

# Resisting the incarceration of Aboriginal and Torres Strait Islander children: A scoping review to determine the cultural responsiveness of diversion programs

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## Abstract

**Purpose** National and global resistance opposes the criminalisation and punitive punishment of Aboriginal and Torres Strait Islander children with complex needs, including harmful incarceration practices of children as young as 10 years of age. The aim of this scoping review is to understand the available evidence regarding culturally responsive diversion programs for Aboriginal and Torres Strait Islander children.

**Methods** Six databases were searched (PubMed, Informat, Embase, CINAHL, Web of Science and PsycINFO). Further evidence was retrieved from Google Scholar and state and territory youth justice websites. Studies met criteria if they were from Australia, were diversion programs and included Aboriginal and Torres Strait Islander children aged between 10 to 18 years of age. The cultural responsiveness of the included diversion programs was synthesised by applying a decolonised and Indigenist Social and Emotional Wellbeing (SEWB) Framework. Studies were assessed according to seven domains of the SEWB Framework.

**Main findings** Thirty-one studies met inclusion criteria. Fifteen types of diversion programs were identified, and they varied widely in their cultural responsiveness. Ten studies were scored in the high range,

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16 studies were scored in the medium range and five studies were scored in the low range in cultural responsiveness.

**Principal conclusions** A range of different types of diversionary programs were evaluated. Culturally responsive programs were Indigenous-led, placed based, holistic, life-course, and healing and family centred.

**Keywords:** Decolonising; Culturally Responsive Diversion; Child Health; Aboriginal and Torres Strait Islander Children; Anti-Carceral; Complex Need

### Highlights/Implications

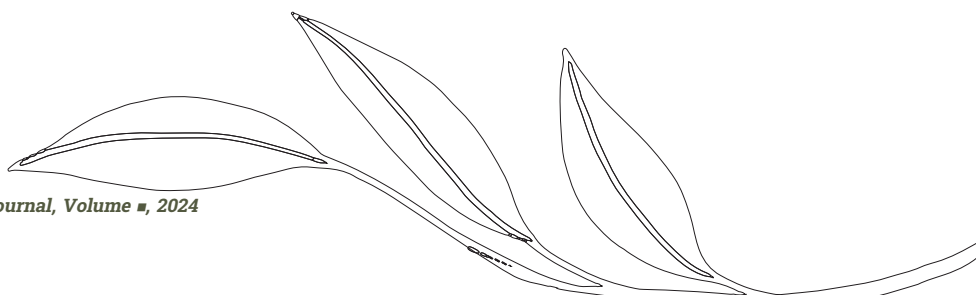
- Culturally responsive diversion programs are required to counter detention practices.
- Self-determined justice reinvestment offers culturally responsive alternatives to incarceration.
- Responses must prioritise Indigenous and children's rights and decriminalisation of complex need.
- Decolonising approaches can resist racialised health and justice systems and child incarceration.
- Culturally responsive diversionary programs can support governments with raising the age.

### Introduction

Political expediency of dispassionate democratic governments has driven reactive youth justice policy in response to sensational media forecasts of uncontrollable youth crime and the need to keep communities safe ([Justice Reform Initiative 2023](#); [Queensland Government 2023a](#)). For example, the Queensland Government's tough-on-crime approach has recently seen reactive amendments to youth justice legislation. This has included changes to allow children to be held in adult watch houses and inclusion of breach of bail as an offence, overriding the Queensland Human Rights Act and enacting harmful hyper-incarceration practices of Aboriginal and Torres Strait Islander children (henceforth, the terms Indigenous Australian children and children will respectfully be used to refer to those aged < 18 years; [Lynch & Liefwaard 2020](#); [Queensland Government 2023b](#)).

It is time to shift the discourse of tough-on-crime policy and disrupt the politicised detention of

Indigenous Australian children, which inflicts state carceral social control and punitive punishment that is disproportionate in comparison with children of non-Indigenous descent ([Martensen 2020](#)). Rather than investing in the high costs of building and delivering detention-based services, investment directed towards prevention and support of vulnerable children would reduce the trajectory of harmful lifelong enmeshment with the criminal justice system ([Abramovitz & Mingus 2016](#)). Current judicial processes, which reflect the continued racialisation of health and justice systems, fail to identify or support the complex health and social needs of Indigenous Australian children exposed to the youth justice system, and contribute to unequal youth detention rates and criminalisation of need ([Abramovitz & Mingus 2016](#); [Dowse et al. 2014](#); [Holland et al. 2021](#); [Watego et al. 2021](#)). Instead, prevention strategies should be provided early in a child's life to promote holistic health and wellbeing, and thereby address the underlying developmental and social needs associated with criminogenic risks.





### Resistance to carceral social control of Black and Indigenous peoples

The Black Lives Matter and prison abolitionist movements embody powerful resistance and political struggle against tough-on-crime policies that enact harmful social control through practices of imprisonment (Brown et al. 2019; Brown & Schept 2017; Martensen 2020). Colonial oppression and racial discrimination continue to subjugate and hinder equality, freedom and the emancipation of Black and Indigenous peoples (McGlade 2020; Fredericks & Bradfield 2020; Paradies 2016; Paradies et al. 2015; Watego et al. 2021). Scholarly recognition of the carceral state and national and global protests highlight the strong opposition to the ongoing racism and the mistreatment that Black and Indigenous peoples experience during contact with police and throughout the judicial process (McGlade 2020; Brown et al. 2019; Martensen 2020). Extensive and ongoing efforts of activists nationally and internationally aim to eliminate political, social, welfare and government systemic structures that criminalise race, poverty and inequity (Brown et al. 2019; Geia et al. 2020; Martensen 2020; Whellum et al. 2020). For example, in the wake of appalling mistreatment of Indigenous Australian children at the Banksia Hill Juvenile Detention Centre in Western Australia (WA), female leaders from across Australia demanded urgent juvenile justice reform, calling for the cessation of child detention practices that impose cruel and inhumane treatment of children, and proposing restorative justice, culturally responsive and trauma informed approaches, inclusive of on-Country programs (Torre 2023a, 2023b). Critically, the struggle towards decolonial liberation seeks to end racial profiling, hyper-surveillance, over-policing and police brutality, deaths in custody, and the disproportionate rates of incarceration experienced by Black and Indigenous peoples (McGlade 2020; Brown et al. 2019; Klippmark & Crawley 2018; O'Brien 2021).

