990, as seen with the study *Four Successful Aboriginal Organisations* conducted by Dr William Jonas (Jonas 1990). Prior to his appointment as the second Aboriginal and Torres Strait Islander Social Justice Commissioner (1999-2004), Jonas was Director of Aboriginal Education at the University of Newcastle and one of few Aboriginal academics in the country. Jonas' research gave an account of the successes of two Local Aboriginal Land Councils, an Aboriginal Co-operative located in the Newcastle area and Biripi Aboriginal Medical Service in Taree, which were all controlled by their Aboriginal communities and operating to meet the 'needs of Aboriginal communities they serve' (Jonas 1990, 1). The Indigenous methodological approach used by Jonas had two main aims: it was a deliberate attempt to showcase how well Aboriginal organisations were doing and that the

report 'may contribute to a dismantling of some of the stereotypical views held by non-Aborigines about Aboriginal people and Aboriginal organisations' (Jonas 1990, 1-2). The understanding, reasoning and methodology used by Jonas for this research was one of the earliest contributions to the better known and promoted research methodologies developed several years later by Australian Aboriginal scholars and international academics (such as Rigney 1997; Tuhiwai-Smith 1999; Moreton-Robinson 2000; Martin 2003; Porsanger 2004; Nakata 2008).

As the numbers of Aboriginal scholars and researchers increased so too did Indigenous theoretical research frameworks and methodologies that were more reflective of the 'realities, interests and aspirations' of Aboriginal Australians than for non-Aboriginal academics (Laycock et al. 2011, 47; Moreton-Robinson and Walter 2009). By using their research experiences, knowledges, cultural beliefs, values and strengths, Aboriginal scholars 'redressed the constructs used by academics and governments' (Sherwood 2010, 121) for research typically initiated, owned and directed by western institutions. These new Indigenous methodologies and theories defined how research 'should proceed' with Aboriginal people and communities and transformed research into an ethical and moral activity that would deliver culturally and socially just benefits for all involved (Porsanger 2004, 107-112). This 'decolonised' approach to research shifted the power to those most affected, and changed research into an empowering experience as it brought to light Indigenous knowledges, experiences and interests (Tuhiwai-Smith 1999; Rigney 1997). This approach could also provide more accurate and reliable evidence for government decision-makers and to adjust policy to address the gaping differences between theory and practice.

### **Indigenist Research**

Indigenist research was developed by Lester-Irabinna Rigney (1997) in a determined effort 'to reframe, reclaim and rename Indigenous research' (Laycock et al. 2011, 45). By linking feminism, the patriarchal oppression of women and the collective struggle for liberation to forms of oppression similarly experienced by Indigenous Australians, Rigney created a methodology to 'de-racialise and decolonise research' (Laycock et al. 2011, 46). He argued that race had been used to shape Australian society into a system of human 'hierarchies' that exerted power over and oppressed Indigenous peoples found 'at the bottom' (Laycock et al. 2011, 46). Moreover, this 'systematic and racialised social engineering' had resulted in Aboriginal people having 'nowhere to stand that is free of racism' with research assisting to create and maintain this discriminatory situation (Rigney 1997, 634). Indigenist research is

informed by three inter-related principles: resistance as the emancipatory imperative, political integrity and the privileging of Indigenous voices as researchers and informants (Rigney 1997, 636). Therefore, Rigney's contribution is for 'Indigenous Australians whose primary informants are Indigenous Australians and whose goals are to serve and inform the Indigenous liberation struggle to be free of oppression and to gain power' (Rigney 1997, 637).

### **Indigenous Standpoint Theory**

Martin Nakata, the first Torres Strait Islander to be awarded a PhD, followed feminist literature and the works of Indigenous women scholars to shape Indigenous Standpoint Theory (2008) for the developing field of Indigenous research methodologies (Foley 2006; Moreton-Robinson 2013). Influenced by feminist standpoint theorists, Nakata developed the theory to explain that the social position and lived experience of an 'Indigenous knower' was not the focus of investigation, but rather the Indigenous knower made 'better arguments' within knowledge (Nakata 2008, 214-216; Moreton-Robinson 2013). Further, an Indigenous standpoint 'has to be produced' and is fundamental for Indigenous peoples in order to have some control over every-day delimiting experiences and complexities, and to better respond to 'who, what or how we can or can't be' in the contemporary colonial world (Nakata 2008, 214-217). Foley supports Indigenous Standpoint Theory as being an empowering concept for communities to 'preserve and retain Indigenous knowledge' (Foley 2006, 34). However, Foley also explains that while the theory can be 'culturally acceptable to the practitioner and academically acceptable within the social sciences', it should be explored further in contemporary Indigenous scholarship (Foley 2006, 34).

Similarly, Aboriginal academic Aileen Moreton-Robinson acknowledges Nakata's work as a notable contribution to Indigenous research methodologies. However, Moreton-Robinson also found the theory to be 'gender blind' because it lacked consideration of the difference between Indigenous men and women (Moreton-Robinson 2013, 338). She argues credibly that by 'omitting gender', Nakata 'universalizes' the experiences of Indigenous men to produce an 'Indigenous form of patriarchal knowledge that mimics the kind of patriarchal knowledge production feminist standpoint theorists have critiqued' (Moreton-Robinson 2013, 339). Furthermore, feminist and Indigenous scholars commonly share that the 'production of knowledge is a site of constant struggle against normative dominant patriarchal conceptual frameworks' (Moreton-Robinson 2013, 331). Moreton-Robinson also points out that, as an Indigenous woman and academic, she must conform to the 'protocols of the white patriarchal academy' (Moreton-Robinson 2013, 340). Eileen Baldry, a non-Aboriginal woman and

academic supports this view by identifying patriarchy as both 'tightly affiliated' with colonialism and 'maintained through institutions' such as the academy (Baldry 2009, 23-25). Collectively and constantly, like-minded scholars and researchers 'battle' with academic institutions to ensure Indigenous knowledges and methodologies are seen as 'legitimate and valued components of research' (Moreton-Robinson 2013, 331).

### **Indigenous Women's Standpoint Theory**

It is known that Moreton-Robinson's Indigenous women's standpoint, first articulated in 2000, was well in advance of Nakata's theoretical work developed many years later. However, for the purpose of this thesis, Indigenous women's standpoint is discussed here. The common lived realities of Indigenous women, for instance, connection to lands; dispossession; racism; sexism and 'activism as mothers, sisters, aunts, daughters, grandmothers and community leaders' discussed by Moreton-Robinson in her first text *Talkin' Up to the White Woman Indigenous Women and Feminism* (2000) were used to shape an Indigenous women's standpoint (Moreton-Robinson 2000, xx). The standpoint was developed largely in response to those white feminists and white middle-class women who were seen to act from a 'subject position of dominance' over Indigenous women due to their whiteness, and, along with white men, had benefited from colonisation and the subjugation of Indigenous women (Moreton-Robinson 2000, xvi-xvii). Also, Indigenous woman's standpoint differed from white middle class feminism because it acknowledged the diversity of Indigenous women's cultures and lived experiences (Moreton-Robinson 2000).

Over many years Moreton-Robinson 'reworked' Indigenous women's standpoint into a theory and the important work of feminist standpoint theorists as well as information and direction from Indigenous researchers and research students has contributed to the theory as it now exists (Moreton-Robinson 2013, 334-344). The influence of feminist standpoint theory is noted in particular because of its 'inextricable link between theory, politics and practice and the ability to generate a problematic from women's embodied lived experience' (Moreton-Robinson 2013, 338-339), which spoke to the gender differences between Indigenous women and men not considered by Nakata. To further illustrate the connections between feminist standpoint theory and her own theory, Moreton-Robinson writes (2013, 334-335):

Feminist standpoint theory accepts that political interests and moral values are part of knowledge production and they shape our research; as such all researchers' beliefs are inextricably a constitutive part of their standpoints.

Australian Indigenous Women's Standpoint Theory is offered to Indigenous women researchers as a 'contribution' towards the development of methodologies 'required for our rules of engagement within the academy' (Moreton-Robinson 2013, 344). Furthermore, the differences between the individual and everyday experiences, positioning and knowledges of Indigenous women and men identified by Moreton-Robinson may help to guide researchers to consider gender differences when developing their own distinct methodologies (Moreton-Robinson 2013).

### **BLENDING INDIGENOUS WOMEN'S STANDPOINT THEORY AND CRITICAL INDIGENOUS DISABILITY CRIMINOLOGY**

Indigenous women's standpoint theory relates to my being as a Goori woman through Worimi and Wonnarua bloodlines, who has cultural and community responsibilities, and familial and communal ties to other Aboriginal women. My professional position and reputation as a mental health and disability criminal justice social worker relates to the principles of critical disability criminology theory. Blending and respecting the two theories creates a new construct – critical Indigenous disability criminology – a credible theory used for 'critical reflection/reflexivity' to help me unlearn and relearn my thoughts, position and practice so that the research and new knowledge did not further perpetuate the 'enduring realities of colonial domination' for Aboriginal women and add to their oppressions (Walker, Schultz and Sonn 2014, 207-211; Sherwood 2010). For Aboriginal women however, and those with mental and cognitive disabilities in particular, those legacies of colonial history that 'still permeate' our contemporary lives are not realised or have been purposefully forgotten (Dudgeon and Walker 2010, 103; Brewster 1996). Anderson states that 'when a country's history cannot be remembered it must be narrated' (cited in Brewster 1996, 42). Therefore, as explained by Brewster when writing about the suppression of Australia's violent colonial contact and settlement history, the 'people who must narrate it (history) for us are precisely those who have been repressed and oppressed – the silent and invisible minority groups, in this case Aboriginal people' (Brewster 1996, 42). This Indigenous research methodology has been developed to re-present the narratives of Aboriginal women – supported and supporters – to ensure that their personal and lived realities are documented and always remembered (Stanner 1979).

### **WAYS OF BEING, KNOWING AND DOING**

Aboriginal researchers have developed a diversity of methodologies related to their identity, worldview, interests and from lived experience (Henry 2002; Laycock et al. 2011). According to

Moreton-Robinson and Walter, Indigenous methodologies have a 'common philosophical base' derived from three distinct branches including (2009, 2):

epistemologies (ways of knowing), our axiologies (ways of doing) and our ontologies (ways of being). This means that Indigenous methodologies make visible what is meaningful and logical in our understanding of ourselves and the world and apply it to the research process.

The 'interconnectedness' of these three factors are central to Moreton-Robinson's Indigenous women's standpoint theory (2013), and, along with our 'social and cultural positioning', helps Aboriginal women researchers to know 'how, when where and why we conduct research' (Moreton-Robinson 2013, 340; Porsanger 2004). Therefore, as an Aboriginal woman partnering with other Aboriginal women in this study, the methodology combines the elements of ways of being, knowing and doing, as crafted by Moreton-Robinson to ensure that this research has cultural currency for Aboriginal women, is seen from our perspectives and is based on our own interpretations (Porsanger 2004). An end result, most importantly, is that this research discredits the usual 'western patriarchal knowledge production' (Moreton-Robinson 2013, 333) that has arguably infused and even infected criminology theory, research and practice in regards to Aboriginal women.<sup>51</sup>

### **Way of being**

Moreton-Robinson explains that Indigenous women's ontology is 'derived from our relations to country' and this 'ontological relationship was not destroyed by colonisation' (Moreton-Robinson 2013, 341). Our country and everything associated with it – humans, sand hills, landforms, rocks, mighty oceans and rivers, sacred totems, animals, vegetation, our rules for living and 'ways of life' – were immortally created by the ancestral creator beings (Moreton-Robinson 2013, 340; Dudgeon and Walker 2010). Many of our great creators were 'women or mothers who made human beings and instituted sacred rituals' (Dudgeon and Walker 2010, 97). As descendants of the creation spirits we gain our energy, and feel our 'belonging' to

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<sup>51</sup> Although Indigenous men have also been the 'focus of western surveillance' because of Indigeneity, the lived realities of colonisation and oppression for and between Indigenous women contrasts to the realities of Indigenous men because of our gender, culture and 'social location within hierarchical relations of ruling within our communities and Australian society' (Moreton-Robinson 2013, 339). For instance, in 1994, the position of Aboriginal and Torres Strait Islander Social Justice Commissioner was established within the nation's Australian Human Rights Commission. However, it wasn't until 2017 that an Aboriginal woman was appointed as the fifth Commissioner.

country and sense of resourcefulness ‘through and from’ them (Moreton-Robinson 2013, 341). The significance of belonging to our ancestral lands and the relatedness to our existence is described by Aboriginal woman Kathy Malera- Bandjalan. Determining her birthright to protect the lands, identity and ‘living culture’ (Eggington 2002, 9; de`Ishtar 2005, 194) of the Bandjalan tribal group of northern NSW and her Malera clan from open-cut gold mining on a significant cultural site, Malera-Bandjalan asserts that (cited in Reed-Gilbert 2000, 67):

Land is life. Life is people. We are one. You can take the people off the mountain but you can never take the mountain out of the people. The creeks are like the blood through our veins.

To further explain this relatedness to our existence, a Northern Territory Aboriginal nation group, the Larrakia Healing Group writes: ‘we carry a knowing of country and creation within us’ (2015, 1).<sup>52</sup> Further, the Larrakai people’s harmonious association with their spirit (country) and heart (community) is because (2015, 1):

We have been here from the beginning of time – caring for country – caring for each other.

All places and people are created for an intricate purpose and must be nurtured, as they are directly linked to the balance of individual, family and community wellbeing (Golds et al. 1997). As a Worimi and Wonnarua woman belonging to and living on ancestral country, my sense of connection to other Aboriginal women is established through direct bloodlines and through our special relationships to cultures, lands, waters and the atmospheres, as well as our rights under laws and customs. For instance, many Aboriginal women (and men) in NSW are devoted to our Creator Being Baiame who, along with Kawal the Eagle Hawk, protect us so that we can look after and regenerate country through our cultural and physical strengths; gather bush foods and medicines from the same lands for healing self and others; share sacred beliefs, rituals, songs, music making and ceremonial dance; and be trusted keepers of intricate Dreaming stories (one story for my family is the *First Black Swans*) to remember the paths that connect us to the spiritual lands and natural living features now and into the future for our continuation of life. This strong, reciprocal relationship that I have with my own and other women’s communities, cultures, country, family and kin, gives me the cultural connection,

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<sup>52</sup> For the Larrakia Nation in the NT, their trauma started in 1869 with the colonisation of their lands. The Larrakia Healing Group is a group of Larrakia people working together on country to heal and recover from intergenerational trauma for their families and community (Larrakia Healing Group 2015, 1).

recognition and acceptance to partner with other Aboriginal women for this study, and together, we strengthen our ways of being and caring for one another.

### **Way of knowing**

Indigenous women's epistemology will 'flow from our ontologies' and our knowing is formed through a range of cultural connections (Moreton-Robinson 2013, 341). The flow of knowing can come from our shared 'relationality' to country and our Dreaming, descent and kinship relations, language and 'conscious' and 'unconscious' knowledge (Moreton-Robinson 2013, 341). Culture, for the Larrakia Healing Group, is a 'knowing that flows through our blood like a river' (2015, 1). Therefore, knowing and looking after our culture is the same as knowing and looking after the spirit within. To explain further, Aunty Merle McEntyre, a Worimi and Wonnarua Elder who has lived continually on country feels her spirit in this way:

My Mother Cleo Jonas married a white man Bob Stevenson, so for five years we were away from our real Spirit Home. Then we moved back to a small village called Allworth on the Karuah River. It was there where I came alive. I would feel a belonging; this was where my Mother's Family was reared, everything excited me. The river teeming with fish, even the calmness of the water, the high tides of Christmas and the floods. Bird calls, even now when I hear the rain bird call, my mind goes back. Different animals, taking us for walks in the bush, naming different trees and flowers, eating berries, black currants, puddings and wild raspberries, sucking honey out of flowers, eating gum from the wattle tree, finding native bee nests and eating the honey, mushrooming after the rain. I loved it when all our relations came together at Christmas time, every cousin, uncle, aunt knew each other. I still get a feeling of belonging when I go back, even though things have changed. But you can't change the Spirit...

Indigenous women's ways of knowing are also shared through our 'common experience of living in a society that deprecates us' (Moreton-Robinson 2013, 341) and devalues our 'cultural self' (Larrakia Healing Group 2015, 5). This can contribute negatively to our physical, emotional and spiritual wellbeing. Further, the common struggles and sacrifices experienced by Aboriginal women from colonisation and the contemporary social and political conditions shape the everyday for women having multiple roles including Elder, grandmother, mother, daughter, sister, aunt, cousin, carer and leader (Moreton-Robinson 2013). My own lived reality differs greatly from those Aboriginal women with mental and cognitive disabilities who are

involved with criminal justice systems. However, our shared knowledge and understanding of this injustice for Aboriginal women and for our families and communities, the longing to 'contribute' correct and useful knowledge about ourselves and for ourselves (Porsanger 2004, 105-108) and the driving need to be 'educative' informers, that is, educating both our 'own family and white Australians generally' are the essence of this Indigenous methodology (Brewster 1996, 43).

### **Way of doing**

Indigenous women's ways of being and knowing are all around us and within us and therefore instruct us on the right ways of doing (Moreton-Robinson 2013). Indigenous women do things based on our unique 'relationality' and attachment to the families and communities that we value, care for and protect (Moreton-Robinson 2013, 342). Further, the ongoing 'social relatedness' to our communities and the associated responsibilities of feeling and being useful through active involvement are valued by Indigenous women and inseparable from each other (Morgan et al. 1997, 598). It is women's shared cultural, familial and communal obligations, responsibilities and relationships that enhances knowledge, gives meaning to our everyday actions and experiences and replenishes our strength for survival (Moreton-Robinson 2013). My ways of doing for this research are established from balancing my cultural connectedness and cultural capability as an Aboriginal woman with my professional positioning as a mental health and disability criminal justice social worker who has a broad and gendered intellectual knowledge and experience of human service and criminal justice systems, in particular prisons (Moreton-Robinson 2013). The culmination of my ways of being and knowing have shown and connected me with the right way to partner with Aboriginal women with mental and cognitive disabilities involved in criminal justice systems.

As Aboriginal women valuing each other and sharing our unique knowledges and experiences of criminal justice, mental health, disability and research systems, we were able to come to a new place of realisation about our lives and relatedness. To be 'accountable' (Moreton-Robinson 2013, 342) to this new knowledge, we co-created solutions that we thought were important – the 'doing' together – to change the lives of Aboriginal women, not only for those living with mental and cognitive disabilities, but also women supporters in our families and communities. This was our way of taking pleasure and satisfaction in being responsible to what we value and is 'meaningful to us' (Moreton-Robinson 2013, 342).

## **EMERGENCE OF CRITICAL INDIGENOUS DISABILITY CRIMINOLOGY**

The blending of critical Indigenous disability criminology and Indigenous women's standpoint as discussed in the previous section and the use of these in understanding the women's narratives, resulted in the emergence, as the research progressed, of a new theoretical approach. This approach, critical Indigenous disability criminology theory, is shaped from the knowledge and experiences of the Aboriginal women with mental and cognitive disabilities who partnered with the study, as well as women supporters from families and communities. The theory has also been developed through the critical lens of my own experience, an Aboriginal woman and mental health social worker in disability and criminal justice who knows and understands how correctional and health systems think and act. Critical Indigenous disability criminology theory gives meaning to the lives of Aboriginal women who are mentally unwell and impaired as it provides a different narrative about their realities, and about how these women are conceptualised by those colonially tied criminal justice agencies firmly positioned into their lives. Further, its logic frames criminal justice systems not as separate to these Aboriginal women's lives, and to their mental and cognitive disabilities, but rather as the primary disability in their lives. I will return to a deeper discussion and development of critical Indigenous disability criminology towards the end of the thesis.

## **CONCLUSION**

This chapter has drawn on critical disability criminology theory which provides a framework for understanding how human services and other supports can strongly influence the involvement of people with mental and cognitive disabilities with police, courts and prisons (Baldry 2014). That theoretical approach though, must be framed by and reconceived within an Indigenous women's standpoint theory which explains that Indigenous women can have shared knowledges and experiences despite their cultural differences and positioning (Moreton-Robinson 2013). The Indigenous methodology developed for this research is a blend of Indigenous women's ways of being, knowing and doing that are central to the theory and relates to my living cultural connectedness and cultural capability as an Aboriginal woman, and the principles of critical disability criminology theory that relate to my professional positioning as a mental health and disability social worker in criminal justice. The strong and eternal connection that I have with my own and other Aboriginal women's communities, cultures, country, family and kin, gives me the cultural recognition and acceptance to partner with other Aboriginal women to conduct this study.

The blended critical disability criminology/Indigenous women's standpoint theoretical approach enables meaning and understandings to be derived from the information gathered by ensuring that the voices of Aboriginal women who partnered with the study are the most important and that they are understood in the critical framework just outlined. It also provides the methodological approach (an Indigenous research methodology) attuned to the lives and realities of Aboriginal women with mental and cognitive disabilities involved in criminal justice systems. The knowledge shared by Aboriginal women about this problematic and the need for others to understand what we know, drives the methodological approach for this research that can help to change the lived realities for Aboriginal women with mental and cognitive disabilities involved in criminal justice systems and for their families and communities. As these theoretical approaches were merged and applied to the information and knowledge gathered for this thesis, the blended theoretical approach, the critical Indigenous disability criminology theory, emerged as the guiding framework.

The next chapter describes the quantitative and qualitative methods informed by Indigenous women's standpoint theory used to gather the knowledge, data and information for this study.

## CHAPTER 5: GATHERING THE EVIDENCE

This study utilised a mixed methods approach to better understand the research area. The project *But-ton Kidn Doon-ga: Black Women Know – Re-presenting the lived realities of Australian Aboriginal women in criminal justice systems* (thesis project), was nested within the larger Australian Research Council (ARC) Linkage Project: *Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System* (IAMHDCCD project). The reader therefore should note that the IAMHDCCD project and thesis project were conducted simultaneously and that the quantitative and qualitative methods used for data collection overlapped. For the thesis project specifically, all interviews with Aboriginal women and women supporters were undertaken by the author of this thesis.

### POSITIONING THE AUTHOR

The integration of the thesis project with the IAMHDCCD project came from my position as the Australian Postgraduate Award Industry (APAI) attached to the IAMHDCCD project, and one of two Aboriginal researchers in the project team who conducted the qualitative research in NSW and the NT. As the IAMHDCCD project and thesis project were designed to be interconnected, my responsibility to both studies was equally important. My lived experience, knowledge and understanding as an Aboriginal woman, my connection with and standing in the Wonnarua and Worimi communities, my professional employment within the Aboriginal health and wellbeing sector, largely in prisons, and my role as a mental health and disability criminal justice social worker were all applied to positive effect in the two projects.

I agreed to be involved in the research team because I respected and was inspired by the knowledge, advocacy and research experience of two of the Chief Investigators (one Aboriginal man and one non-Aboriginal woman) related to Aboriginal people and criminal justice systems. One Chief Investigator would also be my academic supervisor. As a research team, we created an anti-hierarchal environment where each researcher felt able to assert their rights to contribute their insider and outsider expertise to the study, thus minimising any potential discontent which may arise during research involving multiple people from differing professional and personal experiences and cultural backgrounds. We achieved this by taking a collaborative approach to planning and problem solving. We listened to each other and were attentive and responsive to each team members' experiences, feeling and ideas. We sought to learn from, and with each other, and this contributed to an atmosphere of respect, trust and equity.

## IAMHDCD PROJECT

As discussed in Chapter 1, the research design used by the IAMHDCD project team was a combination of quantitative and qualitative methods framed by the relevant literature and theory. The quantitative aspect began with a statistical analysis of the MHDCD Dataset (n=2,731) of which 676 were Aboriginal persons. An examination of this data revealed the lifelong experiences of Aboriginal women (who were 14% of the Aboriginal cohort, n=93) and men (who were 86% of the Aboriginal cohort, n=583) in NSW with mental and cognitive disabilities in contact with criminal justice systems and in particular how these experiences compared with non-Aboriginal people in the cohort.<sup>53</sup> Secondly, administrative information from the MHDCD Dataset was used to compile a number of detailed case studies. The case studies of Aboriginal individuals encapsulated the full range of contacts that Aboriginal people had had with human and criminal justice systems over their lives. Next, a deeper analysis of the MHDCD Dataset highlighted important geographical information for the IAMHDCD project, which established where Aboriginal people diagnosed with mental and cognitive disabilities, and who had spent time in prison, had been living and what country or area they had returned to once released from custody to the community. This *Geographic Distribution Study* identified a new level of disadvantage for certain locations and Aboriginal communities in NSW. The study showed that Aboriginal people and women in particular moved more transiently in and out of a very small number of highly disadvantaged geographic areas when compared to non-Aboriginal people. The final quantitative feature of the IAMHDCD project was several nested studies<sup>54</sup> that had drawn on the MHDCD Dataset to capture further lifelong information for Aboriginal men and women. These nested studies have: provided evidence of the inadequate continuation of primary health care for Aboriginal people in the post prison release period; detailed the impact of police contact and custodial episodes for Aboriginal men; empirically analysed the use of Section 32 orders of the *Mental Health (Forensic Provisions) Act 1990* (NSW) for Aboriginal people who had come before children's and adult courts for offending; and identified the common and higher levels of crime and violent victimisation for Aboriginal

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<sup>53</sup> 91% of Aboriginal women and men were diagnosed with at least one cognitive disability or mental illness with most having complex needs – of those with a mental health disorder, 77% have alcohol and other drug related issues and 36% also have a cognitive disability.

<sup>54</sup> *But-ton Kidn Doon-ga: Black Women Know* is the only nested study undertaken by an Aboriginal person.

people who had offended and who also experienced multiple disability, mental health and wellbeing issues and social disadvantages.<sup>55</sup>

When put together these quantitative and case study aspects of the IAMHDCD project provided descriptive experiences of Aboriginal people with mental illness and lower cognitive functioning and their involvement with criminal justice systems. Although the information from the MHDCD Dataset was robust, it could not provide an Indigenous informed interpretation and understanding of the lifecourse lived experiences of Aboriginal people and women specifically. In depth and Indigenous women standpoint interviews were employed as the qualitative method, designed to capture and inform on these lived experiences, along with the perspectives and experiences of Aboriginal families, carers and community members, Aboriginal Community Controlled Health Services and government and non-government service providers.

## **EMBEDDING CULTURAL AND PROFESSIONAL INTEGRITY INTO THE PROJECTS**

A number of processes and phases were utilised and reviewed to ensure cultural and professional integrity were inherent to the full study and this specific research project. A Projects' Advisory Group was established with Aboriginal and non-Aboriginal members experienced in conducting Aboriginal informed and led research, Aboriginal disability advocacy, Aboriginal mental health practice and mental health service delivery. The Advisory Group had input into the following five stages of the research.

1. Equitable and respectful engagement, connections and negotiations with Aboriginal people and Aboriginal communities before, during and after the research

For the first stage of the research, I gained qualified support for both projects from diverse Aboriginal community and organisational representatives. Discussions were held with and information was presented to Aboriginal peak bodies at the national, state and territory levels and to critical reference groups including: Directors of Aboriginal Health with Local Health Districts (LHDs); NSW Department of Health Centre for Aboriginal Health (Research and Evaluation); Chief Executive Officers and Practice Managers with Aboriginal Community

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<sup>55</sup> Two comprehensive reports were provided to partner agencies, NSW Ageing Disability and Homecare and Housing NSW. The reports detail findings from the analysis of the MHDCD Dataset with regards to the utilisation of disability and housing services provided by the government to members of the cohort.

Controlled Health Services (ACCHSs); Aboriginal Community Controlled Organisations; Aboriginal health, mental health, chronic care, community support and criminal justice workers in government and non-government organisations; NSW Local Aboriginal Land Councils; University academics, Forensic Mental Health clinicians and allied health workers. The projects were also promoted in magazines and newsletters to inform more widely.

Respectful engagement and discussions were maintained throughout the life of the projects, and strong and trusting relationships between the University of NSW and Aboriginal community partners have been maintained long after completion. One example is the unique partnership between the University of NSW and the Dharriwaa Elders' Group (DEG) in the remote town of Walgett in north-western NSW. The *Yuwaya Ngarra-li* – 'vision' partnership project focuses on six key issues faced by the Walgett Aboriginal community, including the lack of mental health and social and emotional wellbeing services and the diversion of Aboriginal women, men and young people from police, courts and prison. Once threatened with closure due to the government withdrawing funding (another Indigenous Advancement Strategy tragedy), the DEG is collaborating with academics from various disciplines to further develop their business acumen and advance self-determination through social enterprise development.

## **Ethics**

Ethics approval for both projects was provided by the University of NSW Human Research Ethics Committee. Of equal importance was the approval from the Aboriginal Health and Medical Research Council of NSW (AH&MRC)<sup>56</sup> Ethics Committee for the research to be conducted in NSW. The AH&MRC Ethics Committee commended the research team for showing ethical and respectful research behaviours in meeting the protocols for collaborative research with ACCHSs (2012):

It is very pleasing to see that so much effort has gone into meeting the AH&MRC's requirement for community control...Overall, this project sets out an excellent model for respectfully working with Aboriginal communities in a culturally appropriate way in order to produce research which will be of benefit to them and which involves them intellectually in the production and control of results.

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<sup>56</sup> The Aboriginal Health and Medical Research Council of NSW is the peak body for Aboriginal Community Controlled Health Services (in some cases known as Aboriginal Medical Services).

I formed a close alliance with the AH&MRC of NSW to seek guidance on links with ACCHSs in the research sites, along with advice on difficult matters and with reporting progress. The Justice Health and Forensic Mental Health Network Ethics Committee approved the research as a project partner. For the thesis project specifically, ethics was approved by the NSW Corrective Services Ethics Committee (CSEC) for interviews to be held with Aboriginal women in Silverwater Women's Correctional Centre and residents at Miruma Diversionary Program located on-site at Cessnock Correctional Centre.

For the NT, the projects were approved by the Central Australian Human Research Ethics Committee (CAHREC) after links were made with an Aboriginal woman and community advocate, and the Aboriginal Medical Services Alliance Northern Territory (AMSANT)<sup>57</sup>. A strong relationship was formed with the Central Australian Aboriginal Alcohol Programmes Unit (CAAAPU), a critical research partner, based in Alice Springs. The NT Corrective Services approved interviews with Aboriginal women and men in the Alice Springs Correctional Centre. Ethics approval from the University of NSW, AH&MRC of NSW and Central Australian HREC was conditional upon letters of support from ACCHSs or alternative Aboriginal Community Controlled bodies involved in the research. The consent provided by Aboriginal services confirmed that trusting relationships had been established for productive and results based research.

Further into the thesis project, Anyinginyi Health Aboriginal Corporation at Tennant Creek in the NT invited me to visit the ACCHS to learn more about the Barkly Fetal Alcohol Spectrum Disorder (FASD) Project developed by Anyinginyi for communities within its vast catchment area. An extension for ethics was sought from and approved by the Central Australian HREC for interviews to be conducted with workers and community members.

## 2. Establishing collaborative, respectful and trusting research relationships and partnerships for useful knowledge exchange

Having well established relationships and partnerships with Aboriginal communities and organisational representatives was critical for ongoing support of the projects and for useful knowledge exchange. My gendered, cultural and professional standing, as well as my knowledge and understanding of ACCHSs, Aboriginal Community Controlled Organisations and

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<sup>57</sup> Aboriginal Medical Services Alliance Northern Territory is the peak body for ACCHSs in the NT.

Government agencies guided the respectful and collaborative ways the researchers engaged and worked with Aboriginal peoples, communities and partnering organisations. More so, my personal, professional and cultural connections and obligations to Aboriginal peoples and communities were not misused for individual interest with the thesis project or for the sake of the larger IAMHDCCD project.

### 3. Interview and data collection that is culturally sensitive and flexible to encourage useful knowledge exchange

Interviews with partners and contributors were culturally respectful and adjusted as needed for Aboriginal people, communities, family members and service providers. For the thesis project all interviews with Aboriginal women and women supporters were undertaken by me. Flexibility with interviewing was completely necessary, because it was understood that the research did not take priority over Aboriginal people's commitments within the community such as Sorry Business, meeting times, court matters, cultural responsibilities, safety, employment and training, or health and wellbeing related concerns. Researchers empathetically worked around these and other issues, as well as ensuring contributors had personal ownership and control over their information, traditional knowledge and cultural heritage.

#### **Pilot location**

Prior to the recruitment of contributors for the qualitative interviews in the research sites, the process was piloted with Aboriginal and non-Aboriginal people drawn from a trial site who were keen to firmly establish the IAMHDCCD project and thesis project. Interview questions were tested with individuals and within a group setting and specific and immediate feedback were provided to researchers regarding the contributors' experiences. The success of the pilot study became evident when a rich exchange of knowledge between contributors and researchers emerged during the interviews. Consequently, the contributors consented for their interview material to be included in the research data<sup>58</sup>.

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<sup>58</sup> Interview material from the pilot study was used for the IAMHDCCD project only.

## **Research locations**

For the NSW study, interviews were conducted in the regional centre of Dubbo, the regional town of Moree and the remote town of Walgett located in western areas of the state. For the thesis project specifically, interviews were conducted in one women's maximum security correctional centre and a diversionary program for women offenders.

For the NT, interviews were conducted in the regional centre of Alice Springs and the Alice Springs Correctional Centre. For the thesis project specifically, the remote town of Tennant Creek was included as a site for the thesis project to examine the FASD Project developed and delivered by Anyinginyi Health Aboriginal Corporation and to conduct interviews.

Aboriginal people were a significant population in each of the sites. Three ACCHSs, two Aboriginal Community Controlled Organisations and one Aboriginal service funded by a non-government organisation to provide integrated supports for Aboriginal peoples within and close to the town were either research partners or supporters of the research.

## **Informed consent process**

There were three levels of informed consent in the projects. First, consent to participate was sought from people able to provide informed consent themselves. Second, informed consent for Aboriginal women with lower cognitive functioning and reduced literacy was attended to by using an *Easy Read Version of the Participant Information Statement and Consent Form* developed specifically for the projects. Third, for an Aboriginal woman under guardianship to become a contributor, an Information and Consent Form had been developed for Guardians, and when combined with the Easy Read Version, both forms provided all of the research information needed for both the Guardian and the woman to make an informed decision whether or not to be interviewed. Once the Guardian was confident that a woman understood what the research was about, who the researcher was, what questions would be asked of them, what would happen if they got upset during the interview, what would happen to the information provided to the researcher and what would happen if they changed their mind after talking to the researcher, the Guardian was able to give informed consent for the interview to proceed. The three levels of informed consent ensured every opportunity for women to participate if able to do so, and to protect the interests of women who were not under guardianship and/or with limited capacity to understand what was being asked of them. At the request of the NSW Corrective Services Ethics Committee, the consent form was

modified slightly to allow for those Aboriginal women in prison and those accessing the diversionary program who may have had lower literacy levels or cognitive functioning to provide informed consent.

### **Aboriginal and non-Aboriginal women partners and contributors**

Aboriginal women were recruited through partnering ACCHSs and other Aboriginal and non-Aboriginal community organisations. Frontline and grassroots workers were critical to recruitment because these workers were aware of, related to, connected with, or supporting Aboriginal women with mental and cognitive disabilities who had been in contact with police and court, either locally or elsewhere, and who had been in prison. The workers were also supporting family members and carers as needed and it was mainly the workers who informed Aboriginal women, their families and community members about the projects and had encouraged their contributions. Posters informing about the research were also displayed at the partnering organisations and at various locations in the community to seek out contributors. Potential contributors were able to contact a worker at the partnering service and receive research information, including the names and contact details for the researcher and the dates, interview times and locations that a researcher would be on site to meet with them. Interviews were typically held at the premises of the partnering organisations. There were times however when the researcher was invited by women into their homes, because the partner organisation was either closed for the day, it was more private for those women and they were in their own safe space, or they wanted to point out the realities of living in sub-standard community housing. Although all women were advised that they could have a family member or support person present at the interview, they mostly utilised workers in the community organisations due to the mutually trusted connections.

Aboriginal women imprisoned in Alice Springs Correctional Centre were recruited with the assistance of the NT Corrective Services. Aboriginal women in Silverwater Women's Correctional Centre were recruited for the thesis project with the assistance of Corrective Services NSW and in particular the female Aboriginal Regional Project Officer (RAPO) responsible for supporting Aboriginal women imprisoned in NSW. Also, residents at the Miruma Diversionary Program were recruited with the assistance of the Program Manager.

In each research location the interviews were conducted individually or in a group session. Four groups of Aboriginal and non-Aboriginal women were partners and contributors for the thesis project:

- Aboriginal women of varying ages living with mental and cognitive disabilities and involved with police, courts and prisons
- Aboriginal women family members and carers
- Aboriginal women community members where those women with mental and cognitive disabilities lived
- Aboriginal and non-Aboriginal women workers from ACCHSs, Aboriginal Community Controlled Organisations, government and non-government organisations (disability, Aboriginal health, primary health, mental health and wellbeing, criminal justice, legal, alcohol and other drugs, community services).

### **Aboriginal and non-Aboriginal women overall sample**

A total of 63 Aboriginal and non-Aboriginal women were partners and contributors to both projects. From the NT, 18 women were from Alice Springs and three women were from Tennant Creek. From NSW, 15 women were from Dubbo, 12 women were from Moree and 15 women were from Walgett. A total of 37 (out of the 63) women participated in the thesis project interviews.

### **Sample for the thesis project**

A total of 21 (NT=5; NSW=16) Aboriginal women with mental and cognitive disabilities were partners to the thesis project. The five women from the NT were interviewed in Alice Springs (3) and Alice Springs Correctional Centre (2). A total of 16 women from NSW were interviewed in Dubbo (3), Moree (1), Walgett (1), Silverwater Women's Correctional Centre (9) and Miruma Diversionary Program (2). Demographics of the 21 Aboriginal women are in Table 1.

Table 1: Demographics of Aboriginal women partners with mental and cognitive disabilities

| Age | Location                 | Diagnosis | Employment / training | Prison  | Community Corrections |
|-----|--------------------------|-----------|-----------------------|---------|-----------------------|
| 27  | Alice Springs<br>CC - NT | MHD/CD    | yes                   | yes x 3 | yes                   |

|    |                                 |                       |     |                                           |     |
|----|---------------------------------|-----------------------|-----|-------------------------------------------|-----|
| 55 | Alice Springs<br>CC - NT        | MHD/CD                | no  | yes<br>not sure of<br>no. of<br>sentences | no  |
| 20 | CAAAPU<br>Alice Springs<br>– NT | CD                    | no  | yes x 2                                   | no  |
| 29 | CAAAPU<br>Alice Springs<br>- NT | CD                    | no  | yes x 2                                   | no  |
| 23 | CAAAPU<br>Alice Springs<br>- NT | CD / ABI              | no  | yes                                       | no  |
| 43 | Dubbo - NSW                     | MHD                   | yes | yes                                       | yes |
| 41 | Dubbo - NSW                     | MHD /<br>possible ABI | no  | yes x 3                                   | yes |
| 34 | Dubbo - NSW                     | MHD                   | no  | police, court                             | no  |
| 48 | Moree - NSW                     | MHD                   | no  | police, court                             | no  |
| 39 | Walgett -<br>NSW                | MHD                   | no  | police, court                             | no  |
| 34 | Miruma                          | MHD                   | no  | yes x 4                                   | no  |
| 37 | Miruma                          | MHD                   | no  | yes x 10 (2 JJ)                           | no  |
| 25 | SWCC                            | MHD                   | no  | yes x 8                                   | no  |
| 29 | SWCC                            | MHD                   | no  | yes x 4                                   | no  |
| 30 | SWCC                            | MHD                   | no  | yes x 10                                  | no  |
| 25 | SWCC                            | MHD/ABI               | no  | yes x 4                                   | no  |
| 30 | SWCC                            | MHD                   | no  | yes x 2 (1 JJ)                            | no  |
| 33 | SWCC                            | MHD                   | no  | yes x 12                                  | no  |
| 51 | SWCC                            | MHD                   | no  | yes x 2                                   | no  |
| 38 | SWCC                            | MHD                   | no  | yes                                       | no  |
| 42 | SWCC                            | MD/CD                 | no  | yes x 2                                   | no  |

A total of 16 Aboriginal (n=13) and non-Aboriginal women (n=3) from Aboriginal families, communities, human services, government and non-government organisations, ACCHSs and Aboriginal community controlled organisations were contributors to the IAMHDCD project and thesis project. The women were related to, connected with or involved in some way with a number of those Aboriginal women who partnered with the research, as well as other Aboriginal women with mental and cognitive disabilities, and in a few cases Aboriginal men with similar conditions who were also in contact with criminal justice systems. Seven women were from the NT (4 Aboriginal; 3 non-Aboriginal) and nine women were from NSW (9 Aboriginal). The demographics of the 16 women are in Table 2.

Table 2: Demographics of Aboriginal and non-Aboriginal women supporters

| Aboriginal | Non-Aboriginal | Location | Aboriginal families and community | Aboriginal Community Controlled | Govt agencies | Non-Govt agencies | CJS |
|------------|----------------|----------|-----------------------------------|---------------------------------|---------------|-------------------|-----|
| 1          |                | NT       |                                   | yes                             |               |                   |     |
| 1          |                | NT       |                                   | yes                             |               |                   |     |
| 1          |                | NT       |                                   | yes                             |               |                   |     |
| 1          |                | NT       |                                   |                                 |               |                   | yes |
|            | 1              | NT       |                                   |                                 |               |                   | yes |
|            | 1              | NT       |                                   |                                 |               |                   | yes |
|            | 1              | NT       |                                   | yes                             |               |                   |     |
| 1          |                | NSW      | yes                               |                                 |               |                   |     |
| 1          |                | NSW      | yes                               |                                 |               |                   |     |
| 1          |                | NSW      | yes                               |                                 |               |                   |     |
| 1          |                | NSW      |                                   |                                 | yes           |                   |     |
| 1          |                | NSW      |                                   |                                 | yes           |                   |     |
| 1          |                | NSW      |                                   | yes                             |               |                   |     |
| 1          |                | NSW      |                                   |                                 |               | yes               |     |
| 1          |                | NSW      |                                   |                                 |               |                   | yes |
| 1          |                | NSW      |                                   |                                 |               |                   | yes |

### Interview procedures

Data collection was through individual face-to-face interviews at a location agreed to by the women. As the researcher I had been trained in the use of the Interview Schedules, Participant Information Statement and Consent Forms and a recording device. As a Mental Health Social Worker, I was aware of the intervention and/or referral procedures to be used should a participant become distressed before, during or after the interview. As the researcher I asked questions and scribed responses. During and after the field work I accessed advice from a Chief Investigator. The interviews were semi-structured and took 30 to 150 minutes to complete. The information was recorded and also logged on paper using a template designed to capture unique responses, researcher reflections and issues requiring follow up as needed. Two Interview Schedules were designed to meet the needs of the participant and there was flexibility in the delivery of the questions outlined in the Interview Schedules based on the complex needs of the person and any related issues identified by the contributor and researchers.

## **Interview Schedules**

Two Interview Schedules were developed for interviews with individuals and for those participating in a group session. Schedule 1 provided a framework for interviewing Aboriginal women with mental and cognitive disabilities. It was designed to meet the needs of those with low cognitive functioning and reduced literacy. Interviews were conducted in three parts:

- Involvement with criminal justice systems and support needs, including assistance received, effectiveness of assistance, assistance not received, what assistance would have helped and how
- Life course experience and associated support needs, including assistance received when a child/ an adolescent/ an adult, what assistance was needed, how would that assistance have helped, current assistance being received, effectiveness of assistance, assistance needed now
- Any other questions and closure of the interview; opportunity to share other things thought to be important or what people should know about to help Aboriginal people to have better lives and to stay out of prison.

Schedule 2 provided a framework for interviewing family members, community members and service providers. Interviews were conducted in three parts:

- Experience and perception of people with mental and cognitive disabilities and their involvement with criminal justice systems, including the impact on family/people you know/people who use your service, effects on individuals/family/community, demands on services, types of services provided, identifying problems and causes, community responses to people with mental and cognitive disabilities, impact of criminal justice systems on those people/ their family/their community, service providers
- Types and level of support and interventions, including assistance received for individuals/family/community from agencies, effectiveness of assistance, assistance not received/absent, gaps in services, filling the service gaps, successes/needs/challenges
- Any other questions and closure of the interview; opportunity to share other things thought to be important or what people should know about to help Aboriginal people to have better lives and to stay out of prison.

Interviews conducted with those contributors in the community were recorded and transcribed verbatim into Microsoft Word. A recording device was not permitted in the NT and NSW correctional centres. Therefore interview responses from women in prison and at the Miruma Diversionary Program were recorded (by writing) directly onto the Interview Schedule.

### **Working with a local cultural consultant and language interpreter**

For the NT, a local cultural consultant who was also a trained language interpreter was utilised as needed for the interviews. The consultant was fluent in the English language and a number of Aboriginal languages spoken in the local and surrounding areas. They were a respected Elder and Board Director with an Aboriginal Community Controlled Organisation who was a project partner and had previously worked in the local court. Prior to the interviews I met with the interpreter to discuss cultural practices and protocols and to establish an agreed interview process. At the completion of each interview the interpreter checked that the interviews had been recorded and logged accurately.