### The Uluru Statement from the Heart

Within the Australian context, the contemporary struggle for justice and the emancipation of Indigenous Australians became starker following the negative Voice referendum result in October 2023. The rejection of the referendum has been attributed to a negative political campaign that denied a modest request by Indigenous Elders and their communities from across Australia to be recognised and heard. The referendum asked for recognition as First Peoples within the Constitution of Australia, and an enduring enshrined Voice within a representative body to address matters that impact Indigenous Australians lives. The historical and contemporary story of the Uluru Statement from the Heart acknowledges the collective ambition of Indigenous Australians and their communities in gaining equal rights, recognition and autonomy (Davis & Williams 2021). Despite the enormous lost opportunity and disappointment of the negative referendum result, Indigenous Australians and non-Indigenous Australian allies continue to embrace the peoples' movement, which pursues an authentic acknowledgement of the Uluru Statement from the Heart. The Uluru Statement from the Heart was developed and authorised by the knowledges of Indigenous Elders and their communities from across Australia to provide a platform to reimagine Indigeneity (beyond subjugation and oppression), to acknowledge 60,000 years of connection and sovereignty of land (beyond dispossession and colonial depiction of Terra Nullius), and create a Voice enshrined within the Constitution to provide advice to the Parliament of Australia, followed by Treaty and Truth (Davis & Williams 2021). The authors of this work would like to acknowledge the tireless work of Elders, their ancestors and descendants by honouring the following excerpt extracted from the Uluru Statement from the Heart. Centring this work upon this quote acknowledges the burden and the deep wounds that over-incarceration inflicts upon



Indigenous Australian children, families and their communities, and prioritises the need for urgent systemic and structural changes within Australia.

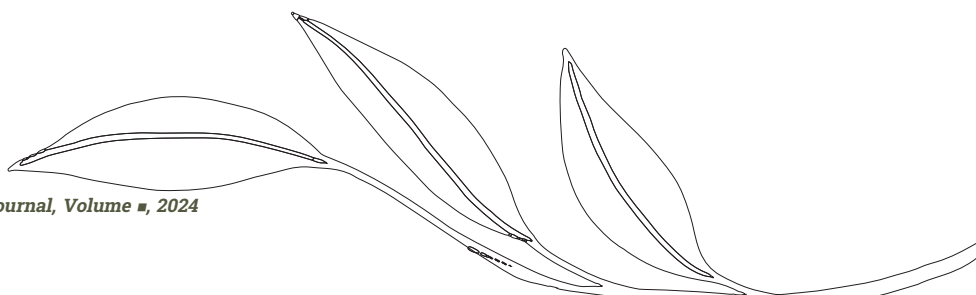
*Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future. These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness* (Davis & Williams 2021, p. 2012).

### **Incarceration rates and mistreatment of Indigenous Australian children**

The over-representation and mistreatment of Indigenous Australian children in youth detention is a shameful indictment of Australian society that requires urgent action (Irani et al. 2018). In 2021, unequal positioning of Indigenous Australian children was demonstrated by an incarceration rate that was 20 times greater than that of non-Indigenous Australian children (Australian Institute of Health and Welfare [AIHW] 2021). Additionally, whilst Indigenous Australian children comprised 6% of the Australian youth population aged 10 to 17 years, they comprised a daily average of almost 50% of the youth detention population (AIHW 2021). Incarceration rates are exacerbated by the negative consequences of the removal of Indigenous Australian children from their families and communities (Chamberlain et al. 2022). In June 2022, Indigenous Australian children were 11.8 times more likely to be in out-of-home care than non-Indigenous Australian children (AIHW 2024). In Australia, the likelihood of offending and consequent supervision by youth justice is at least 12 times greater for children with a background of adverse childhood experiences and exposure to child protection systems (Baidawi 2020). 'Crossover children' exposed to both

child protection and youth justice systems are known to have their first police charges, for disproportionate rates of violent offending, during their initial care placement (Baidawi 2020). A child protection system that is racially discriminatory, distressing to children and their families, culturally unsafe and culturally incompetent harms a child's cultural identity (McGlade 2019). These issues represent ongoing historical colonial violence and family disruption that has inflicted cycles of intergenerational trauma and structural harm on Indigenous Australian children, families and their communities (Chamberlain et al. 2022). The Bringing Them Home Report (Lavarch, 1997), Royal Commission into Aboriginal Deaths in Custody, Australia (Royal Commission into Aboriginal Deaths in Custody [RCIADIC] 1992) and the more recent Pathways to Justice Report (Australian Law Reform Commission 2017) have mobilised collective resistance to address the harmful widespread inequities and systemic failures imposed upon Indigenous Australians exposed to child protection and youth justice systems. However, responses to recommendations within several state and territory reports and Royal Commissions over many decades have been delayed and denied and consequently have had minimal impact.

Thirty years on from the RCIADIC, several factors continue to influence high incarceration rates of Indigenous Australian children, including: failing to implement the recommendations of the RCIADIC; the continued negative impacts of significant historical, social and economic drivers; police discretionary gatekeeping powers that hinder access to diversion programs; and the lack of available culturally responsive diversion programs across rural and remote locations in Australia (RCIADIC 1992; Cunneen et al. 2021; ALRC 2017). In addition to the RCIADIC, the Royal Commission into the Protection and Detention of Children in the Northern Territory (NT) in 2016





illustrated the appalling mistreatment of Aboriginal children who were incarcerated in the Don Dale Youth Detention Centre; the report recommended its closure, yet it remains open today (Australia. Report of the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory 2017).

### Closing the Gap

The Commonwealth Closing the Gap Implementation Plan 2023 seeks to reduce the profound differences between Indigenous and non-Indigenous Australians concerning incarceration rates, out-of-home care rates, access to health care, education outcomes and employment rates (Australian Government 2024). The National Agreement on Closing the Gap has a multibillion dollar expenditure that has been allocated over several years to address 17 Targets and four Priority Reforms (Australian Government 2024). These strategies have been codesigned with the Indigenous-led Coalition of Peaks to improve self-determination and holistic wellbeing for Indigenous Australians. The 11th strategy describes a measurable target of 30% reduction in the incarceration rate of Indigenous Australian children by 2031 (Australian Government 2024). This target is aligned with Priority Reform Two. To accelerate positive justice outcomes, the 'Justice Policy Partnership' brings together representatives from the Coalition of the Peaks, Aboriginal and Torres Strait Islander experts and all Australian governments to address the drivers of crime and guide community-led justice reinvestment reform across Australia (Australian Government 2024, 2021). In 2023, \$69 million dollars were made available through Commonwealth funding to create sustainable change through building the necessary capacity within 30 Indigenous and community-led and place-based justice reinvestment initiatives (Australian Government 2024, 2023). Notably, Priority Reform Three: The

National Anti-Racism Strategy seeks to eliminate systemic and structural racism that continues to drive inequitable incarceration rates (Australian Government 2024).

The outlined 17 targets within the Closing the Gap Implementation Plan identify overlapping areas of complex need largely reflective of similar global trends in addressing poverty and socioeconomic disadvantage. The 12th strategy identifies the need to reduce the rate of Indigenous Australian children out-of-home care by 45% by 2031 (Australian Government 2024). If this situation is not countered, it is predicted that out-of-home care rates for Indigenous Australian children will be 20 times greater than non-Indigenous children by 2031 (Chamberlain et al. 2022). Australia consistently fails to meet an ideal state of humanitarian equality established by the United Nations (UN) mandate to 'leave no one behind' (LNOB) (UN 2021). The universal value of LNOB is outlined within Principle Two of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (UN 2021). To LNOB would imply the need for resistance to detention practices to protect children from harm and their wrongful removal from their families and homes during critical periods of child development (Holland et al. 2021; UN 2021). The abolition of child detention seems more appropriately aligned with the transformative social agenda of LNOB (Brown & Schept 2017; Goldson 2005; UN 2021). This agenda addresses the need to eliminate global poverty, exclusion, inequalities and vulnerabilities to allow all of humanity to flourish together (UN 2021). Restrictions applied to the co-design of Government Closing the Gap policy is perhaps driven by the colonial legacy of discriminatory racial practices, control and oppression, rather than contemporary ambition and available funding to address complex needs (Cunneen 2009, 2020).





Inequity is also largely driven by cautious political dynamics reactive to populous votes rather than morally responsive leadership. Effective leadership needs to generate social changes that would halt punitive punishment of Indigenous Australian children who have complex needs and are disproportionately represented in youth detention.

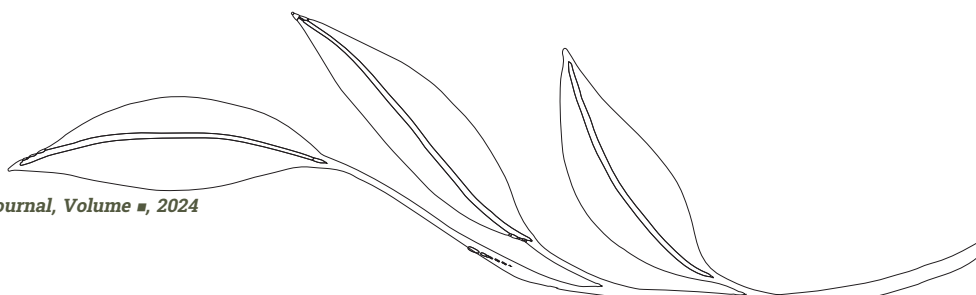
### Child development and child rights


It is essential to explore appropriate responses to a child's behaviour that are scientifically based and consider a child's diminished culpability to commit crimes in comparison with an adult (Lynch & Liefgaard 2020; Walsh et al. 2021; Zane et al. 2022). Scientific evidence indicates that a child's immature decision-making capacity and risk-taking behaviour is developmentally typical during the adolescent stage of human development between the ages of 10 to 24 years, with full brain development not achieved until the age of 25 years (Arain et al. 2013). Neglecting to raise the age of criminal responsibility to at least 14 years of age in all states and territories in Australia fails to keep pace with contemporary practices of most developed countries (Save the Children 2023; Walsh et al. 2021). Australia's criminalisation of a child's behaviour when aged < 14 years disregards international human rights principles (UN 2017; Save the Children 2023; Lynch & Liefgaard 2020).

Multiple international laws and treaties exist to protect the rights of children and are significant to juvenile justice in Australia; however, there is a lack of accountability to these treaties and extensive human rights violations occur throughout Australian child justice systems (Cunneen et al. 2016; Save the Children 2023). Relevant conventions for juvenile justice include the: International Covenant on Civil and Political Rights (UN 1966), Convention Against Torture (UN 1984), United Nations Convention on the Rights of the Child

(UNCRC; UN 1989), United Nations Convention on the Rights of Persons with Disabilities (UN 2006), United Nations Declaration on the Rights of Indigenous Peoples (UN 2007) and United Nations International Convention on the Elimination of All Forms of Racial Discrimination (UN 2017). Of relevance in the Australian youth justice context is the Government's reservation to ratify the third Optional Protocol to the Convention against Torture, to enable children to communicate complaints directly to the UN committee following exhaustive domestic remedies (Australian Human Rights Commission 2024; Torre 2023a, 2023b; Save the Children 2023). Additionally, a further breach to UNCRC is the reservation to abide by Article 37(c), which outlines the rights of children to be protected during detention; children should be treated with humanity and respect and should not be detained with adults (UN 1989). Additionally, the UNCRC General comment No. 24 on Children's Rights in the Child Justice System comprehensively outlines in point 28 that children lacking criminal responsibility for reasons related to developmental delays or neurodevelopmental disorders or disabilities should not be managed by the child justice system at all (UN 2019).

Notably, culturally responsive diversion programs are in alignment with The Standard Minimum Rules for Administration of Juvenile Justice (Beijing Rules), which outline that a child's exposure to youth justice processes needs to provide elements that promote wellbeing and fosters a child's developmental and educational needs and limits the need for legal intervention (Walsh et al. 2021). Therefore, it is imperative to identify complex needs early in a child's life to avoid unwarranted contact with police and extended and indefinite periods of detention, to appropriately align with international human rights principles (First Peoples Disability Justice Consortium





2016). It is necessary to provide community-based, culturally responsive and holistic alternative pathways away from incarceration that will improve wellbeing and decrease incarceration rates and recidivism (Baldry et al. 2018; Holland et al. 2021; Walsh et al. 2021). Neglecting the complex needs of children risks significant harm and a future trajectory of life-long enmeshment with the criminal justice system (Baldry et al. 2018).