### **Field notes**

My experiences and observations during time spent in the field were frequently noted. This reflexive practice allowed for a concise interpretation of everyday events, service systems, episodes and relationships between individuals and agencies in each of the diversely located research sites. This included times, locations, reasons, activities and interactions during an event and the focus and purpose of the field work. The key people and their expectations of the research, innovative or ineffective practice, and personal reflections and feelings during and after the field work were summarised.

#### **4. Review and analysis of qualitative data, reporting of results and feedback**

The qualitative data and transcripts of the interviews were read several times and analysed thematically using the methodological approach which was attuned to the lives and realities of Aboriginal women. This analysis was conducted in conjunction with field notes. As I was listening to the women's voices, recalling their faces in my mind and reflecting on the discussions in-depth, I needed to take my own feelings and insights into account due to the sensitivities of the interview text regarding the lives of these Aboriginal women and the experiences of women supporters, as well as the knowledge we shared of mental health,

disability and criminal justice systems. As a result, there was some degree of expectedness about the knowledge to arise from the analysis. A 'general inductive approach' was used to find repeated meanings and constructs in the text, which were thoroughly examined and coded and categorised using paper and pen methods to enable major themes or narratives to be accurately identified and understood (Thomas 2003, 2-3). The thematic analysis derived from my intricate knowledge and processing of the data resonated with what was important to the Aboriginal women who partnered with the study and with the views of support women in their families and communities and those in the prison system.

The thematic analysis was shared with two trusted women academics with interests in the study to examine the themes that had emerged from my analysis. After rigorous discussion with the women and an agreement reached, I was more self-assured that I had understood how to interpret the data and that the divergent themes established from the analysis were appropriate. The contributors' experiences were captured using verbatim quotes. For example, what Aboriginal women with mental and cognitive disabilities had said about their lives as children and adults; families had said about the lives of women and assistance received or not received from services; and workers had said about the demands on services by Aboriginal women with mental and cognitive disabilities and complex support needs.

### **Reporting of new knowledge: 'Our First Go at Listening Up'**

An interim community report *Our First Go at Listening Up* was prepared for each of the sites by the IAMHDCCD project team. The report summarised how the research was conducted in those communities, including the numbers of participants interviewed, the service providers interviewed, numbers of Aboriginal people interviewed as service providers and community members, the interview results and where to next with the study. I returned to each of the communities to report and present the findings, receive feedback and thoughts on the findings and, if validated by the community, include the findings into the final report. Aboriginal and non-Aboriginal people who partnered with and contributed to the projects and other community members attended the reporting sessions.

The project team was commended on the interim reports and timely reporting back of the findings. The results were positively received and specific and useful feedback was provided. One Elder requested that words like 'might, possibly, probably, maybe' to be removed from the report because they felt that being 'cautious' in this way did not reflect the reality of the

Aboriginal community. The Elder also requested that the report reflect what the researchers were told verbatim by the community. While a few people felt that the report needed to be more critical otherwise the 'message from the community would be lost' and may bring little benefit to the community, many more people commented positively on the accuracy of content and felt the projects were 'good research'. Since the interviews there had already been positive change within two communities: the resumption of a Cell Support Program with the police; discussions between Justice Health nurses working at a local court and police regarding mental health issues in the community; a referral to Circle Sentencing by one magistrate; and Elders and Community Development Employment Program (CDEP) participants coming together and successfully lobbying Government for the program's extension to secure employment and training for younger people.

#### 5. Development and presentation of resources and final report

The interim community reports were developed into four volumes of *Education and Advocacy Resources*. Key emergent themes from the interview data, including the criminal justice system; disability and health; and family and community capacity were collated into resource booklets and presented to each of the communities. Many of the contributors attended the launch of the resources and other interested community members. The four volumes consisted of:

1. *Indigenous Australians with mental health disorders and cognitive disability in the criminal justice system* – the community and criminal justice cycle; recognising Aboriginal people with MHDCD; connection between cognitive impairment and the criminal justice system; the experiences of Aboriginal people with MHDCD in the community and criminal justice system; contact with police, courts, sentencing; post-release; keys for change – inclusion and support, person-centred care, dignity and wellbeing.
2. *Mental health disorders and cognitive disability in your family and community* – understanding MHDCD; challenges for the family – elderly carers, housing, financial assistance, post-release, crisis, multiple agency contact, stress from unstable home environments, peer pressure from the family; keys for change – self-determination, education, access to resources.
3. *Servicing and Supporting Indigenous clients with MHDCD* – systemic and structural factors – service silos, systems of control rather than care and support, the notion of

risk; keys for change – person-centred care, holistic and flexible approach to care, integrated services, self-determination.

4. *Indigenous Australians with mental health disorders and cognitive disability in the criminal justice system: Alice Springs* – courts; incarceration; disability and health; family and community capacity; keys for change – integrated services, person-centred care, access to resources, education, respect, inclusion and support, dignity and wellbeing, self-determination.

*A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system (2015)*, was the final report developed from the IAMHDCD project with solutions from the communities. The report was presented to the research sites, Australian Research Council and Ethics Committees. This thesis project focusing on Aboriginal women is the final part of the IAMHDCD project.

The bringing together of the interviews specific to this thesis and their categorisation and thematic analysis demonstrated the power of the theoretical and methodological approaches taken. The importance of critical disability criminology and an Indigenous women's standpoint framework was seen when Aboriginal women who partnered with the study in each of the communities attended the reporting back sessions and validated their knowledge with those 'who think just like them, who share in their struggles and dreams and who voice their concerns in similar sorts of ways' (Tuhiwai-Smith 1999, 16).

## **CONCLUSION**

This chapter described the mixed methods used for data collection and useful knowledge exchange to better understand the research area. The quantitative and qualitative methods used for the thesis project and much larger IAMHDCD project overlapped because of the integration of the two projects. Cultural and professional integrity were embedded into the five stages of the research and respectful engagement and connections and negotiations with Aboriginal people, communities, organisations and other critical reference groups before, during and after the research were fundamental for gathering evidence and for ongoing relationships. The continuing collaboration between DEG at Walgett and the University of NSW with local projects to bring benefits to the Aboriginal community is a good example of transformational research. The final report from the larger project included solutions from the

communities to help prevent Aboriginal people with mental and cognitive disabilities from interacting with criminal justice systems, and this thesis project is the final part of the results based study.

The following four chapters (6-9) discuss the findings of the research *But-ton Kidn Doon-ga: Black Women Know – re-presenting the lived realities of Australian Aboriginal women in criminal justice systems*.

## **CHAPTER 6: VOICES AND INSIGHTS OF ABORIGINAL WOMEN PARTNERS**

A critical analysis of the interviews conducted in this research project suggests a new way of understanding the lived realities of Aboriginal women with mental and cognitive disabilities who are involved with the New South Wales (NSW) and Northern Territory (NT) criminal justice systems. A large number of the Aboriginal women who willingly consented to be contributors were in custody at the time of the interviews. The approach I used to open the way for the 21 Aboriginal women who partnered in the study to enable them to share their rich information was one that was responsive to their needs and wishes. I used one way, and then another, so that I could gain a clear perspective of the women's lives as they saw them, at least for the time I was with them. My level of engagement with the women, interviewing style, reactions to responses, use of appropriate humour and support and suggestions, when I was asked for them, all varied and were grounded in my experiences in the short time that I had spent with each woman whether she was a prisoner under guard, or as a parolee, or on bail awaiting a court hearing or as a mother living in the community. My approach was adapted to the specific circumstances for each interview all the while ensuring that I was being culturally and gender responsive.

This chapter begins with a brief summary of the two themes that emerged from the categorisation of the interview data. The first theme is elaborated in detail with the other theme discussed in the following chapter then expanded using the voices and insights of the Aboriginal women partners in this study.

### **THEME ONE: MANAGEMENT AND CONTROL OF ABORIGINAL WOMEN**

The first theme that emerged from the data related to the *management and control of Aboriginal women*. For these Aboriginal women with mental and cognitive disabilities, authority and agency over their lives from the time they were young girls until adulthood were stifled by the might and strength of members of their families, intimate partners, human services staff including those in mental health and disability, police, magistrates and courts, juvenile and adult prison systems; they were also controlled by addictions to alcohol, tobacco and other drugs.

These difficult and challenging experiences are consistent with experiences related to trauma. As defined by Aboriginal woman and academic Judy Atkinson whose notable work in the

generational trauma and healing of Aboriginal individuals, families and communities, trauma is an 'event or process which overwhelms the individual, family or community, and the ability to cope in mind, body, soul, spirit' (Atkinson 2002: xi). As outlined in Chapter three, Heffernan and Anderson's (2014) comprehensive and culturally informed study had found that more than half of the 116 Aboriginal women interviewed in Queensland's largest women's correctional facility had Post Traumatic Stress Disorder (PTSD). Moreover, most of the women had lived with the condition for the majority of their lives. They were also twice as likely to have been in prison as those without PTSD. A key message from the investigators was that the women's realities of either unresolved or persistent trauma had been central to the development of PTSD in incarcerated Aboriginal and Torres Strait Islander women and their high rates of mental ill-health.

However the majority of women in this current study did not see their lived realities of management, control and violence to be trauma related nor did they see themselves as victims of trauma. In fact the association between their lives and trauma was rarely discussed at all. One possible explanation for this is that elements of lived trauma may not have previously been identified for or with them by a skilled trauma practitioner. The need for trauma specific care and practice across all human services systems is still often not viewed as pivotal by service providers and in particular the mental health field. Since the first conference on this area of practice was held in 2011 by the NSW Mental Health Coordinating Council, there has been very little ongoing promotion of trauma specific care by government and non-government health services leading to systemic change. Therefore it is more likely that the cultural strength and resilience of these women in adapting to and overcoming traumatic life events and imprisonment in particular are intrinsic protective factors. Perhaps the best possible explanation though, is that the unhealed trauma and repeated trauma experienced had not been worth telling about or awful enough because the women had not viewed these abnormal life events and the disastrous effects on their minds, bodies and spirits as anything other than 'normal'.

As other researchers have identified, many of the women identified that the almost complete loss of control over important aspects of their lives and their bodies, feelings and thoughts had the greatest impact overall in impeding them from leading independent lives (Gregorowski and Seedat 2013). The women's exposure to multiple traumas over their life-course (complex trauma), had left them with little sense of safety and stability in their lives. These experiences

are in keeping with the perspectives of Gregorowski and Seedat regarding developmental trauma. The academics explain that exposure to ‘multiple, cumulative traumatic events, usually of an interpersonal nature during childhood which results in developmentally adverse consequences’ can lead to altered ‘expectations of future re-traumatisation and absence of care and protection from others (Gregorowski and Seedat 2013, 105-106). The complex trauma, and most likely the developmental trauma, had limited their ability to make their own decisions, to focus on mothering and parental responsibilities, to have a home and choose where they could live, to find employment, and to establish security around relationships with family; it also affected their abilities to access places and people who could provide appropriate supports when and where needed.

## **THEME TWO: SEGMENTING ABORIGINAL WOMEN**

The second theme to surface from the data analysis was *segmenting Aboriginal women*. Largely the lives of women had been divided into manageable and unmanageable issues. Women had very limited access to culturally sound, holistic or wrap around support services to deal with their multiple needs due to a lack of supports and care coordination between services. This segmentation of women’s lives instead of centring on the whole woman and providing aid for all issues, complex or otherwise, had been a precursor to women having contact with criminal justice systems and prison. With the exception of a number of Aboriginal community controlled services and a few mainstream non-government organisations, the women did not access timely interventions and comprehensive services in the community or government sector (safe housing, counselling, legal, child and family wellbeing and mental health and disability services in particular) in any regular or systematic way, and in fact had no connection with any service or professional. This was because they were either not aware of their needs, or if they did know, they had little knowledge of which generalist and specialist services were available or where to find them. In the cases where services were provided, the support was slivered, partial and lacked consistency or longevity.

To be clear, the theme segmenting Aboriginal women is an analysis of how services, funded by governments, respond to meeting the complex support needs of Aboriginal women with mental and cognitive disabilities involved with criminal justice agencies. Most services, despite having performance agreements with governments, are culturally deficient, not engaging, do not employ Aboriginal workers or consult with Aboriginal people to shape services. They are therefore ineffectual in making a positive impact and can bring further distress to already

scrambled and traumatised lives. On a larger scale, these services are infecting many Aboriginal communities. Those services claiming to be culturally competent because they have Aboriginal people working on the frontline do not go any further and embody cultural competence or responsiveness into their organisational infrastructure or systems. Their failings lie with poorly designed and lower quality policies and processes which do not address the complete needs of women and result in those services segmenting Aboriginal women to address their own corporate and agency needs and meet their performance indicators.

The following section addresses the first of the two themes: management and control.

## **THEME ONE: MANAGEMENT AND CONTROL**

In broad terms 'management' had many guises and was imposed in many different contexts. Fundamentally it was an imposition of power and control by others, stripping the women of self-determination, self-respect and decision making. This is not to say that women had no control over their lives but that their decisions were highly constrained by the way in which they were managed and controlled. For example their relationships, where they had lived, where they could travel, education and income levels and access to services had often been determined by others who used power, threats, violence, sexual abuse and rejection to control and manage these aspects of their lives. For some women this management and control had also been prolonged, beginning in childhood and continuing into adult life. From a young age they had lacked adult support and had been exposed to many forms of violence from their families and in communities. The experiences related to trauma, had become normalised in their lives, and included mental ill-health and co-existing difficulties such as alcohol and other drug use, criminal offending and linkages to the criminal justice system.

### **Beginning from a young age: 'lots of drama'**

A multi-storied life of management and control existed for just over half of the Aboriginal women interviewed with mental and cognitive disabilities. Multi-storied is an appropriate interpretation of these women's lives due to both the magnitude and complexities of their experiences across the lifespan. This management began when they were young girls, and was depicted through their exposure to 'lots of drama' and the 'norm' of serious violence and drinking of alcohol in the family home by adults. Living in a ruptured and unstable home environment as a young child and exposure to alcohol and violence by neglectful parents, adults and caregivers was a violation of their safety and trust. The lack of protection in the

home when they had been children resulted in many experiencing sexual abuse from male family members or those they knew closely, or when they had been taken from their families by child protection authorities and placed into out of home care. Some of the men who committed these serious sexual offences were charged and jailed; others were not. Also when young, a number of women left home voluntarily seeking relief from ongoing violence and abuse. One interviewee, who escaped an intolerable family situation when still a primary school aged child, was placed in foster care and managed by the state. The state however did not fulfil its statutory obligations under her care plan, resulting in her living on the streets by the time she was an 11 year old. She then 'hooked up' with an older man who later introduced her to drugs and amphetamines. So from being controlled by family in an unsafe home to being controlled and managed (but in fact neglected) by the state, this woman, a girl at the time, was next controlled by this older man. Another Aboriginal woman who was on parole, explained that when she was 12 years of age and 'visible to police', because she was always hanging out at the river bank with friends, was 'charged as being an uncontrollable child' after being caught shoplifting and getting into some trouble at school. Another who had been in and out of prison over a 12 year period due to her mental ill-health and who was out on parole explained that as a child, she was in and out of psychiatric hospitals 'trying to get help' for her 'mental illnesses'. She did not however, receive appropriate and long term psychiatric treatment or social support and the only coping strategy available to her was the use of alcohol and other drugs.

I've been in and out of psych wards myself, trying to get help; but obviously they didn't know how to treat me or what to treat me for at the time, when I was younger. I've actually committed [attempted] suicide three times in younger years due to my mental illnesses. Because I knew there was something wrong, but the doctors didn't know what to do with me, so they just sort of – I fell through the hoops.

On a positive note however, just under half of the Aboriginal women had memories of happy childhoods and felt they had a good upbringing by parents and family. One woman elaborated that her mother and father were the 'perfect parents'. Three of the women who were raised on Aboriginal missions recalled how they had learnt bush survival skills, hunted for foods like rabbit, goanna and kangaroo and cared for Elders; all strengths of a good family. For three of the women, attending school when they were young was remembered as a good time in their upbringing. However, very few spoke about their educational experiences at all.

### **Violence: 'taken big fellas' hits all my life'**

Violence was an effective tool of management that had been unsparingly used to attack and break the bodies, minds and spirits of many Aboriginal women who participated in the study. Sixteen of the 21 women experienced both physical violence and mental and emotional abuse from male carers in group homes, intimate male partners, fathers, Aboriginal men and women in their families, and from other Aboriginal men as well as Aboriginal women in the community with the violence being perpetrated repeatedly over many, many years. Almost all of the acts of violence described were both extreme and life threatening such as being stabbed, drugged, held hostage, serious threats to cause permanent harm and revenge with property damage. The assaults experienced by one Aboriginal woman who was in a correctional diversionary program were particularly brutal. She regularly had 'black eyes' and there was 'always blood drawn' by the aggressors. One of the women on parole was likely to have sustained an acquired brain injury due to repeated violence from men:

Probably a lot of punches in the head from fights from men. A lot of punch ups. Everyday. Even at school, I used to bash the bullies. I've taken big fellas' hits all my life.

Even where Apprehended Violence Orders (AVOs) were granted against the perpetrators of serious violence towards these Aboriginal women, the women lived in constant fear and had 'no safe place'. One woman, a grandmother, in prison with mental ill-health and complex trauma described how she 'was always on edge' after years of extreme violence from a male partner who would always 'chase' her down when she tried to get help or leave. However, after being held in the house by this man and despite having had two AVOs against him, the authorities did very little to protect this Aboriginal woman who said:

AVOs meant nothing; they were like a red rag to a bull and didn't block the punch.

Another woman had been held against her will, drugged and sexually assaulted for days on end by a known male person who was later imprisoned for this serious crime. Soon after and while suffering PTSD, she experienced ongoing violence and threats from family members for other issues. Despite there being an AVO in place against one male relative, she was assaulted in public and in front of the police, had a new car burnt and destroyed and felt forced to shop for groceries 80 kilometres away for her own protection and security from the violence in the community. An Aboriginal woman from another community was constantly taunted and 'bitched at' in public by other Aboriginal women after an incident in the community involving her family. For the majority of women, the violence and trauma experienced from a young age

when in the home, within the family, throughout relationships and witnessed between family and community members was so prolonged it became normalised in their lives. Moreover, again as others have observed, the symptoms of trauma related to behavioural, cognitive and relational functioning had not been addressed because the trauma was so common in their lived environment (Gregorowski and Seedat 2013).

Not unexpectedly, almost half of these Aboriginal women became aggressive and serious violent offenders themselves. One Aboriginal woman in prison justified her aggression by stating 'anger is a strong emotion, it gets things done'. Due to their violent acts some women also had AVOs placed against them by family and community members; others also breached these AVOs and were imprisoned because of their viciousness towards others. The violence included knife stabbings, unrepairable damage to public housing, malicious property damage and assaulting male partners who were jailed for their counter-attacks and retaliation.

I was very violent. I grew up with domestic violence in our family. I knew it was wrong, but I suppose it's just what I thought was the norm. Like that's the way life was. I've been through domestic violence in three of my relationships with blokes. I just put up with it because I thought it was the norm. Because I grew up around it and a lot of my aunties and uncles used to do it...when I hit 18, I quietened up a little bit and settled down a bit and stopped getting myself into trouble. Not that I stopped getting into trouble; I just stopped getting caught...that's the big difference.

### **Drugs: 'took over everything'**

Illicit and highly addictive drugs that could cause long-term physical and mental health issues were frequently used by more than half of the women. Drug use became another controller in their lives. The use of drugs was also much more common among women living in NSW. Many women's drug use began when they were young adolescents and drugs of choice included amphetamines (including 'ice' or crystal methamphetamine), cannabis or pot, heroin, cocaine and prescription medications. One Aboriginal woman in prison began smoking cannabis when she was young as a way to become close to her father, who would often ask his young daughter to 'go and get daddy's bong and bowl'. Her father was also her supplier. Similarly, another woman started using drugs because they were used by the family. A 25 year-old Aboriginal woman and mother in prison explained how she used drugs after the sniffing of Rexona deodorant aerosols at 14 years of age had damaged her brain leaving her with acquired brain injury. She had also been sexually abused as a child by a member of her family.

A small number of Aboriginal women were introduced to drugs such as cannabis, heroin and stimulants by older male partners who also fed and clothed them, but were abusive. Once hooked on drugs, they put up with the abuse to have ready access to drugs. Other Aboriginal women said they self-medicated with drugs to control their mental health issues and the substance misuse collided with their mental illness and devastated their ability to function.

Five women had started their drug use with pot and then progressed to heroin, with one woman recalling how she had spent two thousand dollars a day on her addiction. A number of those who had been addicted to heroin went onto the substitute drug methadone. One woman had been on methadone to manage her addiction since she was 15 years old, while another who had been on methadone for eight years got herself off it in her own 'smart' way because she found it was an ineffective drug treatment:

I was just over liquid handcuffs. More or less, I was in jail...that's what it is. Because you can't arrange to go places with your kids. You can't go camping. You can't do anything because you've got to go and get your dose, otherwise you're sick.

Many Aboriginal women were affected by or 'out of it' on drugs such as 'ice' when they offended, which had led to their imprisonment. Women also continued to use drugs when sent to prison, after release and while on parole. One woman stated that her life has 'always been drugs' and drug use 'took over everything' in her life. Similarly, another 25 year-old Aboriginal woman and mother explained how she wasn't interested in seeking any help for her addictions because she 'just wanted drugs'; however when faced with another prison sentence she accessed the Drug Court to get the help she needed to get off amphetamines. However, after a risk of self-harming behaviour she was exited from the program.

### **Alcohol: 'led to further police contact'**

Harmful consumption of alcohol or 'grog'<sup>59</sup> was common among the Aboriginal women interviewees with alcohol being a controlling agent in the same way that other drugs were. One third of women who were drug users also drank alcohol. Similar to their drug usage, drinking of alcohol started at a young age for the majority of these women. Some of the women had a family background of alcohol, with parents drinking excessively in the home. One Aboriginal woman and mother who was on bail had been off the grog for many years, but

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<sup>59</sup> 'Grog' is a term used for alcohol.

her male partner was still a problem drinker and was in prison for alcohol related behaviour and crime leaving her to be the primary carer for many young children. Although alcohol use during pregnancy was not a question asked of any of the Aboriginal women, three women (and mothers) offered that they drank while pregnant. Alcohol overuse for a few women just led to further police contact, with women being charged for driving while under the influence of alcohol and losing their licence as a result. It is interesting to note that for Aboriginal women living in the NT specifically, the 'humbugging'<sup>60</sup> (pestering) by family and others for money to be handed over so they could buy alcohol and other items was a consistent annoyance and safety concern. For other women, there was continual drinking of alcohol on top of their medication, which had more damaging effects on their mental health and brain.

I know that slows the brain down or such when you have medication and you throw alcohol or drugs on top of it. So that's where I've failed in my life. But I wish I just learnt – been able to see clearer when I was younger or been able to see the next five years or the next ten years...they all said to me "you're going to make mistakes and whatever if you drink". Drinking is terrible for you with the brain injury and having medication on top of it. But I just wanted to rebel against that, what they were saying to me.

### **Police: 'they think they have the right to hunt and abuse'**

Contact with the NSW Police Force and NT Police was a negative experience for the majority of Aboriginal women with mental and cognitive disabilities. Police managed and controlled many aspects of their lives. For a small number of women, their first police contact was as an adolescent; however for another woman who had left home before she was 16 years old, there had been no intervention from police authorities at all.

One woman from the NT who self-identified as having an acquired brain injury with 'cognitive difficulties' and who had been diverted from prison into an alcohol residential program, explained articulately how her contact with police was an uncertain and troubling experience:

...there was always times when I would be uncertain because I know what they (police) do to Aboriginals here in Northern Territory; some of the male workers and stuff...I was scared...I know that they're rough with people. I have experienced a rough time myself, but that was in Sydney. I had bit a chunk out of a copper's hand...so I understand she was upset with me. Yeah, she basically just drove me out from

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<sup>60</sup> 'Humbugging' means to continually hassle family or others for money and items.

Chatswood to Hornsby Station; it's a long, windy, bumpy kind of road. She was just very aggressive. So I was getting chucked here and there. But the things they do here (in the Northern Territory) are unpredictable...like with that young Briscoe<sup>61</sup> fella...it kind of hurt us to think that they can still do that...like bashing people in the cells and stuff; that's not on...getting away with it. For lawyers and magistrates to stick up for them and say they were just doing their job? That's not fair. As long as we're not getting listened to, we're not going to change our bad behaviour or stuff like that. It gets better in time, talking about it.

Another Aboriginal woman with a cognitive disability imprisoned in Alice Springs Correctional Centre, was quite upfront about her experiences with police. Although she wasn't from the NT and English was her second language, she was frank that 'police no good here, get locked up here'. Three months after she had been released from custody she had returned to prison when police attended an event where she had wounded a woman from her own family. When the police questioned her about the stabbing offence she told them to 'take her to hospital and I'll go to jail'.

One Aboriginal woman in NSW stated that members of the Police Force had not acted appropriately in her home when she had been arrested, afterwards at the police station nor when placed in police cells.

Yeah, they charged me...I said to police, no word of a lie, I walked down to (my bedroom), I said can you hold on, because I had no dress on...I needed to put something on warm. When I was down there, the policewoman was standing there...watching me to get changed. They said I was "under arrest"; they couldn't leave me. So I didn't mind a woman coming down here. But the man walked in as I was putting my bra on. He just stood there. Then he said "oh, sorry". I had to pull one of the cupboard doors open so he couldn't (see me)...so I could put my bra and that on.

When this Aboriginal woman reached the police station she was put into a small cell despite advising the officer that she suffered from asthma when anxious and was unable to be in closed spaces due to a recent traumatic experience that had left her fearful of being shut in.

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<sup>61</sup> In 2012, Aboriginal man Kwementyaye Briscoe was taken into police custody in Alice Springs for being drunk in public. He was later found dead on the floor in the police cell.

Another Aboriginal woman was not allowed to change from her pyjamas into street clothes when arrested early one morning in her home. Although arrested for committing two offences, she had not been given the opportunity to make a statement about either event. She was taken to the police station and kept in a cell until 3.00PM that same day before appearing before the circuit magistrate in her pyjamas. Before doing so, she had to telephone family to bring her a jumper to place over her top because she was not wearing any under clothing. The woman thought that she was going to be sent to prison until her lawyer defended her case by stating that it had been 15 years since she had last offended.

I was getting the kids dressed for school at 20 past 8 in the morning... (the police) knocked on the door. I opened the door, they walked straight in. I said excuse me, you can't barge in here. I'm getting my kids dressed for school. They said "yes, you're under arrest". I said hang on, can I just ring me mother or me sister to come and dress me kids for school? Took me with me pyjamas and my kids, my little babies are standing at the door going mad. I said you've got to give me time...I think it's very unfair how they treated me...all of this is putting me through a bit of a spin at the moment.

In both NSW and the NT Aboriginal women with mental and cognitive disabilities were critical of police behaviour and actions. Women said: the police made subjective reporting and recording of events; police 'lost' files or they were missing; police did not provide protection from violent offenders or intimidation from community members and in fact played families off against one another to inflame division and conflict that had not been sorted after years and is now intergenerational.

One young Aboriginal woman who had been in prison four times in 12-months boldly stated 'police hate me, I can be an angry person' and another responded that there would be 'no way in the world' she would go to the police for anything, mainly because the police system needed 'repeat business', or when you have a criminal record, the police want you to 'come back again'. Other women articulated that individuals and families were targeted by police or they weren't there to help them possibly because of their known 'last name'. This comment related to Aboriginal individuals and families with the same surname often being known to police and other authorities. It is also quite common to find Aboriginal prisoners with the same surname to have family connections; sometimes across generations of families.

Once they (police) know you, they're on your back. I've got police coming over actually at my sister's at the moment until I move into my house watching me. Where there's no need. There's no need.

### **Courts, Magistrates and Lawyers: women didn't understand what was happening**

The court system was familiar ground to many Aboriginal women from a young age and became another form of management and control. One woman explained how she had first entered a courtroom as a young child for assaults on adults and malicious damage of property. She was then in and out of court because she 'wasn't a normal ten year old kid' due to her violent and repeated assaults on children and adults. Her exposure to ongoing violence in the home from a young age and undiagnosed and untreated mental health issues could help to explain her aggressive behaviour. Another woman stated that she had always been in courts for minor offences such as drug possession, shoplifting and assaults.

On the whole Aboriginal women had very little confidence in the court system and were particularly critical of the processes used by many circuit magistrates who travelled to remote towns. Aboriginal women from a remote town in NSW explained that different magistrates had come into their town for three to four days to make quick decisions about those living in the town, despite them not knowing what was actually going on in that town. Often what the magistrates were dealing with in the courtroom was quite different to the reality of the situation. The women asserted that the 'big boss'<sup>62</sup> who sat on the bench, all powerful, was insensitive to and ignorant about what it meant to live in their remote town.

I reckon we need a new judge, not the same one that comes out here. We need a judge that knows. I heard this judge say to people here, Aboriginal women and men, "I don't want to see your face back in this courthouse". I reckon that's a bit harsh. What if you're going back in there, you could be having an AVO with somebody else. He's still going to see your face there. What's going to happen then? He's going to have police after you with a warrant...

Other Aboriginal women also from NSW told about the lack of support when attending court and reported that not all their background or circumstances had been taken into account by the magistrate when sentencing the women. For example the magistrate was going to rule on an AVO matter without one woman being present and adjourned the case only when the Aboriginal Court Liaison Officer had intervened on the woman's behalf. As a result, this woman

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<sup>62</sup> 'Big boss' refers to the non-Aboriginal male Magistrate.

was able to seek legal assistance and support elsewhere in order to attend the hearing. Another woman who was charged with 'assault police' was sentenced without the magistrate considering her 13 years as a victim of repeated acts of violence by her partner. She received a good behaviour bond but was fined thousands of dollars that she was still paying off many years later. Another woman explained how the sentencing magistrate was going to send her to prison until made aware of the Miruma Diversionary Program (a NSW correctional diversionary program for women with mental health and substance use disorders and dependence).<sup>63</sup>

Most of the Aboriginal women living in the NT faced additional barriers in the courts with regard to speaking and understanding English, as for most it was second or third language, and in accessing interpreters. The women interviewees explained in their own words, through an interpreter, that they didn't understand the English or legal language spoken by the white magistrates and lawyers in the white courts. Interpreters were not provided in all court settings and so they had no idea what was being decided about them or happening to them, nor did they have an opportunity to tell their side of the story.

There was no Aboriginal people involved (in court). What I'm saying is interpreter to help her to make her understand. There was white people all the time, white lawyers talking to her and going into court and to talk for her. Which isn't right, I reckon. They should have interpreters there all the time.

The majority of women from both NSW and NT had their matters heard in the local courts and were represented by lawyers from Aboriginal Legal Services (ALS) and Legal Aid. A NSW woman on parole however, who had paid for legal representation from the private sector, had her matter heard in a metropolitan court and not in the regional area in which she had committed her offence:

I was looking at 25 years...I had a really slack solicitor that did nothing for me. Didn't talk for me. So I thought I'm going to get a Sydney barrister. My mum actually rang the Parliament House because of how they were treating me in the system, as well as how the solicitor was treating me here...they gave her the name of a barrister and he

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<sup>63</sup> Corrective Services NSW promotes that Miruma (My-room-a) is a 'traditional Wanaruah name meaning "to take care of, to protect and to keep from harm"'. This is not correct, and there has been no discussion with the Wonnarua traditional families regarding the naming of Miruma. I was going to work at the Cessnock Correctional Centre one day and noticed the Miruma signage in the yard of one of the old departmental homes that had once accommodated officers. I went into the building and asked what Miruma was and what the language represented. The new workers did not know and I was advised that the name had been chosen by 'someone in Sydney'.

fought. He was really good. He got it brought down and I only ended up doing four and a half years.

Close to half of the women were represented by an ALS or Legal Aid. Almost all of the women reported that they had been assisted by these agencies and one woman with a cognitive disability described the support as 'helpful'. Another woman stated that she had received a shorter prison sentence and parole time because of her lawyer's efforts. However, another who is a mother was given a two year suspended sentence for shoplifting while high on drugs. This woman identified that the lack of access to a 'proper solicitor' that 'doesn't charge' had impacted negatively on the court outcome.

I was saying to him (the solicitor) this is wrong. This didn't happen. But he said "no, the more you – the quicker you say yeah, whatever, the quicker you'll get the kids back". So I just agreed with everything just to get it quicker, to get my kids back. The solicitors here, when I try to go to Legal Aid, they say "no", they won't because (partner) seeing them. So I can't see them, even though (partner) wasn't seeing them for the kids, he was seeing them for a court matter, like jail, I couldn't see Legal Aid...now I've got to go to a proper solicitor...even though he's not even going for the kids or trying to get them back or anything like that, I can't see Legal Aid because of conflict of interest...then when I did have a solicitor, when I went back to see her, she said "no, she's working for DoCS" ...now I've got to find another lawyer that doesn't charge...it's me that's doing it.

After doing as she had been told by the solicitor some of the children were returned to her, but had been removed again when her violent male partner was released from jail and had returned to her home still acting out his violence.

The responses from Aboriginal women living in the NT about legal representation and support were similar to women in NSW. One mother assisted by Legal Aid was diverted from prison to the Central Australian Aboriginal Alcohol Programs Unit (CAAAPU), an Aboriginal community managed residential rehabilitation service in Alice Springs that helped Aboriginal women to overcome their alcohol addiction in a safe and secure setting. Another woman, however, with a cognitive disability, explained how the Legal Aid lawyer was a 'no good lawyer' because 'he said go to jail' (plead guilty) for her offence.

It is evident, from the women's stories, how courts via magistrates and some lawyers, continue the control and management begun for some by violence in their families, for others by early

introduction to alcohol and other drugs and for others by the police. For all these women that control was manifest mostly starkly in detention.

### **Prison as a young Aboriginal woman: went to juvy for 'stealing food'**

There were four Aboriginal women who had first experienced prison as a juvenile or young person. One woman with a cognitive impairment, who had been in prison ten times or more, explained how she had been in a juvenile detention centre after she had left the bush 'too early' and had gone to Sydney to live. Another woman and mother with an acquired brain injury and doing her fourth prison sentence had been in juvenile detention when she was 18 years old and entered the adult system a year later. For another, also a mother who had been detained when 14 years of age after stealing food as well as for alcohol and drug use, commented how the juvenile centres were 'lenient'. She had left home a year earlier due to violence from a father who 'couldn't be a dad' after being in prison himself for many years. Another woman, who was at the Miruma Diversionary Program had been in the juvenile system twice before coming to an adult prison, and a woman with a cognitive disability from the NT had been sent to a juvenile centre in Darwin for four months before experiencing an adult prison as an 18 year-old.

Interestingly, one Aboriginal woman who had been to court many times when she was very young for violence related offences and another woman charged with shoplifting at 12 years of age and for being an 'uncontrollable child', did not experience prison until their adult years. The two women gave different reasons for this: one had supportive parents and was sent away to live with extended family and the other simply stated 'I was just very lucky that I didn't make it to the juvenile centres'.

### **Prison as an Aboriginal woman: 'prison is now my home'**

More than 85% (18 out of the 21) of the Aboriginal women from NSW and the NT who partnered with the study had served prison sentences during their lives. The three women who had not done prison time had been given a suspended sentence or were on bail awaiting court hearings.

A mother and grandmother in her early forties with an acquired brain injury since she was 16 years-old and who had been in prison and on remand determined 'prison is now my home'. Her cognitive disability had been diagnosed more than 12 years ago, after her first conviction and during her prison sentence. On the occasion of the interview, she had been on remand for more than 12 months in the Mental Health Screening Unit (MHSU) at Silverwater Women's

Correctional Centre located in metropolitan Sydney. She was unsentenced and no instruction had been given by the health care provider Justice Health & Forensic Mental Health Network (JH&FMHN) to keep her held in this prison for medical reasons; she did not know why she was still in custody. She stated that a treating psychiatrist had wanted her to be transferred to the Forensic Hospital at Long Bay prison (a Correctional Centre in the East of Sydney, where the main prison hospital and mental health facility are located) and the NSW Mental Health Review Tribunal (the three members are a Psychiatrist, Lawyer and one other suitably qualified person) had suggested she be detained at either the Forensic Hospital or the Cumberland Mental Health Hospital in Western Sydney or that she remain a prisoner at the women's correctional facility. As a result she was confused and concerned that no person knew what to do with her and there was no plan for her care. She was being looked after by another Aboriginal woman, also a mother and grandmother in her early fifties who was doing a second prison term for 'acting out anger'. This 'carer' explained that she had been diagnosed with PTSD, clinical depression and anxiety. The complex trauma experienced as a result of her violent and abusive relationships with males had added to her mental health issues. She explained that from the age of 17 years she had been beaten 'senselessly', lost her children from her care to two violent partners and she self-medicated with alcohol and other drugs to 'dull the pain'. While in prison however she had spent no more than a few minutes in a therapy session with a correctional psychologist who just 'didn't get it'. She elaborated how the 'harsh reality of prison life' had made things harder for her while inside. This included being locked in the cells for hours by officers or 'turn-keys' who did nothing more than open and close gates and doors and being managed by officers who would just 'rev you up to go off more'.

I became angry with the world and wanted to die to end my misery once and for all...then the revolving doors of prison life began in 2012 until 2014...the justice system is by the books, they read the black and white print of law books and there are no shades of grey...I know I broke the law, but I was broken also...the 'if only' does not help me at all...I believe I have lashed out in sheer frustration. Being misunderstood as aggressive and angry when I am sad and lonely. I feel I have the syndrome of victim turned predator...with being incarcerated under the Mental Health hold, you can be locked in the cell until the corrective service officers believe you are fit to be let out of the cell. So they can punish you as they see fit. Just another punishment making the time in prison more fearful...we are punished by our partner, police, the courts and then the corrective service officers – a quadruple dose of punishment...with a long

history and fear of the justice system, I believe the colour of the corrective services officers uniform resembles the police officers uniform and does not help with people who live in fear of the police force...

Another interviewee articulated how women with mental and cognitive disabilities who are cycling in and out of the prison system are perceived by correctional officers:

Oh, they're (the women) just pieces of human garbage. You can see the look on their (the officers) faces sometimes, the look of superiority. You can't even – most of them are just – most of them are just so caught up in the system themselves, so much a part of the system that they don't even know what they're doing.

Close to half of the Aboriginal women interviewed were living serially in prison. One woman with a cognitive disability in the MHSU had been in custody more than ten times and had a co-existing mental health disorder that was being managed in prison. While she found prison to be very 'hard', she was complimentary of the meals provided. One woman who had multiple prison episodes explained how she had been 'over punished' and some women offered short but profound responses about their life experiences.

My future would have been brighter. Jail didn't teach me anything. Last lag was 18 months but I learnt that you can't treat people anyway you want. It hasn't helped me to come to jail, how much I have lost from doing prison.

One mother in her thirties responded that her multiple stays in prison had ranged from two weeks to 18 months. After more than ten times in prison she could no longer recall her first time in custody. Most of the women from NSW who had served multiple sentences had been held in the majority of the women's prisons, and more than once. One woman recalled how the old and now closed Berrima prison in particular had a 'negative effect on a lot of women'. Being moved all over the state also caused angst for women because they were unable to have regular visits from children and family.

When women are coming into custody they're not being treated the right way. There's no consideration for what jail they're put in, how far away they are from their kids and their family. It's just an intergenerational cycle of absolute misery that's being perpetuated. Yeah, no worries put her on a truck and we'll ship her to Mulawa. She comes from Narromine. She's crying for her babies. There's all these things that maybe

they understand, or their family's been through, or maybe they're not quite sure... why do that?

Another mother doing her fourth sentence and accessing the only diversionary program this time found prison a 'scary and emotional' place to be. She had been the Aboriginal Delegate for Aboriginal women at two women's centres during her many stays in prison and explained how the prison system had changed dramatically since her first time inside.

It's worse now than before. The young ones think they are bullet proof, the ant's pants, want to run the joint. They come from JJ with a child mentality. They come back (but) there is nothing there for these women, except for this lifestyle. Respect is nil, 18 year-olds want to bash a 40 year-old...the culture of the sisterhood is shocking...not one mob...difficult to get the girls together.

While some Aboriginal women did look out for other women and non-Aboriginal women alike, this comment may explain why a number of Aboriginal women experienced feelings of isolation when in prison. One woman had spent most of her birthdays and Christmases in prison alone and another woman had 'nothing to do' in prison other than 'sit in the sun and listen to music'. One woman in particular felt very isolated when first coming into custody:

I think it's a state of mind really. Being in custody is really overwhelming...when I first came into custody (there was) just overwhelming uncertainty and fear of my circumstance and also of this place, the isolation, being away from family, from where I came from. I spent most of my time in Sydney at Mulawa, so that initially was the most difficult thing for me to get a handle on. It wasn't why I was in jail, it was the actual separation from what I knew and where I came from, and not having access to that and having really no support.

The majority of interviewees from the NT had completed multiple prison sentences. One young woman in her late twenties with a cognitive disability had been in prison three times, despite participation in alcohol and other drug programs in between each sentence. A second woman of similar age and level of disability, who had also become a mother at 14 years and had been in prison twice for four weeks and four months respectively, had responded that prison was 'scary'. A third Aboriginal woman who was younger and also with a cognitive disability had been in custody once for three weeks and a second time for seven days for breaching bail by drinking alcohol. She explained how being in prison was 'not really good' for her, because there were no counsellors to talk with and at two o'clock when she had finished

‘fixing breakfast for the men’ and working in the kitchen, she would be locked in the cell complex early to sit down inside while the day was still hot.

One woman in her forties with a cognitive impairment, who also suffered seizures from epilepsy, had particularly disturbing experiences of prison. She had been imprisoned once before and three months prior to this time; however, as English was her second language she didn’t really know how long she had been in prison or her earliest release date. When asked how long she had been in prison the woman responded ‘one year and six months’. However when I had asked a female officer if she could provide the woman with this information, the woman was told that she had only completed seven months of the 18 months sentence. Not from the NT, all she had wanted was to buy a bus ticket and return to the homelands to see her family and grandchild. While in jail she had a job mopping floors and cleaning up rubbish, and she also painted. One interviewee who had helped this woman when in prison together explained how this woman was known as a ‘stay away from person’ because she had sometimes become angry when people had been humbugging her. She didn’t really talk to or get along with the other Aboriginal women because she was from a different language group. When asked how many women were in this jail, she commented ‘too many’.

While the majority of the women interviewed thought that being in prison was a difficult time and an all too challenging experience, there were some women who found their life as a prisoner to be somewhat beneficial. One woman felt that prison was an opportunity to cleanse her body of drugs and in her words stated: ‘I do sometimes want to come back; jail is time out to clear my body and start again’. Another woman with similar feelings articulated that prison was a ‘time away to sort yourself and build your strength’, as well as a useful time to access programs to learn life management skills such as budgeting, hygiene and how to care for yourself. Moreover, a few of the women who had accessed psychology services and drug and alcohol counselling found them to be helpful and reliable.

Nevertheless, the prison sentences these women had served and the programs and work they had done had not prevented them from returning to prison. Their trauma experiences had been ignored and the implication is that for many women, the control and management exerted by prison becomes a way of life which does not prepare them for a life outside the criminal justice system and does not address their mental and cognitive disabilities.

### **Programs in prison and a diversionary program: 'nothing new to learn'**

In NSW prisoners on remand are not able to access programs or work opportunities as per corrections policy. Although the policy has recently been reviewed, for the women who had been remanded in prison at this time or at other times, remand meant 'we walk out the same as when we came in'.

A few women had stated that the metropolitan prisons offered more programs and services than the regional prisons; however one woman who had accessed programs in a metropolitan prison found them to be of little value to her individual life circumstances.

Programs (are just) so they (correctional officers) can say they are doing something when they sit on their arses and do nothing and even complain about walking you to the clinic.

Three Aboriginal women and mothers who had been diverted from prison and court to the Miruma Diversionary Program were also interviewed. Opened in 2011 by Corrective Services NSW, Miruma is the only non-custodial community based service providing accommodation for up to six months for 11 women with mental health and alcohol and other drug issues. Located in the fore grounds of Cessnock Correctional Centre, a prison for males located in the Hunter Valley, the facility had been converted from housing that was once provided for correctional officers to live on site.

One of the three women had been interviewed twice: firstly in prison while on remand and later at Miruma. At the time of the first interview this young woman, who had lost the care of her children when she was imprisoned, had been so confident that the Miruma program could help and show her 'how to have a drug free life, get my life back, get my kids back' that she had voluntarily requested to do the program despite the prospect of release in the next few weeks. However when spoken to at the facility eight weeks later, she explained how the program had been of little benefit to her because she had previously completed the majority of the programs offered at Miruma, such as alcohol and other drug education programs and managing emotions programs. Despite women having individual issues, all women at Miruma had been expected to do the same program. With no access to the education needed to address her own issues she had 'nothing new to learn'. Further, when she had been close to completion of the program she had found herself suitable accommodation with Housing NSW and had wanted to 'go it alone'. This Aboriginal woman had felt that it was more important for her to be reunited with her children who were in the care of others and that this would give

her back self-esteem and purpose. However, inexplicably, after the weeks already completed in the residential program and always returning clean urines from compulsory drug tests, she had not been supported by the workers to exit the program and left voluntarily.