### **Complex needs and consequences of incarceration**

The complex needs of many children encompass a range of factors including social issues resulting from poverty, a chaotic home environment, inconsistent out-of-home care provision, homelessness, trauma, mental ill-health, neurodevelopmental disorders and alcohol and other drug use (Baidawi 2020; Baldry et al. 2018; Dowse et al. 2014; Holland 2022; Walsh et al. 2021). For example, a prevalence study of children detained in WA was conducted to determine the rate of foetal alcohol spectrum disorder (FASD) and the severity of neurodevelopmental impairments (Bower et al. 2018). The consenting participants included 99 children aged 10 to 17 years, with 74% of participants being of Aboriginal descent. Multidisciplinary assessments were conducted by a paediatrician, an occupational therapist, a speech pathologist and provisional neuropsychologists with supervision. The diagnostic assessment detected 36 children with FASD (36% prevalence), and 88 children (89%) had a minimum of one domain of severe neurodevelopmental impairment. The diagnosis of FASD and neurodevelopmental impairments were unknown for most of the children prior to the study (Bower et al. 2018). Kippin et al. (2018) sought to further examine the same population as Bower et al. (2018), in terms of the associated speech and language difficulties experienced by children with FASD. The findings reflected the prevalence of developmental language disorder (DLD) similar to two earlier studies conducted in other states and territories

in Australia, which identified DLD at 52% and 46% (Snow & Powell 2008, 2011).

Additionally, there is growing evidence globally of a high premature mortality rate of children who have been incarcerated. Premature death rates range from 5 to 41 times higher than their age-matched and sex-matched peers who have not experienced incarceration (Borschmann et al. 2020). The causes of premature deaths include 'suicide, drug overdose, injury or violence' (Borschmann et al. 2020). These statistics illustrate the trajectory of harm and premature loss of life associated with the incarceration of children. Therefore, within the Australian context whereby Indigenous Australian children are disproportionately represented in detention, there is a need for further exploration of the complex co-occurring conditions, alongside entrenched adversity and disadvantage, as all these factors require identification and support (Holland et al. 2021; Malvaso et al. 2019).

### **Identifying a framework to determine cultural responsiveness of diversion programs**

Graham (1999) eloquently conveys how Aboriginal worldviews are not egocentric but inherently prioritise collective wellbeing and reciprocal relationality between people and care of Country. Our humanness is determined by our ability to live sustainably and with balance according to interconnections with family and kinships, community, Country, spirit and culture (Graham 1999). A culturally informed framework to effectively determine the cultural responsiveness of diversion programs acknowledges the need to identify 'social and emotional wellbeing (SEWB) from an Aboriginal and Torres Strait Islanders' perspective' (Gee et al. 2014, p. 57). See the adapted framework in Figure 1. The use of this framework conceptualises the positioning of self 'grounded within a collectivist



**Figure 1:** Multidimensional social and emotional wellbeing framework within influencing social, political and historical determinants (Gee et al. 2013). Adapted with permission from Graham Gee.

perspective that views the self as inseparable from, and embedded within, family and community' (Gee et al. 2014, p. 57). The framework seeks to disrupt the notions and Western definitions of health and wellbeing as superior. The framework privileges a distinct set of Indigenous and interconnected wellbeing domains and principles that were used in this review to measure cultural responsiveness of program content and program outcomes. This framework attributes the negative impacts of historical, social and political determinants that have ensued over the last two and half centuries, because of colonisation, and have led to intergenerational trauma and widespread disadvantage (Edwige & Gray 2021). The negative impacts of colonisation are evidenced by unequal access to education, employment, housing, legal protection, wealth, and disparities in health, social, justice and political outcomes for many Indigenous

Australians (Fredericks & Bradfield 2020; Paradies 2016). Experiences of intergenerational trauma have disrupted social and emotional wellbeing and spiritual connection to Country and impacted an empowered sense of identity, family relationships and community; a consequence of this is the continued disproportionate incarceration rates of Indigenous Australian peoples (Edwige & Gray 2021; Paradies 2016). The use of a decolonised social and emotional wellbeing framework to determine the cultural responsiveness of youth justice diversion programs prioritises a holistic world view and centres healing through the strength of culture that is protective and builds capacity for Indigenous Australian children, families and their communities (Edwige & Gray 2021).

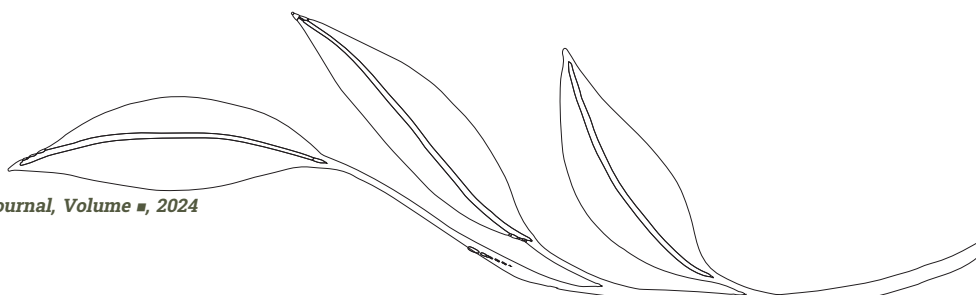
### Current study

This scoping review offers a unique body of work that seeks to decolonise youth justice approaches in Australia. To resist the incarceration of Indigenous Australian children it is imperative to highlight alternative therapeutic pathways that improve wellbeing and counter harmful detention practices. Specifically, this scoping review aimed to identify existing studies that provide evaluated evidence of culturally responsive diversion programs for Indigenous Australian children.

### Methods

#### Protocol and registration

The current review was registered with 'Research Registry' under the 'Registry of Systematic Review/ Meta-analysis' - reviewregistry1092 in February 2021 (<https://tinyurl.com/mr39avjj>). The review was designed and reported according to the Preferred Reporting Items for Systematic Review and Meta-Analysis extension for Scoping Reviews (PRISMA-ScR; Tricco et al. 2018; see Supplementary Table S1 for the PRISMA-ScR checklist).





### Research questions

1. What diversion programs are available that offer alternative pathways to youth detention for Indigenous Australian children with complex needs in Australia?
2. How culturally responsive are the available diversion programs for preventing detention and improving social factors, health, mental health or social and emotional wellbeing?

### Inclusion and exclusion criteria

Published peer-review articles and grey literature were eligible for inclusion, including original research of all study evaluation types but not systematic reviews or reviews; this included both quantitative and qualitative studies. No restrictions were placed on the physical location of studies, type of study design, age, gender, language or publication dates. Studies were eligible for inclusion if they included a) children aged 10 to 18 years; b) children who were of Aboriginal and Torres Strait Islander heritage; c) programs, court processes, assessment and interventions that offer culturally appropriate alternative pathways away from incarceration; and d) programs that address trauma, healing, identity or connection to Country. Studies were excluded if they were: a) systematic reviews; b) reviews; c) literature not in English; d) programs conducted in prison; and e) descriptive studies. All authors reviewed 20 studies to test the inclusion/exclusion criteria.

### Search strategy

Six electronic databases were systematically searched by the first author LH (PubMed, Informit, EMBASE, CINAHL, Web of Science and PsycInfo). Database searches were conducted from 19 April 2021 up to 15 June 2021 and an updated search was conducted on 5 October 2023. Reference lists of included studies were hand searched and grey literature was searched from Google Scholar, and state and territory youth

justice websites by LH and CL. See [Supplementary Table S2](#) for the full strategy applied to Web of Science. The search terms applied to each database included (Aboriginal and Torres Strait Islander OR Aboriginal OR Indigenous OR...) AND (youth incarceration OR juvenile justice OR...) AND (Justice System OR Detention OR correctional facility OR...) AND (diversion OR intervention OR treatment...). See [Supplementary Table S3](#) for a copy of the search terms applied to each database.

### Selection of sources of evidence

Search results were downloaded to Endnote and duplicate removal was conducted by one author (LH). Results were uploaded to Covidence (Veritas Health Innovation, Melbourne, Australia) for screening. Title/abstract and full-text screening was completed by two independent reviewers (LH and CL), and a third reviewer (NR) resolved any conflicts.

### Data charting

A standardised form was developed that included key study elements (i.e. author, date, study location, study program, study design, participant characteristics, length of follow-up and methods of data collection and key findings). This was designed by three authors (CL, LH & NR) and piloted and applied by two authors (CL & LH) and reviewed by NR (see [Supplementary Table S4](#) for study and participant characteristics of program evaluations and [Supplementary Table S5](#) for methods of data collection and key findings of program evaluations).

### Data synthesis

The diversion programs were grouped according to the focus of each of the included studies. Cultural responsiveness of evaluated diversion programs was determined by deductive content analysis of all studies. Deductive content analysis utilises prior theoretical knowledge to analyse qualitative data



(Kyngäs & Kaakinen 2020). The deductive content analysis method was selected as it appropriately privileged a pre-existing decolonising framework (the SEWB Framework; [Figure 1](#)) to apply the translation of Indigenist knowledge to understand the cultural responsiveness of available diversion programs. Study data were categorically themed according to seven domains of the SEWB Framework: connection to spirit; connection to body and behaviours; connection to mind and emotions; connection to family and kinship; connection to community; connection to culture; and connection to Country and land ([Gee et al. 2014](#)). To ensure rigorous content analysis of studies, a pre-determined criteria sheet was established to ascertain whether a domain was met; this process was piloted by three authors (LH, NR and MT) and consistently applied, analysed and completed by LH (see [Supplementary Table S6](#) for cultural domains of social and emotional wellbeing criteria). To visually summarise the results, it was decided that a score of 1 would be applied for every domain met within the study according to content of the study (total score out of 7) and outcomes assessed in the study (total score out of 7; see [Supplementary Table S7](#) for analysis of program content according to cultural responsiveness and [Supplementary Table S8](#) for analysis of program outcomes according to cultural responsiveness). Therefore, the highest score that a study could receive was 14. The higher score that a study received represented a higher level of cultural responsiveness of the study content and the study outcomes assessed. A score from 0 to 6 was rated as low; a score of 7 to 10 was rated as moderate; a score of 11 to 13 was rated as moderately high; a score of 14 was rated as high as the study met every domain of the SEWB framework (see [Supplementary Table S9](#) for final scores). This was also visually represented with the colour green in [Supplementary Table S5](#).

## Results

### Selection of evidence sources

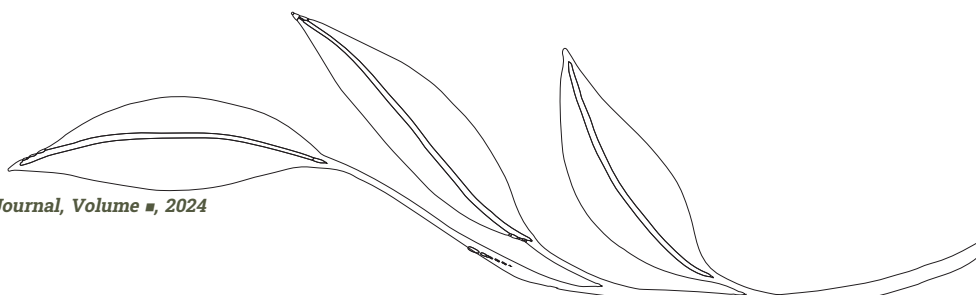
Database searches identified 3,388 records. After removal of 1,052 duplicates, 1,925 records underwent title and abstract screening. A further 1,865 articles were excluded, leaving 60 full-text articles for eligibility assessment. Of these, 38 articles were excluded. Additionally, 15 other records were retrieved by searching reference lists and other methods; title and abstract and full-text screening excluded six of these studies. A total of 31 studies were included in the review ([Figure 2](#)). The retrieved evidence was from several contributing disciplines including criminology, penology, law, psychiatry, public, environmental and occupational health, substance abuse, anthropology, internal and general medicine, social science, interdisciplinary, education, educational research and family studies ([Figure 3](#)).