The other two Aboriginal women who had been diverted from prison to Miruma explained how similar alternatives to prison were needed to help women stay out of prison and have better lives. They stated that intentionally designed diversionary programs were more beneficial in building confidence and getting back control than serving a short prison sentence. They felt that more places like Miruma were needed because a 'lot of women don't have anything else'. In fact there was nothing else available other than this program to divert women from prison. One of the women who had been in prison eight times had benefited from the program after only a short time. After three weeks on the program with 'excellent' workers who had a 'lot to offer', she had received a Centrelink Disability Support Pension and was also helped by the one to one counselling sessions with an external psychologist, alcohol and other drug education programs and the positive reinforcement verbalised from workers. Despite participating in all these activities however, she had been resolute that Aboriginal women workers would have been a great addition to Miruma and were needed at the facility to further support Aboriginal women accessing the program. She felt, in her words, that an 'Aboriginal Health Worker would be the icing on the cake'. She also said that keeping well physically was important to her wellbeing and having access to an alcohol and other drug maintenance program, regular one to one services and after care in the community would help prevent her from returning to custody. She had argued also that diversionary programs would not be as costly as imprisoning women and should be the rule rather than the exception.

The second woman explained how she didn't know about Miruma until a prison programs officer had mentioned that the program was something she might have been interested in doing. She commented that more promotion was needed to inform services, including prison workers and magistrates about the work Miruma was doing because she had felt that women have 'got to have the choice'. After four times in prison over three years she explained how she had needed an alternative to imprisonment to get her out of the cycle. This time had also been her second attempt to complete the program.

I see a drug free life for myself. When I came back (to prison) I needed (Miruma). It's not an easy program, you have to put your all into it, but it is well worth it. When I feel like crap and want to use they are there and make me stop and think.

She had also felt that the workers had been supportive and that the variety of programs offered such as the positive morning group discussions, alcohol and other drug education, meditation, barbeque lunches, access to gym activities and the Samaritans 'getting smart' program were useful. However, she had also argued that Aboriginal workers and culturally specific content were huge cultural gaps in the Miruma program.

We have not all had the perfect upbringing. Not every problem that we have is because of drugs, they also include the unspoken stuff between Aboriginal people.

All three women had determined that Aboriginal specific programs and Aboriginal women workers for the 'Koori girls to access' to provide education and support for women were greatly needed at the facility and if not on a full-time basis, then at least weekly or fortnightly. As Miruma was not a prison, these women had no access to Aboriginal women working in the correctional system such as the Regional Aboriginal Project Officer (RAPO) who visited the women's prisons, Aboriginal Health Workers who provided health promotion programs at some centres, Aboriginal Services and Programs Officers (were once called Mentors) like those at the Mid North Coast facility (Kempsey) or Elders who sometimes visited the Wellington prison site. The women had accessed these programs and supports during prior prison sentences and had found the advocacy, health information, support and guidance received from Aboriginal women working in the system to be 'reliable and valuable'. With no access to culturally appropriate or responsive programs and support at Miruma, Aboriginal women had to take whatever information, education and services that were offered to them. The women had gone from being managed and controlled in prison to being managed and controlled at this women's diversionary facility. The women had two choices: complete an off the shelf program led by non-Aboriginal workers or return to prison. It was not unexpected that one Aboriginal woman had left Miruma and another was attempting to complete the program for a second time.

One other woman had also accessed the Biyani Diversionary Program in Sydney before it was closed in 2014 by the NSW Government after ten years of operation. Biyani was the first diversionary program established by Corrective Services NSW for women with mental health and alcohol and other drug issues and coexisting intellectual disabilities. While at Biyani, she had accessed TAFE education and courses related to anger management, stress management and computing. Although she had completed the program geared to prepare her for re-entering the community, she had returned to prison and was most unwell.

### **Correctional programs that helped: my ‘turning point’**

In addition to the unique experiences of two Aboriginal women who had been helped by the Miruma program, two other women, one each from NSW and the NT, said that they had benefited from programs accessed during their prison sentences and post-release. One woman on parole had been able to work out a lot of her issues during years of imprisonment and had realised what she needed to have a fulfilling life. She had undertaken a work release program to earn parole and return to the community.

I’ve been able to work out a lot of my shit...I don’t need to have a man in my life to be whole. It took me a long time to get that in my head. You have a vision of what life should be like, and you do your best to try and make that happen. We can all try all we like to make something happen, and if it’s just not right, it’s just not right. I see it better that I can do this myself. I can stand on my feet. I don’t need someone beside me to make me the person that I am...in terms of my own personal growth and mental health, it has been a process of my own recognition of issues, my own sorting through that with a level head, some maturity and some life experience now to back that up.

This Aboriginal woman commented on the efficacy of one prison program undertaken at Silverwater Women’s Correctional Centre in NSW which had helped her to better understand her life as it had become. She explained how one worker had delivered the content in a way that had empowered her to make important changes in her life and also use her time in prison to dramatically improve her learning. As the experience had been the ‘turning point’ in the life of this one woman, this quote does demonstrate how appropriate programs in prison and delivered by the right people can be the beginning of a better life for Aboriginal women with mental and cognitive disability in contact criminal justice systems.

There was a turning point for me though, in jail. There was a worker...she was an AOD worker...just a very good facilitator and I did a life management course with her...that was a turning point for me. I know it sounds weird but it was almost like having an epiphany...I could hear what she was saying, because she was able to facilitate it to the group and to me in a way that I could understand, and a way that was meaningful in the context that I needed it to be at that time. That was my turning point...it (the program) was about the life cycle of addiction and relapse, getting back on the horse, so to speak, to make life changes...it was her empathy, her ability to mentor and give that support that wasn’t purely just professionalism, cracking the whip, and the carrot

and the stick, it was something in her that made me hear, and I think possibly made a lot of other women hear. That's really important. Who are these people within Corrective Services that are delivering programs?

The other Aboriginal woman from the NT was in her late twenties and had a cognitive disability. She had participated in alcohol education during her third prison sentence and then in a work release program (making headsets for Qantas) which was seen as suitable by those in the system. This work was also her first ever employment opportunity. She had spent more than two years in custody and was looking towards parole and staying out of prison:

I was in here from last year. They give me two years. I do my things right now. I'm not going back now. If you make a mistake, you have to start all over again. You have to go from red to orange, to blue to green to yellow. I've got a plan. I did it myself. I'm getting parole in a few months.

### **Prison health care: 'we take a pill and you get tired, we take a pill and feel a bit better'**

The majority of Aboriginal women interviewees who commented on the health care they had received in prison saw it as another form of management and control and were critical of some medications given to them, including methadone. One woman who had been on methadone since she was 15 years old explained how methadone was 'worse than hanging out for heroin'. This same woman commented that although she was given a 'welcome back kiss' of anti-psychotic medication on her first day of returning to prison, the health service wouldn't do anything further to help her get off the drugs. One woman with a cognitive disability from the NT summed up her experiences of prison health care services: 'we take a pill and you get tired, we take a pill and feel a bit better'.

A woman with mental health issues who had been at Silverwater Women's Correctional Centre and was on parole explained how her experience of the health care system had been life threatening until she received the right medication to treat her conditions.

When I first went to jail I was 28. It was a bit of a scary thought. I thought I'd have to fight my way through the system just because I wasn't well and I didn't know what they could actually do for me in there. Also, with the way I was spoken to and told about the system, how tough it was. I went down to Mulawa, one of the bigger jails in Sydney, straight away because of my mental illnesses. When I got there, I was thrown in what they call a safe cell and I was left alone to my own devices. I was in a white

suit. If I needed to go to the toilet, I had to buzz up. They'd come give me toilet paper. They never come near you unless they fed you. I was unmedicated (sic) for four days. I was suicidal. No attendance from any psych or anything like that. Then one day, I had to do something because I knew I was slipping between the cracks again, so I threatened to kill myself. They got a psych down. They assessed me. They got me back on my medication and then I was sent to a normal wing. I think that was the scariest part because I knew I was at the point where I could have broken myself.

This woman explained how it wasn't until her third prison sentence and longest time in custody that she was given the 'right medications'. She also used her experiences to claim medications were being used by the system so that women could be more easily 'managed'.

But one thing I do notice in there; they don't mind handing the pills out once you're in the system. They like to give you medication to make you easier to be managed. Even if you don't have a mental health issue, you may just have depression<sup>64</sup>; they'll put you on psych pills to dope you up, which I don't agree with...in the bigger jails you've got access to drugs and whatever else they can give you through the system.

Another Aboriginal woman elaborated how she had seen women who were not travelling too well while in prison and were given medications to make them more manageable for the health and correctional systems.

I'll start with one (woman) specifically at Mulawa in the segro unit. I hated that because there's women that had significant mental disorders, mental illnesses that were held in the segregation unit at Mulawa, self-harm issues, schizophrenia. It was devastating because they were locked away 23 hours out of 24 hours. You could hear their pain; literally hear their pain, their screams, their wailing. They were locked in a cell and the only way that Corrective Services, from my eyes, that I could see, that they were managing these women, was to put a helmet on them so they couldn't smash their heads up, to have them on heaps and heaps of medication so they were docile and take their clothes off them, which was to minimise the risk, but they take their clothes off them. Dehumanise them.

Those with mental health issues and other women who had cognitive disabilities referred to in this quote were not newcomers to prison and had been held in segregation for some years.

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<sup>64</sup> Clinical depression is a mental health issue but this woman was probably referring to feeling down rather than depression.

...the particular women that I'm talking about there were there for the long term, they were there for years. I recall one lady, the only way that she could get out of that unit was to self-harm, her arms were so – I've never seen anything like it in my life, that they'd be almost healed over but there'd be little crevasses in her arms because they were so badly scarred. She'd get a piece of whatever, a match, a piece of plastic cutlery, and stick up into them and they'd become so infected and they'd have to take her out to hospital, but she wanted to go out to the hospital. That was why she did it...in my mind it was adding to their distress, their mental health issue. In some cases you could see that these women were developmentally delayed...like the level of a child.

However classification to a regional prison provided fewer opportunities for Aboriginal women with mental health issues to access health care and professional treatment.

But when I hit Wellington jail, I had to do it all on my own because there wasn't a psych on all the time. They only came once per month. You put your name down; the boys got preference over the girls. So I think I seen them three times in three years.

### **Parole: 'more like a surveillance unit in my mind'**

Parole was seen as the final section of the criminal justice system that managed and controlled this group of women. There were two Aboriginal women interviewed who were finishing their sentences as parolees. A small number had attempted to complete their sentences but were breached and returned to prison. Others couldn't get parole without a stable address. One Aboriginal woman described the parole system as 'unreliable' because the accommodation arranged for her early release on parole had been in the same Kings Cross location where she had been arrested prior to coming to prison. Her response – 'are you kidding? I just came from there' – summed up her feelings in full. As a result her stay in prison was extended six weeks because there was no suitable accommodation. She was then re-classified to another prison in Western Sydney because, as she explained, there was just 'no say in where you go'.

Most women had difficulties with 'jumping through hoops' to stay on parole and some women thought that parole was both an extended arm of the prison system and just a way to 'keep track of you to arrest you' and return them to prison.

Probation wasn't a service that I recognised as being helpful to me. It was like more of a surveillance unit in my mind. I didn't feel at the time that they were doing anything to benefit me. They weren't giving me any tools – it was something that was being

done to me...it wasn't something that I was part of and there was no empowerment in it for me.

Moreover, one woman found the conditions placed on her by parole officers unrealistic. Living in motels and with family, multiple weekly urine testings, travelling long distances to see her child, attending appointments with Centrelink and job providers, attending sessions with psychologists and alcohol and other drug counsellors and undertaking education all without a stable base was, in her words, a 'big load with no support'. Another woman felt that it was 'easier to do your time' than to get parole or to have it 'hanging over your head', especially as she was using drugs while on parole. This woman also claimed that parole officers wouldn't help her to get off the drugs and she was also breached by her parole officer because the officer wasn't available when she had reported. Other women however weren't able to follow parole orders and were returned to prison.

...there was no support from the peak service, being Probation and Parole, to support me through that and give me an understanding of what it was that I should be looking for. I just felt undirected...I'm just going because I've got to stay out of jail. It didn't have any support, whether it was counselling, or supported referrals to other services, that didn't happen. It would be like the stick and the carrot again, more or less. You know if you don't get off the drugs that you're going to end up in jail. Yeah, well probably I did know that deep down in my heart, but at the time it didn't matter because there didn't seem to be an alternative.

## **CONCLUSION**

Beginning from a young age and continuing into adulthood, the lives of many Aboriginal women with mental and cognitive disabilities have been managed and controlled by others as well as from external influences such as harmful drug use and consumption of alcohol. The imposition of power and control by others and substance misuse stripped the women of self-determination, self-respect and decision making and resulted in a loss of control over their lives. The trauma and repeated trauma experienced by the women from violence and assaults that had not been healed affected important aspects of their lives and their bodies, feelings and thoughts. Despite these overall responses to trauma, the women had not viewed their traumatic experiences as anything other than 'normal'. So many facets of the criminal justice system also have managed and controlled this group of Aboriginal women. Police, magistrates, lawyers, juvenile detention centres, prisons, prison health services, prison programs and

parole officers have all contributed to their disempowerment and pain. The implication was that for many women with mental and cognitive disabilities, the control and management exerted by others and the criminal justice system, as well as their unresolved complex trauma was so entrenched it had become their way of life. As a result, the women needed professional trauma specific care and a holistic suite of appropriate support services to prevent their contact with criminal justice systems.

The second theme *segmenting Aboriginal women* is discussed in the next chapter and presents the lived realities of those 21 Aboriginal women with accessing support and other services.

## CHAPTER 7: VOICES AND INSIGHTS OF ABORIGINAL WOMEN PARTNERS

The previous chapter showed the lives of Aboriginal women with mental and cognitive disabilities being managed, controlled and constructed by other people, as well as services and systems that resulted in the majority of women living with trauma and having multiple contacts with criminal justice systems. The enduring loss of control over their lives and the trauma experienced has not been resolved because services in their communities in urban, remote and regional areas have not been able to provide holistic or wrap around supports to help meet their complex support needs. The second theme *segmenting Aboriginal women* reveals how these women's lives have been segmented into manageable and unmanageable pieces by the non-government and government service sectors and how the lack of culturally competent and culturally responsive services, trauma specific practices and comprehensive integration between services have contributed greatly to the women's contact with the criminal justice system and prison. Many of these women did not know what they needed help with and those who did know were not aware of appropriate and acceptable services.

### THEME TWO: SEGMENTING ABORIGINAL WOMEN

#### Support services: 'I was told I was unhelpable'

The majority of Aboriginal women with mental and cognitive disabilities interviewed were not able to access the right kind of assistance needed to prevent their entry and re-entry to the criminal justice system and in particular into prison. The reasons for this inaccessibility were varied but linked. Women primarily had no access to culturally sound and holistic support services to deal with their multiple needs due to a lack of support and care coordination between services. This resulted in segmentation of women's lives – instead of centring on the whole woman and providing integrated assistance – and led to women being told to 'fit in' to whatever services or support were available. As a consequence some women were overwhelmed and exposed to further risk of damage.

There is nothing (services) on the outside. I was told what is available and to fit in. I've done it all but it gets me nowhere. It's overwhelming (so I) crash and burn.

Other women didn't know what their support needs were, what services were available to meet their individual needs or where the most suitable support services could be found. Their lack of knowledge was a key inhibitor to them receiving the right kind of support to counteract

their risk of contact with criminal justice systems. Some women had exited and not returned to particular services because they felt that the workers and professionals didn't understand their life issues. The women noted especially the need for but dire lack of appropriate and safe housing with recovery counselling when released from prison into the community.

One Aboriginal woman with an acquired brain injury who had lived in a NSW Government group home and was a client of the NSW Trustee and Guardian prior to her imprisonment explained how she now had no 'trust of carers' who worked in supported accommodation. She had been separated from her primary carer and placed into a group home because her ageing carer could no longer continue to provide the care she had needed. She was abused and threatened by the carers in the group home and after openly speaking about this violence to me she elaborated with: 'they didn't care for me properly'. Prior to coming to prison she had tried to get help by accessing accommodation at a refuge in the city but hadn't been accepted; no good reason was given for her being turned away.

People tell you things and then you are sent somewhere else, they railroad you...you get talked into accepting things that don't help you.

Another woman, a mother, had sought support from refuges to shelter both her and her children from an abusive and violent male partner and had been turned away because there was no room available at these refuges. She had been told to ring Lifeline afterhours. She stated that the '9-3 opening times don't suit DV victims' like her. She made further comments about a service that she had approached for help that had only wanted her to go to church and do the programs that they had chosen: 'I was never asked; it was their way only'. In addition, another service had helped her for a little while until she was 'dropped' and another had told her to leave after she had raised the pitch of her voice in frustration. This same service then explained how they couldn't help her because she was, in her words, 'too complex' and 'unhelpable'. With her mental health issues and co-existing medical conditions, she again felt that she had been 'put in the too hard basket'. When she did happen to access therapeutic services to work through her trauma from serious partner violence over many years, she had not been encouraged by the counsellor to talk about the abuse but rather she was instructed to 'get on a chair to become empowered'. She would have liked to have accessed trauma counselling and therapy for her alcohol and other drug issues, however she elaborated that she didn't want help from a 'textbook' or 'counsellors who got information from books and not people'.

So frustrating...one hand is saying “let it out, let it go” and you are then told “too much – stop”.

Others also commented on therapists and counsellors who had limited life experiences to help them deal with their issues in full and had based their knowledge and practice on what they had learnt from books. The women felt that, because helping professionals had not lived like them, were not able to fully understand their everyday experiences.

I think the textbook ones are just completely hopeless because they’ve always got to revert back to a book. They talk what they read in a book...I’ve had that experience as a young kid with a counsellor. Fair dinkum, that was my first time I’d actually been charged was for assaulting her over the counter because she kept reverting to this book. Then actually told me it was my fault I got raped. Because I was a girl and I shouldn’t had a skirt on and a singlet top. I mean I was goddam 12 years old. I think she was a textbook one. So whenever I go to a new counsellor or a psych – are you a text – have you got life experience? I found that throughout the system too, it worked better for me. Even in the community; if they told me they were just out of a textbook, I’d be like Mum, let’s go. I don’t want to talk to them...I think the experiences they have in life really make a difference because they actually can sit there and put their feet in your shoes and walk it with you, instead of just sitting there looking at a book all day and then quoting out of books and stuff like that. It just makes no sense to me, the book...I really need people that understand me and not just look at me and go “yep, yep, yep and I’m getting paid \$24 an hour. Yep, not a problem”.

One Aboriginal woman in prison had just ‘given up’ on accessing services in the community and in particular Government services that she thought helped only those that they wanted to help. She elaborated that many agencies who had received funding to provide services had not assisted and continued ‘fighting for more money’ only so more people in need would not receive assistance. Moreover, she had resolved that it all goes back to finding ‘something that works’ and services should pay attention to putting the ‘right people in the right jobs’. She explained how throughout her life there ‘hasn’t been anyone through the whole walk, I done it on my own’.

Communities play a part, they want responsibility from government but the job doesn’t get done. I can only see the negative, it’s all failed...if you’re not robotic and hypnotic you get crucified for speaking out. I am 30 years of age and want out. Boils

down to the individual to find a solution...we get told we are mentally ill and we are just disregarded. They (services) ask too many questions, searching and searching and using us poor cunts to find out... we all have something going on...the justification, is this our destiny or fate?

Another young Aboriginal woman with an acquired brain injury who was in prison for a fourth time and five weeks this time, stated she had stayed at all the refuges in remote and regional NSW. She had not accessed other community services because she 'didn't really know any places, only Centrelink'. The Centrelink social worker had assisted her to receive the Disability Support Pension (DSP) because of her excessive grog and drug taking that had left her 'mentally and physically down and out'. There was one occasion however when she had been assisted by a lawyer to receive victim's compensation for the sexual abuse she had experienced when a young girl. Apart from these two examples, the assistance she had received since acquiring her brain injury when she was a young teenager had been sparing.

I helped myself; don't rely on anyone but yourself. Family are there and I only have to ask but they have their own lives. Can't rely on them...seeing depressing things, sad things, don't let them get to me. Can't stand around feeling helpless. I am out in October. Will go to the shearing sheds in Brewarrina (for a job) and take a couple of women with me.

While two other Aboriginal women had accessed Centrelink social workers to receive the DSP and one other woman had received victim's compensation, the majority of women didn't access services or agencies that could help them and were on their own looking after themselves. One such woman explained how she 'didn't know any better' and just thought 'this is life' because as a young girl and woman she had received no support dealing with loss and grief, managing stress, understanding her sexuality and the effects of illicit drug use on her mind and body. Her experience of the education system also had been distressing. In her words she 'didn't pass one subject, didn't give a shit at school'.

Another woman who had experienced serious family violence and alcohol and other drug abuse while caring for her young children had also disengaged from services and professionals prior to her imprisonment.

I really didn't have a lot of contact (with services). Rehab services, I ran away from all those because I wasn't ready for it. I obviously wasn't ready for it at that point in time. How can you explain it? There was a period in my life – from probably the time, even

prior to using drugs – but a period in my life where I just felt unreachable, that there wasn't that connection with any professional, or service, I just felt unreachable.

One Aboriginal woman explained how she had 'started from scratch so many times' but had simply 'tried and failed'. The fact that the effectiveness of services had, to quote her 'all been shit' left her thinking nothing other than 'there is no answer for me'.

I'm a career criminal. I do what I need to do to survive and do it well.

For another woman it wasn't until she had been in prison a few times that she had received support for her mental health issues. Now in her forties, she was being supported by people other than those in her family circle for the first time.

I've never liked to step outside the circle of the family because I've only ever been told things – that is was my fault or they just couldn't – sorry, we can't help you because it's not what we do or whatever. But this is the first time I've felt comfortable to step out of the family circle...Richmond PRA...they've been supporting me since I got out June last year. They're such a great help...they're on call 24 hours a day...Richmond PRA do a great job. They're ringing us, we're ringing them. They come to visit us once or twice – it depends. I got a visit three times last week because I was a bit stressed and not doing really well.

Accessing and receiving support from services was a similar experience for Aboriginal women living in the NT. A young woman in her early twenties who had an acquired brain injury had received services in bits and pieces because, to quote her, 'I didn't know what I needed help in'.

So the assistance – I suppose it takes time in my brain to know that I need help. Then being able to approach it and get it is another thing all together.

She explained how her life would have been easier if she had been given the opportunity to know more about her brain injury and impairment from a younger age. She would have liked to have accessed 'training' and education to better understand her disability.

Knowing that (information about my impairment) – like earlier, when I was younger, knowing that I could do a course and that would have saved me all this regret and trouble that I've had in the past...because I know that slows the brain down or such when you have medication and you throw alcohol or drugs on top of it. So that's where I've failed in my life. But I wish I had learnt – been able to see clearer when I

was younger or been able to see the next five years or the next ten year...it's like clarity. That word. They say your brain injury will slow you down. I was terrible with alcohol. I used to drink to get drunk and black out. Yeah, it was really terrible. I want to change it, because it's nearly been – it's going onto 11 years or something since I had my accident.

As a young 23-year old woman, she had thought that she had missed out on a big chunk of her younger years because she had not accessed support services for half of her life.

Yeah, missed out on heaps (of my life). I lost my youthfulness when I was very young. That also made me depressed. That's why I just kept going and kept staying in a rut; because it seemed the only way or the best thing to do at the time. One day, I will get there, finally, and understand that I'm embarrassing myself.

### **Mental Health Services: 'there for show only'**

Several of the women interviewed in prison were accommodated in the Mental Health Screening Unit at Silverwater Women's Correctional Centre. One woman explained during our discussion how she had been 'hearing voices in her head'. Another woman in this segregated unit responded how she had to deal with her post traumatic stress disorder and complex trauma in virtual isolation. Three Aboriginal women stated that they had not received adequate treatment and care from mental health professionals and services when on the outside.

One Aboriginal woman who had been diagnosed with borderline personality disorder prior to prison had on two occasions accessed community mental health services in different NSW Local Health Districts. She found the services 'not that great' and never went back. She further elaborated that the psychologists she had seen 'didn't really do anything' and were 'there for show only'.

If I don't show up (for sessions) they (community mental health services) don't chase you, they don't care.

She said that if she had received appropriate support services to help her deal with her mental illness, this support most likely would have prevented her from turning to drugs as a way to self-medicate and control her mind. During her childhood she had been sexually abused and had received no professional counselling or other therapeutic support to alleviate the trauma

she had carried over decades. Moreover, she had been repeatedly 'bashed' over the course of 14 years by her male partner and left physically impaired with her sight and hearing.

Another Aboriginal woman who had accessed metropolitan community mental health services for a 'shot and a yarn' wasn't really sure who she had spoken with at the community centre or who had given her the injectable medication. Another woman explained how she didn't get the help she needed from community mental health professionals despite being acutely unwell.

I ended up in Bloomfield<sup>65</sup>...I didn't remember a thing. I was psychotic. I'd been trying to get help in the community for four months through a clinic in Orange, a mental health clinic, and they kept changing my medication every couple of days. That wasn't helping. I wasn't on drugs and hadn't been for eight months. So they couldn't say it was drug related. They think it was something that I'd had that it had affected me, but they couldn't find any medication to agree with it. So mum pleaded with the court for three hours to put me in Bloomfield. So they did and then that's when they diagnosed me with my mental illnesses. Then I just went from there. I started spiralling down once I hit the system. Because I knew I was going to end up in jail anyhow.

For one Aboriginal woman with mental health issues living in a NSW remote town, on bail and awaiting a second court hearing, the stress of having contact with police, attending court and a possible prison sentence had only compounded her mental ill-health. She had received no treatment from the Local Health District's community mental health service that was located some distance from the town. The situation was similar for a woman who was living in a regional town and waiting to attend court for a second time. Although she had anxiety, stress, shakes, panic attacks and had a fear of being around strange people, she had received no mental health care from the Local Health District mental health services.

One Aboriginal woman with a cognitive disability from the NT who had been in both juvenile and adult prisons explained how mental health services didn't want to know her when she needed help.

People won't take you to the hospital to see what's wrong with your head inside...I share my story with them, but sometimes they just walk away.

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<sup>65</sup> Bloomfield is psychiatric hospital in regional NSW.

Another woman from the NT who had an acquired brain injury from a young age explained how she had been on the 'path of destruction...not showing any good behaviour or strong leadership behaviour' and yet she had received nothing more than a 'bit of counselling through the years'.

### **Detaching Children: 'I'm a failure as a mother'**

The majority of Aboriginal women interviewed were also mothers who had been detached from their children either when they had been imprisoned or when children were removed by Government child protection services. Children seemed to be treated as separate to the women themselves and not part of the women's whole being or linked to their origins. Children were being cared for by their fathers, extended family, families the women knew or foster families they didn't know. Ageing grandparents had also been caregivers so that young siblings were not separated into assorted out-of-home care placements.

Five Aboriginal women had not seen their children for years because they couldn't be the mother they 'needed to be' or they felt not yet able to care for their children or the children had been taken away by their ex-partners and the children's biological fathers. One young woman with an acquired brain injury in prison had not seen or cared for her only child since they were a newborn. While her own family members were not the primary carers of the young child, she had been aware of the family that had caring responsibility for the child. This woman also reflected on how she had been drinking alcohol during her pregnancy.

Another woman and mother who had become addicted to heroin after the death of her young child had received no support for her loss and grief, for her mental health or for the ensuing drug abuse. She explained how, soon after that traumatic experience, her relationship with her male partner, who also had mental health and drug issues, had broken down due to the serious and repeated assaults and violence inflicted by him. He had been jailed for the offences and after he had moved back into the home post release, the child protection authorities intervened and removed her remaining children. The process of him being jailed and released continued over the years until all eight children had eventually been removed and separated into different homes. Over four years this woman had contact with 30 child protection caseworkers. She had felt victimised and punished by the system for her partner's criminal behaviour. She stated that 'every time he'd go to jail, they'd leave me alone. It was only when he came out, they got back involved'.

Although she had a record herself of coming into contact with police and courts for assaults, amphetamine drug use and theft, she had evaded a prison sentence. When asked what had kept her out of jail she replied 'my kids'. With five of her children still in out-of-home care and with 'no family connection...but the same last name' because they had been 'split up' for many years, she was now receiving support from a service to help her have the children restored to her care. She was not aware of who was caring for her youngest children and not knowing had only further impacted her 'bad anxiety and panic attacks'.

...I did (used to journal my thoughts). But now I don't because I'd write ten A4 pages and my arm would be killing and I still wouldn't get to sleep. Because as soon as I close my eyes. I'd be thinking about me little baby girls and if anyone's walking in there – I've got a big fear of that. Because I don't know who they're with.

This Aboriginal woman was now caring for her eldest child who had been in multiple out-of-home care placements from the age of six until 18 years of age. Her child – still under community services supervision – had been diagnosed with co-existing mental health disorders and was being treated by a psychiatrist from Sydney after they had recently been released from a juvenile detention sentence for a serious assault. More than a decade after she had first become mentally unwell, this Aboriginal woman still had serious mental health issues. However she didn't know what professional treatment she needed nor did she want to take medications.

I do still (have mental health disorders). I know I do. I'm not perfect. Because I've done everything else by myself, I think if I just put it in the back of my mind, it will be alright...(but) I don't want to be on any medication.

This woman had also shown concern for other women she knew who had similar life experiences to herself: women who had been trying to be caring mothers, living with untreated mental health issues and using alcohol and other drugs to deal with severe violence.

I don't mind telling my story. Especially in this area; I can see so many women going down the same road as me. Mainly the kids – that's my main thing. I just don't want anyone's kids going to go through what my kids are going through. I don't know how many times I've tried to drum it into their heads. When someone told me this back in the day and was pfft, whatever. As far as I know, I've hit it with one...it's hard watching.

One Aboriginal woman who had to leave the house and her children to flee a violent male partner and stay safe explained how her 'world fell apart'. She would have liked someone to help get the two children back but when help didn't come she 'went totally off the rails'. Moreover, her second partner also overused alcohol and was mentally and emotionally abusive and violent. Once again she ended the relationship and left two children behind. Drugs and alcohol were used as comfort and so the 'revolving doors of prison life began'.

My first partner drank heavily and would beat me senseless in front of my two beautiful boys. In (year) I had my first emotional breakdown and didn't want to live anymore. I was admitted to Campbelltown Hospital and stayed there for two weeks. During my time at the hospital my partner went to court and gained custody of the two boys. He told me this after I was released and my world fell apart...my heart was broken but I had to leave the domestic violence relationship and my two beautiful boys before my partner killed me or I committed suicide...I turned to drugs and alcohol to dull the pain and went totally off the rails...

Another woman in prison had not seen three of her children who were living with her ex-partner for more than two years. Her fourth child was being cared for by her mother. One woman who had grown up in foster care had lost the care of her three children to her mother. This was despite the fact that her mother had not cared for her and from the time she was a young child she had been placed into the care of the state.

One woman with five children had thought she was a 'failure as a mum', because her children had been cared for by her mother during her four prison sentences. The teenage child of another Aboriginal woman was being cared for by an ex-partner.

An Aboriginal woman on bail had handed over the care of her eight children to their father who was living in another town. She explained how one of the children had become physically and mentally unwell due to the transference of stress to this child as a result of her own mental ill-health and trauma. As a younger woman and mother, she had lost the care of her children to her parents because of her alcohol overuse and drinking while being pregnant.

An Aboriginal woman with a cognitive disability from the NT and living at the Central Australian Aboriginal Alcohol Programs Unit (CAAAPU) had three children who were cared for by her mother. Her youngest child was a one year old toddler. She also spoke about how she drank during her pregnancy. Another woman with an intellectual disability also at CAAAPU had two young children who were being cared for by her sister. Another with a cognitive

impairment, who had been imprisoned in the NT but was not from the area, had five children and one who was of school age. She was also primary carer for a young grandchild. Both her youngest child and grandchild were in the care of extended family while she was imprisoned.

### **Housing: 'once I lost my home, I lost it all'**

Aboriginal women partners from both NSW and the NT identified appropriate housing and safe accommodation to be one of their greatest needs. The women explained that without a stable address they had no independence or security, could not get their children back, had limited chance of gaining employment, were unable to access early intervention services and were more likely to have contact with criminal justice systems.

The comment 'once I lost my home, I lost it all' from one young woman in prison in NSW, described how her life had been impacted by the loss of social housing when she was imprisoned for just a short period. She then found it too difficult to access even temporary accommodation after release from prison. Even agencies such as the Community Restorative Centre, which were funded to assist prisoners with housing, education and access to health care post release and with social connection to the community, could not help. She articulated that housing had been one of the main things she had needed to help turn her life around from amphetamine use. Her statement 'I would have been okay if I got housed', implied that she may not have done those eight sentences during the past five years, and lost the care of her three young children if she had been appropriately housed. Moreover, this woman has been managed by the state from the time she was ten years of age. She explained how she had been one of the first state wards to be 'signed up to the Housing Accord', an agreement between the NSW Government's housing and community service agencies to help vulnerable young people who had been in the care and control of the state to transition to independence. There was however no home or accommodation provided to her and no positive outcome. In her words, 'nothing happened'.

One Aboriginal woman on bail had been interviewed at her home managed by Housing NSW. At her request, she had wanted the researcher to witness the accommodation in which she had been living with her large family. Prior to the interview, the researcher had been advised by a local person that these particular units where the woman resided had been poorly built and were in need of urgent repair or even demolition. The condition of her two bedroom unit was appalling and substandard. Notwithstanding the immediate crowding and the need for visiting family to sleep on floors and lounges, the unit was damp with visible mould and

sewerage leakage. The doors were not lockable after constant kick-ins and the walls had parted with several massive cracks. She had been trying without success to warm the unit with an electric heater during the winter months and her electricity account had amounted to hundreds of dollars.

...It's all wrecked...it's all moving. Look over here, the cupboards (are coming apart)...look how big that gap is there (in the wall)...up there you can see a big gap (in the wall)...when we have a shower we bend over and can smell sewerage...we had to put our own lock on the back door because it's not safe.

The numerous requests made to public housing for repairs and maintenance to the unit were to no avail; possibly the government had been considering their options whether to fix or bulldoze the units. There had been no other house available except in another town.

When I went in there (Housing NSW) before, she (the worker) said to me, "you're going to be a boomerang". I said what, I've got to be a boomerang, just to get a house.

Other women had needed to leave public housing to escape the violence from partners. One woman said she was now 'back on the list' with a two year wait for another home. She had been waiting to hear about a bedsit for her to go to after she had completed her prison sentence.

However for another Aboriginal woman who had been negotiating with child welfare services to have her children restored to her sole care, Housing NSW had been supportive of her situation and were moving her to more suitable accommodation.

They're moving me; housing commission...DoCS reckon it's going to set me to fail if I'm living here with also the rest of the kids in the neighbourhood. Because (name of child) is going like a magnet. But also when their father gets out (of prison), I don't want him to know where I live. And he knows where I live.

Housing was also a critical issue for Aboriginal women who had cognitive disabilities living in the NT. One woman in prison who would be returning to her home interstate once released needed to be housed and another had been waiting for a visit from Mission Australia to secure appropriate accommodation locally.

Two Aboriginal women also commented on the social housing provided by NSW Local Aboriginal Land Councils. While one woman had secured a house from her Land Council,

another woman questioned what 'priority housing' actually meant for these Aboriginal community managed businesses who were reliant on community membership to function.

Local Aboriginal Land Councils have priority housing but you can't access it. They say priority but they overrule their own policies.

## **CONCLUSION**

An absence of holistic or wrap around supports for Aboriginal women with mental and cognitive disabilities and complex support needs led to their increasing contact with criminal justice systems and prison. The women's lives had been segmented by community and government sectors for the agencies' and services' own benefit, to make things manageable. Most services were not culturally competent or responsive, and lacked trauma specific practices for those women living with unresolved trauma. The lack of integration amongst services also contributed to the women not receiving appropriate supports and reasonably acceptable care to help them live a more dignified life. Women had not been adequately supported by mental health, disability or housing services and those women who were also mothers were detached from their children when imprisoned or when children were taken by Government child protection authorities due to their mental and cognitive disabilities.

The next two chapters provide further understanding of the lived realities of those Aboriginal women using the insights of Aboriginal and non-Aboriginal women supporters who were related to, connected with or involved in some way with a number of the Aboriginal women who partnered in this research, as well as other Aboriginal women with mental and cognitive disabilities, and in a few cases with Aboriginal men with similar conditions who were also in contact with criminal justice systems.

## **CHAPTER 8: VOICES AND INSIGHTS OF WOMEN SUPPORTERS**

The next two chapters provide further understanding of the lived realities of Aboriginal women with mental and cognitive disabilities in contact with NSW and NT criminal justice systems. This understanding is drawn from the insight and experiences of 16 Aboriginal and non-Aboriginal women (13 Aboriginal; three non-Aboriginal) who were related to, connected with or involved in some way with a number of the Aboriginal women with mental and cognitive disabilities who partnered with this research, as well as other Aboriginal women with mental and cognitive disabilities, and in a few cases with Aboriginal men with similar conditions who were also in contact with criminal justice systems. These 16 women are from Aboriginal families and communities (3), Aboriginal community controlled organisations (5), government agencies (2), non-government community support services (1) and criminal justice systems including police, corrections and justice health (5). These women fulfilled multi-roles in the community including family matriarch, leader, grandmother, mother, auntie, sister, cousin, nurturer, carer, kinship carer, service provider, community liaison officer, Aboriginal health worker, correctional officer, program manager and project officer, with most having many roles simultaneously.

The responses provided by some of these women also related to the lived reality of Aboriginal men. This is partly because coming into contact with Aboriginal men in criminal justice systems is unavoidable: men are in contact with criminal justice systems much more than women and are the majority seen by families, members of the community, prisons, parole, community support services and so on. However it is also because there are so many complex interrelated issues affecting Aboriginal people with mental and cognitive disabilities that families, services and correctional systems have to know and wade through, that gender very often fades into the background and can be forgotten or ignored. This is further evidence of the urgent need to develop a specific understanding of the lived reality of this group of Aboriginal women.

The 13 Aboriginal and three non-Aboriginal women supporting Aboriginal women with disability were asked to provide detailed information related to: their experiences and knowledge of Aboriginal women with mental and cognitive disabilities and their interactions with criminal justice systems; the impact of criminal justice systems on Aboriginal women with mental and cognitive disabilities, and on their own family, community or service; the kinds of support and interventions received by both Aboriginal women and the interviewee or provided by services in the community; the effectiveness of assistance received or provided; assistance that was needed but was not available in the community; examples of what support and

interventions had worked well for Aboriginal women and the interviewee themselves, their family, community or service; the best things that could be done to meet the needs of Aboriginal women with mental illness and impairment; the challenges that made it difficult for the families, community and services to provide the best kinds of support to Aboriginal women; and identifying the best supports to help Aboriginal women have better lives and prevent their interactions with criminal justice systems and in particular imprisonment.

The in-depth responses from the women were analysed and categorised into four themes. This chapter begins with a brief summary of the four themes and then expands on the first theme using the knowledge and understandings of the contributors. The remaining three themes are discussed in detail in the subsequent chapter.

## **THEME ONE: SURVIVING AND NOT LIVING**

The first theme emerging from the responses of the 16 women interviewed relates to *surviving and not living*. The Aboriginal and non-Aboriginal interviewees identified a complex combination of issues commonly experienced by Aboriginal women with mental and cognitive disabilities who were interviewed for this research and who had ‘gone through’ criminal justice systems, as well as other Aboriginal women with mental and cognitive disabilities they had been connected to in some way. The interviewees reported that the Aboriginal women with whom they were in contact, had not been engaged with school as a young person; had been traumatised throughout their lives; could not communicate well or understand their life situation because English was their 3<sup>rd</sup> or 4<sup>th</sup> language; were shamed that they could not communicate with or understand non-Aboriginal English speaking people; had dealt with legal services and court systems that were difficult to understand; were damaged from alcohol (either Fetal Alcohol Spectrum Disorder or from their own consumption) and other drugs; had come to the attention of police more often due to their visibility in public places; could be used by others for criminal offences like break and enters to ‘cop the charge’; had missed out on learning about their identity and culture due to repeated imprisonment; were both victims and perpetrators of violence; were homeless or inappropriately housed; were unable to access proper diagnosis or health treatment services; and experienced discrimination and stigmatisation because of their mental health symptoms and conditions or cognitive disabilities. The women interviewed stated that these myriad issues had impacted Aboriginal women’s lives to such a degree that they were not living abundant lives, causing one

Aboriginal interviewee to determine that Aboriginal women with mental and cognitive disabilities were just 'trying to survive...surviving and not living'.

## **THEME TWO: EVERYONE BECOMES AFFECTED**

The second theme to emerge is *everyone becomes affected*. Families, communities and support workers of the Aboriginal women with mental and cognitive disabilities emphasised the significant impact that these health issues also had on them. The lack of support for the women living with these illnesses and disabilities ultimately affected the ability of families, communities and support workers to help them. This contributed to the seemingly inevitable result of the women becoming involved with criminal justice systems. In turn, the adverse impact of criminal justice systems, in particular prison, on the lives of Aboriginal women with mental and cognitive disabilities, also affected their families, their communities and people working with them in Aboriginal community controlled organisations, community support services and correctional facilities.

Members of four of the Aboriginal families who were partners in this study who were trying to support and care for eight Aboriginal women and men who were mentally unwell and cognitively impaired were also trying to deal with their own 'overburdened' lives. This was amidst other dynamic family, health, social and cultural factors, such as financial struggles, managing chronic illness and pain for themselves and supporting others, maintaining full-time work, living in crowded accommodation and caring for their own children, the children of others and community Elders. For example one Aboriginal interviewee with a cognitive disability herself, was also a sole parent caring for children whilst working full-time supporting people who had impairments to undertake training and employment, and trying to support a close family member with a cognitive disability who was in prison. Whilst interviewees noted that these families wanted to support their family members affected by disabilities, they found it extremely difficult to find the additional time, energy and resources to give to these family members. Two women, one Aboriginal and one non-Aboriginal, who both worked in areas of the criminal justice system, explained that it was not because families did not care enough about their family with mental and cognitive disabilities; it was simply that families and carers were overstretched and overwhelmed just trying to keep up with day-to-day living that could get on top of them.

Two Aboriginal families reported having the added liability of not understanding enough about the effects of mental and cognitive disabilities on family members to provide the right

supports or to provide enough of these supports. The other two families that did understand the impact of mental and cognitive disability on their family member, still had to deal with the 'frustration' and 'pressure' that came with trying to support and care for their family member, largely unsupported and alone, to try to prevent their contact with criminal justice systems. One Aboriginal Elder, educator and carer for two adult family members with mental and cognitive disabilities identified an imminent result for families who were not supported: 'when families bear the brunt of the pressure alone, that's a stress; that's stress on everyone in the household and that's when things erupt'.

On the whole, Aboriginal people in the communities that partnered with the study, had only a basic understanding of what it was like for those living with cognitive disability or mental illness, leading them to make incorrect assumptions about what was driving the Aboriginal women's behaviour and that ultimately led to involvement with criminal justice systems. An Aboriginal woman who cared for family members with mental and cognitive disabilities who worked in one area of the criminal justice system, explained this lack of understanding when she said that Aboriginal communities didn't understand the 'difference between schizophrenia and cognitive stuff... it's just all in the one basket'. The cognitive disability therefore doesn't get picked up by families or others and 'angry behaviour is blamed' for the Aboriginal women's ultimate interaction with criminal justice systems.

Having struggled with trying to support family or community members experiencing cognitive disabilities and mental illness, Aboriginal families and communities were then left to cope with the loss of a loved one or community member when these women, who were mostly mothers, and sometimes grandmothers, were sent to prison. Aboriginal communities were also affected when Aboriginal women from remote and regional areas were imprisoned in correctional centres located extreme distances away. One Aboriginal woman, community leader and service coordinator said that the community just 'shifted along' without the contribution of these Aboriginal women and other community members. This interviewee explained that when Aboriginal women went to prison, they left behind a family – children, parents, friends and Elders – only to discover upon release that, while they had been in custody, 'everybody on the outside had kept moving'. When these women returned to their community, they found things had changed: people had passed away, partners and family had moved on and some had even left the community without them. A woman's whole life had 'shifted' while she was in prison and she then had to try to 'belong to those changes' when she returned home and

this was particularly difficult for women with mental and cognitive disabilities to process and manage.

Another group of people affected because of their contact with Aboriginal women with mental illness and cognitive disabilities were those working in the correctional system as they had been given the responsibility for the custodial and behavioural management of this group of Aboriginal women. Yet, according to one non-Aboriginal interviewee with a professional background in disability services who worked in prison services in the NT correctional system, correctional officers were not fully able to detect cognitive disability in Aboriginal prisoners, and in fact in any prisoner, due to the lack of education and training designed for correctional officers in identifying disabilities and in particular FASD. One non-Aboriginal senior officer in this correctional centre stated frankly she had found 'people like that' to be challenging and a 'huge demand' on resources and did not want responsibility for their care.