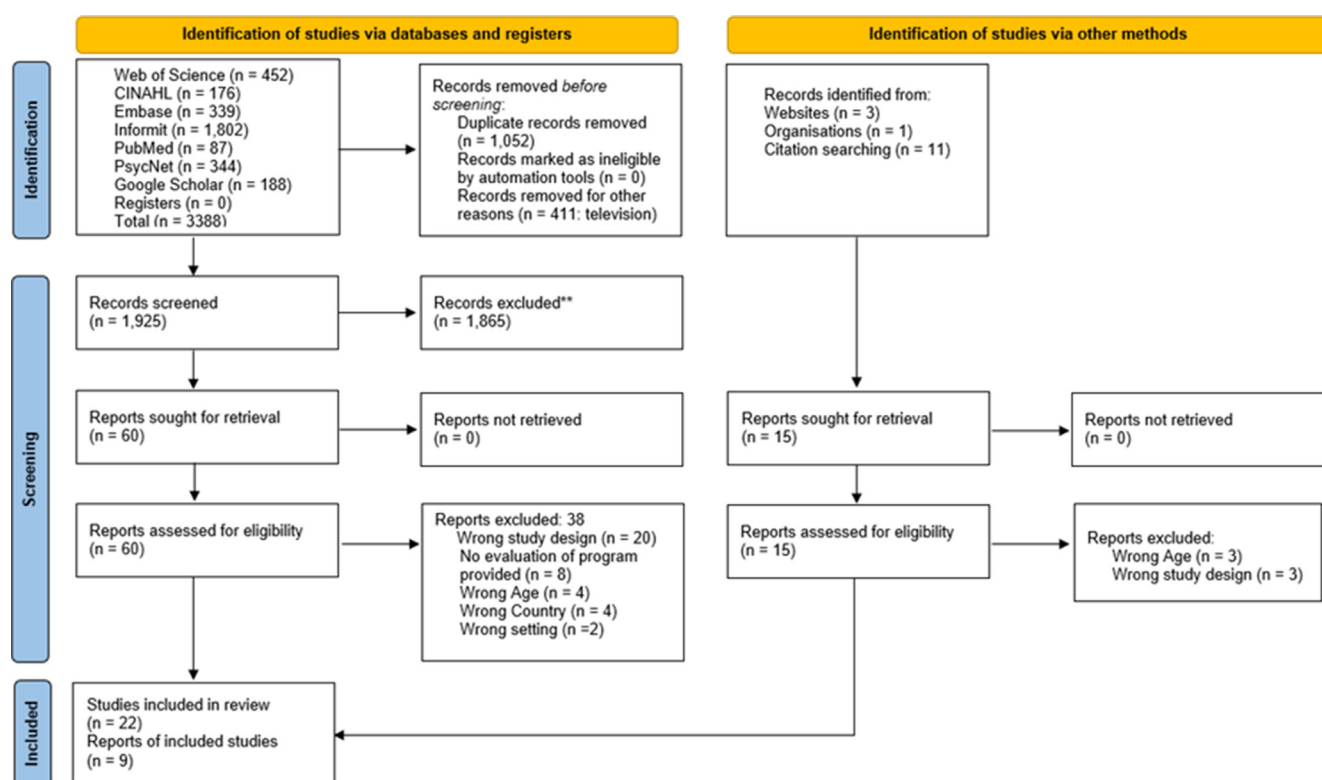
### Characteristics of sources of evidence

Included studies originated from six states and territories in Australia, including Queensland (QLD), New South Wales (NSW), Northern Territory (NT), Western Australia (WA), South Australia (SA) and Victoria (VIC). Of the 31 included studies, 20 were cohort studies (65%), nine were cross-sectional studies (29%), one was a case control study (3%) and one was a multi-component of mixed methods study.

### Synthesis of results

Fifteen types of diversion programs were identified. From the 31 included studies, the types of diversion programs that were identified were: (a) residential remand and bail support; (b) homeless support; (c) after-hours outreach; (d) community reinvestment; (e) equine assisted learning; (f) case management; (g) holiday program; (h) mental health and alcohol and other drugs; (i) driver's licensing; (j) motor vehicle offending; (k) on-Country; (l) school-based;





**Figure 2:** Prisma flowchart illustrating the number of articles identified and screened, assessed for eligibility, and final number included in the scoping review (Page et al. 2021) <http://www.prisma-statement.org/>.

(m) vocational training and therapeutic; (n) police cautioning; and (o) Indigenous court. See Figure 4 for a visual representation of the types of diversion programs and cultural responsiveness of programs. For further details of data charting and synthesis of included studies see Supplementary Tables 4 to 9.

### Summary of cultural responsiveness of diversion programs

#### Residential remand and bail services (n = 2)

Two studies in QLD evaluated residential facilities that provided case management to children while on remand and bail. These services were considered to be well supervised, safe, secure and a stable living environment for children (Ernst & Young 2020; Wood & Hayes 2019). The level of cultural responsiveness was moderate through the provision of enjoyable

recreational activities, access to educational, vocational and life skills development, and the program facilitated positive and regular connections with families to enhance the successful transition home.

#### Homeless support (n = 1)

The Joint Tenancy Assistance Program in NSW offered stable housing and case management to reduce reoffending (Rovik & Keech 2011). The overall cultural responsiveness of the program was scored as low. However, the program aimed to identify a child's self-assessed needs through community agencies working collaboratively to provide individualised and holistic case management plans. Children achieved fluctuating levels of independence during the program with the



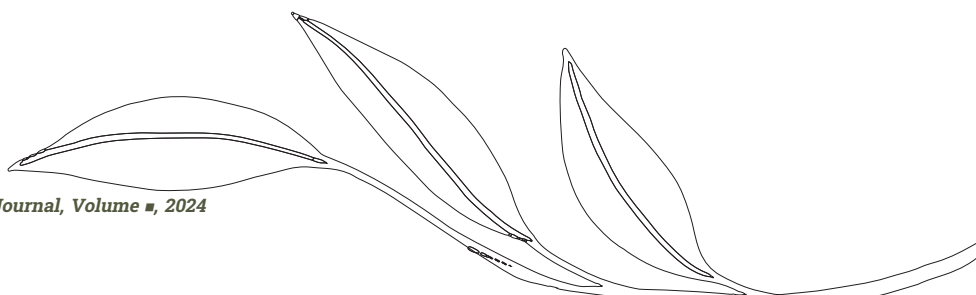
**Figure 3:** Visualisation of disciplinary contribution of search strategy (Web of Science Database).

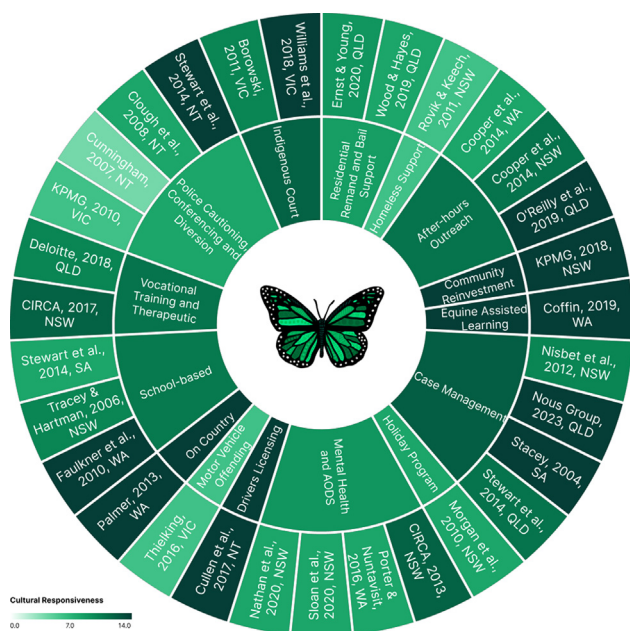
'flexibility of being able to make mistakes and recover while in the program' (Rovik & Keech 2011, p. 28). The gradual achievement of independence reportedly empowered children to realise their strengths and abilities and be less reliant on service providers. The program enhanced children's connection with community, re-engagement with education and vocational training opportunities (Rovik & Keech 2011).