Community organisations and support services were also affected by their interactions with Aboriginal women with mental and cognitive disabilities, because they were not established, set up or structured with a workforce to provide the early intervention and practical and therapeutic supports and care required by women with these complex support needs to prevent their contact with criminal justice systems. One Aboriginal interviewee said that she and her workers had been 'exposed to so much' and could get overwhelmed with what they had to face, and that this was in addition to dealing with an increasing workload of Aboriginal clients who were all 'highly complex, highly disadvantaged and marginalised'. One non-Aboriginal woman with a professional background in disability services who worked for the NT correctional system said there were 'fairly horrific ideas flying about regarding what is care'. Moreover, when she had worked in disability services in the community, she found that the 'costs of care' for clients with complex support needs was hotly argued between service providers who had responsibility for support and caring but had not been equipped with the workforce to do the early intervention work.

### **THEME THREE: SILOED SERVICES VERSUS WRAP AROUND SUPPORTS**

The third theme revolves around *siloed services versus wrap around supports*. Aboriginal women with mental and cognitive disabilities needed more support and help from health and other service providers to 'live and do the things' that people without disabilities could do, such as work and care for themselves well. One Aboriginal interviewee who cared for two women in her family with mental and cognitive 'shutdown' said that a model of holistic care

that fulfilled the needs of a woman within the context of her own environment was the most 'proactive help and assistance' to prevent their contact with criminal justice systems. For one Aboriginal woman and community leader who worked as a coordinator in an Aboriginal service, the Indigenous conceptualisation of holistic support and wrap around services was key: 'if you're going to do it, do it right'. For this Aboriginal interviewee, doing it right meant support services ensured that the 'social, emotional, physical, spiritual wellbeing was all wrapped into the holistic approach for the individual'. Almost all of the interviewees thought that services were either missing 'something' or just didn't get it right with the best care and support needed by Aboriginal women with disabilities to keep them from becoming involved in and re-experiencing criminal justice systems.

#### **THEME FOUR: ROLE AND PLACE OF ABORIGINAL WOMEN SUPPORTERS**

The fourth and final theme is: *role and place of Aboriginal women supporters*. The 13 Aboriginal women from the four communities who participated in this aspect of the research had loved, supported and cared for Aboriginal women (and men and children) with mental and cognitive disabilities. These Aboriginal women fulfilled multiple roles in the community such as family matriarch, leader, grandmother, mother, auntie, sister, kinship carer, community liaison officer, service provider, correctional officer and Aboriginal Health Worker. Despite more than a few of these women struggling with their own mental health and wellbeing issues and chronic health conditions such as diabetes, they still devoted enough time to care for and support Aboriginal women, and their children, and in particular when the women had been in prison. One Aboriginal woman and community leader, who had PTSD and had been unwell for many years, had been caring for four young children of an Aboriginal woman with mental illness and an acquired brain injury imprisoned in a metropolitan facility. When asked why she had been so supportive of this woman and her babies, her response was understandable; she had gone through the 'same system' herself 20 years ago and often ended up in the police station because the right help was not received when she had become unwell. As no one had 'bothered to help' her heal and overcome the problems she had experienced then, she was now supporting Aboriginal women with mental and cognitive disabilities to provide them with the help she would have liked to have received to enable her to have lived better with her mental illness rather than the years she had 'crashed and burned' from it.

Another three interviewees identified ways for Aboriginal women with mental and cognitive disabilities to live better lives and prevent their involvement with criminal justice systems. One interviewee felt that a Mums Group and Women's Group were needed in her remote NSW

community to help women gain confidence in themselves and build their resilience. Another interviewee from NSW who cared for two women who were mentally unwell and impaired in her family said that finding the right things to empower Aboriginal women so they could 'believe in something' rather than 'thinking there's nothing' would help to discourage these women from 'drifting aimlessly' through life. She said 'whatever it might be, there's always something that empowers people' and thought that, for Aboriginal women, this might be connecting to culture, family or community or with rebuilding that community connection. The third interviewee from a remote town in NT agreed that focussing more on empowering Aboriginal women with mental and cognitive disabilities would work well and help them to become 'strong people'.

The following section addresses the first of the four themes: surviving and not living.

## **THEME ONE: SURVIVING AND NOT LIVING**

The 16 Aboriginal and non-Aboriginal women identified multiple issues that had contributed to the Aboriginal women with mental and cognitive disabilities living a markedly lower quality of life compared with others in the community. It should be recognised that all of the women came from already significantly disadvantaged communities as noted in Chapter 6 where appropriate housing, employment, human services and educational opportunities are significantly lower and poverty significantly higher than for the majority of Australian communities. These women recognised that the many negative factors affecting this group of Aboriginal women had also led to their involvement with criminal justice systems.

With much concern, one of the Aboriginal women from NT, who was a community leader and service coordinator wondered about the possible reasons that contribute to Aboriginal women going to prison: 'I just often wonder what's happened for women to feel that they have to go to jail'. Answering her own question, she said that the increase in relationship breakdowns leading to more single mothers in the community, had left Aboriginal women taking on a 'tougher' role in the family, and it was important for Aboriginal people to 'get back to that family structure and what role people play'. Moreover, she sensed that the issue of Aboriginal women, imprisonment and this change in women's roles and the family structure was bigger than just where she lived in Alice Springs and was an 'Australia wide' problem. She also explained how Aboriginal women lose a 'lot of people in their lives' and said that they feel the impact of grief and loss more than men who 'tend to shut it down'; while women were 'covered in this loss and grief they're just surviving, surviving on a daily basis'.

## **Understanding mental and cognitive disability: self and community awareness**

Interviewees thought that the Aboriginal community had only a basic understanding of cognitive and mental disabilities; with one Aboriginal woman identifying that education for Aboriginal people and workers was a 'big thing' because 'no-one is trained to deal with this stuff'. Some Aboriginal interviewees identified that women with mental and cognitive disabilities did not have a good understanding about their illness or impairment to live well with their conditions.

An Aboriginal Elder from regional NSW who cared for family members with mental and cognitive disabilities said Aboriginal women and men with mental illness and impairment had come into contact with police and prison because they didn't have a 'cognitive understanding of themselves'. She thought that these men and women lacked the understanding that they were like any other person, but had 'different' needs to live a positive and fulfilled life.

People with a cognitive disability should not be given a negative label; it doesn't mean you don't have the ability to do things, to be self-determining, to make decisions about yourself. You just have needs which are a bit different. It doesn't mean that you are a problem or you need to be managed or you're mad. You have to explain to people that they can actually do all these things and they're normal people.

In addition, the Elder thought that language used by some people to describe those living with a cognitive disability was not useful and she suggested a way for people to be educated about impairment:

The words to describe cognitive disability are horrible. When you talk about those sorts of things, you say look, they're not mad; they've got this condition. It's just like if you've got arthritis or something.

Another Aboriginal woman from regional NSW who cared for two women in her family with mental and cognitive disabilities and worked in one area of the criminal justice system with women who had been victims of family violence said, in her experience, that women with cognitive disabilities, when compared with those with a mental health disorder, were both under-diagnosed and not identified with an impairment. Women with cognitive disabilities were therefore less likely to receive the right timely supports to live a better life.

...a lot of the women just don't have the skills to speak...they are non-verbal. Complete nodding or "mmm". They don't know how to verbally express anything. We see this in

women who have experienced a lot of DV when they come to see us. We've been working with somebody now for that, over 12 months, who just holds her head constantly...then they cry because they don't know how to express what they're thinking, then everything else sort of shuts down around them. So we just refer them to a free counselling service.

A third Aboriginal woman from regional NSW who cared for three women with mental and cognitive disabilities spoke about the extreme behaviours of one of these women prior to her imprisonment. She said that this woman and mother had no idea about what to expect from her mental illness and acquired brain injury, as well as the impact of both conditions on her life, the lives of her young children and the child she was expecting.

She has really bad depression because she will go for days without having a shower, two weeks unless I say something. She will be so depressed she will just lie on a mattress for days until I say to get up and look after the children. And if you have ever had little kids that are at each other because no one else cares what they are doing and they can't care for themselves, it's really terrible, I'm telling you – all the screaming...they would remind me of children that have been born with the effects of drugs, because the baby used to bang his head on the floor. Bang it in the floor. And even the boys in my care now (foster children) they used to do that too, because their mum was on speed...and the little girls, they have lovely long hair, and they just pull it out...she just gets really angry with the kids, she'll swear. Afterwards we talk about it, but she doesn't understand what's going on.

A fourth Aboriginal woman from NT who worked in an alcohol residential rehabilitation program said that women needed to have 'self-awareness' about their mental illness and had found that having that understanding could help them turn their lives around. Her experience was that women she had worked with who didn't understand their mental health conditions or know how to control their illness were more likely to neglect their physical health, experience homelessness and offend in order to survive and escape from living in poverty.

This lack of self-knowledge about mental illness was highlighted by another Aboriginal woman from regional NSW who had provided health care services to Aboriginal women in prison for years and was working in Aboriginal health in the community. In her experience, the communication gap between some medical professionals and those who were mentally unwell

had prevented Aboriginal people from gaining an understanding about their mental health and wellbeing.

Some doctors don't listen, some Aboriginal people won't ask. When they do ask for help, they're not understanding the doctor...Black fellas don't understand a lot of the doctors and they don't understand their terminology...a lot of them are afraid, they think mental health is a bad thing.

Interviewees voiced their concerns about those living with mental and cognitive disabilities being wrongly perceived and misrepresented, because others in the community lacked a good understanding of how to identify mental illness and were unable to grasp how those living with a mental illness may have to struggle daily to live. The comment from one Aboriginal woman from regional NSW who worked in one area of the criminal justice system highlighted this lack of knowledge from the wider community:

People with mental health issues are misconceived as just a junkie or alcoholic a lot of the time. That's just the way they are...they're just gaaangi<sup>66</sup>; too far gone; can't do nothing with them. It's just how they are.

Another Aboriginal woman and service provider from a remote NSW town provided a similar response indicating most people in the community did not understand what a person with mental or cognitive disability was experiencing. They misconstrue saying:

...here they go again, going off.

An Aboriginal woman from regional NSW who had provided health care services to Aboriginal women in prison for years and worked in the Aboriginal health field said that a lot of community members were 'scared' of those with mental disabilities, while others would just look at it and say "it's just normal behaviour...that's just them".

One non-Aboriginal woman from NT who had worked as an educator for an Aboriginal Community Controlled Health Service to raise awareness of FASD in remote communities was of the opinion that those who were living with cognitive disability from FASD were referred to as either 'mad or bad' by most members of the community.

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<sup>66</sup> Wiradjuri word for 'crazy'.

An Aboriginal woman and service provider from NT also spoke about the poor treatment of those with mental illness and called out for better understanding from the community for those living with what she termed mental disabilities:

Understanding mental disability comes down to the mindset of people and those who are talking. It's really how we treat them...because the people with the disabilities and the problems, they're coping the best they can for what they have, but as I said it's how we treat them, because if we treat them for being silly, well they'll act silly...whereas they don't want to act silly because they're trying, in their minds, they're trying to be sane as they possibly can and also some people don't want to acknowledge that they've got a world of hurt as well, because it's just like Aboriginal people who see this behaviour (acting silly) are just thinking, they're mad. They're just like labelled as mad people whereas I think well, what made them mad? Can you have some empathy and compassion around what made them mad? What's gone on in their lives, like just walk in their shoes for a couple of minutes to understand and then maybe your thoughts and ideas will change and you'll treat them the right way.

She also urged families to be more inclusive of those with mental illness so that they felt better about themselves and believed they were an important part of the family circle.

It's common for family members to think they're just mad and people tend to sort of sit them on the outside of the circle rather than let them be involved because the fear of like they'll come in, they'll muck up, and the time that you give that person and for their behaviour, look they walk away feeling 100% better than what they did when they sat on the outside of the circle.

### **Mental health assessment and treatment: should be much more than a needle or a tablet**

A number of issues were raised by several Aboriginal interviewees related to assessment, diagnosis and treatment of mental ill-health and treatment services for Aboriginal women. Overall the responses indicated that the denial of mental health treatment was systematic and had contributed to women living a lesser life and having involvement with criminal justice systems.

Two Aboriginal women from NT, one an Elder and the other a service provider, said that the local hospital was always the main place in town (Alice Springs) that women spent time when mentally unwell, because doctors were admitting women to receive treatment.

One Aboriginal woman from regional NSW who was working in the Aboriginal health field provided an example of an Aboriginal mother who had tried to seek out help for years for her daughter's mental ill-health because of bullying at school when the daughter had been an adolescent. Because no one had 'listened' at the time, this mother was now at her 'wits end' trying to get good treatment for a 19 year-old woman who locked herself away in the family home.

A second Aboriginal woman from regional NSW who cared for women in her family with mental disability and worked in one area of the criminal justice system was aware of many Aboriginal women and men with undiagnosed mental health disorders. She said that they were trying to survive without the appropriate financial supports, such as the Centrelink Disability Support Pension (DSP) and other benefits they were entitled to receive to help them live well.

I know there's a lot of people undiagnosed. They can't even think - the thought of filling out a Centrelink form or a Medicare form or any sort of form, that's too much; I know somebody that went without any sort of payment for over 12 months because the thought of going to Centrelink – even going in there, it was too much. They didn't want to be around people. They didn't want to fill out a form. Didn't want to talk to anybody and just sort of hung out and smoked pot just to get through. Didn't want to go to the doctors and didn't want to be diagnosed with anything because they didn't want it as a permanent record or to be labelled.

This Aboriginal woman was critical of the mental health system and processes that she had experienced personally and that she felt had obstructed women from accessing and receiving treatment services:

The main things that are challenging and the barriers to getting help consist of the whole process. Everything involved with it. Appointments, the clinical crap. It's not lifestyle, practical stuff; it's not reality.

Moreover, when women had been assessed and diagnosed with a mental illness and had tried to receive appropriate clinical treatment either from the mental health inpatient unit at the Local Health District's (LHD) hospital or from the community mental health regional team, the treatment was not considered helpful. She explained that women taken to the hospital for care were 'just let go' because the hospital responded only to acute crises. While the mental health regional team had assisted with assessment, diagnosis and medication, there had been

no education or follow up support provided. Aboriginal people accessed the service voluntarily and received treatment medications prescribed from fly in and fly out psychiatrists. She said that it could take a long time to get the medication right for some people; however when they had started to feel good in themselves, they could also go off their medication if they hadn't had proper treatment and education.

...have your medication, that will fix you up. If you don't have the right medication, for some people, then they're not going to take it.

Furthermore, interviewees felt that women with mental illness needed to speak to somebody, which was viewed as more helpful than just getting a needle or a tablet. One Aboriginal woman said that 'good intentions' from mental health clinicians just weren't enough for women with mental and cognitive disabilities in her family and for her as a carer. Women also didn't want to talk to someone who had no experience of what they had gone through and were considered 'textbook therapists'.

For Aboriginal people Cognitive Behavioural Therapy can be a bit weird...it's real Whitefella talk...it's too clinical. It needs to be more community and culturally relevant...like sitting maybe in the park or wherever....just more talking without all the big, clinical words. That doesn't work. No one's going to go to that appointment again.

An Aboriginal Elder from NSW who cared for two members of her family with mental and cognitive disabilities and worked in the education system felt strongly about the need for proper mental health assessments and treatment. She said that professionals should have to take a full history about the person from the family so that a correct assessment and diagnosis could be made. She was angry about a family member who had been misdiagnosed while in prison and had to now go through the system with that diagnosis attached:

I'll ask them a question. How do you know this? Tell me. Because they read it in a book. That's where they get all their research from, is out of books...because they (psychiatrists) told (name) "these are the symptoms of schizophrenia", (name) is now a schizophrenic; they were misdiagnosed and now they're letting (name) go through the system being that way.

Another Aboriginal woman from regional NSW who was a service provider spoke about a woman she had worked with who had a mental disability and had been in and out of prison. She had helped this woman receive Centrelink DSP payments. Although this woman had self-

awareness about her mental illness, she was having difficulty with accessing a psychologist or psychiatrist to have a final assessment and diagnosis completed. The woman had been unable to access support from the LHD's Aboriginal Mental Health Worker because the worker was a family relation. This perceived conflict of interest, as well as family and community factions, had prevented access to treatment services for her and those in a similar situation.

...that's the family type of issue that pops up...they go to the hospital once a month, in a cattle type of situation, and gets probably 10 minutes to access a psychologist...it's only just recently that we've (the town) got a full team of mental health workers...we probably don't use the 1300 number at all... there's still a lot of work to be done in the mental health area... we've got Aboriginal workers within the mental health area but sometimes it falls down to the relationships and families and factions, and things like that.

Supporting Aboriginal people with mental illness to access the system for a proper diagnosis had become a considerable part of this Aboriginal service provider's role. She worked collaboratively with the LHD and other services to help people because:

A big majority of people are undiagnosed, which makes it very difficult. They won't even probably think themselves that they've got a mental health problem.

Moreover, she identified that diagnosis for clients who have cognitive disability who were in criminal justice systems and certainly those cycling in and out of prison 'all the time' had been almost hopeless.

...whether or not people recognise it (their disability) as a learning or cognitive disorder themselves that's landing them in those situations (contact with the CJS), we can see that as a service, but getting to that diagnosis stage is just, it's near impossible for some people...all of that information about their diagnosis is locked away in a cell, it's not out there in the community with them...

One Aboriginal woman and service provider from remote NSW could not recall any success stories in her town related to mental health treatment and care. In fact, a fatal outcome in the community a few years earlier primarily due to the lack of access to mental health treatment services was easily remembered by this woman and other community members. The nearest treatment and care for those with serious mental health issues was 75 kilometres away and available only during business hours. People with complex mental health conditions were also

sent to larger regional towns much further away and families were not able to travel the distances due to cost and other factors to provide much needed support. She said many Aboriginal people disliked video conferencing to receive treatment services and 1800 numbers to call when distressed; they liked and wanted, 'face to face talk'. She suggested that before, during and after support was needed for those in town living with a mental illness and in particular from the Bila Muuji<sup>67</sup> Social and Emotional Wellbeing roving team based in the remote NSW town of Bourke.

### **Schools: children struggling to survive in the system**

Interviewees thought that the education system needed to play a much earlier and more active role in recognising Aboriginal children at school who may have mental and cognitive disabilities; and that children needed to be better supported after problems had manifested or been identified in their young lives.

One Aboriginal woman from regional NSW who worked in one area of the criminal justice system and cared for two women in her family with mental and cognitive disabilities, said that schools needed to identify young people with cognitive disability much earlier, so that the young people and their families could receive appropriate support. The interviewee remarked that without this early intervention, children with cognitive disabilities often become known to schools in the area as behaviourally problematic or that children refuse to go to school because of the difficult learning environment.

...they don't understand a damn thing. They sit there looking at work; they have no clue even how to tell the time. Basic, basic stuff. They just don't know. They might be sitting there thinking is mum okay because she's got beaten up that morning.

A second woman from NSW and a disability service provider in a remote town agreed that children with cognitive disability were often determined by schools to have just 'behavioural issues'. They were often faced with suspension simply because they were struggling to survive in the system. She added that learning could be difficult for an Aboriginal child who is cognitively impaired because they learn at a slower pace than children without a disability. This interviewee asserted that increased support in the classroom was therefore essential because placement in a special education class was 'stigmatising'. She also suggested that more post-school support options and employment programs were needed for young

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<sup>67</sup> Bila Muuji means 'river friends' and is a regional grouping of Aboriginal Community Controlled Health Services located in western NSW.

Aboriginal people with cognitive disabilities so they could lead more productive lives and reduce their risk of involvement in criminal justice systems. However, an Aboriginal woman interviewed from the same town felt that local schools had done their best to support young people with mental and cognitive disabilities. By contrast, her view was that, insufficient education is provided in schools on the effects of drinking alcohol and using 'yarndi' (marijuana) for those with or without a mental illness or impairment.

In relation to the role of schools, the opinion of an Aboriginal woman from regional NSW who provided services for Aboriginal families at risk of contact with the child protection system, and had cared for a child with an intellectual disability in her own family, was quite different:

My experience with schools over the last couple of weeks is that they have got a lot to answer for; as well I think they're fudging statistics and just ticking the box. They are saying that they are doing things for kids with disability but they aren't.

An Aboriginal Elder from regional NSW who worked in the education system explained how her role was 'helping teachers understand Aboriginal people and the Aboriginal kids understand the teachers and also the parents to understand the system'. She added that when schools and education systems had not supported Aboriginal children with cognitive disabilities and their families, then the trajectory into criminal justice systems was well established for these young Aboriginal people.

Where I see a lot of these things have blown out is in our school systems, our education systems. When the teachers are not on board and helping these kids through their issues and helping the parents at the same time, that's where a lot of our kids go off. Because I've seen kids that I've talked to so many thousands of times here (at school) and if the ones who didn't listen to us, they ended up out there (in juvenile detention) or they're dead today or they're drug addicts or alcoholics or whatever. But the ones who listened; they're the ones who actually went on. The kids that didn't listen didn't have that support system – they didn't have the right support system at home. It's either the parents were drug addicts or alcoholics or they had a different idea of how they should (be) – they might have had history with the police or with the criminal justice system or something went on in their life that changed their attitude or their way of looking at things. Because a lot of our parents, too, the ones who are not what you call got that educational knowledge of certain things; they look

at things differently. To keep up with things today, this is what really needs to happen. A lot of our parents and kids – we've got to break the cycle somewhere.

### **Language: not able to understand well enough**

For Aboriginal women with mental and cognitive disabilities living in the NT, not being able to understand and communicate in the English language well enough – and in particular understand the language and workings of the court and legal systems – was identified as a key factor contributing to their involvement in criminal justice systems.

One Aboriginal Elder, who had been a trained interpreter for the NT courts, said that while most of the women in her town of Alice Springs spoke Aboriginal language at home and English was their 3<sup>rd</sup> or 4<sup>th</sup> language, all the lawyers and 'helpers' were white people who could not speak an Aboriginal language. She explained that interpreters like her were not being used in the courts to support Aboriginal women 'not to get shame, not to get frightened' or to explain what the magistrate and lawyers were saying and what was happening to them. Aboriginal women were therefore going to prison not knowing why or for how long. While the issue of language and not understanding court processes, procedures, laws and decisions could well affect most Aboriginal people involved in the Alice Springs court, these issues impact even more on Aboriginal women with mental and cognitive disabilities due to additional problems with communication and awareness.

At the courthouse I would ask Aboriginal people do you want an interpreter. Do you understand English? They say "no"...There's white policeman, there's white legal aid, there's white prosecution. Lot of people been here for a long time.

### **Alcohol and other drugs: brings women to prison and back again**

Almost all of the interviewees commented on the problematic use of alcohol and other drugs in the Aboriginal community, including the misuse of substances by women (and men) in their families with mental and cognitive disabilities.

One Aboriginal woman who was a senior officer with the NT correctional system said that 'booze' and drugs were problems that brought Aboriginal women 'to prison and back again'. One Aboriginal Elder, also from the territory, said that being drunk was how women responded to offending and going to jail. She also commented on the increase in grog related accidents and injuries in the town when people had come in from the remote communities and 'run amok' drinking 'whatever grog they had wanted to drink'.

A third Aboriginal woman from NT, who was a coordinator in an Aboriginal community controlled service, was concerned about the use of alcohol and other drugs by women during pregnancy, as well as people born with FASD trying to survive in the town since their birth.

I wish there'd be no alcohol for females...I'm not being nasty...it's sad to see women drinking or taking drugs when they're pregnant...because the impact on an individual, they're behind the eight ball before they're even born. Coming into the world and they're just born with the blood full of alcohol. It's sad when you see that they're just surviving when they're born...the temptation of it (alcohol), it's in their blood. They can't take it out of there. It's just a temptation of do I drink, do I not drink?

Similarly, a non-Aboriginal woman who had worked for an Aboriginal Community Controlled Health Organisation in another remote NT community was troubled about those with FASD. As an educator she had raised initial awareness of FASD for all families in this and other remote communities. She had known Aboriginal women from the community with signs of FASD that went undiagnosed; these women were often in contact with the police, courts and prison. When she left the role to work on a violence related project with Aboriginal women in prison she identified women with FASD symptoms. From the ten women she had been working with in the prison, at least three women had some degree of damage from alcohol, from either FASD or their own consumption, and all of the ten women had substance abuse issues.

An Aboriginal woman from regional NSW who worked in one area of the criminal justice system said women used alcohol and illicit drugs even when they were on medication to 'help them cope' and as a 'way of shutting things out' of their lives.

Alcohol creates problems; when people aren't feeling right. They know something in their head's not right. They don't always want to be sitting in a doctor's and listening to that. They get sick of the medication. They get sick of going to the doctor's. They just get tired doing that, so they just want to drink and shoot something up because it's quicker and makes them feel good. When it runs out, they'll do it again....they burn a lot of family bridges and then this leads to other things, like stealing...to buy food, to pay rent.

An Aboriginal Elder also from regional NSW who worked in the education system said that drinking was one of the biggest things ruining women's lives and a major cause of their mental health issues. In her experience, when those with a mental illness had been really drunk, they didn't know what they were doing and couldn't 'control their condition'.

However, one Aboriginal woman from NT who worked in an alcohol residential rehabilitation program explained that issues for women with mental and cognitive disabilities were not just 'alcohol related'. She thought that Aboriginal women needed awareness about who they were as people and women. This lack of identity had contributed to their low sense of self-worth and self-love.

The cause of drinking and substance abuse is because people have a lack of themselves. So having a strong spirit for themselves more, and making them more aware of themselves – their health, homelessness, love, whatever is needed.

One Aboriginal woman and community leader from regional NSW – who cared for two women with mental and cognitive disabilities in her family, as well as a third and pregnant woman she had taken into her home because the woman, and her children were homeless – highlighted how illicit drugs had contributed to this woman's recent imprisonment:

She had been trying really hard to get off drugs and she would say let's go to NA or go to the clinic. She doesn't trust people and sometimes it's hard to reach her. Sometimes she will walk around the house in a daze for 3 days. But just basic information like going from here to Centrelink, or Department of Housing is really hard...she can't manage her money...you and me could go to the shop with \$50 and buy what we need, but she gets her big payment and she wouldn't know how to budget it and wouldn't be able to manage it. It will be a Sunday and she will say she "has no money" when she was paid on a Friday. And I watch her and she will buy all this junk food, which is not good for the kids. She finds it hard when I give the kids water. So just the basic home stuff she doesn't understand. She can't clean up, she can't handle any of that and everything will be piled up in the sink...it still doesn't register that she has to take care of these basic things – the kids. Sometimes she leaves the baby for hours in the spa bath. And the kid sits in there. So she has no skills in caring for the children because of her disability. So being down there in jail with all those rules - she's not going to be able to follow them...if I try to have a discussion with her as a woman and a parent, there's no idea whatsoever. So I really fear for her in that jail.

Another Aboriginal woman and service provider from regional NSW agreed that illicit drugs created problems for women with mental and cognitive disabilities. She had provided support to a young Aboriginal woman who attended court for the possession and dealing of illicit drugs. This young woman already had her two children removed from her care by the

authorities and, when taken to an antenatal appointment with a third pregnancy, she was found to be heavily under the influence of drugs and her mental health very unstable. She was re-sentenced to prison soon after the birth of the child for these drug related offences.

## **Violence**

Several Aboriginal interviewees identified violence to be a significant occurrence in the lives of Aboriginal women living in NT and NSW – both as repeat victims and offenders. Moreover, as identified by one Aboriginal woman from NT, when violence was ‘mixed with alcohol and whatnot, it can make it worse and develop into something really serious’.

An Aboriginal woman from regional NSW who worked in one area of the criminal justice system spoke about a woman and mother with mental illness with a history of ‘horrific’ violence in her life while she had been a primary carer for children with intellectual disabilities. She added that many Aboriginal women were unlikely to go to police to report violence committed against them for fear of being isolated by the family and having to raise children without support.<sup>68</sup>

Aboriginal women don’t dob their partners into the police; they don’t run him down or they are going to get called a dog and everything else by the family; a lot of the times I’m seeing is that women say “terrible partner – he’s terrible to me, but he’s good to the kids. Good dad”. They actually say they “need his help with the kids”; it is not so much a cultural thing but more based on socioeconomic hardship with everything being so expensive now.

Another Aboriginal woman from regional NSW with PTSD for more than 20 years – and who cared for three women with mental and cognitive disabilities – had seen so many women in the community in volatile relationships going down the ‘same road’ she had taken. Her certainty that prison was the ‘end result’ of violence had been based on her own lived experience, as well as the recent experience of an Aboriginal woman and mother with mental and cognitive disabilities she had housed and cared for prior to the woman’s imprisonment.

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<sup>68</sup> According to one Aboriginal Elder from NSW who worked in the education system, children who had witnessed violence between their parents from a young age could also be affected by the experience when they became adults: ‘the baby also lived through the domestic violence and anger of the parents and when he got older was very angry because of this experience’.

This woman had been subjected to severe and ongoing violence from a male partner and had acquired a brain injury from a near fatal road accident that left her comatose for six months.

Her partner was really cruel to her, beat her up and pulled her hair. He would throw hot water on her, and would do lots of really bad things to her. They were in a car and they had a really big fight and the car rolled. She was in a coma for 6 months which resulted in her having brain damage now. She talks really slow; she has to be told things over and over again and then forgets.

An Aboriginal woman and service provider from the same community spoke about the increasing severity of violent behaviour in the town. She was critical about the denial of the problem from the Local Government Area and lack of action to address violence in the community and to support victims of violence:

Local government council doesn't acknowledge that the town rated number one with DV victims, second for AVOs, fourth for intimidating and harassing behaviour in NSW. The difficulty with working together with police and council with crime prevention and to raise awareness makes us shake our head...one week there I found myself presenting to council to say that we do have these problems (violence) within our community, violence is a real problem within our community, and them coming back to us and saying that "no, we want to promote (town) as a happy, healthy and safe community"...a week later, my friend's son was stabbed on the corner here and murdered. We've got traffic travelling through with all that area cordoned off, and that's the type of image that they want to portray, but it's not the actual fact. It gets very conflicting at times when you're trying to deal with it.

Although one Aboriginal woman and senior officer in the NT correctional system stated that Aboriginal women with mental and cognitive disabilities she had known through her work had been victims of violence 'more than once in their lives', another Aboriginal woman and service coordinator from the territory said she had also worked with Aboriginal men who were victims of violence from female partners who also had mental health issues. A male member of this woman's family had experienced repeated violence from Aboriginal women when in various relationships and had even attempted suicide at one time due to the serious aggression. One of her male friends had been in a similar situation with a female partner being 'violent as hell' towards him, but he wouldn't report the violence to the police because of the high risk of this woman being imprisoned. This interviewee further explained that the 'no contact' AVOs given

'straight up' up by the courts were not suitable for all couples, therefore she had educated clients to return to Legal Aid to have AVOs varied to the couples having no contact only when either person was intoxicated. This issue impacted even more on Aboriginal women with mental and cognitive disabilities – and in particular those from remote communities who had received AVOs from police while in town – because they did not understand the AVO or its conditions and were at increased risk of breaching orders and being locked up.

Everybody going through 'domestics' gets angry...they don't want to hear what you've got to say. No one ever wants to hear that, so I tend to be mindful of what I say to people...we've got males having domestics here. Talk them through. Hey it's not about jealousy, you know. We're going to take you into sobering-up shelter. You can sober up, or if not, you don't want to go to sobering-up shelter, let us take you into the women's shelter and you've got no humbug. Then you wake up sober. Then you'll have to sort your problem out...I said there's no other woman but he needs to go and rest, so he might come back and talk about it tomorrow...the flipside of that too is when the male wants to go to sleep, the woman won't let him. I've said, let him go to sleep on the bed...in the end we just say look, is it best that we take him, because otherwise his patience will wear thin, he's tired. He's been drinking and he's tired, and so we'll take him and then he can come back tomorrow...let's nip this in the bud now.

### **Discrimination and Stigmatisation: just another bad label**

Some Aboriginal women from NSW felt that discrimination and stigmatisation of women with mental and cognitive disabilities had contributed to women believing that their mental illness or impairment was just another 'bad thing' in their lives.

One Aboriginal Elder who cared for family members with mental and cognitive disabilities explained how stigmatising attitudes and ignorance about mental illness had given many Aboriginal women (and men) an additional bad label. This Elder asserted that educating people and others about mental health disorders and conditions in a 'culturally appropriate way' was essential.

...it's the way you bring it over when you talk about it. I could say to you look, you need to come and sit down and we need to talk about (his or her) condition. We need to talk about it so that you can understand when things go wrong...this is how you've got to do it. You've got to talk to the parents or the carers or whoever and extended family. The people who are more in contact with him or her, whoever it is; they need

to be all educated on exactly what happens with them and how they go through things and little strategies that they need. Also, you might notice this or you might notice them doing this. Have you seen this sort of thing happening with them at times? If they say yes, you just tell them this is what's happening with him or her when they go through this sort of thing.

Another Aboriginal woman who cared for two women in her family with mental and cognitive disabilities agreed that being labelled with a mental health disorder prevented people from seeking the help they needed to live well.

People are not going to the doctor's because they don't want to be diagnosed with anything and have the diagnosis on their health record or be labelled as having a mental health condition or stigmatised.

Another Aboriginal woman and service provider also raised the stigmatisation and difficulties faced by women with mental and cognitive disabilities when returning to the community from prison.

This client is never going to be able to reintegrate back into the community because of the perception that's around them. How do we get them to be a safe, active member of society?

## **Police**

A detailed understanding about the association between police and Aboriginal women with mental and cognitive disabilities was provided by all women from NSW and NT. The wide ranging responses provided insights into the reasons women (and men) had come into contact with police and how police could be the entry point to the courts and prisons.

One Aboriginal woman and service provider from NT cheekily said that dealing with the police was not something that Aboriginal women (and men) in the town had 'preferred'. However as people with mental disabilities were on the streets more they were 'more obvious' to police. Moreover, those police who had been in the town for a long time knew those with a mental illness and their families.

An Aboriginal woman from regional NSW who worked closely with the police agreed that they were the ones most aware of those in the community diagnosed and not diagnosed with a mental illness. She said that police were also the first ones to be called when Aboriginal women with mental illness had become unwell from non-adherence to medications or were

‘self-harming’. However, the police she worked with had no authority to just take women displaying mental health symptoms to the public hospital and had to go through a ‘whole process’ to get women help in times of crisis. She explained how this arduous process had made it ‘really difficult’ for police who wanted to get these women responsive mental health care:

Police don’t have the powers to get mental health care for people unless they are harming themselves or other people; police can’t intervene or prevent a serious incident from happening; it’s all geared to the crisis point...police can’t do anything until they (people with mental illness) do something. It’s just a really stupid set up. There’s no other word for it. It’s just stupid and too late. It’s around the wrong way...it needs to be preventative and before they do escalate and get to a point where they are going to hurt themselves or hurt someone.

Another Aboriginal woman from NT who worked in an alcohol residential rehabilitation program said that people with mental illness who were in the ‘bunch’ and that ‘bad cycle’ had come to the attention of police more often. She had regularly seen police in her town grabbing and arresting Aboriginal people for no real reason, with many just doing their own thing.

People get chucked around for no reason at all out of that little bunch or – it doesn’t have to be that bunch. It could be just a person on their own, walking or doing their own general thing. Probably just to get home, but they get pulled up...all the coppers here now, I reckon they are going to arrest Aboriginal people.

An Aboriginal woman and senior officer who worked in the NT correctional system highlighted the problems between the police and Aboriginal people with mental disabilities. However her comment ‘they don’t like police – I don’t know why’, perhaps indicated that she did not have the same experiences with police as Aboriginal people with disabilities had in this town.

A non-Aboriginal woman from NT who worked as an educator for an Aboriginal Community Controlled Health Organisation to raise awareness about FASD in remote communities explained how she had tried to maintain contact with local police but staff had changed too frequently. She had wanted to provide the police with some basic understanding and ‘tools’ for dealing with Aboriginal offenders who may have had FASD; however the ‘willingness of police to listen was patchy’.

An Aboriginal woman from a remote NSW town who worked with Aboriginal women and men with cognitive disabilities, and had an intellectual disability herself, explained how police in her town didn't want to integrate with the community, because they didn't use the local services and were housed in their 'own street'. She said that 'it wasn't like this before' citing the example of a football match once held between the Aboriginal community and police to help break down the barriers that had since been stopped. Another Aboriginal woman from the same town and working for a government service provider agreed that police needed to do more in the community, especially while on duty, instead of often targeting community events. She said that better engagement and improved communication and understanding between the police and the Aboriginal community, may help to prevent parents and carers from telling little ones playing up in the street, "here come the coppers", to discipline and make children guarded about police in their town.

We had the Show in town last week and police testing for alcohol were out in force but never at any other time. For the Bowls Day they were parked outside the Bowling Club; no wonder people get their backs up.

Another Aboriginal woman and service provider from regional NSW agreed that positive policing needed to take place in her community. However, she felt that there had 'never been an opportunity' for the Aboriginal community and police to come together. When police had done something 'stupid' that even she had 'shaken her head about', the incident had put the community and their attitude back in a stance against police.

I believe that the justice system does have a role to play within the community, but they've got to be as accountable as anybody else towards their actions...I've heard of instances in (town) where there has been a domestic violence situation of old, the police have been called to the premises, not by the people themselves, they've turned up, the children are safe but they're within that environment. The police have addressed the situation of DV and then DoCS [Department of Community Services] have been referred in to look after the children – and that's the first time that family has ever come under the scope of DoCS. Now that woman's response to that situation was, she "doesn't give a fuck if he beats her black and blue, she'll never ever call out for help ever again". So, where does that leave us as trying to encourage our people to step forward and stand up when there doesn't seem to be the accountability on the other side. It's like it's all of us fighting against the system...now the woman is going "I

don't care. I don't care what happens to me; I'll never put my family in jeopardy again".

The experience of an Elder from regional NSW who worked in the education system left her thinking that 'most police have got their perception about Aboriginal people and they stick by it'. She spoke about a family member with mental illness who had been charged by police with stalking and intimidating; however the family member didn't even know what that charge meant and couldn't remember what had happened. She said that most police had their own views about Aboriginal people because they lacked a real understanding about the generational and local issues experienced by communities today.

...But they (police) don't understand a lot of things behind why Aboriginal people are the way they are. They don't know their story. They don't understand the extent of all this generational problems we've had since colonisation...that's where it all started from. A lot of these issues are still alive today.

The issue of police having only limited awareness and understanding of local issues was raised by an Aboriginal woman living in another regional town. As an example, she recalled that newly assigned officers in these two highly populated towns did not meet with Elders and traditional families of the community when commencing work to pay respects and learn from the locals about local issues.

The police have cultural awareness training at the station and I asked who comes and gives the talk? 'There is no one from this community that goes into that police station and says let's have a day where you can learn about this town, because you are working here, and every time they come here they don't learn the local politics, they don't know the history of this town, they just come here and their new opinions are formed by the opinions of people that have been here for so many years and they just poison their minds.

She was highly critical of the Aboriginal Community Liaison Officers (ACLOs) in the town employed by NSW Police to work in the field and maintain connections between the Local Area Command (LAC) and Aboriginal community (NSW Police 2012). These ACLOs were also responsible for the facilitation of cultural awareness training to staff that included information about community issues (NSW Police 2012).

Police ACLOs just drive around all day in their nice big flash car, and they are forever at Maccas [McDonalds], what work do they do? I've been over to the police station and I've never seen them talking to the young ones when they are in the police station in custody.

This woman also felt that Aboriginal people living in the town did not receive help from police when needed, as officers took far too long to attend an event and provide assistance. She was particularly concerned for women in the community who had mental illness and were victims of violence, as well as the young girls who were at risk of manipulation and abuse from men with 'plenty of money'.

How many police in this place and they still take forever to get to you. By then you could already have your throat slashed, raped or murdered. And they are still coming, "oh we were on a job", they won't come until it's over. Truly.

### **Court System, magistrates and lawyers: need to unpack women's issues**

Aboriginal interviewees commented negatively on the work of the lawyers who had acted for women with mental and cognitive disabilities in criminal justice systems. These lawyers had mostly worked for Legal Aid and the Aboriginal Legal Service (ALS). The legal and court processes used were highlighted as problematic.

One Aboriginal woman and service provider from a remote NSW town explained that Aboriginal people were the majority at court each day when the magistrate visited the town, and the same women presented to court with family violence cases 'over and again'. She added there was little support for these women going through the courts and felt that it would be 'very depressing' for those women surviving in violent relationships to also have to deal with lawyers and the court system.

Another Aboriginal woman from regional NSW who cared for two women in her family with mental and cognitive disabilities, as well as a third woman who she had taken into her home, questioned the process used by a female community corrections worker to acquire information about this third Aboriginal woman to write a bail report:

She (woman from parole) hadn't met her before, so how could she write a fair report? She talked to me at the gate not even for 20 minutes. And that was the woman's bail report.

She was also highly critical of the process used by the lawyer assigned to this same woman's case and court hearing:

I said to him (ALS lawyer) she has a right to appeal – and he said “oh well the district court doesn't sit until September and she will be out in three months”. I didn't speak to her so I don't know if they told her to plead guilty. Circle sentencing was never given as an option. I was really beside myself when I went to see that solicitor, if I could reach across and strangle him I could have....I am going to try and call someone tonight from ALS and find out how we might appeal and have it heard in Sydney.

She thought the actions of both the community corrections worker and lawyer had contributed to the magistrate sentencing this Aboriginal woman and mother, who was also pregnant, to prison for three months.

He's not a very nice person the magistrate here, and every Black person that goes to court here goes to jail. We've had people doing a home invasion on an Aboriginal woman and they brought dogs into the house, she was pregnant, and they just got given a fine, no jail for them. Where's the justice for them? There's none. There's just a law for the Blacks and a law for the Whites. And I'm a Christian woman saying that. But I believe that people like (my friend), she doesn't belong in jail – her kids didn't say goodbye, they are beside themselves. So since she's been gone we pray for mum, we talk about their mum. And we are so afraid for the kids because we don't want DoCs involved, because they will just come and take the kids.

Another Aboriginal woman service provider from regional NSW who supported families at risk of contact with the child protection system was frustrated that an ALS lawyer wouldn't take the time to listen to the full story of a young woman with a mental illness whom she had cared for when this young woman was a child with mental health issues. This young woman, who was a mother to three children, had been in prison multiple times.

An Aboriginal woman and service provider from NT agreed that lawyers needed to work much better with women to prevent them from having further contact with courts and being sentenced to prison. She said that lawyers needed to 'bring their heart' to their job, engage with women and 'unpack' their issues. Moreover, lawyers needed to find out: 'how've you got here and what's going on'. She explained that a complete understanding about the lived experience of women with mental and cognitive disabilities was necessary to provide the proper help women needed when attending court.

To get into the justice system or be kept out of the justice system, make pretty sure your lawyer actually works for you. That's the reality. If you don't and the lawyers pretty much ask for just a slap on the wrist, you'll get six months. Well mate, you could have saved me the six months and actually done a bit more work. These are end services...is there anything else and actually pry a bit into your life....it's called unpacking. So it's like what's the problem? What created the problem? How did that come about? So you unpack the problem and you'll have a better story to tell when you go to court...it's as good as your lawyer can unpack you before you actually get in court...

She added that magistrates in the town also did not have that complete understanding of Aboriginal women's issues including the high levels of mental and cognitive disabilities. She thought that the high number of cases heard each day by magistrates, as well as the same people returning to their court over and again may have contributed to the standard sentences handed out by magistrates.

It's just that they (magistrates) get frustrated and tired with clients coming through, so I'd rather get in there, I'd be the first cab off the rank, because five clients later that old judge is just really frustrated and had enough for the day. Tired and cranky, so who's going to get the worst deal? It's not about the behaviour of the court. It's about the magistrate. That mindset that they didn't have that time because they're thinking like, here you go again...here you are again...I'll give you six months for your trouble...it's not around again unpacking (the issues), so I don't know whether they need to be just limited to five people a day.

An Aboriginal Elder also from the NT who had been a trained interpreter for the courts explained that Aboriginal people did not understand the legal and court systems. While she had worked 'between the White people and Aboriginal people' to help Aboriginal people understand the court system better, she said that sometimes Aboriginal families would also blame her for putting family members in prison because she had interpreted for Legal Aid lawyers and the prosecution.

An Aboriginal woman from NSW who cared for two women in her family with mental and cognitive disabilities and worked in one area of the criminal justice system with women who were victims of violence agreed that trained people needed to be in contact with women with mental illness and impairment in the courtroom and provide the right support.

That's how close that contact needs to be. Because once they leave there (the court), that's it, that's too late...there needs to be somebody there (at court). A little office where they say you've got to go into that office; it has to be the right person...it can't just be, in my opinion, a community member who's supportive and nice. It has to be somebody who is proactive in (sourcing the help)...and ringing and making the appointment while the person's there. It may not just be one person. It may be a team. Because it's a big job...a lot of these people don't have licences. They may need to make the appointment there and say okay, can we bring them now? Can we bring them to the appointment? If they don't turn up to appointments, following through with that person, going to the house. Not just ringing and then writing in the thing there was no answer, move onto the next person. Because that person could be self-harmed or hurting their child because they're frustrated. Because they just need somebody to help.

Dissatisfied by the court and legal system, she added that magistrates needed to mandatorily divert people to support places – because giving people bail and telling them to go and get help 'doesn't work, because that just doesn't happen'. Many people also don't have a driver's licence or their own transport and therefore needed someone to take them from court to the appointment after it had been arranged by the court support person.

...they don't know where to start. They don't know how to ring up and stay on the phone for that long. It drives me crazy.

### **Prison: custodial management, health care, programs, post release**

Interviewees spoke strongly about the 'revolving door' of prison for Aboriginal women with mental and cognitive disabilities, as well as the position and attitudes of custodial officers, correctional workers and health professionals, the appropriateness of prison programs and effectiveness of post release support services by community corrections. Moreover, these women thought that prison was not an option for people who were mentally unwell and impaired and they wanted an alternative put in place to help those who may have done wrong.

One non-Aboriginal interviewee with a professional background in disability services who worked in prison services with the NT correctional system had also thought there was a strong possibility that Aboriginal women with mental and cognitive disabilities who had spent years coming in and out of prison may not have experienced important aspects of their Aboriginal

heritage and the learning of cultural knowledge and ways. As a result, these women may have had difficulty with fully knowing and understanding their cultural and community connections and had been isolated from the community, both inside and outside of the prison, and were trying to live and survive on their own.

One Aboriginal Elder and carer from regional NSW was extremely distressed about the possibility of her family members with mental and cognitive disabilities returning to prison. She said that they would 'never survive back there again', and being imprisoned was just too much because they couldn't manage the custodial environment.

The response from one Aboriginal woman and government service provider from a remote NSW town about the influence of the prison system on women's lives was critical and blunt:

Obviously sending them to jail is not changing anything.

An Aboriginal woman from regional NSW who had provided health care services to Aboriginal women in prison for years explained how Aboriginal women experienced time in prison differently to men. For example, women held in the regional prison where she had worked had often refused to go to Sydney when unwell for specialist treatment, because it was too stressful and they could take months to get back to their prison bed and belongings, or could lose these altogether. Most importantly, women would miss out on family visits and seeing their children. Moreover, she said that women who agreed to go to Sydney for treatment had no support from an Aboriginal Health Worker or other suitably qualified person to help them understand what health specialists had been saying. A lot of women came back to the prison 'very angry' because they had been away for so long and lost what little gains they had made inside.

It definitely is (different for women in prison) because Aboriginal women are the most disadvantaged when they go to jail because they leave behind their children, their family, their partner...I always found Aboriginal women to be the most disadvantaged of them all...they seem to be suffering more than the men...when a woman gets out (of prison) she just wants to go home to her family and children...there's hardly any services for women than what there are for men.

One non-Aboriginal woman who worked in prison services with the NT correctional system stated how the nature of work in the prison was 'one step forward, two steps back'.<sup>69</sup> This woman said she had tried hard to connect with mental health services, disability agencies and culturally sensitive programs out in the community to support Aboriginal women (and men) with mental and cognitive disabilities post release. However, she found this difficult due to so many prisoners having impairment and thought a unit was needed inside the prison that specialised in Cognitive Behavioural Therapy (CBT) (although others disagreed with the use of CBT for Aboriginal prisoners) for those with mental and cognitive disabilities.

On the other hand, a non-Aboriginal woman at the same prison who worked in senior correctional management thought that prisoners with cognitive disabilities couldn't function due to their frontal lobe brain damage and therefore couldn't be expected to 'operate properly'. She explained how they had no impulse control and was excused from doing a lot of things in prison. She labelled their behaviour in the prison as 'wiggling out'<sup>70</sup>. She had felt that her role as a mother had been helpful with her position as a prison officer in managing those with cognitive disabilities, because, as she explained, 'they are just like children but a lot more violent'.

They (prisoners with cognitive disabilities) can't conform to the norms; they can be very likeable too, you know if they have done something (wrong) because they are predictable.

This prison officer expressed concerns about some people with cognitive disabilities being a 'danger to the community' and how the community needed to be protected. She added that people with cognitive disabilities should not be housed in the community because it was 'not good' for those people who had to live next door and be 'intimidated'. She said that a 'game changer' was needed because of the perceived risk to communities.

Some people returned to the community puts the communities at risk and why should they be placed at risk. What about the rights of everyday community people...people are suffering because we don't want to offend people, got to be cruel to be kind, giving people money doesn't work.

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<sup>69</sup> She had also commented on the increasing numbers of correctional workers who had left their jobs because they felt they were 'perpetuating the system' and research was needed to understand the 'amount of pain' people had experienced from working in the prison system.

<sup>70</sup> Refers to wandering aimlessly around the prison or acting out.

However, an Aboriginal woman who was more senior<sup>71</sup> in this correctional centre explained how it was ingrained in some areas of the prison that the officers would be ‘punishers’. She added that officers in her prison would not be just ‘key turners’ and had a huge amount of time to help those prisoners with mental and cognitive disabilities whose ‘needs are not different, just more intense’. She said that the prison was the ‘closest thing’ that people with impairment had to a support system and 24 hour care, and prison was sometimes closer than family members.

They (people with cognitive disabilities) are glad to see us – we feed them, put money into their account, let family see them – they don’t get this outside.

An Aboriginal woman who worked on the frontline in an alcohol residential rehabilitation program with women with mental and cognitive disabilities post release from this prison, did not agree with this senior officer that women had been ‘glad’ to be imprisoned, nor did she agree that women had received appropriate care during their sentences:

They don’t like it (prison). They don’t get the treatment. It’s not there for a hotel or motel sort of thing...they don’t get the treatment that they should.

The senior correctional officer had also wanted to integrate substantial education into officer training on mental health first aid and how to manage people with mental illness and impairment and in particular those with FASD, because of the demands on officers in caring for prisoners with mental and cognitive disabilities.

The Northern Territory has a different mindset to the city – we can be very blasé, people have identified elsewhere what the needs are and the Territory is just doing it now...managing inmates with cognitive disabilities should be extremely flexible; why penalise those inmates who have FASD for doing wrong while they’re in prison because they don’t ‘remember what they did yesterday; it burns some people up but look at the bigger picture.

She also thought that the prison system had a role to empower people during their prison time to make life and generational changes instead of this correctional centre being known as the ‘only prison in Australia where a prisoner comes up and asks if there are any spaces inside’.

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<sup>71</sup> This woman expressed how the ‘prison culture’ towards women was discriminatory. After 16 years working in the correctional system she was still told to ‘stay home with your husband and kids’.

When I started (working in the system), I was dealing with fathers, now I'm dealing with their grandsons and granddaughters – that's scary.

As in NT, it was common to see generations of family members serving sentences simultaneously in NSW facilities. One Aboriginal woman who worked in prison to provide health care services to Aboriginal women said that she had known a grandmother, and then met the daughter and granddaughter at the same time. She had identified this intergenerational phenomenon to be something 'like a trend'. The reason could also be related to this statement from an Aboriginal woman and service provider from NT: 'if you've been to jail, do you know what, Indigenous people, it becomes easy for them to go to jail'.

Some people they'll learn from the first time. They don't like it. They don't like that way of life. They'll never go in there again. They don't want to be part of that. Some people do. Some learn, some don't...with the ones that don't, it's again, do they want to face reality.

However, one Aboriginal Elder from regional NSW who worked in the education system and cared for family members with mental and intellectual disabilities in contact with criminal justice systems had a different perspective about the generations of Aboriginal people who had moved in and out of criminal justice systems over their lifetime. She stated that if an Aboriginal woman or man had the same name or surname as another Aboriginal person who had been in and out of juvenile detention or prison, then they were 'history straight away', because those people from the same families and with the same names were often known to the police, courts and juvenile and adult prisons.

Another Aboriginal woman from NSW who worked in one area of the criminal justice system thought that women who didn't have the right support in regard to what they were experiencing in their lives and their disabilities were more likely to end up in prison. She said for the women who needed to be placed into some kind of secured care facility there was nothing; and for more serious offenders 'there's just jail'. Moreover, for many women post release, it didn't take them long to return to custody because it was 'at least some form of regulation' for them and the only order, stability and structure in their lives.

In prison they don't have to be worrying about the whole game of finding where they're going to get their next hit from and who they owe money to. I think it's sometimes easier to get locked up...some find that prison is a form of rehabilitation for

themselves...prison is like a bit of personal respite because it's easier to get into than to rehab.

Proper health assessment and health care in prison was seen to be lacking by two Aboriginal interviewees from NSW. An Aboriginal Elder who worked in the education system and cared for family with mental and cognitive disabilities explained how her family member had been moved from a regional prison to a larger metropolitan prison for a proper diagnosis by a psychiatrist – only to be misdiagnosed. She said that the family member's life history was never taken into account prior to being misdiagnosed with schizophrenia that required them to be medicated to 'do this and do that' while there.

Simple little things are blown out of proportion by the police themselves and then they go back to jail and that's all written up as them having anger problems and they need tablets to calm them down.

An Aboriginal woman who had provided health care services to Aboriginal women in prison and now worked in the Aboriginal health sector in the community explained how Aboriginal prisoners with mental health issues needed access to a full battery of mental health resources, including mental health and other professionals. Moreover, they required special and much more regular treatment than what was provided from both Justice Health and Forensic Mental Health Network and Corrective Services NSW. She explained that many women had come into prison with a chronic condition or mental illness; and if they hadn't had one to start with, then they would leave prison having one or both. She recalled that for one woman diagnosed with diabetes who was also having cardiac problems, it had taken six months for her to see a cardiologist in Sydney when she could have seen a specialist in the Local Health District or community much earlier. She added that many women prisoners were unwell because of the unhealthy and 'atrocious' food they had been given to eat, because they could not afford to buy their own food, they didn't exercise and there was no appropriate person they could talk to about their issues.

There are no services in prison...Aboriginal people with mental illness in prison need specialised service providers and support within the correctional system. They need access to more mental health workers, they need psychiatrists who are there on a more regular basis...the psychiatrist used to come once a month...Corrective Services had two psychologists but they only worked two days per week, which wasn't

enough...this is where the downfall is with a lot of Aboriginal people who are in jail, (they need) specialised service providers.

This Aboriginal woman was also critical of prisoners losing their rights to Medicare<sup>72</sup> and access to quality health care and medications. Health issues were also not always followed up by health professionals working inside the prison; even less so, by those professionals who worked outside of the prison system, but who were part of the overall NSW Health system. She explained how the nurses, who operated the health centres located inside correctional centres, needed to communicate more respectfully and sensitively with Aboriginal prisoners and be more culturally appropriate and responsive.

...there was one particular inmate who came into custody coming off drugs and alcohol, and they just said to the nurse one day “Miss, can I get some Panadol because I’ve got a headache, and can I get something off you to stop me vomiting?” This nurse turned around and said, “Well, what do you want me to do? Play the effing violin for you?” Now, that nurse doesn’t realise that that Black fella got to get out one day and they’re going to see you in Woollies (Woolworths) and they’ll smack them down and that...

These two Aboriginal women also spoke about the need for Aboriginal specific and ‘sensible’ programs in prison that could get to the core of why women (and men) with mental and cognitive disabilities were coming to prison over and again, and to help prepare them for release into the community and assist them to stay there.

They (Corrective Services and Justice Health) have got to look at the ground root issue of why has this child, why has this man and woman come to jail? Why do they keep re-offending and coming back? And they’re not looking at the ground root issue. You might have a young man, he’s drink driving, he’s in jail for bashing his wife or missus, and they’re not looking at the ground root issue...that man has possibly been raped and abused and he’s never dealt with it. So until that inmate gets to deal with their rape and abuse, then they can move to the second step which is their mental health issues or drink driving or using drugs or domestic violence.

An Elder from regional NSW who worked in the education system and cared for family members with mental and cognitive disabilities who were imprisoned a number of times,

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<sup>72</sup> Medicare is the government universal basic health care provision for all Australians.

provided a model for how programs should be run in prisons and post release by Corrective Services.

There is no program – I don't care what anyone says. They can say there are all these different programs, but there's not a sensible enough program to get these young people back on track which should start in jail. When they've got so many months to go, there should be a program for them to follow through. Then when they come out, they'd finish it off a couple of months after they come out. Sort of like the transition back into society.

There was deep discussion with the women regarding post release support and services. One Aboriginal woman and government disability service provider from a remote NSW town explained that it was really difficult for someone with a cognitive disability returning home from prison because they needed a lot of support.

Some (people with cognitive disability) need support 24/7 but it isn't here; there is just nothing available for those that have been institutionalised and too hard to integrate; got to find activities for them to do.

It was also very difficult for carers and in particular elderly carers, who were supporting themselves with full-time employment, to have responsibility for transitioning family members with mental and cognitive disabilities to the community post release. As one carer had stated: 'they just send them out, dump them here and you've got to go here, there and everywhere' to help family members get what they need to live well in the community. She was highly critical of Corrective Services NSW not supporting people all the way through their sentences and in the post release period. She explained how a lot of people and particularly young people were coming home from and going straight back into the system, because they were not supported while on parole and just couldn't 'handle it outside'.

An Aboriginal woman and service provider from NT also felt that parole was not really effective, because conditions placed on people didn't meet the needs of the individual.

...it's more than just ticking the box because you've got to have someone who's got empathy for that person and wanting them to not go back through that revolving door.

Despite community corrections workers not being responsible for important issues post release such as housing, employment or health care, it was still regarded as important for the

corrections worker to understand the person, fulfil a real duty of care, show sufficient concern and to have the right attitude and mindset for working with those in the community post release.

Manipulation is nasty...it can start with individuals, with service providers...manipulation can dictate an individual's way of life. Even with professional services, probation and parole, that manipulation of like if you muck up, I'll put you back in jail...it's abuse of power too...if people can't get their own way, maybe there's this poor individual who's trying and you say something to take all their rights away. You say something like I'll ring the police on you. So that person is stuck in this, they're backed into this corner of pressure and again manipulation. Manipulation is a masterpiece of work. It's the power of the position that they're in...it's just like ticking the boxes and if you're into that bureaucratic mindset, like in that parole and probation sense.

An Aboriginal woman and service provider from regional NSW explained that people who came out of prison and returned to this town with no connections in the community or with services providers were usually those on parole. As a result, they faced many issues post release. For example, those on a Centrelink Disability Support Pension (DSP) were usually homeless and didn't know how to look for housing and those who weren't receiving DSP had obligations to Centrelink and their job service provider to actively seek out employment. Others were dealing with repairing relationships with family. Apart from all these issues, they had obligations to community corrections. She said that more care and case co-ordination was needed for those with mental health issues post release and in particular by the provider of health care in NSW prisons, Justice Health and Forensic Mental Health Network.

More conversations are needed from the Justice Health system to service providers. I brought it up at our state forum when we were sitting down with the psychiatrist who works at an emergency department in Sydney. This is a big problem that we face as community service workers, that we've got clients that go into prison, access their medications, and come out. We understand the complexities around the types of medications. It may take two to three attempts to find a medication that suits and then you've got to try and come down off that medication. They're coming out of jail but there's no access, that sort of like is all put away with lock and key. So we're dealing with these clients that are dealing with or coming down from these types of mental health medications – so it feels as though they're being sedated. It's not an

actual real type of help. It feels as though while ever they're in their (Justice Health) care that they'll do whatever it takes to make them be less trouble as they can. But then when they're released it's the community's problem. Where does the responsibility lie? The psychiatrist told me that they even "have that problem". If somebody presents to an emergency department having a mental health situation, and they get taken across to the mental health department and there's no communication between those two departments.

## CONCLUSION

The Aboriginal and non-Aboriginal women who contributed to this study from the families, communities, services and prison provided further context and understanding about the lived realities of Aboriginal women with mental and cognitive disabilities in contact with criminal justice systems. The women's knowledge revealed multiple reasons why women were not living well in the wider community and only managing to survive on a day-to-day basis. Women with disabilities rolling through criminal justice systems had been: overlooked and unsupported by schools when young ones; traumatised throughout their lives; in many cases, unable to understand or communicate effectively in the dominant and unlearned English language; both victims and offenders of serious violence; regular users of alcohol and other drugs; uncertain about their Aboriginal identity and culture; undiagnosed and untreated; poorly supported for their disabilities in prison; stigmatised; and homeless and more visible in public places and to the police because of their mental health symptoms and conditions and cognitive disabilities. All contributors were adamant that imprisonment and re-entering prison was not the right answer for Aboriginal women who were mentally unwell and impaired and called for better alternatives for those who may have offended.

In the next chapter the second theme *everyone becomes affected*, the third theme *siloed services versus wrap around supports* and the fourth theme *role and place of Aboriginal women* are discussed in detail.

## CHAPTER 9: VOICES AND INSIGHTS OF WOMEN SUPPORTERS

This chapter is divided into three parts, each of which presents findings related to the second theme *everyone becomes affected*, the third theme *siloed services versus wrap around supports* and the fourth theme *role and place of Aboriginal women supporters*.

The second theme *everyone becomes affected*, provides insights from interviewees in Aboriginal families and Aboriginal communities, as well as from contributors who work in community support services and correctional facilities, all of whom were largely affected by living or working with Aboriginal women with mental and cognitive disabilities in contact with police, courts and prison. The title of the theme stems from the comment of an Aboriginal woman from NT who was a mother, community leader and service coordinator in an Aboriginal community controlled organisation, and who explained how ‘Aboriginal families, communities, services – everyone becomes affected’ when Aboriginal women with mental illness and impairment are not properly supported and not living well in the community. She identified that this lack of support inevitably led to these women’s interactions with criminal justice systems. For the reasons already explored in Chapter 8, the interviewees noted that this issue was not specific to Aboriginal women but also reflected the experience of Aboriginal men they knew with mental and cognitive disabilities, nevertheless affects Aboriginal women in unique ways.

The third theme *siloed services versus wrap around supports* draws on the knowledge of Aboriginal interviewees to develop an understanding of what constitutes holistic or wrap around supports in their Aboriginal communities. These Aboriginal interviewees who were all women, stressed that Aboriginal women living with mental and cognitive disabilities had additional health and wellbeing issues and complex support needs because of their lived experience and that these women needed to receive holistic support and care to increase their prospects of living well in the community and to prevent their interaction with criminal justice systems.

The fourth theme and final part of the chapter *role and place of Aboriginal women supporters* focuses on the powerful collective stories and experiences of the Aboriginal women who were interviewed, to show how these women loved, nurtured, cared and provided for Aboriginal women (and men and children) with mental and cognitive disabilities in their families and communities to try to prevent their contact with police, courts and prisons and to help them have better lives.

## **THEME TWO: EVERYONE BECOMES AFFECTED**

### **Aboriginal Families**

The majority of interviewees observed that Aboriginal families are placed under extra pressure by having to care for women family members who are mentally unwell and cognitively impaired. These families are doing their best to provide adequate support whilst also dealing with their own day-to-day living issues. Looking after a family member with mental and cognitive disabilities in many cases, leads to these families being overwhelmed. As highlighted by one Aboriginal woman from a remote NSW town, these Aboriginal families were also struggling financially because of long term unemployment in the town, where only a few of the businesses and agencies had engaged Aboriginal people. Without financial security, families lived in poverty and lacked money for the most basic needs such as access to fresh nutritious foods that could be overly expensive, and access to mental health and disability support services which are very limited in remote areas.

One non-Aboriginal woman with a background in disability services who worked in prison services with the NT correctional system explained that Aboriginal families who had their own problems just trying to survive often did not recognise that their family member had a cognitive disability.

The family doesn't see that those with a cognitive disability have a disability because they are overburdened with daily issues and routine that can get on top of people; (it's) not a matter of not caring, it is about the family being overburdened.

The issue of Aboriginal families being overburdened was also raised by an Aboriginal woman and mother from regional NSW who had been trying to care for two women and one male with mental and cognitive disabilities in her family, while caring for own young family and working full-time.

You can understand the frustration of a carer or family members who then, eventually, have their own lives to live. So you've got a lot of people like this, with mental health or cognitive shutdown, who just suffer; they just languish there and just fade away...For families even getting to places like the chemist for medication, it's just another thing for them.

With Aboriginal lives overstretched, the need to also provide support for the families and primary carers of women with mental and cognitive disabilities was identified as central to this care. However, the right support was often not available and this contributed to women and families experiencing even more difficulties in their lives.

Who is the client of the worker: the person or the family?...First step is to work with the natural networks of the family because some don't see that the individual has a disability; they all need to belong and be supported, to be safe, but the system isn't geared to the approach of supporting those people around the individual as well.

Another Aboriginal woman from regional NSW who provided health care services to Aboriginal women in prison for years recalled one particular family that lived in the remote town she had grown up in before moving to a larger regional town for work and family reasons. This family had no support from services in 'handling' the family member who was mentally unwell and the family had been unable to prevent the person from being imprisoned:

The family used to complain to police and then they'd (the family member) muck up and end up in jail... because there's no services out in that area, there's no support, the family has no support, they're at a loss when it comes to this family member.

One Aboriginal Elder from NT explained that Aboriginal families were trying to look after women with mental illness returning to their communities from the hospital by telling them: 'don't drink, don't drink'. Another Aboriginal Elder from regional NSW who worked in the education system and cared for two adult family members with mental and cognitive disabilities explained how avenues of support within the Aboriginal family unit and the community had now changed. She felt that helpful support from the extended family, which had once been available to parents who had children with disabilities was no longer there, and the effects of caring for adult children who were mentally unwell and impaired were now being felt by ageing parents:

...when the parents were younger they had support systems, but as they got older and society started changing they lost that contact with that support system. Because with our society today, it changed a lot of things. It changed so much our support systems.

An Aboriginal woman who was a coordinator in an Aboriginal community controlled service in NT said that a solid 'family structure' was key to supporting Aboriginal women with mental and cognitive disabilities and preventing their interaction with criminal justice systems:

Having a holistic view of Aboriginal people in contact with the justice system, I think it is the family breakdown. The dynamics of having a family structure, I feel as though if it isn't there, if there's a breakdown in that family structure people tend to struggle.

Having an established 'strong family unit' had helped one Aboriginal family support each other during hard times. One Aboriginal woman, mother and community leader from regional NSW who cared for three women with mental and cognitive disabilities felt that having 'togetherness to talk' helped her family to deal with the pressure and stress of supporting these women in their family.

When everyone is at home together we are going arrrrghhh! We have to be a really strong family unit – you know one with schizophrenia and the other two with a disability, three totally different disabilities it can be hard...when she comes home for a family visit we walk on eggshells. We've learnt how to adapt, we are like chameleons – we learn how to adapt to different situations. If we didn't have that (strong family unit), if we didn't have the togetherness to talk...we talk about it, that's the most important thing.

Other interviewees thought that education about mental and cognitive disabilities was also needed for Aboriginal families so that the effects of caring for those who needed additional help and support could be minimised. One Aboriginal woman and senior prison officer in the NT correctional system said that the 'bit of education out there' was helpful, however 'not enough' work was being done with families to give them a 'better understanding' of how to identify mental illness and cognitive disability with family members and what to expect. Another Aboriginal woman and service provider from a remote NSW town agreed that many Aboriginal families did not have a good understanding of mental and cognitive disability because: they would not acknowledge that their family member had a problem; they were in denial; or others were 'grieving' for the family members with cognitive and other disabilities:

... (even though) the whole family is affected, they can't see that they need extra help, they need to be empowered to get that extra help.

One Aboriginal Elder from regional NSW who cared for family members with mental and cognitive disabilities explained how supporting the primary carers was the most effective way for supporting all of the family.

You have to see what the family needs by looking at how the prime carers manage, how they deal with the situations, manage their day to day life with their kids or whoever they are caring for in the family, you have to know exactly how they're thinking before you can determine what is needed.

Another Aboriginal woman from regional NSW – who supported families at risk of contact with the child protection system and cared for a child in her own family with a cognitive disability – had supported primary carers of children with disabilities to access the new National Disability Insurance Scheme (NDIS) so that everyone in the family could receive appropriate supports:

The need for kids with disability has been strongly identified that they're undiagnosed, untreated. We are providing a 10 week intense speech program for children from several schools in the area with 16 or 17 regular kids attending. They are picked up and dropped off to the program. Out of those kids a large amount, probably half, have intellectual disability but undiagnosed. Two children with autism attend and their parents don't know about disability services, or NDIS and the father is in prison. The mother does not get a break at all. So we have applied now for NDIS packages so the kids can get the stuff that they need.

This Aboriginal woman had also shared her own drawn out experience with accessing the NDIS when she had applied for an individually funded package for her child. As she had persisted for weeks with a planner until an appropriate support package was received, she was concerned that other Aboriginal families may have given up trying to access the NDIS because it was all too hard: 'How many parents that fill the NDIS forms out have been knocked back? So they just wouldn't bother, they would think too hard basket'.

### **Aboriginal communities don't understand enough**

More than half of the Aboriginal interviewees thought that Aboriginal communities were negatively affected because they only had a basic understanding of mental and cognitive disabilities which was not enough to be able to support Aboriginal women who were mentally unwell, impaired or both. Aboriginal communities therefore didn't recognise what the issues were for these Aboriginal women or the extent and nature of what these women were truly experiencing in their lives.

One Aboriginal woman and government disability service provider from a remote NSW town said that despite 'everyone knowing everyone' in this small community, cognitive disability wasn't accepted or picked up in either children or adults until it was officially diagnosed:

A lot of the Aboriginal community don't accept that the child or person has an intellectual disability; it takes time for the family to accept that the child has an intellectual disability or any type of disability really; a lot of people put intellectual disability down to grog, drugs, bad behaviour; there is a denial of intellectual disability as there are so many other issues.

An Aboriginal Elder from regional NSW agreed that the Aboriginal community didn't understand enough about impairment and needed proper education on what happens for those living with cognitive disability:

A lot of families and the community don't understand it (cognitive disability). Because how they look at it – they say they're mad. But they don't understand the whole extent of what the issues are and what they're actually going through....they're not educated on it. I believe when we got young people who've actually been diagnosed with these issues, the parents and carers and whoever, even extended families, need to be educated on the situation or the issue or the background of whatever it is. We definitely do need that.

An Aboriginal woman from NT who was a coordinator for an Aboriginal community controlled organisation said that her community didn't know how to respond to those members with mental illness and in particular when tragic suicides had occurred.

I think the community disown you (if you have mental illness). In reality they disown you. There'll be a minimum, minimum amount of people who actually care. They care in a sense, but they don't know how to care in that sense of trying to reach out...with mental illness and seeing what's contributing to suicide, they're so similar...

An Aboriginal woman from regional NSW who was a service provider thought it was equally important for the Aboriginal community to have the tools to be able to 'deal' with the mental health issues they faced every day, as it was for service providers. As a result she had organised a mental health first aid training course for a small remote community that had no other access to mental health awareness and education:

Services gain access to a lot of those type of training programs (mental health) and they're not hitting the community base.

A non-Aboriginal woman from NT who worked as an educator for an Aboriginal Community Controlled Health Service to raise awareness of FASD for all people living in the remote

communities said that most of the community did not see FASD, mental illness or cognitive disability as being distinct from one another and did not really understand why people had these impairments. However, with increased awareness and understanding of FASD, the community had come to understand that those living with FASD were not at fault for having a cognitive disability. She also said that the role was 'demanding' and often 'frustrating' because:

...although the communities were receptive and engaged, governments were reluctant to acknowledge the problem properly and support the ongoing needs for education, prevention and early intervention.

### **Workers in the correctional system**

All four Aboriginal (2) and non-Aboriginal (2) interviewees who were or had been employed in NSW and NT correctional systems with responsibility for the management and security of offenders and for the provision of prison services and health care had varied responses about Aboriginal women (and men) with mental and cognitive disabilities and about the impact of their imprisonment on those working in the correctional system.

One non-Aboriginal woman with a background in disability services and who worked in prison services in NT said that correctional officers lacked the correct knowledge needed to identify prisoners with a cognitive disability and in particular those with FASD who were rolling through the system. She explained that the little training provided for correctional officers about cognitive disability had been based on custodial disability awareness only for the 'good order of the institution', which would always come first. As custodial management was the focus of the prison<sup>73</sup>, behavioural management plans for those with mental and cognitive disabilities were not based on the person's behaviour, but security in the prison. This worker had wanted to see the establishment of a special unit external to the prison that provided activities to suit the needs of prisoners with cognitive disabilities and staffed with professionals with a therapeutic background in support and care for this group.

Another non-Aboriginal woman who worked at the same prison as a senior officer in correctional management agreed that a secure care facility was needed for those with impairment and who she claimed were 'victims of their environment':

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<sup>73</sup> Since this interview took place an external unit for people with cognitive impairment was opened in 2017 close to the Alice Springs Correctional Centre.

Correctional Services NT works very well with this group with the John Burns Unit<sup>74</sup> (JBU), but the JBU has no boundaries for people, they give them everything, creating bigger monsters, I don't like this or agree...JBU was a big step for us; the next step is a secure facility with the right people trained.

This senior officer also explained how she had developed 'different techniques' overtime as a prison officer to assess and deal with more difficult prisoners. She had trained herself to identify those with FASD from talking to professionals trained in the area, because no training on FASD and cognitive disability had been designed or provided for prison officers. She said those with FASD, who were a 'dime a dozen' (that is there were so many of them), didn't cope well in the prison system and the 'lack of avenues' available to prison officers in this environment had made it difficult to work with prisoners with mental and cognitive disabilities:

Officers do the best we can since we have had them in prison, we had no choice...not everyone can or wants to work with these people; an EOI (expression of interest) should be offered to officers who want to work with prisoners with cognitive disability and feel they have something to offer.

While this senior prison officer didn't want to be responsible for caring for 'people like that', she also thought that prison was not the 'right place' for Aboriginal people with mental and cognitive disabilities who would 'come and go', cycling in and out often. She also explained how the prison tried to be 'culturally appropriate' by using Aboriginal prisoners from the same community or family as mentors and carers for this group:

Prison doesn't affect them, they catch up with family, they like it, family gathering, they are fed and kept warm.

An Aboriginal woman who was a more senior officer also commented on the lack of training for prison officers in cognitive disability. She was critical of the money used by the system for education because of the lack of outcomes for prisoners with cognitive disabilities:

People with cognitive disability in prison have no ability to express themselves and communicate, their literacy and numeracy is disgusting and they can write names only; they have no concept of here and now and what can happen; hygiene is an issue such as having a shower and washing hair; constant support is needed; a lot of money is

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<sup>74</sup> The John Burns Unit is a special needs unit located inside the Alice Springs Correctional Centre where men with cognitive disability are secured. The Unit holds 14 people and caters for prisoners 12 hours per day.

‘thrown’ at education and it is ‘disgusting’ because it is not working; there is no training for correctional officers related to cognitive disability but it is getting better; they learn what officers will help them.

This Aboriginal woman and senior officer was quite adamant that prison was not the appropriate place for Aboriginal women (and men) with mental and cognitive disabilities. Her comment: ‘they are not meant to be here, this is not their story’, demonstrated the genuine concern she had for the Aboriginal sisters and brothers in this prison. While she thought that her correctional officers did a good job considering the secure environment in which they worked, she also agreed that a purpose built care facility was needed to support those with mental and cognitive disabilities:

We need a facility, not a secure one but one that is more supportive and safe. These people are not safe they are targeted. A 27 year old comes up to my waist, they suffer from FASD and poor nutrition as a kid has impacted on their development; the human element is not looked at – a picture on a poster does nothing.

An Aboriginal woman from NSW who provided health care services to Aboriginal women in prison for years said the confinement and lack of specialised mental health care within the custodial environment had not helped Aboriginal women living with mental illness. Although she did what she could as an Aboriginal health practitioner to support Aboriginal women prisoners who were mentally unwell, she was not able to provide the right support and care because she had not been adequately trained in Aboriginal mental health and wellbeing, nor had she been adequately supported in her role by other health professionals:

The demands of working in a prison and providing health services was like you had to wear different hats for different clients...but the mental health one was really tough and sometimes I had to go and ask advice off the mental health nurse with what to do...Aboriginal women had no troubles whatsoever in telling me what they needed...you’d pass the information onto the mental health team and it was never followed up, it just never went anywhere with some clients.

Moreover, when Aboriginal women she had helped were treated poorly by some nursing professionals, she was also affected by this uncaring treatment:

Prison is not culturally appropriate and services inside prison are definitely not culturally appropriate. The nurses in particular have no understanding whatsoever

about Aboriginal culture. They don't see that the name of the game when you come to an Aboriginal person is respect. You show them respect and they'll give it back. You treat them like shit and they'll tell you to get effed quick. The nurse's attitude towards inmates and in particular Aboriginal inmates is you did the crime so you pay the time. Or an attitude with a lot of the nurses is suck it up princess. It's actually none of the nurse's business what their crime is, they're still a human being, that's how I see it.

### **Support services: too hard for one person or organisation to do it all**

It was clear from the interviews that the lack of specifically funded 'infrastructure in communities' to support and care for Aboriginal women with mental cognitive disabilities had contributed to their contact with criminal justice systems because they had been 'shunned' by services who could not address their complex support needs. Support services were not set up and workers not fully equipped or prepared to provide case management and consistent care for Aboriginal women who needed 'ongoing, every day' support 'through every little thing' so they could live well in the community.

One Aboriginal woman and service provider from regional NSW explained how some of her workers had been 'overwhelmed a lot of times' with what they had to face. Another Aboriginal woman who worked in one area of the criminal justice system and cared for women in her family with mental and cognitive disabilities spoke strongly about the lack of consistency and the inadequacy of support provided by case workers.

Those with mental and cognitive disabilities need something (services) that's more consistent. I don't think that even case workers are consistent. Case workers change every whenever; every few weeks or months. There just needs to be more follow up. People just need to follow through with the whole process of somebody – I know that demands might be really high; but in doing that, nobody's getting the thorough treatment that they need and the right follow through. Because they're jumping to this one and to that one. Some people's needs are so severe, I think they need someone that's just for them, to help them get through their daily needs...the appointment system is far too long at some places like Centrelink, sitting and waiting is too much for some people.

An Aboriginal woman and service provider from remote NSW explained how Aboriginal women (and men) with mental and cognitive disabilities with complex support needs placed significant demands on local services that did not have the added and proper resources

available. For example the Aboriginal Medical Service could only provide support services during normal work hours (9.00AM to 5.00PM) and the gap had left police and hospital as the only after-hours support in the town. She also explained how one mental health worker had already 'burnt out' because clients and others had been going to their home at all hours and the worker wouldn't turn people away who were in need of crisis support and care.

An Aboriginal woman from NT who worked in an alcohol residential rehabilitation program explained how providing support to women with mental and cognitive disabilities in need of specialised care was too demanding a role for an individual or single service alone. She thought that services should come together, to integrate and network to provide the best support and care.

We all need to join together and start looking after these people because it's too hard for one person or one organisation to do it.

However, one Aboriginal woman working in government disability services in a remote NSW town was so frustrated by this lack of integrated service provision that she had networked and integrated with other services herself to better support clients. She did this without it being a co-ordinated effort by the government service. Working as a support coordinator, she found, as has been noted earlier by other interviewees, that one of the main challenges for the position was educating Aboriginal families who had a family member with a cognitive disability, so that they could understand more about the disability and its implications for everyone. She felt that the coordination of supports in the town for Aboriginal clients was more flexible and better than case management, because she had made her work about what she could do 'with' clients and what she should be doing to meet the needs of clients. She was also quite critical of the NDIS 'takeover' of state disability services and was unsure as to whether the new disability arrangements would be 'beneficial or not' for Aboriginal people in the town living with mental and cognitive disability and their families.<sup>75</sup>

### **THEME THREE: SILOED SERVICES VERSUS WRAP AROUND SUPPORTS**

The majority of Aboriginal interviewees had a clear understanding of what was needed to prevent Aboriginal women with mental and cognitive disabilities from entering and to ensure

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<sup>75</sup> She added that workers had been 'closed down' when speaking up about the NDIS and that 'contentious' families had been identified prior to the Minister for Disability Services visiting the service to prevent any 'political fallout'.

they stayed out of, criminal justice systems. They insisted that a determined and consistent holistic approach to coordinated support and care was essential for 'really understanding' these Aboriginal women and their underlying issues, so that they could have a better chance to function well in the community and not fall 'back into the same old circle' and familiar destructive ways with grog, drugs, violence and offending. The interviewees thought that without the right wrap around social supports and care to keep women occupied and to build up their confidence, self-esteem and self-worth, returning to this circle and path to offending was imminent. According to one interviewee who worked in one area of the criminal justice system, the imprisonment of women with mental and cognitive disabilities was a 'preventable outcome' and locking women up 'didn't help with that cognitive shutdown – that's all still there'.

### **Aboriginal women's understanding of holistic support and care**

The Aboriginal woman from regional NSW who cared for two women with mental and cognitive disabilities in her family said that holistic support and care was about working with the person and their family, or the mother and her children, in the context of their environment instead of 'plucking that person out and treating them in isolation'. While she was aware of government programs available for those with mental and cognitive disabilities, her own experience was: 'nobody really wants to help because it's too much work, too much effort; it's like these people are just too tiring'. She explained how Aboriginal women in her family and other women she had known with mental and cognitive disabilities could 'live and do the things that we do', but they needed to have one-on-one support and care from a proactive service and good workers 'on the ground' to help them live well in the community:

(A good service) is somebody who's in regular contact; follows through with what they're going to say and is proactive in helping somebody fill in the needs and what they need to progress with a job or education or something. And really advocating on somebody's behalf.

An Aboriginal Elder from NSW said that holistic support and care included a range of personalised services, which needed to be provided every day and were on-going. For example, instead of 'all these ridiculous systems' that do not support Aboriginal women with mental illness and impairment to become self-reliant and self-managing or to 'understand themselves', holistic services 'build on their knowledge more and more' so that women can learn how to care for themselves. The Elder also explained that when services understood

where Aboriginal women with mental and cognitive disabilities were 'coming from' and equally, when women understood the people in the agency who were assessing and caring for them, the women were more trusting and open to receiving the right supports and care:

People need a bit of everything (services) because you can't work on someone from one perspective. You have to look at the history of the person and get to know them personally. You've got to have some sort of relationship with them so you can understand them. Because you can't understand a person by reading a piece of paper that other people have written. You've got to get to know them and talk to them and say what sorts of things would you like to do in your life? What do you want to get out of life? Why do you think you have to take these tablets? Who told you to take them? Why did they tell you to take them? They've got to understand that themselves before you can get anywhere with them. You'll never be able to help that person if you don't understand them.

## **Aboriginal organisations incorporating a holistic approach in support and care**

### **Northern Territory**

One Aboriginal woman who was a service coordinator with an Aboriginal community controlled organisation explained how the 'cultural obligation was here' with the service and its Aboriginal workers to provide wrap around support and care to the Aboriginal community and in particular to those with mental illness. The delivery of services in a holistic and culturally responsive way to community members in this remote town was a 'must' for this Aboriginal organisation and its workers because they interacted with and supported Aboriginal people and families on a daily basis. However, this service coordinator highlighted that if these qualities were not 'instilled' in the service and its workers 'you'll face issues' with the service and the community. Moreover, she emphasised the importance for a service and its workers to have a duty of care to Aboriginal people who relied on them for help, support and care; she noted that this duty of care exists regardless of 'whether you're a magistrate or lawyer or whoever you are', and whether or not you're having a 'bad day':

...if something happens to this person, well what's going to happen to us...what I mean by that is they don't want to be punished by that family or get payback in a sense...you should have been looking after that person. You should have cared for them more...that's what I've learnt and I've seen and it's around...I think through our work here we tend to go around and ensure that the person's safe. We actually talk to their

case workers, some from in the hospital...touch base with them. We find out have they had their medication? Who are they supposed to be with? So we get in there, I think we're fortunate enough even through confidentiality, we're fortunate enough where people respect that we're actually trying to help this person. It's hard for us. It's limited services, but we'll ensure that this person is wanted by the family. So we'll go around and just keep checking, keep checking, keep checking and if that person wants to walk off, we say, no you can't. We've got a duty of care to them. So we'll go and ensure that they're actually safe for the night and then let the case workers know we've dropped them off at such and such a place where, if that was done with everyone, that duty of care, I don't think people understand duty of care.

According to this service coordinator, treating those with mental illness well and giving them the 'time of day' was an essential part of Aboriginal workers in this service 'doing their job'. A holistic approach to care was also about linking in with those who were not aware of the services that could be accessed and coordinating supports with other useful services in the town such as the sober-up shelter, women's crisis shelter, hospital, police and youth services:

I say hello and it doesn't matter where I see people on the street. It doesn't matter if I'm at work or after work. I'll give them my time because I might be the person they need in their times and they can trust me...and then there are people who say you might think we're mad. I say no, it's hard when your family die, look I understand and we're trying to make it easier. We want to make sure you're safe and family are happy, that you're going to be alright there and that you've had your medication...so again you need to be mindful...it's not sympathising or just mollycoddling that person, but it's giving them that reassurance, again it's tricky but you can be effective.

In addition, working holistically in this Aboriginal community controlled service meant that workers 'accepted' that when people were, or had been in prison for a crime, they continued to engage with them inside prison and after they had come through the system and been released. The Aboriginal coordinator stressed that Aboriginal people in prison didn't 'belong' in or to the system; they still belonged to the workers as family members and when released, they connected in with the workers to receive 'comfortable' support and to get a good outcome for themselves. The question she asked of me: 'if they haven't got that, where do they go?' indicated that Aboriginal people had no other avenues to access support services and care in the town post prison release.

This holistic service also offered support to the community in times of crisis and high need.

You need to have an open door policy. Not this one where you've got to come in and make an appointment...you need a crisis contact because people don't come to you when they're sailing along well. They come and see you when they're in crisis.

The service also provided practical education for Aboriginal people and families as to how to function better in their homes and in the community. Workers were 'wised up' about all professional services and networks in the town, because all clients needed to have every option available to them. When workers came across an Aboriginal person with a disability in the community they were then aware of the people and services available to provide the right kinds of support and care.

A service needs to be adaptable...educate people to support family and do your business early (before closing times)...it's those little crises, even if you're flexible in that crisis time. We'll do it this time but we won't do it next time...you need to be mindful...like the way you clean at home is not the way they clean...that basic understanding of cleanliness...they (life skills program workers) were taking pictures of their own homes with nice furniture and stuff like that, and I'm like that's nice, but it's not for these people. When you're dealing with Indigenous people, be realistic...again it goes back to that individual, the teacher, your mindset...I used to go along with them (to the homes). So you fill the fridge up. I said you know, these people are welfare dependant...you go back and then come back with information about where's a cheaper place to get these containers...you know in relation to the Glad Wrap and whatever else you want them to have...you give them the information so they've got other choices and alternatives besides just going to the nearest shop and buying the most expensive stuff...I found that interesting about life skills programs, there's 40 types of life skills programs that exist...everyone loves to say life skills is like well if you wasn't bred in a home where every day cleaning wasn't a process, well you're not going to do it...so everything contributes to something but all of it doesn't mean that someone's got to go to jail.

The holistic approach to service delivery of one Aboriginal community controlled residential rehabilitation program, focused on providing a 'good and quiet place' for Aboriginal women and men who were affected by alcohol and other drug misuse to recover from their addictions. A large number of the women and men in the program had mental and cognitive disabilities

and were in contact with criminal justice systems. One Aboriginal Elder involved in the governance of this recovery program said that Aboriginal and non-Aboriginal workers were doing a 'wonderful job' caring for Aboriginal people at this place and had made them feel welcome. Aboriginal women who lived on site were provided with nutritious food, as well as activities and cultural programs including alcohol education, access to community computers, reading and writing, artwork, dancing, sewing, sports and outings. Most importantly, these Aboriginal women were able to have their own space and could 'get good rest', because they felt safe and were protected from harm and from exposure to alcohol, boredom and crime.

The Aboriginal ladies say "we don't have to get scared and look around over our shoulder to see if our husband is coming here with a knife or whatever to stab us"...Aboriginal people sit out here and play guitar and they do dot painting and a lot of things to keep their minds off things. Whereas when they was out there (in the communities), they used to just sit down and drink grog and smoke dope. But here, it is so unique. I reckon this place is best because they get rest, they have a good sleep. Ladies tell me "we had a good sleep. We don't get woken up by people coming and kicking us in the ribs or anything like that when they come home drunk".

Another Aboriginal woman who was a manager and educator with the program explained how workers had put themselves 'out there' in the community and didn't 'sit back and wait for clients' to come to them. She said their work was 'very sensitive' for Aboriginal women and that the program was flexible enough to do 'whatever fitted with the client and what they wanted to do'. She thought that the program was right for these women because the majority who participated in the program had wanted to stay longer.

We're here to facilitate the client in their needs, try and get them on the right track and point them on the right track. So they're turning their lives around by themselves. We're just there to support them and help them. Which, you know, prison, you're in; you're out. That's it. No guidance. No leeway.

Helpful as this program was, this Aboriginal manager pointed out that a lack of coordinated support in the community for these Aboriginal women to find work, education and housing did not help the women to get into that 'break away cycle' when they returned home. Clearly linked up and seamless support from prison to program to community was needed. She said more coordination between government and non-government outreach services was needed to support Aboriginal women to develop skills and prevent them from cycling in and out of

services and prison, in place of the 'not enough chance, not enough try' approach from current programs and services.

The women are here for a reason. They know that reason. So, we've got to try and maintain and keep the motivation up.