#### After-hours outreach ( $n = 3$ )

The three evaluated after-hours outreach programs all sought to keep children off the streets after dark to minimise offending behaviour with peers and keep children safe, but the cultural responsiveness of these programs varied greatly (Cooper et al. 2014; O'Reilly et al. 2019). The Lighthouse program in QLD scored highly in all domains of cultural responsiveness, reflective of cultural systems of moral and ethical practices that guide behaviour of respect for self and others incorporated in program content and program

outcomes. This voluntary and consented diversion program provided place-based overnight safe accommodation, a referral pathway to other services, promoted pro-social activities with rules and boundaries to build self-efficacy, and appropriate relationships with peers and youth workers (O'Reilly et al. 2019). In contrast, the Northbridge Policy Project in WA, which provided a night patrol service, received a moderate score. This was an involuntary service in which children tried to avoid apprehension, but this resulted in their dislocation to riskier locations without any support; this was seen to reduce long-term positive changes for children and families. However, collaborative service providers identified beneficial outcomes in offering crisis support for vulnerable children (Cooper et al. 2014). The after-hours SAY Aboriginal Youth Patrol Programs were operational in NSW and had varied resource capacity in different regional towns and communities. For example, some communities lacked available transport and





**Figure 4:** Visual representation of cultural responsiveness of programs. Note: The digital butterfly artwork created by Wagiman artist Tara-Rose Gonebale has been centred in the pie chart and is symbolic of the metamorphosis and transformation required within Australian society to support and guide children through culturally responsive diversion programs away from detention practices. True transformation requires Australia to be an inclusive, fair and just society that ‘leaves no one behind’ (UN 2021). Importantly, the butterfly represents empowered Indigenous Australian children whose lives are rich in hope, love, freedom and emancipation to fulfil satisfying lives and spiritual destinies within an informed Australian society.

after-hours services to support implementation. Overall, it demonstrated moderate cultural responsiveness, as Indigenous leadership contributed to the design of the governance structure in most locations. Additionally, children and their families recognised the program as beneficial, as they valued the support offered by night patrol staff and police. It was reported that establishing good relationships and rapport with families improved engagement in activities and with support services within the

community. However, children under the influence of alcohol and other substances were refused involvement in the program’s activities, heightening their vulnerability on the streets (Cooper et al. 2014).

**Community reinvestment (n = 1)**

The Maranguka Justice Reinvestment Project in NSW scored highly within all culturally responsiveness domains (KPMG 2018). The project was Indigenous-led, placed-based, and took a holistic, family focused and life-course approach to provide criminal justice prevention strategies at every life stage. The project was inclusive of healing and on-Country programs, access to health provision, housing, education, vocational and employment opportunities. The project achieved significant reductions in family violence and improvements in children’s outcomes by targeting needs and being flexible within culturally responsive approaches (KPMG 2018).

**Equine assisted learning (n = 1)**

The Nguudu Barndimanmanha Project in WA improved social and emotional wellbeing through equine assisted learning (Coffin 2019). Qualified facilitators created therapeutic relationships between horses and Aboriginal children. Cultural responsiveness of the project was scored as high and was enhanced by facilitating a safe, secure and relaxing environment that was conducive to healing, which improved the children’s sense of identity, self-worth, stress and anger management, self-regulation, re-engagement and attendance at school and socialisation (Coffin 2019).

**Case management (n = 4)**

Collectively, the case management programs scored moderate to high across the cultural responsiveness domains. These programs were inclusive of Indigenous-led engagement or acknowledgement of children’s cultural identity, and centred connection



with family and community (Nisbet et al. 2012; Nous 2023; Stacey 2004; Stewart et al. 2014). Additionally, all programs provided holistic and place-based intensive case management to identify and address the complex needs of children. Whilst the content of all programs scored highly in all domains concerning cultural responsiveness, two of the programs scored highly in all program outcome domains. Elders endorsed the benefits of 'The Intensive Case Management Program' in QLD by referring children and their families to the program (Nous 2023). Additionally, strengths-based and family-led approaches strengthened family relationships and the programs were reported as culturally responsive by families who were able to develop trusting relationships with service providers and gain access to family early intervention strategies for siblings of the children who had offended. The program achieved a reduction in reoffending, improved engagement with education and employment, and prosocial behaviour within the community in which the children and their families lived (Nous 2023). Similarly, the Panyappi Indigenous Youth Mentoring Program in SA involved Indigenous-led mentoring, placed-based services and offered transfer of cultural traditions and knowledge (Stacey 2004). The program promoted connection and better relationships with friends, family and community. Further, the program sought to develop self-discovery and self-determination to improve a positive personal and cultural identity, trust and foster personal resilience and stability to find alternatives to offending behaviour and enable re-engagement with education and interests (Stacey 2004).

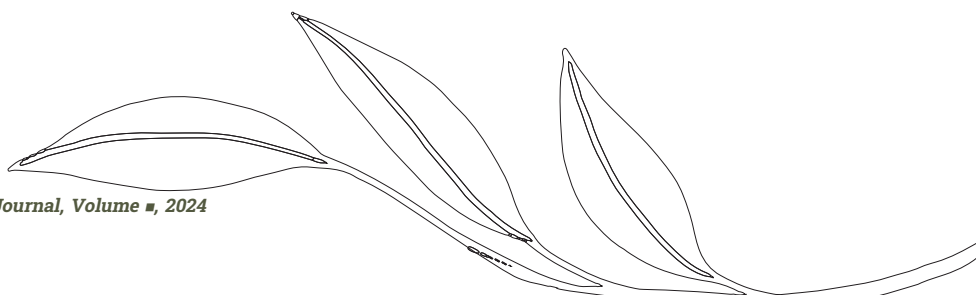
#### **Holiday program (n = 1)**

The Sunset Surfers holiday program in NSW aimed to enhance children's sense of agency and resilience through the experience of mastering a safe, healthy, challenging and enjoyable physical activity (Morgan

2010). A moderate score of cultural responsiveness was achieved by establishing positive engagement between children from a disadvantaged urban neighbourhood with agencies providing child protection and family welfare services. The program sought to provide a holistic and preventative approach to support children experiencing trauma, vulnerability and aversion to challenges. By offering a fun yet challenging surfing activity the program was able to reframe a child's negative beliefs about challenges and provide a pathway to success that was celebrated by children and their families at the completion of the program. However, a lack of responsiveness to cultural differences and ineffective communication was reported. The children did report an increase in their levels of physical activity, improvements in mood, behaviour and self-esteem. Children reportedly benefited from positive role modelling and exposure to new activities that provided a strong sense of achievement (Morgan 2010).