## **New South Wales**

One Aboriginal woman who managed an Aboriginal service in a regional town thought there were many separate services available in the community to help Aboriginal people to move forward and address almost every issue that may arise. She explained that when it came to providing holistic support and care however, this was all dependent on 'who's behind the services and who's passionate enough to actually do what they can within their capacity'. A lack of trust of government services among Aboriginal men and women with mental and cognitive disabilities, as well as their having more complex situations and support needs to deal with, meant that these women and men take up a 'huge amount of time' for the workers in this Aboriginal service; nonetheless, the service had the 'flexibility' to work holistically and to link Aboriginal people into a range of trusted services, support and care:

If I turn them away, who is going to help them?...when they come to us, we put on that accidental counsellor hat and break down the issues; okay this is all your problems at the moment, but let's break them down and start working at them one by one. Then we send them to people in services that we know and trust.

This Aboriginal service provider said that most non-Aboriginal services in the town did not have the same level of understanding or holistic case management when it came to Aboriginal people with mental and cognitive disabilities who were trying to access support and care. She explained that the negative interventions from service providers created 'frustration' for those who were mentally unwell and impaired, who could then become aggressive and more difficult to support. She said that Aboriginal people with mental illness, because they simply didn't understand the system, often thought that they were the only people not being supported by services, when in reality 'it was happening to other people as well':

...one particular service provider told us that they "would not deal with the client, that they'd burnt their bridges in the past and that they were unable to access the service". I got extremely upset...I did get very emotional with this service provider and told them that they are the only ones funded in this community to provide that service to this client and I really don't give a shit how many bridges they'd burn they deserve to

have access to that service. While ever they're obtaining funding from the government they need to provide that service...we have to be tough and push back on services as well...we'll pick up the phone and ring and say can you help this client out, because we won't send that client down here to compound their aggression, or their frustration. So we'll ring up and ask, then if they can't help we'll think of the next solution...but it's a lot of fobbing off from other services that at times puts them in the too hard basket.

This Aboriginal manager also explained how her own workers had to be educated about women with mental illness and impairment; to insist that they were not to be 'turned away from our doors' and for the service to try to do whatever it could to help. She also thought that advocacy for Aboriginal women with mental and cognitive disabilities exiting prison was definitely needed to 'take away that frustration, that conflict and the need to feel as though they have to reoffend':

Sometimes we get people that are coming out of jail and they're automatically referred to Stream 2, which means they've got high obligations though Centrelink. So we'll get them in here. We have been down to Centrelink and had people go through Job Capacity Assessments to get them referred back to Stream 4. It's because they've disclosed to us and not their case manager so we'll pick up the phone and say, Look this client's... you know. They don't even have that conversation with the client; they know we've got that trust. They say "Oh, thank you for that".

Another Aboriginal woman who worked in an Aboriginal Community Controlled Organisation with families in or at risk of contact with child protection systems said that Aboriginal workers were key to organisations providing holistic support and care and were central to these organisations providing a good wrap around service for the Aboriginal community. She felt strongly that if non-Aboriginal services funded by governments did not employ enough Aboriginal workers based on the numbers of Aboriginal clients, then they should not be entitled to that funding:

If they're not willing to do that (employ enough Aboriginal people), well, then they need to pull the funding for the Aboriginal community from there and put it in somewhere like here because certain people can do that.

## **THEME FOUR: ROLE AND PLACE OF ABORIGINAL WOMEN SUPPORTERS**

The 13 Aboriginal women who supported women with mental and cognitive disability and who participated in this research fulfilled multiple roles in their communities such as family matriarch, leader, grandmother, mother, auntie, sister, kinship carer, community liaison officer, service provider, correctional officer and Aboriginal Health Worker. These strong Aboriginal women were stable carers and providers and reliable advocates for Aboriginal women (and men) from their families and communities living with mental and cognitive disabilities, working to help prevent their involvement in criminal justice systems and in particular to stay out of prison.

One Aboriginal woman from regional NSW who had mental health issues herself was caring for two women in her family with mental and cognitive disabilities. She explained that disability services couldn't help her with caring for one of her daughters when she was a young person because 'all they wanted to do was play cards with her and she wanted to go to the park and do things and they wouldn't'. The daughter, now aged in her thirties, had received no further disability assistance or support over the years. It was also very rare for this carer to receive respite services and when she did happen to have a holiday, her daughter went along which left her still providing care and 'doing the same things':

So I do the cooking and washing and look after her, so I'm the unpaid slave I suppose, but that's alright. When the worker (from ADHC) came she said, "well I have to get insurance if I want to take your daughter in the car", and I said well wouldn't you already have insurance because you're a worker?...I know I can get Centrelink (Carers Payment) and the money would be good but I don't really worry about it...when I was a young mother with a child with an intellectual disability, I didn't really have a say. My in-laws and husband made all of the decisions – it's not that I didn't have a brain it was a cultural thing. So I guess I just learnt to weather it – weather the storm.

This Aboriginal woman was also supporting other Aboriginal and non-Aboriginal women who had come to her church for help by talking with them, providing food, transporting them to appointments and with child minding. She had found one Aboriginal woman who was homeless and sleeping under the bridge with her four young children. This mother, who also had a mental illness and an acquired brain injury, had nowhere to go after she had first left another town to escape a violent ex-partner who was being released from prison and she was then asked by workers to leave the local refuge. The Aboriginal woman had taken the mother

and her children into her home and was now caring for the children while this mother served a prison sentence for driving while disqualified when fleeing from her hometown and for a range of outstanding warrants for other offences that dated back more than a decade.

...I didn't even get a chance to talk to her before they flew her away. I rang the gaol on Monday and they said they would "get her to call me", and I go there and they say "she's already been flown to Sydney and probably already processed". She was in court on Monday (for the prior charges), plus the new charges for driving. The magistrate just sent her away, three months sentence. She's three and half months pregnant and she has a 2 year old, and 8, 7 and 5 year old...she is down there (in a Sydney prison) and she doesn't understand a lot of stuff, she doesn't understand what's happening...she feels lonely and deserted and has suicidal thinking, she is very quiet and very emotional and I'm really worried about her in jail.

The reasons she had supported and cared for women with mental and cognitive disabilities over the years – and why she was providing for four children of a mother who was recently imprisoned – were clear:

I have a lot of love for women and children...I went through the same system where people didn't worry about you if you had a mental health problem. I suffered post-traumatic stress disorder for many years and I found that every time I went off the rails I was kind of like always in the police station, and nobody bothered to say well hold on a minute you have a problem and we should try to address it. When I see some of these young people today with these kinds of problems they are going through the same thing and nothing has changed. We're talking 1995 when I was unwell. And every time I would have a relapse I would be in the police station being charged, and I was so crazy from my experience and nobody bothered to help...I had to go out west (into rehabilitation) to really start healing to overcome the things I've experienced, and I still relapse, not as bad as before, but I don't think that you ever really overcome a lot of things in your life.

An Aboriginal woman from a remote NSW town who was living with a cognitive disability herself explained how she was supporting her children as a single parent and was also a kinship carer for two younger sisters in out-of-home care. The eldest of nine children, she had been diagnosed with disability when she was a young child, and, along with a brother who was also diagnosed with a cognitive disability, attended a special school when she had lived in the

Sydney area. While presently supporting this brother through another prison sentence, she was also assisting Aboriginal people with disabilities to access employment and training opportunities in the town.

Another Aboriginal woman from regional NSW explained how her mother's mental illness had left her needing to support and care for younger siblings who had cognitive disabilities when they were children who were formally diagnosed at school. Although one of the siblings had received government disability services, this support had required a lot of advocacy work from this woman to ensure that the right type of care was provided. She had also helped her siblings to manage their finances and to use a computer and for her sister in particular, to understand intimate relationships with males.

Another Aboriginal woman from regional NSW had been asked by the previous Department of Community Services (DoCS) to be a foster carer for a 13 year-old girl who had a mental disability and who was in contact with both police and the juvenile justice system. The initial one week requested by DoCS for the out-of-home care placement ended up being two years. Despite the woman knowing that this young girl was not acting lawfully while also in her care, there had never been any assessment, treatment plan or services involved in regards to the child's mental illness:

...they (DoCS) did the wrong thing by this young girl...interventions weren't put in place when I was a foster parent in regards to mental health issues...one evening she thought she heard voices at the side of our house and she went to the drawer cupboard and got a knife and was standing there with it. So I discussed this with the case worker and said that some sort of mental health assessment needs to be done...basically I was told by DoCS that "as long as she knows there's a bed for her to come home to when she wants to, that's really all that they could do"...I just tried to manage the best that I could, and I did this for quite some time. I had two babies of my own at the time...so that I didn't have to get (name) removed I rang my mum to come and get the babies...but still there was no intervention at all from DoCS or no services provided for her.

Due to a lack of support services for more than two years and after a major incident had occurred, this Aboriginal woman reluctantly let the young girl leave her care when she reached 15 years of age. For the next 18 months, she lived 'between houses' for short periods, sometimes only for days, including at her mother's house, which was unsustainable. During this

time she didn't attend school and the only employment she had didn't 'last too long' because of her mental illness. The woman explained how a DoCS caseworker had indicated that the department wasn't going to invest any more time and money into this young girl who was 'too far gone'. Let down by the system and also by Aboriginal policies when a young person, she progressed quickly into adult prison and was in and out of the system numerous times because she didn't receive mental health support and care, stability and love, as first identified by this Aboriginal woman and carer:

She sort of fluttered in and out (of my life and house) like, whenever she needed to, and then I heard from her when she was pregnant with her first child...she was a young mum...then I heard from her when DoCS took that baby off her...DoCS intervened again and removed her child...she was very stressed that DoCS were going to remove her kids. I think that DoCS really didn't like her because she stood up for herself. Basically, she was a very outspoken young girl. So when her mum ended up with the kids I heard from her again...she actually rang me and asked me to "take on her kids". In a way I wanted to but I knew realistically I couldn't with my own situation at the time. So then her mum ended up with them. When she was pregnant with the last one, she was actually going to adopt that baby out because she knew that she wouldn't be able to have the child...DoCS made contact with me to locate her and I had concerns for the unborn child, so I told them where she was because I was stressing out. She was upset with me for doing that but I know when the time comes and she does need someone she'll always re-contact me...I cooked her up you know...I'd take her back tomorrow, even though she is older I would. She knows that my door is always open.

One Elder from regional NSW who had reared her children as a single parent and now cared for family members with mental and cognitive disabilities who had been in and out of prison many times said 'I've been through so much, it's just not funny' to explain how she, and another Auntie, had loved and protected, looked after, provided for and worried about family members to keep them from being imprisoned. For example, they had housed family members in their homes where there was limited space, managed their finances, provided transport, had taken them shopping, purchased their clothes and personal items, counselled them to stay off the grog and directed them to bed when intoxicated and ensured that family members weren't wrongly used by other people for things like money and alcohol:

When they're at home and in this condition (from drinking alcohol), at least they've got us to understand them...to keep an eye on them...they know that. We talk about that. If they get a house, this is the sort of thing we need someone to make sure that they're back and forwards checking on them or whatever and not letting people use them...I'm going to fix that shed up first, so at least they've got somewhere to live until they get their own place. But we're going to keep supporting them all the time. They may never leave us really.

This Elder and grandmother who 'always, always had a house full of people' on weekends also saw her role as 'teaching kids and grandkids about respect' for others, because most of the children had not been shown respectful ways of being and living in the community:

They just want to come around and sit and have a yarn or sit around the fire...see when you sit around the fire, everyone shares your story. You share things. You take turns. You don't talk when someone else is talking. All of these respectful things that young people, most of them haven't got today. So that's what I'm doing with them.

The role of grandmother as carer for and teacher of children and young people was restated by an Aboriginal woman and leader from an Aboriginal community in NT:

Women are like they say, like the grandmother is the teacher. The carer. You know, and the mother is the one that gives guidance...daughters and nieces, they're the up and coming leaders in a sense of also being that guidance...but if that breaks down grandmothers are taking on more of a role.

This Aboriginal woman who was also coordinator for an Aboriginal community controlled organisation, explained how she had wanted to keep members of her family and the community who had a mental illness 'out of the justice system and become productive'. She thought that unresolved grief and loss had contributed to the high levels of mental illness in the Aboriginal community. She explained how Aboriginal people, and in particular women, 'lose a lot of people in their lives' and when 'life gets too hard they'll just run and they'll commit a crime' just to spend time in prison and to get away from it all:

...grief, lots of grief...it's a contributing factor to Indigenous people with mental illness. I strongly believe that, because, when you think back it's just like when you see people, ask among your people the ones they've lost in their lives. What did that person mean to you? A lot of people can't get through that, and then all of a sudden

they've got this world of hurt and some steal for the sake of stealing...I believe that the behaviour is attention seeking...that stealing and getting into trouble...they don't want to get into trouble. They're crying out for help.

## **CONCLUSION**

Aboriginal families, Aboriginal communities, community support workers and those working in correctional facilities provided insight into how they were affected when Aboriginal women with mental and cognitive disabilities were not 'living well' in the community and who ultimately became involved with criminal justice systems, in particular prison. Aboriginal families were affected because they had wanted to and were trying to support and care for Aboriginal women who were mentally unwell and impaired, however their own overburdened lives prevented them from finding the additional time, energy and resources needed for these women in their families. Despite this they made heroic efforts to support them. Aboriginal communities were affected because they lacked a good understanding of what Aboriginal women with cognitive disability or mental illness were experiencing in their lives, did not have the resources and were unable to provide the support and care needed for these women to prevent their involvement in criminal justice systems. Those working in correctional centres in prison support services, custodial management and health care were affected because they had been given responsibility for the supervision of Aboriginal women when they were imprisoned and yet did not have the education and training needed to identify and care for those with mental and cognitive disabilities, in particular FASD. Community organisations and support services were affected because they were not established or structured with a workforce to provide early intervention and practical and therapeutic supports and care required by Aboriginal women with complex support needs, in order to prevent their contact with police, courts and prison. The insight from those Aboriginal women supporters shows why it is necessary for Aboriginal women to have access to and to receive the right wrap around supports and care, in order to keep them from entering and, most importantly, to help them stay out of criminal justice systems. However, the women also explained that there are very limited wrap around supports and care available in their communities and Aboriginal organisations in NSW and NT could do better to incorporate a holistic approach into their service delivery. The collective stories of those strong Aboriginal women supporters shows the love and care provided to Aboriginal women (and men and children) with mental and cognitive

disabilities in their families and communities to prevent their interactions with criminal justice systems and increase their prospects of living well in the community.

The following chapter brings together all the findings, knowledge and insights shared by the women who partnered in this study and from the literature to try to make sense of it all as well as see ways ahead to improve lives from criminal justice involved Aboriginal women.

## **CHAPTER 10: DISCUSSION AND WHAT THE FINDINGS MEAN**

This research presents the first in-depth examination of the lived realities of Australian Aboriginal women with mental and cognitive disabilities involved in criminal justice systems. The findings drawn from the experiences, knowledge and perceptions of Aboriginal women from NSW and NT who partnered with and contributed to the study meet a critical need for information about this important national issue. The findings also stem from the experiences of Aboriginal and non-Aboriginal women within the families and communities who are either related to, connected with or involved in some way with the women in the study, or who have experience living or working with Aboriginal women – and in a few cases, with Aboriginal men – with mental and cognitive disabilities in contact with criminal justice systems. As such, these findings belong to the Aboriginal and non-Aboriginal women who have provided consent for their knowledge to be used to develop this field of inquiry. The findings are also informed by analyses of literature and policy documents examined in the first half of the thesis.

Returning to Chapters 2 and 3, we can see that scant consideration has been given in the literature to Australian Aboriginal women and their contact with criminal justice systems across all states and territories. The literature that does exist has largely been contributed and authored by non-Aboriginal men and women scholars, lawyers and others from non-Aboriginal managed organisations, with infrequent publications resulting from Aboriginal led or culturally informed or constructed research (Baldry and Cunneen 2014; Lawrie 2003). Moreover, the literature related to Aboriginal women involved with Australian criminal justice systems and who have mental health disability (Indig et al. 2010; Heffernan et al. 2014; Baldry et al. 2015) and cognitive disability (Baldry et al. 2015) is extremely limited and there is no social work disability research in this area (Bigby et al. 2018). Therefore, very little is known about the everyday lives or the lived realities of this group of Aboriginal women and their interactions with police, courts and prison or how this group of women, informed by their experiences and knowledges, might be supported to live free from interaction with criminal justice agencies. This also means very little theoretical development that could help explain and understand these lived realities has been undertaken. It was for these reasons that I drew on my own specific resources – my cultural, personal and professional knowledge and experience as an Aboriginal woman, mental health and disability criminal justice social worker and researcher – to thoughtfully and sensitively explore and explain the collective lived reality of Aboriginal women with mental health and cognitive disabilities and their involvement with criminal justice systems.

By applying critical Indigenous theory together with critical disability criminology and critical Indigenous social work to the findings of this study, I am seeking to develop a new theoretical framework in order to understand the processes by which Aboriginal women with mental and cognitive disabilities initially become criminal justice involved and to understand why they subsequently remain trapped in the system and managed by criminal justice agencies. By aligning all of who I am, as described in the methodological tool outlined in Chapter 4, with each and every Aboriginal and non-Aboriginal woman who partnered with and participated in the study, a deeper knowing and understanding of Aboriginal women's lives and their interactions with criminal justice systems was gained. These new understandings brought to light via the theoretical development in this research, provide insights that can help Aboriginal and non-Aboriginal professionals and human service workers in health, disability and justice sectors. These professionals include executive management, senior supervisors, middle managers, psychiatrists, Aboriginal health workers/practitioners, nurses, mental health practitioners, disability specialists, police and prison staff and these understandings will assist them to intently, and bravely, step into the real world of Aboriginal women with mental health and cognitive disabilities, and to understand the issues affecting their families and communities. These findings frame more clearly what proper supports and interventions must be provided to these women and their families, and articulate why we must do better for the Aboriginal women re-presented in this thesis. This is so that rather than prison and ongoing interaction with other criminal justice agencies being their normalised experience, they can have a dignified, self-designed and controlled existence outside these abnormal criminal justice environments and influences. Most importantly, I believe, these findings must be utilised by the 'caring profession' of social work to 'redirect practice towards the elimination' of structural obstacles faced by affected Aboriginal women which contribute to their involvement with criminal justice systems and keep them stuck in this colonial disorderliness (Healy 2000, 3).

## **COLLATERAL HISTORIES AND 'FATED' PATHWAYS**

### **Trauma and worry related symptoms**

Bringing a critical Indigenous disability criminology and critical Indigenous social work analysis to the narratives of the Aboriginal women with mental and cognitive disability highlighted what little power they have within their lives. Living as powerless women psychosocially, politically and economically provides very limited opportunities or ability for those with mental ill-health and cognitive impairment to change their circumstances, which contributes to their

involvement with criminal justice agencies. The findings show that this powerlessness started from a young age and continued into adult life, with almost all of the women being managed and controlled by men known to them including intimate partners, ex-partners, members of their families, community members, carers in group homes and police and prison officers. These forms of controlling management led to the women feeling disempowered and unable to think for themselves. This is a well documented and ongoing outcome of colonising racist practices (HREOC 2004). As a powerless group, these Aboriginal women were forced to do whatever was needed in order to survive and to cope with the people and systems exerting power and control over their lives. The findings also highlight the fact that these women's options in life were limited further by living each day in the colonial realm by their common experiences of systemic racism, stigma and inequity, which makes Aboriginal women less 'seen', less medically treated, and generally worse off than non-Aboriginal women with similar mental health, wellbeing and disability concerns who are also caught in criminal justice systems (HREOC 2002; HREOC 2004).

Negative experiences in childhood, including in the home and out-of-home care (OOHC), resulted in traumatised and worried children and adolescent young women unable to grow up learning how to love and respect themselves and trust in their own abilities. Moreover, girls with poor cognition (cognitive disability) who also had serious mental illness did not understand their conditions and were at increased risk of deterioration, self-neglect and abuse. The self-confidence and self-interest that should have been instilled in them over time had been replaced with characteristics such as aggression, learned helplessness and melancholy feelings in their adult years. The ongoing trauma and worry experienced since childhood, hidden deep inside and rarely disclosed to others, had shaped their life experiences and resulted in Aboriginal women with mental and cognitive disabilities always being fearful, guarded and uncomfortable with themselves. Any potential for them to become better educated and to develop the level of independence necessary for a better life was almost completely – and for some women – totally destroyed. Older Aboriginal women (women in their 40s and 50s) fared worse than their younger counterparts, which correlate with my understanding that over time, the permutations of trauma and worry are compounded by continued experiences of negative control and victimisation. This leads to more hospital presentations and detainments and more traumatic and humiliating prison episodes (Baldry et al. 2015), which are harder to overcome and recover from as the years progress. Each time these Aboriginal women had these experiences their mental wellbeing and cognitive functioning was at risk of further decline.

The findings relating to the complex childhoods in the formative years and traumatic developmental histories of the Aboriginal women participating in this study, match Heffernan and Anderson's reporting in their *Inside Out* study (2012). These researchers found that the unresolved or persistent trauma experienced by Indigenous women prisoners interviewed in six of Queensland's high security prisons – which at the time held close to 90% of Indigenous women who were either on remand or sentenced in the state – had been central to their development of Post Traumatic Stress Disorder (PTSD) and their increased episodes of mental illness, offending and imprisonment. Moreover, the findings relating to the experiences of trauma of these Aboriginal women were also supported by a later study by Heffernan and Anderson related to PTSD (2014). That study confirmed that more than half of the 116 Indigenous women imprisoned in Queensland's largest correctional facility were diagnosed with PTSD, were imprisoned at twice the rate of those without PTSD and had experienced this complex mental health condition for the majority of their lives (Heffernan et al. 2014). A report by The Australian Government's *Australian Centre For the Study of Sexual Assault* showed also that women in prison with a history of trauma related to sexual assault and abusive relationships could be re-traumatised by correctional policies and procedures such as 'strip searches' (Boulet 2013).

### **Numbing and normalising**

An important finding from the narratives of Aboriginal women with mental and cognitive disabilities was that they had so much familiarity with trauma in their lives, and with the worry that came with the trauma, that they had become numbed to the effect of their traumatic experiences and to the behaviours related to their mental illness or cognitive impairment. This numbness in regard to their life circumstances and inability to process the same had directly contributed to their offending and subsequent contact with criminal justice systems. Unable to fully understand the threat to their lives, and accepting this as how life should be (normalised), most of the women were charged with an offence instead of being provided with wrap around supports. These Aboriginal women just did not see their lives or wellbeing as of any importance, not to their children or family and, most importantly, not to themselves. This skewed thinking contributed to women being unable to care for or protect themselves and their children, unable to handle life effectively or to function in everyday society in areas such as relationships, money and employment. Poor decisions with money usually resulted in women being without means and in constant debt. However, despite this extent of association between having mental and cognitive disabilities and burdensome financial problems, only one

woman (from NSW) with both an impairment and mental illness had been supported by the state government's Trustee and Guardian. Moreover, when women could not cope, they blamed themselves – self-blaming for poor mothering, long-term unemployment and limited finances, and expressing helplessness and taking on a persecuted position. All of these deficit-based perceptions, which were also part of being unwell or impaired, formed the back drop for their self-identity as Aboriginal women: they consciously thought themselves to be not worthy and their lives to be problematic and expendable.

There are similarities between the thoughts expressed by the Aboriginal women in this study and those described by Swan and Raphael more than two decades ago in their landmark consultancy report *Ways Forward* (1995). These women researchers noted that Aboriginal people who had experienced prison felt helpless, and thought their lives to be so hopeless that 'nothing' could influence or change their lives for the better (Swan and Raphael 1995, 69). Those interviewed had repeatedly identified the effect of ongoing traumatic experiences on Aboriginal people and communities as well as the extensive impact and control this trauma had on people's physical health, mental health and wellbeing, which for the most part was not always recognised or understood as having negative implications on their lives (Swan and Raphael 1995). This present study suggests that unidentified trauma and worry for Aboriginal women with mental and cognitive disabilities, which began in childhood and has continued into their adult lives, has contributed to their criminal justice involvement. In turn, criminal justice agencies, and in particular incarceration, very often only entrench the trauma, worry and fear further into their being.

This research demonstrates another important factor related to the cultural experiences of these Aboriginal women, in that their trauma and worry have prevented them from moving through the different stages of cultural growth and from developing their special and 'cultural self' (Larrakia Healing Group 2015, 5). Those women forced to leave their communities because of their experiences were now, not unexpectedly, not well connected with where they have come from, and most of them had not lived on or returned to their country or homeland for a long time. Because the meaning of cultural self has never been learnt or has been undermined by others, now as grown women, they are not fully in touch with their cultural identity, do not have a sense of purpose as individuals, know their belonging as community members or how to enact their cultural responsibilities.

The Larrakia Healing Group explain that Larrakia people who do not know culture or country can feel unloved, unsafe, disconnected and lack trust; all of which ‘makes our spirit sick’ (2015, 3). In Chapter 4, Aunty Merle McEntyre supports this by saying that she ‘came alive’ after returning to country and her ‘real Spirit home’ of Allworth (NSW). It may be the case that the women in this study who are not culturally enriched have a ‘sick spirit’ contributing to an ‘unwell’ or ‘less functioning mind’ and this cultural imbalance may be a contributor to their involvement with criminal justice systems. The recently released *2015 Network Patient Health Survey – Aboriginal People’s Health Report*, seems to support this connection. From those Aboriginal women in prison who participated in the survey, just over one-third (34.9%) had been living on traditional country prior to their incarceration, 12.8% visited their homeland ‘less than once per year’, over one-quarter (26.8%) reported having ‘no traditional country’ and more than one-fifth (22.3%) of women were ‘not very satisfied’ with their knowledge of Aboriginal culture (JH&FMHN 2015, 24-25). The literature discussed earlier in Chapter 3 showed how those Aboriginal women in prison, now 14 years ago, who had little awareness about themselves or their families and communities due to forced separation, placement into care, incarceration, irregular contact or otherwise had yearned to learn and know about their own identity, and family, cultural and community history through Katon’s *Indigenous Identities* program. Acquiring this new knowledge about themselves and with learning specific new skills in history research methodology was possibly the most culturally empowering activity those women had done during their prison sentence as identified by an Aboriginal worker who, at that time, had been involved with women in the correctional system for more than ten years.

Paproski’s study more than 20 years ago with British Columbia First Nations women who had passed through times of suicidal ideation and intention identified that connecting or ‘reconnecting’ to their cultural identity seemed to be an ‘important part of the healing process by contributing to the development or clarification of personal identity’ (Paproski 1997, 79). Paproski also noted that the women’s cultural identity was linked to ecological perspectives and with their environment (Paproski 1997, 73). The importance of how ‘both mind and behaviour influence and are influenced by the person’s social environment’ documented by Payne and recognised by social workers, also more than 20 years ago, is now more accepted by researchers, academics, psychiatrists and other professionals (Payne 1997, 72). For instance, *Mayi Kuwayu*, a national study of Aboriginal and Torres Strait Islander wellbeing, is gathering evidence on how cultural and environmental factors such as knowing your mob, speaking language and living on country can relate to one’s health and wellbeing.

With a few exceptions, most of the women in this present study appeared to be so alienated from their 'authentic existence' (Paproski 1997, 73) that they could only see themselves as helpless and their lives as hopeless, leading them to think, quite knowingly, 'there is no answer for me'. One younger Aboriginal woman interviewed while she was in prison (and had been in prison too many times to remember) questioned whether her life pathway was 'destiny' or 'fate', and even thought that she was exactly where she was meant to be, confined and constrained far away from her child and family. The words of philosopher Carl Jung, 'until you make the unconscious conscious, it will direct your life and you will call it fate', are significant for this Aboriginal woman and for the many others who have lost all emotional longing and hope for an alternative and better life.

Therefore, helping women with mental and cognitive disabilities to shift the numbing and sense of helplessness and hopelessness within them earlier on in their lives is critical for preventing their contact with criminal justice systems. By properly supporting women to question their lived reality, to be firm in their cultural identity and in touch with their communities, to unlearn the 'worthless and undeserving Aboriginal woman' dialogue and to re-learn how to value themselves, their pain and suffering can be consciously alleviated. This support must be provided when women are young or as early as possible in their lives, because, as identified by this research, the less they know about their cultural and authentic self and the more cumulative misadventures, hospital stays, offending, prison episodes and lack of treatment they experience in the community, the longer it can take for women to acquire the operative capacity to recover, the more their functional capacity may be impaired, the higher the risk of ongoing mental illness without recovery<sup>76</sup> and the less reason they can have for living.

### **Violence: sexual, body, mind, spirit**

Aboriginal women with mental ill-health and cognitive disability who partnered with the study told of having their bodies, minds and spirits repeatedly attacked and broken over many years of their lives by others with persuasive and controlling behaviours, mostly males, who were known to them and who were regularly affected by alcohol and other drugs. Their intimate relationships with men were very often violent, chaotic and dramatic, and the violence appeared to escalate when the use of stimulants increased, in particular during Christmas and

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<sup>76</sup> This can be called the 'kindling effect' (conversation with Psychiatrist Geoffrey Rickarby, NSW Mental Health Review Tribunal, 5 December 2017).

Easter holiday times. Knowing the perpetrators made it difficult for women to take action, in particular when the man had fathered their children. However, even when Apprehended Violence Orders (AVOs) had been actioned, Aboriginal women were not protected from extreme and life threatening acts from male aggressors. Trapped and terrified, these women had no self-defence from the knives and other weapons used by physically stronger men to bloodily wound or from those who detained women against their will, sexually violated their bodies or repeatedly punched them to the head, in some cases causing brain injury. Results from the *2015 Network Patient Health Survey – Aboriginal People’s Health Report* showed more than one-third (37.4%) of Aboriginal women in prison reported that they had received at least one head injury that resulted in unconsciousness, a figure higher than for all other groups (JH&FMHN 2015, 22). Furthermore, assault had been the cause of head injury for 60% of those women (JH&FMHN 2015, 23).

Such regular exposure to violence impacted on women’s mental wellbeing and increased the risk of harm to themselves and others, as some of the women who reported being victims of violence had, in turn, committed violent offences. Women with cognitive disability in particular told of reacting in an impulsive way to their distress with aggression, violence and by damaging private and public property. The 2012-13 *Stop the Violence* project, conducted by Women with Disabilities Australia, People with Disabilities Australia and the University of NSW, found that violence ‘intensified in frequency, extent and nature when gender and disability intersect’ (Tan 2015, 1). Therefore, when gender and disability is layered with Aboriginality, it follows that crime-related violence against Aboriginal women with mental and cognitive disabilities can be much more prevalent and widespread.

Many of the women who partnered with the study had also self-harmed, with a few women attempting suicide more than once in their lives. This specific finding regarding non-fatal suicidal behaviours of those women experiencing sexual violence adds weight to research by Afzali and others when examining data from the *2007 Australian National Survey of Mental Health and Wellbeing* (Afzali et al. 2017). The researchers reported that the suicidal behaviours (ideation, plan and attempt) in a large representative national sample of adults (N = 8841) were particularly associated with experiences of sexual violence and exposure to multiple traumatic events during their lifetime (Afzali et al. 2017, 1142). Moreover, psychiatric disorders related to major depression and alcohol and substance use ‘increased the odds of suicidal behaviours’ (Afzali et al. 2017, 1142). While many women stayed in violently dangerous and risky relationships, those women who survived the violence and were forced

away from their homes became dispossessed travellers who had to deal with involuntary homelessness, and for some women this meant risk of further danger, as they cycled between overcrowded relatives' houses and prison.

### **Alcohol and other substance abuse and dependence**

The harmful consumption of 'grog' and other substances is common among the Aboriginal women living with mental and cognitive disabilities who partnered with this study. These are associated with offending behaviours such as driving while 'out of it', which, for some women, led to police contact. Substance abuse and dependence also complicated or magnified their mental health symptoms and cognitive disabilities. For other women though, their mental ill-health and underlying life stressors were taken over by alcohol and illicit drugs and tobacco. It is promising to see that these findings are similar to those found by Lee and other academics concerning research with 21 Aboriginal women with co-occurring mental health and substance use disorders living in urban and regional areas of southern NSW. The researchers described the impact of the comorbidities on the women as 'considerable and personally devastating', with many experiencing 'poor health, financial instability...isolation and loneliness' (Lee et al. 2014, 475). While these findings are significant for those women identified by the researchers as having 'complex needs', it is unfortunate that the researchers did not go further with their inquiry and focus on the women's interactions with criminal justice systems. A failure to examine whether there are forensic histories for those Aboriginal women is further evidence to show what little understanding some researchers, even if they are engaged in the area of Aboriginal health, can have about Aboriginal women who are mentally unwell as emphasised in Chapter 2. This example helps to also establish why this present study was not just necessary, it is critical.

Returning now to the Aboriginal women partnering with this present study, most of their drug use started in adolescence and drugs of choice included amphetamines, cannabis, heroin and cocaine, as well as sniffing aerosols and the overuse of prescription opioids and other medications. 'Ice'-linked crime<sup>77</sup> had led to women's arrest, prosecution and imprisonment. The use of illicit drugs took over everything in some women's lives, and, unsurprisingly, led to them funding their addictions by low level (and easily caught) offending, such as shoplifting and on-selling of drugs, resulting in these women being fined and imprisoned. These findings substantiate those reported in the *2009 NSW Inmate Health Survey*, where one third of

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<sup>77</sup> Women were affected by methamphetamine (also known as ice) when offending.

Aboriginal women prisoners had offended to purchase alcohol and other drugs (Indig et al. 2010).

Similarly, drinking alcohol started at a young age for most of the Aboriginal women living with mental and cognitive disabilities in this study. This may be explained by the fact that as children they were exposed to alcohol by parents and others who drank excessively in the family home, giving them ready access to plenty of alcohol. The study highlighted that some women from the NT overused alcohol while on mental health medications. Many of these women experienced further stress and anxiety due to the constant 'humbugging' from family and community members who hassle for money to buy alcohol, and they could be placed in unsafe positions when unable to meet these demands.

Harms associated with alcohol use extended to some of the women's children and other family members. Three women in prison who were young mothers shared that they drank heavily while pregnant. One woman had not seen her then six-year old child since she was an infant and it appeared that she had withdrawn her feelings of attachment to the child in order to cope with the loss. While it is understood that alcohol is an issue not just for childbearing women, these Aboriginal women dealt with double shame and blame because of their alcohol abuse during pregnancy and the ensuing risk of fracturing their children's own cognitive development and functioning capabilities. When I asked these women if they had heard about Fetal Alcohol Spectrum Disorders or FASD, they responded that they had; however, they knew very little about FASD, or the 'sleeping monster' as it was described by one community worker, and the multi-level consequences for children born with FASD or for their families.

Although this study focuses on Aboriginal women with mental and cognitive disabilities and not on their drinking during pregnancy, further research could examine the relationship between mothers with mental and cognitive disabilities who are disadvantaged and offend, alcohol use when pregnant and the health and criminal justice outcomes for children. It is possible that such a study could lend support to the research showing the *Impact of social disadvantage and parental offending on rates of criminal offending among offspring of women with severe mental illness* (Valuri et al. 2017, 1033). Using a 'record-linked whole-population' study, WA academics Valuri and others analysed children born in the state from 1980 to 2001 to mothers with severe mental disorders (schizophrenia, major depression, bipolar disorder and other non-organic psychosis). The researchers found that Indigenous offspring were significantly more likely to have an offence history (average age at first recorded offence was

15.7 years) when compared to non-Indigenous offspring (17.3% vs 2.7%), and, when the mother was an offender, their children's risk of offending was elevated (Valuri et al. 2017, 1035). A few of the Aboriginal women who participated in this current study shared that their mother was also affected by mental illness (major depression) and others explained that their children had been imprisoned (detention). Therefore, the findings from this WA study could be used to discern additional risk factors and reasons Aboriginal women had offended and become involved with criminal justice agencies from a young age.

In keeping with the results of this present study relating to the use of alcohol and other substances by Aboriginal women with mental and cognitive disabilities who also offend, we find once more that they are consistent with those reported in the *2009 NSW Inmate Health Survey* (Indig et al. 2010). That third offender survey shows that Aboriginal women prisoners had significantly higher rates of binge drinking behaviours when compared to non-Aboriginal women (Indig et al. 2010). Almost one third (29%) of women showed a dependency on alcohol by indicating that they had six or more drinks on a daily basis, which was more than twice the alcohol consumption of non-Aboriginal women (Indig et al. 2010, 37). The later *2015 Network Patient Health Survey – Aboriginal People's Health Report* also shows that Aboriginal women consumed more alcohol on a weekly basis than non-Aboriginal women prior to their imprisonment (JH&FMHN 2015, 31-32). In fact, more than 80% of Aboriginal women drank alcohol at harmful levels and close to 70% were drunk when arrested (JH&FMHN 2015, 33). Indig and others also found that illicit drug use was also significantly higher for Aboriginal women than non-Aboriginal women (88% vs 74%), with cannabis being the most common drug used and at similar rates to Aboriginal and non-Aboriginal male prisoners (Indig et al. 2010). These results are similar to the findings from the first *NSW Inmate Health Survey* (1997), where 92% of Aboriginal women prisoners reported illicit drug use (Butler 1997). The *2015 Network Patient Health Survey – Aboriginal People's Health Report* also highlighted that cannabis was a common drug of choice for more than three-quarters of Aboriginal women participating in the survey, with methamphetamine being slightly more popular (77% vs 75.7%)(JH&FMHN 2015).

## **CRIMINAL JUSTICE SYSTEMS**

This current study suggests that the interactions of Aboriginal women with mental and cognitive disabilities with many aspects of the NSW and NT criminal justice systems – including police, courts, magistrates and lawyers, correctional facilities, prison health care services and parole – are negative and troubling experiences for them.

## Police

For most Aboriginal women interviewed for this study the early and ongoing contact with police was a dominant factor in their lives. The women spoke negatively about police, criticising their threatening behaviours and inadequate or – even worse – aggressive responses. These women noted that police were not only threatening towards the women themselves, but that they had very poor relationships with Aboriginal people and communities generally. The law and police are meant to, and can, help people to feel safe and protected from harm. However, the Aboriginal women who spoke to me would not access police for help, safety and protection or for any other reason, mainly due to their friction with and mistrust of police authorities. Equally, women would not present to police for assistance due to their criminal records, especially in cases where ‘assault police’ was a feature of their criminal histories. Further, women who were known to the police because of their surnames felt judged and like they had a ‘target’ on their back.

For more than a decade the NSW Police Force has had policies and strategies to ensure that Local Area Commands (LACs) with high Aboriginal populations partner with Aboriginal people and communities to improve the ‘management of Aboriginal issues’ (NSW Police Force 2012, 3). During this current study the second *Aboriginal Strategic Direction (2012-2017)* document was released. The policy document notes that Police Aboriginal Consultative Committees (PACCs) should be established with Aboriginal communities and ‘managed’ by LACs, and chaired by the Police Commander (NSW Police Force 2012, 2). Further, the PACC is open to everyone in the community to attend on a quarterly basis to address ‘Aboriginal issues associated with crime and crime prevention’ (NSW Police Force 2012, 11).

One of the NSW communities that participated in this study was a small remote town with a large Aboriginal population. More than 40 predominantly, if not all, non-Aboriginal police were practising in this town which was used as the area LAC base for the western region.<sup>78</sup> Living in the community was a proactive group of representative and respected Elders, who, similar to most Aboriginal communities, are the known old and wise people who honour their community and cultural duties and responsibilities from the heart. These Elders, many now Great-Grandmothers and Great-Grandfathers, were born and raised in the local area and have used their knowledge of community and culture continuously over many years to make the

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<sup>78</sup> In comparison, the small coastal town of Tea Gardens/Hawks Nest situated in the Port Stephens LAC of the NSW Northern Region has two police officers (one part-time), despite having a comparable number of residents. This coastal community is populated largely by non-Aboriginal retirees.

town a better place to live for both Aboriginal and non-Aboriginal people and their families. However, the increasing numbers of police living and working in the community, as well as the excessive police to population ratio, was often raised as an issue by the Elders and others. This was because very little was known about the police officers and even less about the LAC Inspector, who, according to the policy mentioned earlier, acts as the Aboriginal Issues Officer or point of contact for the Aboriginal community. This policy states: 'it is important that we acknowledge the position of *respected* Aboriginal Elders in the community by seeking their input in matters affecting the community' (NSW Police Force 2012, 17). However, the known Elders in this community had no input into the state's policy, had not seen the policy document, were not members of the PACC and were not aware of the Aboriginal Action Plan developed and approved for their community. The Elders had clearly wanted to connect with and have good relations with the local police because they had wanted to offer a 'Community Policing Award' to recognise police who had good relations with the Aboriginal community. As no police officers had ever come to meet with the Elders, this idea had been difficult to implement.<sup>79</sup> More recently, a new multi-million dollar police station with more cells had been built to replace the old station and was used to locate more police who, according to the Elders, usually came to town directly from the Police Academy. Again, there was no engagement or consultative process undertaken by the NSW Police Force with the Elders, nor with most other Aboriginal people in the town. Elders were not asked to be involved in the orientation of new police to their community and the reasons why the police and senior officer in this LAC did not meet with and know community Elders or welcome their input into 'local solutions for local problems' to drive down crime in the town (NSW Police Force 2012, 2) were not understood by the Elders. Due to the reasonable numbers of Aboriginal men, women and children in the circuit court and with Aboriginal people going in and out of the state's prisons from this small remote town, it can be presumed that there had been no real improvement with police and community relations, and the policy, although being appropriate, has not been properly implemented (NSW Police Force 2012, 15).<sup>80</sup>

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<sup>79</sup> The relationship issues between the Aboriginal community and police in this town, as well as Aboriginal and non-Aboriginal people are long standing. Cilka Zagar, a Slovenian woman who came to Australia in 1963 with her husband and taught reading at a school in this community in the 1970s, explained how she had experienced 'culture shock' due to the clearly 'divided' black and white society (Zagar 1990, xi).

<sup>80</sup> Aboriginal Cell Support Groups have been in place since 1995 and members are community volunteers who can be contacted by police on a 24 hour basis (NSW Police Force 2012). An outcome of the Aboriginal Cell Support Group strategy is to 'ensure the safety of Aboriginal People in Custody' (Priority 3: Aboriginal Strategic Direction 2012, 26). However, the Elders were not involved with the Aboriginal Cell Support Group and were not aware if this group existed. In another research site, the

Similarly, there was little recognition of collaborative working relationships between Elders, the community and the local police in the other Aboriginal communities who participated in the IAMHDCD research and this study. This impediment, as well as the policing approach in these communities – the enforcement of the law and punitive policing over community policing and working with communities – had often led to the business of police becoming perverted. The narratives about many policing practices are disturbing: Aboriginal young people being kept in police cells overnight for breaching curfew orders; targeting of children fishing the river using traditional ways because they didn't have a fishing licence; not acting seriously on women's complaints regarding violence, damage to personal property and the breaching of AVOs by aggressors; charging Aboriginal women and mothers for retracting victim statements related to violence; over-policing by arresting Aboriginal people for fighting in their front yards or with the operations of the Suspect Targeting Management Plan (STMP) where habitual offenders were frequently identified and subjected to additional surveillance; and under policing by not deterring violent acts against others when informed of the risks by potential victims. An unusual practice I witnessed myself in front of the courthouse was when a plain clothes detective, identified to me by community members, picked cigarette butts and tissues off the ground where Aboriginal people were sitting on a bench seat and took the 'evidence' inside the police station. When he walked away from the group I was told by community members that the detective was 'checking for DNA without people knowing' and that this was a common policing practice. Although these members of the community were a little annoyed by the actions of this officer, which were so starkly carried out in front of them, they were also not surprised or fazed by something that I saw as rather peculiar.

These documented narratives about police help to explain the reasons why it can be hard for Aboriginal people, and in particular those who may be in need of urgent support in times of crises, to access or rely on the police for assistance. For Aboriginal women with mental and cognitive disabilities it can be even more difficult and distressing to approach police for help when needed because of their fear of police and because women are afraid that once contact has been made with police, they are likely to stay in contact. The involvement of women with police, and in particular women from regional and remote communities, is further compounded by the absence of stand-alone and purpose built mental health or residential rehabilitation facilities, as well as very few locally based social workers, mental health

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Aboriginal Cell Support Group had recommenced after community members had participated in the IAMHDCD research project. Very recently the Local Area Command has changed and the police superintendent has started meeting with Elders and other community members.

practitioners, alcohol and other drugs professionals and even fewer Aboriginal people in these roles. The failure to provide adequate mental health supports for those in regional and remote communities has resulted in the police often becoming the primary responders for Aboriginal women with acute symptoms of mental illness, mostly after hours when the violence, accidents or misadventure usually occur, which can lead to women being transported by police to emergency departments at local hospitals or scheduled to vacant psychiatric beds located some distances away.

Baldry and Dowse, lead researchers on the IAMHDCCD project from the University of NSW, say that NSW police officers are acting as 'care managers' for those people living with mental and cognitive disabilities who have complex support needs (Baldry and Dowse 2013, 1). After analysis of masses of police case notes and using case studies from the MHDCCD dataset, the women academics explained how police at the frontline, who often attended events involving people with compounding mental and cognitive impairment, were the 'only ones' who could not 'turn away' people who were unwell, brain affected, in pain or functioning poorly, including women who had frequently come into contact with police as either victims or offenders and were at serious risk of harm to themselves and others, and from other people (Baldry and Dowse 2013, 15). This police involvement was varied and dependent on the officer and location.

Conversely, the Aboriginal women from NSW and NT who partnered in this study did not feel that police had provided them with much support at all, and felt that some police had directly contributed to their imprisonment. Despite the women's lived realities differing to the findings of these authors, I partly agree with the position of Baldry and Dowse. Although not sufficiently resourced to attend to situations for those with mental and cognitive disabilities, the local police have responded to many calls for assistance from my family, and have been a lifeline for our family member in times of great adversity, including keeping them alive when our family was totally helpless. Despite my experience, this study shows that police from both the state and territory, and most likely elsewhere in the country, need a new approach to policing when it comes to Aboriginal women who have serious mental illness and cognitive disability. This different way of working should be informed by specialised training in the unique challenges and barriers faced by Aboriginal women as identified in this study. For example, in NSW, this new knowledge could be easily incorporated into the training at the Police Academy and into the program provided to police officers selected to undertake specialised training in mental health who then become recognised members of Mental Health

Intervention Teams (MHIT) located in many LACs. Further, the community volunteers who are members of Aboriginal Cell Support Groups (or cell visitors) and who are on call 24 hours a day should acquire similar knowledge to assist them with providing proper support and safety for women arrested or detained by police.

## **Courts**

Madeleine Rowley, a non-Aboriginal lawyer with the Central Australian Aboriginal Legal Service (CAALS), has written sparingly on the association between Aboriginal women with mental and cognitive disability and the court system in the NT. Apart from some brief information offered by Rowley in a conference presentation, the literature is non-existent. Rowley however has strongly emphasised that the needs of women with cognitive impairment are not known and because no legislation exists in the NT to assist magistrates to deal with vulnerable women who appear before the courts, large numbers of Aboriginal women are being imprisoned instead of being diverted into appropriate care (Rowley 2013).

An important finding from the present study is that most Aboriginal women with mental and cognitive disabilities did not have the level of insight needed to understand their legal rights, to realise what was happening to them, and to comprehend the legal language used by lawyers and magistrates in the courtroom. It was also identified that having a mental illness or impairment prevented these women from giving the right information and instructions to non-Aboriginal lawyers, from asking the right questions and from making good judgements about their matter, and, in particular, this affected their ability to make on the spot decisions. Further, understanding the court operations and processes was almost impossible for Aboriginal women from the NT who used English as their second or third language. According to the Aboriginal interpreter I worked with for both studies, the likelihood of Aboriginal women accessing interpreters in the courts to address language barriers was extremely low. It could also be the case that for those women who could access Aboriginal interpreters, their mental illness and impairment may not have been fully realised by those interpreters who were trying to help them. This theory is supported by my observations and discussions with the interpreter and from the findings of both the earlier IAMHD CD study and this present study, which show that many Aboriginal people do not have a good understanding of mental and cognitive disability and its effects on family and community members.

One of the most unsurprising findings to emerge from this study is that lawyers representing the Aboriginal women with mental and cognitive disabilities generally worked in Aboriginal

Legal Services (ALS) and Legal Aid. When interviewing these non-Aboriginal lawyers, particularly in Aboriginal Legal Services, it was evident that they were dealing with a high volume of clients needing legal assistance and often unable to spend the time required with these women to understand their disabilities and complex support needs (Baldry et al. 2015). Further, Aboriginal Field Officers in the ALS could not always provide adequate and appropriate supports due to the pressures from the client numbers and stressors from this role. It may be the case therefore that the legal representation and support provided to women was inevitably limited and that lawyers were not as effective as they could and should have been in defending and upholding the legal rights of these defenceless Aboriginal women. As a result of all these barriers, the court experience for most of the women who partnered in this study frequently went wrong. The women who were behaviourally disturbed, who had poor judgement, faced difficulty with communicating and functioned socially and emotionally lower than their chronological age, were sentenced to prisons located far away from family and where visiting was near impossible.

This present study also identified that the sentencing within NSW, and between the state and territory, could vary greatly and was largely dependent on the location, magistrate, availability of community and court liaison services for mental health assessment and diversion into mental health treatment and services and the use of these services by the magistrate. In NSW, assessments and assistance for people with a mental illness appearing at local courts is provided by mental health nurses working with JH&FMHN in the community (Soon 2017). From the small number of Aboriginal women who had been first diagnosed with mental illness (anxiety and depression) when going through the court system, none of these women could recall being assisted by the Statewide Community Court Liaison Service (SCCLS) and diverted from prison. Recent research by JH&FMHN confirms that Aboriginal people with serious mental illness are less likely to be diverted from prison than non-Aboriginal people (Soon 2017). A data linkage study by Soon, a psychiatry registrar, looked at the utilisation of the SCCLS by magistrates and the effectiveness and impact of the service operating in 22 of the local courts. The investigating team reported that non-Aboriginal and Torres Strait Islander people with severe mental health disorders were 1.5 times more likely to be diverted from courts than Aboriginal and Torres Strait Islanders. The researchers noted further that 'Indigenous status' significantly impacted on whether local court magistrates diverted Aboriginal people with mental illness to prison or not (Soon 2017, 22). Soon's findings may also reveal the reason most Aboriginal women were not placed on community based orders, Intensive Correctional Orders or granted bail.

According to Soon's research and this current study, it appears that magistrates presume that women with mental illness and cognitive impairment have the ability and capacity to learn from the sentence imposed and not to reoffend or repeat the same mistakes. It could well be argued however that the executive functioning capabilities of these women may not have developed in childhood because of their traumatic and worrying experiences or they may have brain damage and memory loss from repeated acts of violence. Therefore, when told to learn from mistakes and to do better, these women with mental and cognitive disabilities may be unable to do so.

One unexpected finding from this study is that Aboriginal women (and men) living remotely in NSW and presenting to the court with psychotic symptoms had, at times, been given a short sentence in a city prison in the hope they may be properly diagnosed. When in prison, however, these Aboriginal women did not receive the clinical diagnosis or the mental health treatment expected, and their recovery was also put at risk because they generally returned to the community worse off from the prison experience. A possible explanation for this action might be that what may have been thought to work in the past, that is, sending people to prison for a mental health assessment and treatment not readily available in regional and remote areas, is no longer an acceptable alternative to community mental health services. But the evidence from various Inquiries and Commissions over the past three decades, is that this was never an appropriate or acceptable approach (Women in Prison Task Force Report 1985; Burdekin 1993). This is even more so the case in the contemporary climate, because of the increasing prisoner numbers, the mass reforms within the NSW correctional system and the uncertainty of JH&FMHN to keep up with the demand for psychiatry and other health related services. Therefore, it is important for magistrates, who have full control of decision-making in the court room, to be informed of these major systemic changes in correctional services so that Aboriginal women with mental and cognitive disabilities are not being imprisoned for reasons magistrates may think are right, but that are thoroughly wrong.

There is, however, another possible reason Aboriginal people are less likely to be diverted from courts and more likely to be imprisoned. For five years of PhD research, Aboriginal academic and author Dr Stephen Hagan focused on the treatment of Aboriginal and non-Aboriginal people appearing before the courts charged with the same offences, looking at the language of magistrates and Aboriginal imprisonment rates in Australia (McKenna 2017). In his recent book *The Rise & Rise of Judicial Bigotry*, based on this research, Hagan claims there is 'mounting evidence of judicial racism' in the courts, and this can be seen with the lower

numbers of Aboriginal people being granted bail because of the judges' perception that Aboriginal people 'won't or can't show up or are dangerous' (McKenna 2017, 1). Hagan writes that many judges and magistrates 'carry an attitude, derived from their upbringing and education, that Indigenous people live on the fringe and need tough treatment' (McKenna 2017, 1). Hagan concludes that 'cultural bias' in the non-Indigenous community has come from those who have mainly not interacted with Aboriginal people but relied on unflattering media for their understanding of Aboriginal people, which has led to extreme Indigenous incarceration and longer sentences, in particular for those from regional towns (McKenna 2017, 1).

The present study provides support that magistrates, as well as lawyers and others who work in the courts and in legal services, need to have the correct insight into mental and cognitive disability, a better understanding of the impact that these conditions can have for Aboriginal women, and how their disabilities can contribute to offending and involvement with criminal justice systems. One important way to provide this understanding for decision-makers is for the family and carers to be given the opportunity to inform the courts of a woman's collateral history, so that magistrates can understand what is really going on for this woman and are able to take into account her individual circumstances and complex support needs. It follows that the key factors and key experiences identified for Aboriginal women through this study can also be used to inform clinical and cultural service planning for the SCCLS and to help prepare for its possible expansion in all NSW local courts. While mental health nurses are the liaison clinicians in the courts, JH&FMHN could broaden their approach to mental health supports with allied health professionals, including mental health social workers and Aboriginal mental health practitioners, to provide additional diversionary supports beyond the court for women of Aboriginal and/or Torres Strait Islander backgrounds. Further, by linking JH&FMHN court clinicians with police connected to the Mental Health Intervention Teams, Aboriginal women with mental and cognitive disabilities may be less likely to become involved with criminal justice systems in the first place.

## **Prisons**

The Governor of a prison cannot choose who comes to their facility from the courts (Snoyman et al. 2017). However, senior administrators responsible for women's correctional centres in NSW can expect that more than one third of women sent to their prison will be Aboriginal and/or Torres Strait Islander, and around one third of these women will be unsentenced or remanded in custody (Corrective Services NSW [CSNSW] June 2017). In some prisons the figure

is much higher, for example, 64% of women imprisoned in the Wellington facility in the state's far west are Aboriginal, as are 52% of women held in the Mid North Coast Correctional Centre situated on the eastern coast (CSNSW June 2017). Although Aboriginal women's imprisonment is at a record proportion, which some argue has been driven by policy rather than actual crime (Southward 2015), the numbers are relatively small when compared to the total (male and female) prisoner population (335 vs 13161) (CSNSW June 2017).

Despite being a small number of NSW prisoners, Aboriginal women are proportionally the most over-represented group of prisoners in NSW and have the highest rates of mental and emotional wellbeing issues among the prisoner population, including admissions to psychiatric hospitals and being on psychiatric medications (Indig et al. 2010). The considerably poorer mental health of imprisoned Aboriginal women identified several years ago in the *2009 NSW Inmate Health Survey: Aboriginal Health Report* has not changed as indicated in the fourth survey of the health of NSW prisoners. The *2015 Network Patient Health Survey – Aboriginal People's Health Report* reveals Aboriginal women have a range of diagnosed mental health illnesses and disabilities (depression, psychotic disorder, personality disorder, alcohol abuse or dependence, drug abuse or dependence, drug induced psychosis, PTSD, head injury) which are at higher prevalences than among Aboriginal men and non-Aboriginal men and women (JH&FMHN 2015, ix-28).

Almost all (85%) of the Aboriginal women interviewed for this current study had experienced prison, with many of these women having had multiple and largely short prison stays on remand or sentences. More than half of the interviewees were imprisoned at the Silverwater Women's Correctional Centre located in Sydney, NSW. These women were either sentenced or unsentenced (remand) awaiting trial. When on remand or 'in limbo' as had been indicated by many women, they were moved frequently from prison to prison, and the more movements they experienced, the higher the risk and toll that could be placed on their mental health and wellbeing. This finding suggests that mentally unwell and cognitively impaired women may not be concentrated in this one metropolitan prison but are likely to be spread across the state's correctional facilities.

Most of the women I spoke with in the Silverwater facility were segregated in the Mental Health Screening Unit (MHSU), Mental Health Step-Down Unit (MHSDU) and the Mum Shirl Unit (MSU) for those with severe personality disorders. Snoyman and others, in the article *Management of People with Mental Health Disorders in the Criminal Justice System in New South Wales*, explain that women with acute symptoms of mental illness and who are a risk to

self and others, or from others, are assessed, treated and managed by both JH&FMHN and CSNSW in the 'safe, therapeutic environment' of the MHSU until they are well enough to return to the main prison or to other facilities (Snoyman et al. 2017, 190). From this description, it could well be assumed that the prison's MHSU is a type of therapeutic care centre with its own responsive treating team that is trained to work with and help those unwell women, including Aboriginal women who share common realities of trauma and abuse and similar treatment regimes. It seems however that this is not the case, because according to these authors, workers in the prison setting need only to know about the 'signs and symptoms' of trauma and are not required to respond to the 'specific trauma experiences' of prisoners with mental illness (Snoyman et al. 2017, 187). To help explain this procedure, it may be possible that professionals who work in prisons, such as psychologists, mental health nurses and psychiatrists, do not practice with women prisoners experiencing complex trauma because the women might rightly need ongoing psychotherapy and other supports to manage their intense emotions and reactions, and prison is not the right environment for doing so. However, it is more probable that the increasing numbers of women prisoners who experience these vulnerabilities outweigh the few psychologists who are primarily tasked with decreasing reoffending through behaviour management and rehabilitation of offenders constrained by inflexible policies and budgets. It could also be said that less expectation is placed on mental health nurses and psychiatrists to remedy prisoner numbers because this is not the responsibility of JH&FMHN as the health care provider. It could also be accurate that supporting the inmate population who identify with trauma is not part of correctional policy and practice. After a four year trial (2011-2014) in two facilities of the Counselling in Prison Program offered by the Department of Justice Victims Services to inmates who were traumatised as victims, CSNSW is now rolling the program out to other sites. A recent evaluation of the counselling program by Dornan and Aird found that from a total of 235 inmates who participated in the trial, 159 were women and 87 (37% of the total) of them identified as Aboriginal and /or Torres Strait Islander (Dornan and Aird 2015, 8). The number of Aboriginal women who participated in the program was not indicated. The evaluators concluded that the program was 'effective' because the testing of inmates for trauma symptoms before and after counselling showed a reduction in the areas of 'depression, anxiety and stress' for all participants, regardless of 'age, gender or ATSI status' (Dornan and Aird 2015, 8). No reliable evidence was found however that the evaluation approach used by Dornan and Aird, such as questions asked, data collected, who is doing the asking and collecting and data analysis, all of which can have 'tangible ramifications' (McCausland 2015,

199) for the evaluation process and impact, had considered Aboriginal women's experiences or perspectives or that the program had benefited them specifically.

Returning to this present study, and in keeping with my expectations, almost all of the Aboriginal women in these three mental health units who were interviewed for this study had therefore rarely received effective and responsive mental health care and found the living conditions to be unsuitable and further distressing. The likely explanations for these outcomes are numerous. For example, the environment did not provide the stimulation needed for an unwell mind, heart, body and spirit to be reawakened or to become well; sick women slept in timeworn prison cells said to be cold in winter and hot in summer; more often women were fed bland processed foods and they had limited access to open exercise areas. Further, in a place where perhaps every action could be labelled as psychotic, some women were further restricted with box visits, and this practice was particularly painful for mothers and grandmothers who could not touch and kiss their children and grandchildren. Thus, Aboriginal women who had asked carers not to bring children to prison, to protect them from seeing their mothers and nans so controlled and dehumanised, have very little family contact. The non-contact could also be upsetting for the children and perhaps increased their risk of detachment from these women and primary carers.

As with the absence of appropriate psychotherapy interventions, attention given to pharmacological treatments was similarly problematic for those Aboriginal women with mental illness and in particular for those with a co-occurring cognitive disability. For example, some women were not properly medicated for mental health symptoms for weeks because of long waitlists to see JH&FMHN psychiatry services or they received five minute consultations for antipsychotic medications to be prescribed and monitored, despite experiencing weight gain, dribbling mouths, fluctuant emotions and sedation side-effects.

Given these results, it seems that too much of the 'health professional centred' approach to mental health treatment is used for Aboriginal women prisoners with mental and cognitive disabilities in place of responsive, balanced and effective treatment plans to meet their unique needs. Further, allied health supports including social work, occupational therapy, physiotherapy, neuropsychology or Aboriginal mental health practitioners are not generally accessible for these women experiencing more complex vulnerabilities and to support the full-time psychology positions. It could be argued that if these women were being cared for in a declared mental health facility in a Local Health District then they would have occasional to frequent access to these professional allied health supports.

Those women who were interviewed in the prison's main area did not want to be in the mental health units because of the associated stigma and inadequate conditions. These women had therefore 'merged into the general prison population' (Snoyman et al. 2017, 192) and were helped by Aboriginal sisters and non-Aboriginal women prisoners who were slightly more resourceful. Generally, these support women could identify who was unwell even before the correctional and health systems were able to. They also knew when women received bad news, such as from FaCS about their children or from home, including deaths in the family. These support women comforted Aboriginal women who frequently lost loved ones, especially when they were refused to attend funerals, not even for parents or siblings. My experience of the correctional system is that these actions by CSNSW would not be intended to cause further grief to Aboriginal women (and other prisoners) and are largely based on dynamic security and staffing issues at the time. Regardless, denying these Aboriginal women connection with family and community at sorry times was viewed as reprehensible and appeared to further impact on their mental and emotional wellbeing and disturbed behaviours.

As discussed in the literature review, Grant and Paddick, well experienced designers of custodial environments in Australia and internationally, point out that Australia's prison systems are simply unsuitable for holding Aboriginal women who are surviving trauma from, for example, physical and sexual abuse as children and adults, racism, poverty and homelessness and for the increasing numbers of women who have cognitive impairments commonly from violence, motor vehicle accidents or FASD (Grant and Paddick 2014). An Aboriginal woman who was a long term carer of affected family members, worked in one area of the criminal justice system and witnessed the lived realities of women with mental and cognitive disabilities first hand, explained that imprisonment of women was a 'preventable outcome' and locking women up 'didn't help with that cognitive shutdown – that's all still there'.

The Aboriginal women in the NT that I spoke with, and who were viewed by some correctional officers as 'part of the family', were detained in the Alice Springs Women's Correctional Facility, a unit built several years ago within the men's prison to cater for 24 women, but is generally stretched well beyond this number with women sleeping in interview rooms on trundle beds and eating meals and speaking to their lawyers in the dormitories (Finnane 2016). The facility accommodated all women regardless of background, culture, experiences, circumstances or mental health and disability support needs. The NT Ombudsman, when recently investigating the women's living conditions, found the facility to be in 'a state of extraordinary and chronic

overcrowding' (Hitch 2017, 1). The Ombudsman reported that women who were at greater risk and those with possible mental health issues were being isolated in the maximum security section of the men's prison and away from other women who may have offered some level of support (Hitch 2017).

Similarly in NSW, there is a shortage of women's facilities which are over utilised. In addition to the Silverwater facility which holds around 300 women, there are approximately 300 spaces at the Dillwynia Correctional Centre located in Western Sydney. As the only purpose built facility for sentenced women, Dillwynia was not designed for remandees, but now holds many women awaiting trial. The remaining 400 or so women are held across the state in wings attached to male prisons, housed in demountable units inside male prisons or at times in maximum security sections where the men have been moved to accommodate women. To meet the demands of women prisoner numbers, the only female juvenile detention centre located in Western Sydney has been reclaimed and converted into a women's prison.

In NSW, more recently, securely accommodating an ever expanding prisoner population has been the primary focus for CSNSW. This is at the same time as reducing repeat offending through educational reform, all of which must be undertaken at a reasonable price for the state government (CSNSW 2017). In 2015, when the inmate population had reached record levels, the NSW Inspector of Custodial Services investigated overcrowding in the state's prisons which resulted in extensive doubling and tripling up of inmates in cells, with demountable cells being placed inside prisons and old centres reopened (NSW Government 2015). The Inspector noted in the report *Full House: The growth of the inmate population in NSW* that the General Managers, now Governors, of correctional centres were impacted by 'budget pressures' despite CSNSW having had the 'lowest operating and capital cost per prisoner per day' of any Australian prison system (NSW Government 2015, 5). Although the Inspector stated that women in prison at this time were not experiencing similar overcrowded conditions, the Inspector highlighted that CSNSW had to ensure that the pressures in the correctional system 'do not lead to a reduction in the quality of care for women' (NSW Government 2015, 22). The interviews with women in prison and at the Miruma Diversionary Program were conducted 12-months prior to the inspection and, as found by this research, care for those women with mental and cognitive disabilities fell well short of their trauma-related, gendered and culturally specific needs.

The growth of the inmate population has continued into 2017 and the state's inability to maintain compliance within the correctional budget has been saved with a further \$3.8 billion to create 'more beds for more inmates' (3,560 beds) in 'Rapid Build Prisons' and for extras such as the recruitment and ongoing training of correctional officers, services and programs officers, administration support services and community offender positions (Corrective Services NSW 2017, 4-5). In addition, with only a small number of beds available in the Additional Support Units at Long Bay Complex (for men only)<sup>81</sup> and placements with the Community Justice Program post release<sup>82</sup>, there are just not enough places or facilities to securely support those with a cognitive impairment, and, to my knowledge, there are none for Aboriginal women specifically. Those with cognitive disabilities will therefore continue to wait in prison until released, while exceedingly more finances and resources will be dedicated to immediate future needs beds and to the business of keeping people in the prison system than towards keeping people out.<sup>83</sup> This mindset of prison for those in the government's most powerful positions has been hard to break, and for those of us who work in various criminal justice areas, it has been impossible to 'turn the beast'<sup>84</sup>. In another vein, as the prisoner health care provider, JH&FMHN is reporting that they are striving to meet the increasing population and services demand without a funding source.<sup>85</sup> To that end, it is very likely that we will continue to see for quite some time over-stretched prisons assessed on performance and health care services unable to meet mental health and disability care requirements. This indicates that Aboriginal women who are now taking their lived realities into correctional facilities typically designed for men, and that do not cater for their program and personal support needs, will continue to do time with no purpose and bring these same realities, plus more, to families and communities when released (Grant and Paddick 2014).

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<sup>81</sup> The majority of offenders placed in the Additional Support Units have an intellectual or cognitive disability.

<sup>82</sup> Ageing Disability and Homecare NSW who fund the Community Justice Program for offenders with intellectual disability, Acquired Brain Injury, Autism Spectrum Disorder and physical disabilities returning to the community ceased to exist from 30 June 2018 due to the full roll-out of the NDIS.

<sup>83</sup> In 2017 the NSW government committed \$587 million to expand the Cessnock Correctional Centre in the Hunter Valley and \$4.8 million to the Youth on Track Program (a program for young people at risk of further contact with the criminal justice system). Also, \$5 million was committed to the \$450 million Lower Hunter Hospital project. The Grafton Correctional Centre built in 1893 was closed in 2011 due to the ageing infrastructure. It was reopened a few years later at significant cost to accommodate the prisoner population. The NSW government is planning to replace the prison with a facility in another location to accommodate 1700 inmates.

<sup>84</sup> Noel Person used this phrase on ABC's Q&A Show 5 August 2017 to describe the ongoing scourge of diabetes in the Aboriginal population.

<sup>85</sup> Presentation by Gary Forrest, Chief Executive of JH&FMHN, at the NSW Official Visitors' Conference 2016.

## LIVED REALITIES OF SURVIVAL

The lived realities of the Australian Aboriginal women with mental and cognitive disabilities who partnered with this study and have been involved in NSW and NT criminal justice systems is not just one narrative, but a collection of narratives demonstrating how they are trying to survive each day instead of living prosperous lives. Their survival is borne from common and complex vulnerabilities experienced throughout their lives such as childhood abuse, violence, sexual assault, homelessness, unemployment, loss and grief, alcohol and other drug dependency, anxiety, depression and imprisonment. The majority of women had also felt these pressures simultaneously. Further compromised by their mental illness and poor cognition, many women lacked a level of insight about their conditions and the impact their condition has on their capacity to make decisions about their relationships, their care or to seek out specific supports to meet their determined needs. Instead, their experiences manifested as complex trauma and cumulative worry in their lives. These realities had caused intrapersonal feelings and thoughts to be so out of alignment that many women had become dissociated from their lives and from themselves. This way of being may help to explain why these participants could not see the trauma and worry across their lives and their involvement with criminal justice systems as atypical. It is important to recognise that these results do not mean that Aboriginal women living with mental and cognitive disabilities do not need or want services, nor that they 'like' experiencing prison.<sup>86</sup> But rather the evidence supports that those women partnering in this study did not seek to find answers to their abnormal lived experiences because surviving these happenings on a regular basis, and for some women every day, seem to be nothing out of the ordinary.

Moreover, the normalisation of these extremely difficult, and perhaps for most people, harder life experiences, which many women also faced alone, had contributed to a decline in their mental and cognitive capacity, and quickened the cycles of relapse and re-experiences of hospitals, mental health facilities and prison. More specifically, these women could not fully comprehend that involvement with criminal justice systems had become a primary disability in their lives. The data examined in the MHD CD Dataset also supports this observation. For example, Aboriginal women in the cohort experienced the 'highest rate of complex needs' and had come into contact with police at a younger age, had significantly more police contacts and

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<sup>86</sup> I am told often by non-Aboriginal people that Aboriginal people 'like' prison because they can catch up with family, have a bed, three meals per day, access to work and training programs.

convictions, were in custody more often when a juvenile and had substantially more remand and custodial episodes across their lives than non-Aboriginal women (Baldry et al. 2015, 45).

Certainly, the MHDCD Dataset shows that dozens of non-Aboriginal women with mental illness, learning difficulties and considerable functional impairment also have involvement with criminal justice systems. However, as observed by this study, Aboriginal women can be more visible to criminal justice agencies and can suffer in different ways. Along with being subjected to layers of colonial restrictiveness and control, Aboriginal women generally have the 'lot'. Being Aboriginal, a woman, having fair or darker skin colour and one's geographic location, family association, surname or damaged reputation in the community, can also determine their level of involvement with police, courts and prisons. Tension, alertness and 'without peace' feelings often arose as a result of these realities, and feelings like this just don't go away for those who may not have the executive functioning skills to understand, plan, respond or behave accordingly, struggling alone or dispirited and damaged to the point of no return.

## **SEGMENTING ABORIGINAL WOMEN**

Another aim of this study was to understand what types and level of services and supports in urban, remote and regional areas are provided to Aboriginal women with mental and cognitive disabilities to meet their complex needs and to keep them from being involved in criminal justice systems and in particular from entering and re-experiencing prison.

The findings show that the availability and accessibility of determined services and supports has a direct link to the involvement of women in criminal justice systems. Service providers largely divided women's lives into manageable and unmanageable issues and their fractured solutions, where a bit gets attended to rather than the lot, but this approach did not centre on the whole woman and her determined and multi-faceted needs. Providing assistance for 'single' issues just wasn't enough, for example, some women were linked into social and private rental housing but could not be helped with furniture, and other women lost their accommodation because they were not supported any further or their understanding was restricted due to poor literacy or cognitive difficulties. This finding supports the theoretical development in the MHDCD and IAMHDCD projects around the compounding and accumulation of negative factors that are not addressed at their root and create a negative vicious cycle (Baldry 2014; Baldry et al. 2015). This study confirms that women need psychosocial supports that work holistically or wrap around the person. Such supports that

should all be available in one integrated approach are: suitable, safe and stable housing for themselves and young children, police advocacy, emergency relief money, letters of support, help filling in forms, assistance with Centrelink payments, physical health care, medications, trauma specific counselling, child and family wellbeing services or disability supported accommodation to avoid becoming and staying involved with criminal justice systems. Simply, women need extraordinary workers to 'take their hand to get an outcome'.

However, as discussed in Chapter 6, rarely did non-government and government service providers see those Aboriginal women – who were mothers, daughters, grandmothers, aunties, sisters, cousins, carers, partners and leaders – as anything more than their mental illness and cognitive impairment. This result can be explained by the fact that the majority of services in the study sites were not funded or designed to address multi-factorial needs; therefore, holistic approaches or wrap around supports to de-marginalise women were not available where they lived. Women who lived in remote or regional areas were additionally compromised because issues could not be dealt with at the very local level and women could not always go to the big cities for required supports, which may have been available, due to the time taken and expenses for long travels.

There are similarities between this finding and those described by other NSW researchers reviewed in Chapter 3. Lawrie found that Aboriginal women with long histories of offending and imprisonment were typically not able to access education, employment and housing opportunities or therapeutic treatment services (Lawrie 2003, 7). Years later, Baldry and others reported that Aboriginal women involved in criminal justice systems had not been provided with the kinds of holistic support or wrap around services they needed to stay out of prison, such as opportunities to learn and utilise cultural strengths for healing, trauma counselling, adequate and safe housing and culturally responsive drug and alcohol rehabilitation programs (Baldry et al. 2008). One Aboriginal woman had even expressed her strong feelings of adversity about her lived reality with the statement: 'I think I'm tired of being an Aboriginal woman'. More recently, Lee and colleagues noted that Aboriginal women with co-morbid mental health and substance use disorders experiencing 'considerable barriers' to accessing mainstream and other specialist services needed a 'holistic approach' to effectively address their complex issues of 'repeated trauma, stress and grief' (Lee et al. 2014, 479).

## SERVICES TO WORK HOLISTICALLY OR WRAP AROUND SUPPORTS

Almost all of the women partners and contributors to this study, Aboriginal and non-Aboriginal, had a clear understanding of what was needed to better support Aboriginal women with mental and cognitive disabilities to regain management and control of their lives and help prevent them from experiencing and re-experiencing criminal justice systems. This was particularly the case for those Aboriginal women in prison, on parole or waiting to appear before the courts.

One non-Aboriginal woman supporter experienced in both the disability sector and correctional system, emphasised that ‘choice’ of supports for those women who are unwell or impaired is essential to aid the informing process, and after good care and support is received, women can be empowered and have better insight to improve their life circumstances. She suggested that removing all the barriers and clutter may open the way for interventions such as Cognitive Behavioural Therapy (CBT) to be introduced to improve psychological wellbeing. As shown in this study however, women with mental and cognitive disabilities were often ‘told’ by services what ‘therapeutic’ interventions they required or what services were available. Perhaps this decision by services is based on the ‘place’ of Aboriginal women within the service and whether they are a priority group. Or, as indicated by the same woman supporter, the ‘costs of care’ for clients with complex support needs can be hotly argued between service providers who have responsibility for support and care but do not necessarily have a workforce with the skills to do the early intervention work. She knowingly shared: ‘there are fairly horrific ideas flying about regarding what is care’. In this particular matter, supported decision making for persons with cognitive disability in the criminal justice system has been shown to be really effective in diverting them and assisting them to be empowered to make decisions about their future (McSherry et al. 2017).

Nyoongah Leader Robert Eggington explains why the Aboriginal women who partnered in this study are, really, the only ones who can, and should, determine what wrap around supports or therapeutic interventions they require to survive the ongoing challenges and confrontations that present in their lives. They also should be the ones to decide who provides those primary supports and treatments that can contribute to their overall wellbeing (Eggington 2009, 6):

The hundreds of specialist professionals who have been employed to alleviate Aboriginal disadvantage, have not deterred the racial oppression, prison statistics, ill health, or mental illness within our communities...How can a man understand slavery

when he has always been free? ... How can he understand fear, terror and fright if he has been protected, sheltered and privileged?...In fact they have capitalised and profited from the misery that our people suffer both in the materialistic and spiritual plight of poverty.

Certainly, apart from 'avoiding imprisoning women in the first place' (Topp 2011, 13), fulfilling the needs of the whole woman within the context of her own environment can be the most 'proactive help and assistance' to prevent her contact with criminal justice agencies. One Aboriginal woman supporter, community leader and Aboriginal services manager explained that 'if you're going to do it (services), do it right'. This way of working plus her Indigenous conceptualisation of service delivery – 'social, cultural, emotional, physical, spiritual wellbeing is all wrapped into the holistic approach for the individual' – can help women to 'live and do the things' that people without disabilities generally do, such as work and care for themselves well. Further, the women supporters insisted that a consistent approach across agencies is essential for 'really understanding' where these Aboriginal women are at in their lives, so that women can have a better chance to start healing from that place, thrive in the community and not fall 'back into the same old circle' and familiar destructive ways with grog, drugs, violence and offending. Without the right psychosocial and wrap around supports to provide positive alternatives and to build up their confidence, self-esteem and self-worth, returning to this circle and path to offending is imminent. Those wrap around supports should also include trusted advice with legal issues that when left unaddressed can impact further on women's health and mental health and wellbeing and increase their risk of interacting with criminal justice systems.

Existing siloed services do not work for this group of women or for their families. This is evidenced in the experiences of Aboriginal and non-Aboriginal support women employed within areas of the criminal justice system struggling to work out mental health and disability support systems for their family members and others in Aboriginal health or education who find it almost impossible to understand how criminal justice agencies like police, courts, prisons and community corrections operate. If intelligent and learned women are unable to grasp or gain benefits from those 'civilised' systems, then how can women who are mentally unwell and cognitively impaired possibly do so and how can they use these systems to assist them to survive?

Recently, in New Zealand, academics in psychological medicine have questioned why mental ill-health appears to be 'worsening' with more people taking antidepressants and

antipsychotics than ever recorded, despite increases in mental health funding and doubling in the number of psychiatrists and psychologists from 2005 to 2015 (Mulder et al. 2017, 1176). Mulder and others proposed that factors outside of good clinical practice such as income inequality, unemployment and discrimination may also be factors contributing to increased mental distress and for hindering recovery (Mulder et al. 2017). They concluded that psychiatry and psychology may therefore need to focus more on improving the 'basic necessities of everyday living', and with reducing mental health issues through prevention strategies targeting the home, school and workplace environments, and healthy lifestyles and nutrition in preference to more treatments and medications (Mulder et al. 2017, 1177). Psychiatrists and psychologists, as well as social workers could also be more engaged with Aboriginal Medical Services or do more of their own research on Aboriginal mental health and wellbeing instead of being too reliant on pharmaceutical companies for the answers.

## **EVERYONE IS AFFECTED: FAMILIES, COMMUNITIES, SERVICES, PRISONS**

An anticipated and important finding from this study is that the Aboriginal families, Aboriginal communities and those working in community support services and correctional facilities connected to Aboriginal women with serious mental illnesses and cognitive disabilities could be impacted negatively by those experiences. Many women supporters therefore identified that 'something for everyone', with regard to supports, was necessary for those revolving around the individual. This should not be interpreted as evidence of women with mental and cognitive disabilities being the 'problem', but, rather, suggests that their multi-factorial issues over time, as elaborated throughout the previous four findings chapters, have not been properly assessed or dealt with. Hence, it is argued that the mental health and disability services in the hospital, community and prison settings need reviewing and the findings from this study built into future service planning.

### **Families**

The findings of this study show that many Aboriginal families are trying to care adequately for their women (and men and children) who are mentally unwell and cognitively impaired, or both, while also fulfilling parent or grandparent responsibilities, working full-time, managing the family home and caring for extended family members; all making it extremely difficult to find enough time and energy to fully concentrate on those who require additional supports. Two women supporters, who both worked in areas of the criminal justice system, believed

that families did care about family members who had disabilities, but some of those families may also lack the level of insight needed for understanding the impacts on their affected family members and for seeking out the right supports or enough of these supports. This was particularly the case for those families who were not aware that family members had permanent disabilities such as acquired brain injury or FASD, and, therefore, 'didn't know' what was happening in the individual's troubled life. Families that did know however had to deal with the 'frustration' and 'pressure' that came with everyday caring such as providing a bed, food, clothing, transport, managing finances and dealing with their affected family member's behaviours such as drinking and placing themselves in unsafe situations.

For a number of Aboriginal women partnering in this study, the relationship and connection with their families was significant for their safety and survival. For some women however, the topic of family was a contested area. Women either indicated that their family was an empowering force and good source of support or they were not at all helpful. It appears that those Aboriginal women with strong ties to family frequently received good supports when needed and in particular those women in prison who had children being cared for by family, mostly their mothers. Some women however felt that they did not receive adequate or any support from the family circle. This finding supports that not all families have the abilities or capacity to provide help when women need it most or they are not able to provide the kinds and level of help required. Lee and colleagues found that the families who contributed to their study were commonly 'burnt out' due to the women's 'erratic and aggressive behaviour' (Lee et al. 2014, 476). For some women though, families seem to be too unreliable and could often be a threat for women returning to grog and other substances, violence and prison.

## **Communities**

As discussed in Chapter 1, there have been many generations of Aboriginal people coming into contact with the police, courts and prisons since the earlier periods of colonisation. Aboriginal communities also continue to live through this adversity and constant threat to cultural and social cohesiveness. The findings support that communities most affected by those women living with cognitive disability or untreated mental illness, lacked an understanding of what life was like for those women, leading them to make incorrect assumptions about what was driving the woman's behaviour that had ultimately led to her involvement with criminal justice systems. An Aboriginal woman and carer who worked in one area of the criminal justice system explained that communities did not fully know what mental illness or impairment was nor could they recognise the difference between the two conditions. As a result, a woman's

‘angry behaviour’ is often seen by community members to be the reason she had become involved with police and could end up in prison. When those who ‘occupy a focal position’ in Aboriginal communities – the mothers, daughters, grandmothers, aunties, sisters, cousins, carers and leaders – are absent, then their honoured and gender-specific contribution to Aboriginal values, culture, homes and ‘distinct way of life’ is missing, and that important time away from a community can never be retrieved (Brewster 1996, 46). Also, those community members who seem to be more knowledgeable and resourceful are often required to stretch that bit further to try and support those children, grandchildren, friends and ageing parents and Elders left behind when women are imprisoned in correctional facilities located extreme distances away.

## **Services**

An expected finding of the study is that community organisations and support services were affected by their interactions with Aboriginal women with mental and cognitive disabilities because they were not established or set up with a workforce to provide the early intervention and practical and therapeutic supports or care needed by women to prevent their contact with criminal justice systems. One Aboriginal woman and service manager had concerns for her workers who had to deal with an increasing list of clients who were all ‘highly complex, highly disadvantaged and marginalised’. This manager, along with her operational responsibilities, was acting as a police advocate, court support worker and post prison care coordinator for Aboriginal women (and men) identified as having co-existing alcohol and other drug issues and mental and cognitive disabilities. It can be assumed that professionals like this woman who are living in the community and working at the service interface can better understand what is going on for women with mental and cognitive disabilities and the cost of not treating their mental health issues or providing much needed disability supports. One suggestion was that a 24-hour crisis team based in communities could be more helpful for those women and workers alike and may prevent staff turnover.

## **Prisons**

The study confirms that those working in the correctional system such as psychologists and prison officers were affected by the imprisonment of women who had serious mental illness, cognitive impairment and functional and developmental issues because they had been given the responsibility for the custodial and behavioural management of this group of women. It can be inferred that custodial and health systems are not structured to deal with such large numbers of prisoners with mental and cognitive disabilities. According to one non-Aboriginal

interviewee with a professional background in disability services who worked in the NT correctional system, officers were not able to fully recognise cognitive disability in Aboriginal and non-Aboriginal prisoners because no education and training had been designed for correctional officers in identifying disabilities and in particular FASD. This was confirmed by one non-Aboriginal senior officer in the facility who stated that she did not want to be responsible for managing 'people like that' as they are challenging and a 'huge demand' on resources.

## **ROLE AND PLACE OF ABORIGINAL WOMEN SUPPORTERS**

The findings demonstrate the ongoing love, support, advocacy, care and effort that is provided by Aboriginal women to those more vulnerable women in families and communities to protect them from potential harm and to prevent their contact with criminal justice systems.

### **Primary carers**

The results show that Aboriginal women are generally the ones caring for those family and community members living with mental and cognitive disabilities. While some men seem to be supportive, women are more likely to spend the most time with those affected and adapt to living with the unwell or impaired person/s, to provide critical information to authorities, mental health services or other agencies about the individual, are the first responders in times of crises, and, as indicated by one carer: 'long after the health professionals, lawyers, police and so on have moved through their lives, we are still here'.

These strong Aboriginal women supporters usually fulfil multiple roles in the Aboriginal and broader communities such as family matriarch, leader, grandmother, mother, auntie, sister, kinship carer, community liaison officer, service provider, correctional officer and Aboriginal health worker. Almost always, they are the stable carers, providers and reliable advocates for Aboriginal women (and men and children) from their families and communities living with mental and cognitive disabilities to help prevent their involvement in criminal justice systems and in particular to stay out of prison. Despite experiencing their own adversities in life, including health, mental health and wellbeing issues, as well as disability, Aboriginal women can still manage to support other women, and their children, and continue to care for those children while mothers are imprisoned.

All of the women supporters I spoke with are truly remarkable however the narrative of one woman from a regional area is worth pointing out. She had been caring for an Aboriginal woman who was found sleeping under the bridge with her four young children. Pregnant, with a mental illness and an acquired brain injury from a motor vehicle accident, the homeless woman and mother had been sentenced to a metropolitan correctional centre for driving while disqualified and outstanding warrants. This woman supporter cared for the four children left behind while also looking after two women in her own family with mental and intellectual disabilities who did not receive disability assistance or support. So why did this Aboriginal woman offer so much support to another Aboriginal woman she didn't know? Her lived reality 20 years earlier was a similar story – stigmatised, PTSD for years, regular police contact, charges, no local help, no healing. Her adversities in life had united her with affected women to provide them with the kinds of support that she needed and would have liked earlier in her life to gain her confidence, build resistance and to become stronger.

For some Aboriginal women, support was extended to them during prison and typically provided by other Aboriginal women including mothers, aunties, sisters and grandmothers who were usually the primary carers for the women on the outside. Frequently, support had been provided to those in prison by other Aboriginal and non-Aboriginal women prisoners. For example one woman with mental illness had formed an intimate relationship with another woman who also had mental health issues and they had cared for each other during their times in prison.

The Aboriginal women I met through the flow of this study loved and protected, looked after, provided for and worried about family members with mental and cognitive disabilities to keep them from being imprisoned. They housed affected family members in their homes despite limited space, managed their finances, provided transport, took them shopping, purchased their clothes and personal items, counselled them to stay off the grog and directed them to bed when intoxicated, and ensured they weren't wrongly used by other people for money and alcohol.

### **Services: whole woman model**

The Waminda South Coast Women's Health and Welfare Aboriginal Corporation (Waminda) located in Nowra NSW, has been established by Aboriginal women for Aboriginal women and children, and non-Aboriginal women with Aboriginal children and families living in the Shoalhaven area (Bowman and Blakeney 2017). Waminda's 'holistic, one-stop shop model'

supports those women with complex needs related to for example loss and grief, violence, chronic conditions, sexual abuse, alcohol and other substance abuse, anger, loneliness, removal of children by Family and Community Services (FaCS), grandmothers as primary carers of children and criminal justice matters (McCausland 2014, 6; Bowman and Blakeney 2017, 1). Through the *Waminda Healing House Model*, designed and led by Aboriginal women and Elders, women can attend to their mental, spiritual, cultural and physical wellbeing by consciously coming to terms with the trauma and harm they have experienced from others over their lifetime (Bowman and Blakeney 2017). Healing for women is not undertaken alone and they can participate in more suitable and flexible (no appointments) interventions to meet their needs such as Healing on Country, mindfulness, Art as Healing, narrative therapy, yoga, meditation, garden projects, short courses, health checks, gym work and healthy lifestyle programs (Bowman and Blakeney 2017). There is no time limit placed on the healing journey and the model does not include psychological interventions such as CBT.<sup>87</sup> Those workers and Elders at Waminda found that when women also attended the 'Women's Gatherings' (identity, healing, lore, ceremony, art, dance, stories, language, Dreaming Place) and re-established or strengthened their connections to community, country and culture, there were 'major shifts' in their mental health recovery (Bowman and Blakeney 2017, 2). An evaluation of the model identified women had reduced crises, stress and hospitalisations, had their children returned by FaCS, secured housing and employment and had completed parole (Bowman and Blakeney 2017, 2). The Healing House, now *Balang Healing*, offers 24-hour support, care and mentoring for Aboriginal women with complex needs and access to 24-hour 'integrated service delivery in a single case plan across Aboriginal health and welfare, mental health, homelessness, drug and alcohol and criminal justice service providers' (Bowman and Blakeney 2017, 3).

One-third of the Aboriginal women who partnered in this study expressed the need to access a residential or day support program, just like Waminda's *Balang Healing*. Those Aboriginal women wanted connections to strong Aboriginal women to guide and give them strength and to work at healing themselves for better mental health and wellbeing. All of the women identified that a 'caring healing place run by Aboriginal Aunties' or an Aboriginal women operated 'half-way house' for women returning to the community post-prison could help to keep them safe and well and prevent their contact with criminal justice systems. Women needed access to mentoring, help with 'problems', transport to appointments, time to talk or no talking, cooking and nutrition, no pressure, no men, respect for each other and activities to

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<sup>87</sup> Debra Bowman and Maiki Blakeney, Presentation at the 2016 NSW Aboriginal Mental Health and Wellbeing Workforce Forum.

keep busy so they could heal and recover. Moreover, some women in prison wanted Aboriginal women to support them post-release with an Aboriginal Women's Group or camp to 'learn our roots, go back to country, forget about everything else' as a healing intervention to prevent them from returning to prison. Not one of those women were aware of Waminda's programs and services when interviewed, and yet they could tell me in great deal about 'their' healing place. Similarly, one of the Aboriginal women supporters from NSW who cared for two women who were mentally unwell and impaired in her family suggested that connecting to culture, family or community or rebuilding that community connection could be the right things to empower Aboriginal women so that they could 'believe in something' rather than 'thinking there's nothing' and could help to discourage women from 'drifting aimlessly' through life. Waminda's whole woman model with its proper therapeutic approach rather than corrective methods therefore seems to be the best support available now for this group of women, and a support model that could be adapted or replicated by other communities. These women compatible supports clearly stand out as the better policy and solution for women with mental and cognitive disabilities who are usually low risk offenders, and they are cheaper to establish, run and maintain than prisons and those other justice costs incurred before, during and after imprisonment such as police, courts and parole (PwC's Indigenous Consulting 2017).

### **Advocacy: health and wellbeing services to women in and out of prison**

Almost half of the Aboriginal women who partnered with the study had accessed medical and other professionals at their local Aboriginal Community Controlled Health Service (ACCHS) or Aboriginal Medical Service (AMS). One woman, who had been in prison four times and each time for a short sentence, explained how the AMS did 'everything' to help her, such as making sure she had the right medications and reminders to attend appointments. Other women had received timely counselling and assistance for co-existing chronic health conditions, were given blankets and help with acquiring financial supports from Centrelink. Another woman with an acquired brain injury had accessed services from Winnunga Nimmityjah Aboriginal Health and Community Services (Winnunga) when she had first sustained her injury. She explained how the ACCHS had been a good and supportive service during her recovery from the accident that had caused her brain injury because they had 'captivated' her in a helpful way – giving advice that was 'really easy to relate to' because the words were said in the 'right way' for her to understand and made her feel 'safe and secure'. As this young woman pointed out: 'this is how

you go about it, that's it...that's respect, a really strong word for us Aboriginal people, too. It means a lot'.

The Chief Executive Officer of Winnunga located in the Australian Capital Territory (ACT), Julie Tongs OAM, is a staunch advocate and agitator for Aboriginal people involved in criminal justice systems and prison in particular. Under the leadership of Tongs, Winnunga provides a community defined model of holistic and primary and social health care to Aboriginal and non-Aboriginal people and families. Aboriginal and non-Aboriginal health professionals use their knowledge and skills to provide interventions and treatments which are clinically, therapeutically, gender and culturally responsive. Over almost 20 years Winnunga has also been providing health care to Aboriginal women and men in prison in NSW and the ACT and post-release. In 2007, the ACCHS conducted a prison health study with ex-prisoners and their families, and using the findings developed a *Holistic Health Care Prison Model* in preparation for health care services to be provided to Aboriginal people held in the ACT Alexander Maconochie Centre (Winnunga 2007). This three-part stepped holistic model focuses on (Winnunga 2007, 11):

1. Inside Prison – holistic care, physical and psychological wellbeing, release planning.
2. Release from Prison – holistic care in returning to the community, accommodation, employment, parole, ongoing support for the whole family
3. Keeping out of Prison – holistic care in supporting families and access to programs

From 2018, and through the ongoing actions of Winnunga and Ms Tongs in particular, the ACCHS will work in partnership with the ACT Government as a 'standalone' entity providing full-time (Monday to Friday) medical and social and emotional wellbeing services to all inmates (NACCHO 2017, 3). Services have commenced with the women and Winnunga's holistic model of care will be available to the remainder of the prisoners through a staged process (NACCHO 2017, 4). Winnunga is the first ACCHS to be an equal leader and provider of health care within a state or territory correctional system. Winnunga's strengths-based and empowerment approach to health care services provides an opportunity for these Aboriginal women (and men) to be supported while in prison, to live safe and well in Aboriginal community-based settings after release and receive ongoing community and family support to stay out of criminal justice systems.

Most ACCHS across the country are the Aboriginal community access points to appropriate and reasonably available supports for health and wellbeing issues. Similar to Winnunga, it is likely that many ACCHS are culturally, financially and clinically robust enough for leading health care in minimum to maximum prisons to change how health care is accessed and delivered.

## **Health Justice Partnerships**

The Wuchopperen Health Justice Partnership, advocated and led by Donnell Mills, a Torres Strait Islander lawyer with LawRight (formerly Qld Public Interest Law Clearing House), is reducing the impact of 'health harming' legal issues on individuals, families and communities (NACCHO 2017, 20). The Partnership has developed its own process for ensuring that vulnerable Aboriginal women (and men) involved with criminal justice systems are properly supported in the community. Those more vulnerable members of the community, who mostly do not or cannot access legal services, can obtain trusted legal advice at the Wuchopperen Health Service in Cairns, Queensland (NACCHO 2017). As the ACCHS is already a culturally safe and responsive environment and because health practitioners don't know how to respond beyond the medical, the ACCHS and LawRight work in partnership to include a lawyer in the health team who becomes a critical part of the care response (NACCHO 2017).

The three examples of Aboriginal led and controlled support services are all 'lights' on the hill that show that Australia can run Aboriginal women centred programs with a holistic approach to support criminal justice involved Aboriginal women with complex support needs.

## **ABORIGINAL WOMEN IN NSW AND NT: SIMILARITIES AND DIFFERENCES**

For the Australian Aboriginal women with mental and cognitive disabilities in this study, there were many stark systemic similarities between NSW and Territory life. The logics of the critical Indigenous disability criminology approach highlights how these Aboriginal women who come from different towns and regions and belong to different Nations in Australia, can have similar criminal justice stories and experiences of community organisations. For example, Aboriginal women and their supporters were highly critical of police behaviour and actions and contact with police could be both an uncertain and troubling experience. One woman with an ABI and cognitive difficulties from the NT who had also been arrested by police in Sydney NSW, saw many similarities, but thought that police in the NT were more 'unpredictable' with Aboriginal people dying in police cells and officers then not held to account. Another similarity was that the majority of women were represented by Aboriginal Legal Services or Legal Aid in the local courts, with many of these women being told by lawyers to plead guilty instead of being provided opportunities for diversion from courts and prison. Further, when imprisoned, their trauma experiences were ignored and programs did not prepare them for life outside the criminal justice systems and did not address their mental and cognitive disabilities. An inability

to access and receive appropriate supports before and after the prison continuum was a similar experience for Aboriginal women from NSW and the NT. Services were not established, set up or structured with a workforce to provide the early intervention and practical and therapeutic supports and care required by these women with complex support needs. The women supporters described those services in both jurisdictions as missing the 'something' needed by Aboriginal women with disabilities to keep them from becoming involved in and re-experiencing criminal justice systems. Critical Indigenous disability criminology theory provides an important means of understanding what this 'something' is, why the missing 'something' is inherent in non-Aboriginal led services and how it sacrifices Australian Aboriginal women seeking help to the control of police, courts and prisons. Another similarity for NSW and NT women was for family members to be in prison simultaneously and across generations. In summary, Aboriginal women with complex support needs in the criminal justice system in both NSW and the NT experienced the ongoing negative impacts of institutional racism, colonial legacy and devaluing of their lives.

There were though noticeable differences experienced by Aboriginal women in the NT that compounded their disadvantages, compared with those from NSW. Territory women were 'humbugged' by family and others for money and other items which could impact on their safety whereas NSW women were not subjected to humbugging to this extent. Further, there was continual drinking of alcohol on top of taking medications by women in the NT, and Territory women faced additional barriers in the courts with speaking and understanding English, and in accessing trained interpreters. In addition to having mental and cognitive disabilities, these Aboriginal women didn't understand English or the legal language spoken by white magistrates and lawyers in the white courts. With no opportunity to tell their side of the story, women were often sent to prison. One senior correctional officer described the NT as having a different 'mindset' in managing those with mental and cognitive disabilities and lagged behind in educating staff in these matters and with seeing the 'bigger picture'.

## **THEORIES FROM THE 'RESISTENT OTHER'**

Critical Indigenous disability criminology enables a deep understanding of how and why Aboriginal women with complex support needs become so embedded in criminal justice systems. The criminological perspective is very particular in relation to why and how mentally unwell and impaired Aboriginal women are actively driven into criminal justice institutions. There seems to be no expectation from criminal justice agencies that these women should not

be in contact with police or spend time as a prisoner in isolated and oppressive custodial estates. Similarly, there is little emphasis on the long term damaging effects on many Aboriginal women's lives from their criminal justice experiences. Police and magistrates will identify and link a woman's Aboriginality with her criminal offending, however her troubling disabilities and darkness from harm and pain are judged as unrelated and insignificant. When an Aboriginal woman is imprisoned, her cultural heritage and offending history are identified and documented for all those working in corrections to see and conceptualise as they so choose. Soon after reception at a women's prison, her functionality for employment, programs and education are assessed, even if those services lack suitability or are lacking at that facility. A new part of this Aboriginal woman's identity is being manufactured by correctional colonial knowledge and practices. The part related to her mental and cognitive disabilities and trauma histories however are not measured or dealt with against the same modernised care standards applied in the community. This is rationalised by the thinking from mental health professionals that prison is not the 'right therapeutic environment' to respond to the impacts of disability and trauma and her multiple needs. My experience however is that disclosure, whenever and wherever it happens, can be a therapeutic outcome if the response is genuine, sensitive and helpful. Therefore, ignoring stories and shutting mentally unwell Aboriginal women down can impact further on mental wellness and do more harm. It is fair to say however that it can be difficult for those mental health professionals in the prison setting who may have some mental wellbeing, and even culturally minded answers, to address the women favourably due to polarised discourses in an outdated system with its over hardened policies, physical infrastructure and human resources.

Moreover, the NSW correctional system is now so big and the structure and language so complex that mentally unwell and impaired Aboriginal women who are imprisoned, and families trying to support their women, don't understand what is happening inside. This is the case even for women who have had multiple prison sentences. This does not help Aboriginal women who are living in survival mode without knowing or recognising it. Critical Indigenous disability criminology theory provides the conceptual framework to understand why Aboriginal women with poor mental health and cognitive impairment are and 'must be' consigned to criminal justice systems. Such a reliable regime sustains their over-representation by continuing the colonial disruption of their roles and lives culturally and overthrowing the logics of 65,000 years of instinct beliefs and survival systems.

Therefore, culturally sound and holistic support services, and before and after the prison continuum which counts most, are needed to support and assist Aboriginal women with their disabilities, disadvantage and their resulting offending to prevent them from becoming known to and well recognised by police, courts and prisons and to help build their independence. At the very least, supporting workers in public sector agencies, such as mental health and housing to acquire the right knowledge, cultural capability, confidence and professional attitudes to properly support Aboriginal women with multiple disadvantage and needs can buffer initial and ongoing contact with criminal justice agencies. Evidence recounted in this thesis, from women and their supporters as well as from my experience is that mentally unwell Aboriginal women brought to hospital psychiatric units by police are often discharged back into the hands of police regarding their impending criminal charges. Viewing it through the lens of critical Indigenous disability criminology helps provide an understanding of this behaviour. Medical staff and police have a shared view of Aboriginal women offenders with disability informed by society's attitudes and biases, that is they are difficult, challenging, sad without a real place in society so they belong in custody. It reflects the colonising logic that these Aboriginal women should be managed by criminal justice agencies rather than having non-restricted time in care to receive the professional supports women seek and need. Evidence in the 'Predictable and Preventable' (Baldry et al 2015) report shows that mental health professionals have little understanding of the culturally minded disability and trauma care responses needed for Aboriginal women and need to change the way they think of Aboriginal women with complex support needs and the colonially tied systems women live with today. Promoting critical Indigenous disability criminology theory in medical, allied health and disability practitioners' (such as general practitioners, social workers, Aboriginal mental health clinicians, psychologists and psychiatrists) working systems would begin the process of change. This would include being consistently aware of their disability blind perceptions and instilling cultural humility into their practice – being genuine, unassuming and understanding that their way is not the only right way – to prevent Aboriginal women from criminal justice involvement. The usefulness of critical Indigenous disability criminology theory is evident in a number of other contexts. The framework can assist academics and researchers to confront the present outdated system and advocate for transforming the system itself. Scholars and educators involved in multiple learning environments can adopt the framework into accredited learning curriculums to critically contest the present thinking about Australian Aboriginal women with mental and cognitive disabilities who are criminal justice involved. In particular, social work undergraduate programs can use the logic of critical Indigenous disability criminology to provide accurate

knowledge for the new generation of social work professionals and for postgraduate professional development.

The new theoretical frameworks which ‘emerge from the practices of the local and of the resistant Other’ (Leonard 1999, viii) in this study, deconstruct existing theorising about Aboriginal women, mental health, disability and criminology, while at the same time creating an important role for social work to make this theoretical knowledge an integral part of professional practice. By doing so, social workers can remove the separatist social structures and practice divisions that are typically placed on Aboriginal people (race), women (gender) and disability to change the lives of Aboriginal women with mental and cognitive disabilities who can claim all of these ‘oppressed identities’ (Healy 1999, 120). The key themes arising from the data analysis – management and control of Aboriginal women; segmenting Aboriginal women; surviving and not living; everyone becomes affected; siloed services versus wrap around supports; and role and place of Aboriginal women supporters – enrich critical Indigenous disability criminology theory to provide social workers, in particular those on the frontline and in the policy arena, with an ‘understanding of their actions’ for working with affected Aboriginal women and to use this new knowledge to locate themselves in practices that ‘allow for the empowering of the individual, community and practitioner’ (Camilleri 1999, 28-29). The powers entrenched in systems and structures are then shifted to those Aboriginal women, their families and communities through critical and emancipatory social work practice.

## **POLICY AND PRACTICE IMPLICATIONS OF THE STUDY**

Through the *Code of Ethics*, the social work profession emphasises a commitment to the ‘development and application of knowledge, theory and skills regarding human behaviour, social structures, systems or processes’ (AASW 2010, 10). Therefore, the decolonised knowledge gathered from this study about the reality of Aboriginal women’s lives and the theory articulated above by an Aboriginal woman and mental health disability social worker in criminal justice, is useful for those professionals ‘at every level of social work’ to incorporate critical social work approaches into their practice, and in particular for those social workers inside the health, disability and justice policy arena to transform overall practice models of care rather than assuming that they can or should ‘speak for’ Aboriginal women (Briskman 2007, 118-129).

## **Mental and cognitive disabilities combined with serious violence**

The perpetration of serious violence in Aboriginal women's lives – physical, emotional and sexual violence, psychological abuse and ultimately, for too many, murder – has been an ongoing scourge which has been raised constantly by Aboriginal leaders, communities and Aboriginal women victims and survivors themselves, as a major problem (Cripps and Adams 2014). National data shows that hospitalisations from partner violence for Aboriginal women is 34 times higher, and Aboriginal mothers in Western Australia are 17.5 times more likely to be murdered by people known to them than for non-Aboriginal women (Mundine, cited in National Aboriginal Community Controlled Health Organisation [NACCHO] 2016, 5). In NSW, the Government's *Going Home, Staying Home Program* has replaced specialist domestic violence women's refuges (89 reduced to 14) and the highly Aboriginal populated towns of Dubbo, Moree and Kempsey recorded the most number of domestic violence incidents for 2016 (Waterson 2017). In the three years to 2016, the NT police responded to 75,000 domestic violence cases, 44% of violence orders were breached, 44% of offenders were repeat offenders and more than half of the homicides in the territory were due to domestic violence, with almost all of these deaths being Indigenous women (Waterson 2017, 2). Jacinta Nampijinpa Price, Aboriginal woman and an Alice Springs town councillor, spoke publicly about the extent of the 'unspoken epidemic of violence' in the NT when she revealed that every woman in her own family had suffered from physical and sexual abuse, and that perpetrators in communities were often supported while women victims were silenced (Waterson 2017, 2). The increase in violence in the NT is being responded to by the North Australian Aboriginal Family Legal Service (NAAFLS), a non-government Aboriginal organisation based in the NT capital of Darwin, which offers legal services and support to victims of violence and sexual assault. This service recently advertised in a national newspaper for legal professionals in family violence practice and for counsellors experienced in trauma informed approaches to provide care and support due to 'unprecedented growth' in violence against women living in the remote Top End communities.

In addition, the powerful media are relatively quiet about Aboriginal women who suffer ongoing violence, pain and death at the hands of others. For example, whilst the media focused heavily on violence and abuse towards juveniles imprisoned in Darwin's Don Dale Detention Centre, and rightly so, the murder of two Aboriginal women in a Darwin park shortly after the exposure was reported by only one journalist, despite the deaths of these Aboriginal women being horrific and in a public place (Ingram, cited in NACCHO 2016). Prior to these

killings, another two women from Alice Springs died from wounds inflicted by their partners. The NT Coroner who held the inquest into the women's deaths wrote that domestic violence in the NT is a 'contagion' which is 'out of control' (Cunningham 2017, 2). These words finally elicited some action, as the first Indigenous Family Violence Policing Conference was held in Alice Springs and a domestic violence court is soon to be established (Cunningham 2017). Such initiatives may reduce the practice (as reported in Victoria) in which magistrates have little choice other than to send Aboriginal women victims of violence to be remanded in prison for low-level offences to keep them safe from further harm (Perkins 2015).

In the *2002 Social Justice Report* Dr William Jonas, the second Aboriginal and Torres Strait Islander Social Justice Commissioner, linked the high levels of ongoing violence and ensuing danger in Aboriginal women's lives with the increasing numbers and over-representation of women in prison. Further, Aboriginal woman Rowena Lawrie reported in her *Speak Out Speak Strong* study (2003) that a significant number of Aboriginal women prisoners had also been sexually assaulted from a young age and that there was a strong connection between their childhood sexual abuse, offending behaviours and imprisonment. A few years after Lawrie's study the relationship between violence in Aboriginal families and child sexual abuse was first reported by the Attorney General's *NSW Aboriginal Child Sexual Assault Taskforce* (2006). During consultations for the report, courageous Aboriginal people wanting to address incidences of child sexual assault in their communities argued that violence could 'influence' the sexual assault of children because some mothers who are experiencing physical and emotional pain and anxiety from violence may not have the strength or capacity to care for and protect their children, leaving them at risk of abuse (Attorney General's Department NSW 2006, 67). The *Taskforce* also assessed that the government's response to violence and child sexual assault in Aboriginal communities was fragmented and would be 'futile' without addressing social and economic disadvantage such as significantly poorer health and housing compared with non-Aboriginal people, and alcohol and other drug use (Attorney General's Department NSW 2006, 102).

Since the *Taskforce* report was released more than a decade ago, the poor allocation of funding for specific professional and cultural supports to prevent more Aboriginal women from being injured, violated and hurt remains an obvious gap. Due to their more complex vulnerabilities, this study has found that even less consideration is given to supporting those women with mental and cognitive disabilities or to preventing their involvement with criminal justice systems. The extent to which women with mental illness who have been victims of

childhood trauma are directly and negatively affected by these resourcing problems can be seen in some hospitals and community mental health services. For instance, in Queensland, a team of researchers identified that mental health practitioners, including nurses and social workers, were ineffective in meeting the needs of women with mental illness who also had childhood experiences of sexual trauma and abuse. In the article *Asking the Question: Childhood Sexual Abuse in Adults with Mental Illness* (2017), Mansfield and others explained that mental health professionals lacked confidence in how to ask women questions related to child sexual abuse as part of the assessment process and felt inept to appropriately respond to immediate and later disclosures (Mansfield et al. 2017). Further, professionals were 'reluctant' to ask women about their sexual abuse and trauma histories for reasons related to, for example, service resource constraints and 'practitioner beliefs and attitudes' regarding the connection between sexual abuse and mental health (Mansfield et al. 2017, 364). Although it is disappointing that the researchers did not distinguish between Aboriginal and non-Aboriginal women with mental illness – and the question arises as to why Aboriginality was not considered despite the recognised national 'Closing the Gap' campaign and the recognition of poorer mental health and social and emotional wellbeing among Aboriginal people – these findings are nevertheless concerning. The authors recommended additional training in trauma informed care and interventions for childhood sexual abuse for the broader mental health workforce, as well as adequate levels of service funding to increase the knowledge and improve the practice of health professionals so that women with mental illness who have been sexually abused can receive proper medical and therapeutic care (Mansfield et al. 2017). The authors also determined that the social work profession is 'well positioned' to take the lead on this training to ensure competency and to establish partnerships for appropriate service pathways that can contribute significantly to a woman's recovery (Mansfield et al. 2017, 368).

Arguably, this Queensland study established the critical need for health professionals including social workers to be more open and responsive to women who are mentally unwell presenting for supports. Health professionals should also receive core training in the area of trauma and sexual abuse for Aboriginal women with mental and cognitive disabilities. Such specific knowledge and practice would equip mental health practitioners to provide supports that could lessen the risk of these Aboriginal women entering and re-experiencing criminal justice systems. Social workers are well placed to deliver this training to workers in the justice, health and disability sectors because of their skills in working with persons with trauma, disability and mental ill-health, and their commitment to ethical practitioner-client relationships through 'culturally competent, safe and sensitive practice' (AASW 2010, 17). By concentrating on the

lived realities of those women affected by mental and cognitive abilities pointed out in this study, social workers can also help to fill the present gap in therapeutic and culturally responsive supports for this group of women.

An effective response to target violence, sexual assault, and the protection of children, in Aboriginal families and communities has been through the NSW Aboriginal Family Health Strategy. First developed and released in 1998, the award winning strategy is the only program known to tackle these issues within a cultural and healing context (NSW Health 2011). A small network of Aboriginal Family Health Workers who live and work within their permanent communities and who are appropriately trained<sup>88</sup> in crisis and intensive support for individuals and families are located within Local Health Districts and Aboriginal Community Controlled Health Services. In 2011, and after the Aboriginal Family Health Strategy was revised for a third time, an Aboriginal Family Health Worker was placed in one of the male correctional centres to work with Aboriginal men imprisoned for violence related offences. The position however was not recurrently funded after two years despite the increase in Aboriginal men imprisoned for actual assault and other acts intended to cause injury mostly to their intimate female partners. Equally remarkable is that the state's justice and health jurisdictions continue to have little focus or action with regard to violence prevention or the prevention of physical and mental injury for Aboriginal men and women in NSW prisons who are both perpetrators and victims of violence.

The NSW Ministry of Health has been slow to vary funding and to build on the Aboriginal Family Health Strategy and its small Aboriginal workforce, despite widespread violence in families and communities not shifting and child removals by Family and Community Services (FaCS, but previously known as Department of Community Services, DoCS)<sup>89</sup> increasing due to the trauma and damage caused by violence. It is evident that this recognised and persistent health and social challenge requires more than the 25 resilient responders who are striving to end the violence in their communities and support traumatised Aboriginal women and children. These 25 Aboriginal Family Health Workers help many victims to access safe housing, chronic health and mental health care, legal and other services to rebuild their lives (NSW Health 2011).

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<sup>88</sup> Aboriginal Family Health Workers must acquire national accreditation of the Certificate 1V Aboriginal Family Health (Family Violence, Sexual Assault, Child Protection) with the NSW Education Centre Against Violence.

<sup>89</sup> NSW Family and Community Services is the largest child protection agency in Australia.

A number of evaluations show that Aboriginal people and communities have benefited from this strategy and indeed further benefits may follow should the program be properly resourced. Three likely outcomes would be: the safety risk for Aboriginal women and children would be less extreme; the health, mental and emotional wellbeing of women and children would potentially improve; and the number of Aboriginal men and women imprisoned for violence related offences would decline. In saying this, I refer to the proper resourcing of workable strategies similarly recommended by the *NSW Aboriginal Child Sexual Assault Taskforce* and by the educators of Aboriginal Family Health Workers from the NSW Education Centre against Violence (ECAV). Instead of the one Aboriginal Family Health Worker alone in an ACCHS, Aboriginal Medical Service or Local Health District 'often unable to achieve what is expected of them by both employers and their own communities' (Herring et al. 2013, 110), there needs to be a trauma specific and culturally responsive team of professionals to support and care for Aboriginal women and children experiencing violence and abuse; to have empowered discussions with Aboriginal women; to implement violence prevention programs and crisis, pragmatic and cultural interventions in communities; and for workers to have access to regular professional and cultural supervision to limit the risk of professional burnout, secondary traumatic stress or injury from 'vicarious trauma' (Attorney General's Department NSW 2006, 169).

### **Combined with alcohol and other substance abuse and dependence**

The findings of this study indicate that introductory and stand-alone national policies and strategies specific to Aboriginal Australians to minimise harms associated with alcohol and other drugs – such as the *National Drug Strategy Aboriginal and Torres Strait Islander Peoples Complementary Action Plan* (2003-2006-2009) – are ineffective in addressing the more complex needs of Aboriginal women with intellectual and serious mental disabilities to prevent their involvement in criminal justice systems. Although a focus on the connection between drug use, crime and imprisonment has now been included in the recent *National Aboriginal and Torres Strait Islander Peoples Drug Strategy 2014-2019*, Aboriginal women with mental illness and impairment are again disregarded as a unique group in need of primary prevention interventions and/or medical treatment, rehabilitation and other supports such as therapeutic counselling to bring healing (MacRae and Hoareau 2016). Moreover, when these interventions are provided within trauma-related and culturally responsive care, and by Aboriginal and non-Aboriginal people specifically trained to work in justice, mental health and disability, they can be one of the most useful ways to help reduce the distress, chronic drug use, harm and death

experienced by these women and by family and community members who can also be affected (Atkinson et al. 2014).

The continuing exclusion of Aboriginal women with mental and cognitive disabilities from nationally funded action plans may well explain why purposeful, culturally and gender-responsive rehabilitation centres and harm reduction programs are almost non-existent in Aboriginal communities. Yet, as identified by this research, when programs are localised, culturally designed and properly financed, they can be one of the best early interventions for monitoring and minimising alcohol and other drug use by Aboriginal women to prevent them from coming into contact with criminal justice systems and, in particular, from entering and re-experiencing prisons.

One example of a 'what has worked' program is the Central Australian Aboriginal Alcohol Programs Unit (CAAAPU), which at the time of this study was the only Aboriginal community controlled residential rehabilitation program located in the NT town of Alice Springs. The facility provided a mix of primary, secondary, tertiary and cultural interventions for small numbers of Aboriginal women (and men) to address the harmful use of alcohol and other substances that can have a detrimental impact on mental wellbeing. All of the women living at CAAAPU had been involved with criminal justice systems and most had experienced multiple traumas as a result of, for example, poverty, repeated incarceration, ongoing personal violence, motor vehicle accidents, removal of children and social and cultural isolation from family and homelands. The trauma and worry experienced by women was compounded by the varying acuity of mental illness, cognitive and personal functional skills, intellectual reasoning, Fetal Alcohol Syndrome, developmental delay and acquired brain injury (from head injury), making it very difficult for women to participate in and understand standardised programs related to alcohol use and learn behavioural change. Regardless of their complex support needs, women were accepted into the treatment program based on their alcohol-related issues, and CAAAPU tried to bring relief for distressed women outside of their specific funding role.

Aboriginal women almost always entered CAAAPU through self-referral, and lesser numbers were diverted from courts or mandated to attend the program to fulfil parole conditions post prison release. As a result, women could leave CAAAPU voluntarily and no one would stop them, and those women who left were usually picked up by the police and returned to prison. The Aboriginal women whom I spoke with had stayed in CAAAPU because their cultural needs, which were just as important as their treatment and recovery needs, were being met while

living in the community. The women could get away from the grog and drug environments; rest their bodies and minds by having a break from using alcohol and other drugs; eat nutritiously to feed their bodies and minds; sleep well all night and day if the body and mind needed; take the right medication; be safe from violence; have security from humbugging; wash their hair and brush their teeth; wear clean clothes; let the anger out; access structured alcohol and health promotion programs with the right content; and gain insight into how alcohol and other drug abuse can damage everything and everyone, but how living your culture and knowing your cultural self can reawaken your body, mind and spirit to recovery (Larrakia Healing Group 2015). Those Aboriginal women with mental and cognitive disabilities who had experienced prison, and for most women this was multiple times, made CAAAPU their home for as long as possible because they had someone within reach at all times; weren't ignored; the ongoing negative trauma in their lives was talked about; and they were well fed and were given hope for recovery, for normality, and to have better lives while they were there. While the women felt enabled and supported at CAAAPU, they had little if any supports when they returned to their home and community and frequently and quickly relapsed into their dependent behaviours.

Women partnering in this study felt that a properly resourced residential rehabilitation program (such as CAAAPU) is needed in highly Aboriginal populated communities to help prevent women from interacting with criminal justice systems. Further, the interventions, treatments and activities should be tailored to respond to Aboriginal women with complex needs and in particular those women with a combination of mental and cognitive disabilities and substance abuse and dependencies. The workers supporting women should also know that mental ill-health can often be taken over by alcohol and other substances, including tobacco, and should understand the importance of not blaming and shaming women for stressors that can underlie their drinking behaviours. The need for those working in non-Aboriginal services to not be 'critical or judgemental' was also identified by the majority of Aboriginal women in the study by Lee and others reviewed in Chapter 3 (Lee et al. 2014, 477). Lastly, support services for preventing relapse and boosting recovery post rehabilitation need to be part of any plan. Without ongoing support back in the community, unwell and impaired women (and men) will not get the continuing care they need and are more likely to turn back to alcohol and other substances and return to over-full prisons and pressured health care services. A good example of post-rehab support is the first program provided in the Kimberley region of WA by the Milliya Rumarra Aboriginal Corporation in Broome. From late 2017 individuals returning to their families and communities after residential rehabilitation have

been provided personally tailored supports to continue their often long recovery from alcohol and other drug addictions (Cordingly 2017).

### **Culturally competent and culturally responsive standards of practice**

In this study, most non-government and government services were not seen as culturally responsive and competent, which stopped those women who knew what supports they needed from reaching out. This leads to the question of how services can do the 'fixing' of many years of trauma and stress, if the service themselves are 'unfixed' and ineffective?

Those women, who tried to access services but then detached from organisations found to be incompatible, including community mental health services, were sometimes told they were non-compliant or non-adherent or 'unhelpable' by workers who then withdrew supports forcing traumatised women back into dangerous situations. This finding related to services funded by governments declining or exiting women from accessing or receiving supports has important implications for practice, and further research is required to establish why those services felt that they had cause to do so. There are however several possible explanations for this result. For instance, the practice is commonly used by services as a way to shift the focus back onto service users who are then identified in 'lost to care statistics' (Stewart and Allan 2013, 125), or perhaps those non-Aboriginal professionals lack 'practical knowledge (don't know how)' to work effectively with Aboriginal people, or working with women with mental and cognitive disabilities who also have complex support needs can be 'too difficult' for non-Aboriginal health professionals working in the Aboriginal health field (Wilson et al. 2015, 1).<sup>90</sup> Another plausible explanation is that culturally competent and responsive frameworks for working with Aboriginal women are the 'something missing' from those, and most services, who often can only see a lack of 'Aboriginal artwork as the problem'<sup>91</sup> for Aboriginal people not accessing their services.

Herring and colleagues, Aboriginal and non-Aboriginal practitioners and educators in the field of trauma for Aboriginal people, go further with the debate by arguing that services are not truly culturally competent if they do not account for the 'ongoing trauma legacies from

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<sup>90</sup> My own experience supports this line of argument. When seeking supports for my family member from a well-known religious care organisation, the coordinator emailed me to advise: 'we have decided that unfortunately (name) is not an appropriate fit for our supported accommodation vacancy' and that the decision was based on their 'suitability' for the service, 'compatibility' to others, and 'ability' of the service to provide the supports.

<sup>91</sup> Discussion with an Aboriginal woman about how Aboriginal Artwork is used by many health services to show that they can be culturally competent, respectful and responsive to Aboriginal people.

invasion' and the 'ongoing racism' experienced by Aboriginal people (Herring et al. 2013, 107). A study By Kelaher and other academics on Aboriginal people's experiences of racism in health care settings seem to support what those professionals are saying. Their research found that from the 755 Aboriginal Victorian people (61.4% were women) who participated in the *Aboriginal Experiences of Racism* surveys conducted in the two rural and two metropolitan areas, almost one-third of contributors had experienced racism in the previous 12 months (Kelaher et al. 2014, 2). More so, the study highlighted that 'experiencing interpersonal racism in health settings is associated with increased psychological distress which in itself is an indicator of increased risk of mental illness' (Kelaher et al. 2014, 3). Based on those findings it can be suggested that Aboriginal women who were already mentally unwell, and had accessed services that were not culturally competent or responsive and then suddenly left, may have become more distressed from racism and 'reduced quality of health care' (Kelaher et al. 2014, 2).

As we learn more about the lived realities of Aboriginal women with mental and cognitive disabilities from this study, it becomes in fact more necessary for community based workers to stay engaged and to build trust and relationships, despite workers possibly experiencing discomfort at times. Many of the Aboriginal women with comorbid mental health and substance use disorders who contributed to Lee's study reviewed in Chapter 3, had also suggested for workers in non-Aboriginal specific or mainstream services to dedicate more time to building connections with clients and to be 'more friendly' to improve their services (Lee et al. 2014, 477). Instead, as pointed out earlier by Baldry and Dowse (2013), it is often the police who are doing most of the grunt work to get services to respond quickly and appropriately to those with mental and cognitive disabilities, and indicated by a number of the support women who contributed to this present study. Therefore, rather than shutting women down or moving women on, workers, and in particular women support workers, need to hear and listen to the narratives and help women to see the amazing strengths and coping abilities that they have and can use to survive the ongoing challenges in their lives.

### **Integrating clinical and cultural competencies to improve practice**

Misdiagnosis, under-diagnosis and over-diagnosis can have massive implications for Aboriginal women in mental and emotional distress and contribute negatively to their mental state. Diagnostic challenges could also lead to a range of different clinical management approaches used on women, however, if there was no assessment or a diagnosis, women most likely did not have access to specialised treatment and supports. On the other hand, those women who

had an extensive psychiatric history could feel unhelpfully labelled, and those labels were hard to remove and quickly noticed by police, agencies and other people. Also, sadly, women could believe that they *were* those labels (such as schizophrenic, psychotic, paranoid, angry, acute, disturbed, irrational, emotional). Individuals therefore need information and reassurance about their conditions by mental health professionals as part of a balanced treatment or care plan. For example, teaching women the signs and symptoms of depression, anxiety, PTSD and intense emotions could encourage a level of insight to allow them to appropriately manage their behaviours, make decisions about mental health care or have more confidence in accessing hospitals and mental health professionals when they are becoming unwell.

Dr Tracy Westerman<sup>92</sup>, a Njamal woman and clinical psychologist, draws on her own extensive research in Aboriginal mental health to explain that the 'integration of cultural and clinical competencies at the system and practitioner levels' is the key to improving access to mental health services by Aboriginal people and in particular young people (Westerman 2010, 213). She argues however that very few services are able to provide effective therapeutic treatments that also identify the 'central role that culture plays in unwellness', which generally prevents Aboriginal people from accessing mental health services and makes it difficult for the 'average clinician' to work effectively with Aboriginal clients (Westerman 2010, 213). Westerman's validated Aboriginal Mental Health Cultural Competency Test (CCT) has been developed to increase the numbers of Australian mental health practitioners and services integrating cultural and clinical competencies into practice for improving accurate diagnostic assessment with Aboriginal people. To improve access to and utilisation of mental health services for Aboriginal women similar to those in this study, practitioners should therefore be required to have both clinical and cultural competencies – to be able to speak in the mainstream and also culturally. More so, assessing and treating mental health and wellbeing can be more accurate when a practitioner clearly understands the differences between cultural or clinical symptoms of mental health to determine the best response to care (Westerman 2012).

In a study with 22 health professionals (1 Aboriginal; 21 non-Aboriginal) in central and north Australia, Dingwall and other academics found a number of barriers for professionals assessing cognition among their Aboriginal clients and implementing strategies for managing identified impairments (Dingwall et al. 2014). Those difficulties included not engaging clients in a

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<sup>92</sup> In 2018, Westerman was awarded Western Australian of the Year and inducted into the WA Hall of Fame.

‘meaningful way’, diversity among Aboriginal people, limited resources, and evidence and knowledge of appropriate cognitive functioning assessment tools for use with Aboriginal people and in particular those ‘impacted by substance abuse or other acquired brain injury using culturally appropriate approaches’ (Dingwall et al. 2014, 7-10). In the article *‘You’ve got to make it relevant’: barriers and ways forward for assessing cognition in Aboriginal clients* (2014), the authors explained that services did not always focus on cognitive assessment, some professionals lacked the capacity to conduct assessments and it was often a ‘small component’ of the work undertaken by the professionals who contributed to the study (Dingwall et al. 2014, 3). Dingwall and colleagues therefore determined that clinicians needed to learn culturally relevant assessments to properly measure cognitive function in Aboriginal clients, including those with more complex needs in custodial settings, and to train and support professionals in culturally competent and culturally safe practice (Dingwall et al. 2014, 5-7).

### **Professionals have a practice responsibility to seek out Aboriginal knowledge**

There is no reason for mental health groups not to be more informed or not be able to cultivate themselves culturally on key practice standards and competencies for providing accessible and responsive services to Aboriginal women with mental and cognitive disabilities to improve the present situation. Social workers in particular need to build their knowledge and practice capacity for working in this field. As Bigby and other academics point out, presently ‘disability has a low profile’ in the social work profession with NSW being the only state to have a Social Work in Disability Practice Group (Bigby et. al. 2018, 18-29). Accredited mental health social workers are in a position to assist in developing critical social work practices for the profession to better support affected Aboriginal women. Primary and mental health nurses, through their professional peak body, can ensure that Aboriginal women’s lived realities are a critical component of Continuing Professional Development activities to assist them in practice. Primary documents and inexpensive training also exists which can educate workers and services on how to reduce barriers and work more effectively at the very local level. It is no good training workers if the system stays the same, therefore systemic and organisational change is needed together. For example, *The National Practice Standards for the Mental Health Workforce 2013* and in particular *Standard 4: Working with Aboriginal and Torres Strait Islander peoples, families and communities* can support those professions who mainly work in Aboriginal mental health including social work, psychiatry, mental health nursing, psychology, occupational therapy, Aboriginal mental health practitioners and social and emotional wellbeing workers to provide ‘culturally secure systems of care’ for women and

their families (Walker 2011, 181-182). The curriculum for The Djirruwang<sup>93</sup> Aboriginal and Torres Strait Islander Mental Health Worker Education and Training Program at Charles Sturt University, the preferred provider of mental health education for Aboriginal trainees in NSW, is developed from these *practice standards* and well qualified Aboriginal mental health practitioners (graduates) incorporate the learning into their professional practice with Aboriginal individuals, families and communities (Brideson et al. 2014).<sup>94</sup>

In addition, Indigenous Allied Health Australia (IAHA), a national member-based Aboriginal and Torres Strait Islander allied health organisation funded by the Australian Government, delivers workshops based on their *Cultural Responsiveness in Action Framework* to those in the mainstream and Aboriginal workforce (including managers and policy makers) wanting to provide 'culturally safe and responsive' services to Aboriginal people (IAHA 2016). The Australian Association of Social Workers (AASW) has a partnership with IAHA and could very well include the IAHA workshops as a mandatory Continuing Professional Development (CPD) activity, as they do for Cognitive Behavioural Therapy (CBT) and for accreditation of mental health social workers. Another easily understood document is the renewed *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017-2023* with its guiding principles drawn from Swan and Raphael's *Ways Forward* report and the previous 2004 Framework (Commonwealth of Australia 2017). This present study also can inform government and non-government services and workforces about issues proven relevant for Aboriginal women with mental and cognitive disabilities and to improve skills and behaviours for increasing access to better supports and care.

As demonstrated in Chapter 2 with the Saltwater Real Conciliation Women's Camp held on Biripi sacred lands and the Aboriginal Women's Dinner held during NAIDOC Week celebrations on Worimi country, it is vitally important to remember that Aboriginal women's community standing, culture, traditions and associations are still strong and this needs to be kept in mind when looking at any potential solutions or actions to determine Aboriginal women's lives.

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<sup>93</sup> The word *Djirruwang* is a Ngunnawal word meaning 'light' and can be referred to life and finding the light in instead of darkness (Connors 2008: 11).

<sup>94</sup> The *Djirruwang Program* is a cultural and community response to the need to develop the skills of a local Aboriginal mental health workforce to integrate mental health theory and clinical and cultural competencies into mental health practice, and to work within mainstream mental health services and ACCHSs to improve access to mental health assessment and care for Aboriginal people and communities (Brideson et al 2014).

## CONCLUSION

This chapter provides critical information on the lived realities of Aboriginal women with mental and cognitive disabilities and their interactions with police, courts and prison. Using the experience and knowledge of the women who partnered with the study and Aboriginal and non-Aboriginal women within families and communities who also contributed, we find that Aboriginal women living with mental health and cognitive difficulties have little power within their lives to improve or positively change their circumstances. The powerlessness started from a young age and has continued into adult life forcing them to do whatever is needed in order to survive. Their often chaotic lives filled with trauma, worry, alcohol and other substance abuse, violence and offending as well as factors related to Aboriginality, gender, where they live, surname and reputation in the community can determine their level of involvement with police, courts and prisons. Moreover, the lack of culturally competent and responsive interventions and wrap around supports strongly contributes to affected Aboriginal women becoming and staying enmeshed with criminal justice systems.

Theory development in critical Indigenous disability criminology as well as critical Indigenous social work, provides the most comprehensive understanding to date on the structural and systemic *reasons* Aboriginal women with mental and cognitive disabilities become criminal justice involved and the *reasons* those social, health, disability, economic, criminal and political institutions in society that can reject, control, exploit, manage, direct and disregard Aboriginal women and their families must think differently and orientate practice and processes to transform lives of First Nations women for the better (Baldry 2014; Mullaly 2007; Healy 2000).

More professional and cultural cultivation is therefore required for Aboriginal and non-Aboriginal professionals and human service workers in justice, health and disability sectors (executive management, senior supervisors, middle managers, nurses, mental health practitioners, disability specialists, police, correctional officers) to understand and address the complex support needs of Aboriginal women to prevent contact with criminal justice agencies, and those identified issues confronting families, communities, services and prisons connected to women who are unwell and impaired. Social workers in particular need to build knowledge and practice capacity in this field and with disability overall. Examples of suitable professional development activities and frameworks are provided in this chapter to help social workers, other professionals and service providers to gain this knowledge, capacity and confidence. The whole woman model offered by Waminda and its proper therapeutic approach rather than

corrective methods seems to be the best support available now for women with mental and cognitive disabilities and complex support needs; a support model that could be adapted or replicated by other Aboriginal communities. For those women in prison, Winnunga's leading holistic health care model provides an opportunity for women to be supported during their sentence, to live safe and well in Aboriginal community-based settings after release and to receive ongoing community and family support to stay out of criminal justice systems. Those 143 ACCHSs across the country with similar cultural, financial and clinical capabilities could follow Winnunga's lead to become a competitive provider of health care services to all prisoners within state or territory correctional systems and post release to the community. Health Justice Partnerships could also be established in these ACCHSs for ensuring that vulnerable Aboriginal women can obtain legal advice and support as part of the care response.

## THESIS CONCLUSION

The Aboriginal women who partnered with this study moulded existing theoretical data and information about their lives into their own 'women cultivated' narratives and empirical evidence. The 'histories of knowing' documented in this thesis re-present the lived realities of those Aboriginal women, as well as the experiences and knowledge of the Aboriginal and non-Aboriginal support women who contributed to the study from families, communities, services and prisons connected to Aboriginal women (and men) who are mentally unwell and cognitively impaired.

This thesis makes a critical contribution to those rather shallow previous considerations on Aboriginal women, mental health, disability and criminal justice. The integration of the findings into the theoretical discussion adds an exceptional depth of learning about the lives of Aboriginal women with mental and cognitive disabilities from childhood to adulthood and how their lived realities over a lifetime significantly contributes to involvement with police, courts and prisons.

The demand for those policy makers in professional peak bodies (such as Australian Association of Social Workers, National Aboriginal Community Controlled Health Organisation, Indigenous Allied Health Australia, Australian College of Nursing, Royal Australian and New Zealand College of Psychiatrists, National Aboriginal and Torres Strait Islander Health Worker Association, Australian Indigenous Doctors Association, Royal Australian College of General Practitioners) and frontline practitioners in health, disability and justice based service systems in urban, remote and regional areas to better understand this knowledge offered by women, so that they can appropriately recognise and respond to the lived realities of affected Aboriginal women that lead to and results in their over-representation with criminal justice systems should be clear to all who read this thesis. Those services need to be localised, to work collaboratively together and to provide culturally and clinically competent and culturally responsive interventions that extend to families and communities. By incorporating critical approaches, concepts and models into practice, the social work profession can take the lead on changing systems and structures that do not serve Aboriginal women, their families and communities well enough. If social workers are not doing that, then they are probably doing the same thing that every other profession and everyone else are doing. And, by doing so, they risk not meeting their ethical commitment to the principle of social justice and to 'working with Australia's First Peoples' (AASW 2010, 7).

The critical and impassioned insights I have from my own cultural, personal and professional roles and realities as an Aboriginal woman, mental health and disability social worker in criminal justice, as a guardian and carer, Official Visitor of prisons and NSW Mental Health Review Tribunal member have influenced the research process by privileging certain information, with the analysis and interpretation of themes and findings and when writing this thesis. It is also my knowledge, experience, skills, qualities and behaviours that allowed me to establish a good base for future studies in the scholarly fields of Aboriginal women, mental health, disability and criminal justice so that the perverse traditions now before us in the nation's criminal justice systems and often dangerous practices within disability and mental health service systems can be prevented and overcome.

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