#### **Mental health and alcohol and other drugs (n = 4)**

Four studies were grouped together according to mental health and alcohol and other drugs programs, and collectively scored moderately to moderately high on cultural responsiveness (CIRCA 2013; Nathan et al. 2020; Porter & Nuntavisit 2016; Sloan et al. 2020). The Dthina Yuwali Program in NSW was scored as moderately high and addressed substance use to counter offending pathways for Aboriginal children (CIRCA 2013). Cultural responsiveness of this program was enhanced by Aboriginal Juvenile Justice staff collaborating with Aboriginal Elders and community to design the program. The program was structured according to a cultural framework with a strong connection to culture and history (CIRCA 2013). Improved engagement and the success of the program was strengthened by creating respectful and trusting intergenerational relationships between





Elders, respected community members and Aboriginal children. Providing guidance through cultural learning circles and stories improved a sense of belonging, and enhanced social, family and community connectedness. In addition to the establishment of a stronger cultural identity, Aboriginal children developed skills to prevent relapse by learning how to problem solve, self-manage their behaviour, avoid negative influences and identify positive peer associations (CIRCA 2013).

#### **Driver's licensing (n = 1)**

The DriveSafe NT remote program provided access to driver's licensing, in the community in which people lived, to address road safety to reduce offences and incarceration and improve access to employment opportunities (Cullen et al. 2017). A high level of cultural responsiveness was achieved through respectful engagement with community prior to implementation of the program and facilitating contemporary Indigenous identity that valued having a driver's licence to improve safety of self, family and the community. The DriveSafe program staff developed a supportive and respectful environment that was highly responsive to cultural norms and a flexible service to adapt to unanticipated challenges to meet community needs and equitable access to licensing (Cullen et al. 2017).

#### **Motor vehicle offending diversion (n = 1)**

The Synergy Automotive Repairs Program VIC is a social enterprise diversion aimed at reducing further motor vehicle offending by positively engaging children interested and passionate about cars into the automotive industry (Thielking & Pfeifer 2016). The program develops pathways to sustainable and meaningful employment activities on graduation. Whilst the scoring of cultural responsiveness was low for this program, the elements that were considered culturally responsive were the mentoring of children

supporting employment and socialising less with peers engaged in criminal activity. But cultural responsiveness was reduced due to minimal Indigenous and cultural engagement or family and community connections.

#### **On-Country (n = 1)**

The Yiriman project in WA is delivered by Elders on traditional Country to nurture Aboriginal children and provide preventative and intervention strategies to address crime, suicide, education and health issues (Palmer 2013). The Yiriman project scored high across the culturally responsive domains by establishing a safe alcohol- and drug-free environment. Children could develop respectful relationships with Elders and mentors to learn about and reconnect with their culture (e.g. skin group, language, land use, song lines, dance, hunting and story). Children were able to strengthen their identities and take on cultural responsibilities and leadership roles through deep cultural immersions, traditional bush medicines and healing practices during their trips on-Country.

#### **School based (n = 3)**

Three school-based diversion programs sought to develop children's pathways to successful schooling inclusive of promotion of respectful relationships, pro-social activities, attendance and engagement with education, and improved behaviour (Faulkner et al. 2010; Stewart et al. 2014; Tracey & Hartman 2006). Whilst collectively these programs scored moderately, Holyoake's Drumbeat program in WA was scored as high in cultural responsiveness using music as a tool for social learning and improved educational outcomes (Faulkner et al. 2010). Music and drumming reflect traditional systems of knowledge that embrace cultural stories, rituals, ceremonies and connection to person, family, community, land and place. Holyoake's Drumbeat program promoted wellbeing by creating healing pathways to reduce stress and anxiety and





improve social inclusion, identity and belonging within the community. The physical expression of drumming was reported to improve learning outcomes by developing listening and memory skills, which in turn heightened academic engagement (Faulkner et al. 2010).

#### **Vocational training and therapeutic services (n = 2)**

Two evaluated programs that targeted vocational training and therapeutic services sought to reduce reoffending by providing culturally responsive support to children that promoted school engagement, vocational and employment initiatives, improved attitudes and behaviour regulation and peer and family interactions (CIRCA 2017; Deloitte 2018). Collectively, these programs were scored as moderate. The cultural responsiveness of the Youth on Track program in NSW was scored at a moderately high level due to the provision of individualised and holistic approaches that were tailored to criminogenic needs through one-to-one case management and co-ordinated service delivery by skilled and trained caseworkers and a family therapist working collaboratively. The program acknowledged the need for trauma-informed and cultural training and awareness for its case workers. However, engagement with community Elders was reported to have been inconsistently incorporated (CIRCA 2017).

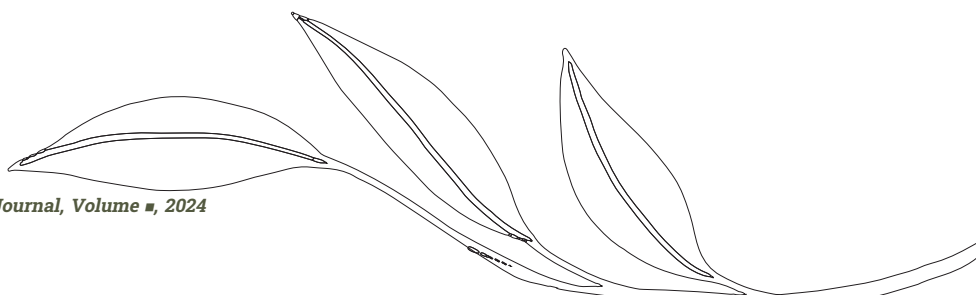
#### **Police cautioning, conferencing and diversion (n = 4)**

Four evaluated programs provided an effective alternative to formal court process to respond less harshly to children who had committed less serious offences and promote positive engagement between police and the community (Clough et al. 2008; Cunningham 2007; KPMG 2010; Stewart et al. 2014). This group of programs was collectively scored as low to moderate across the cultural responsiveness domains assessed. However, the Tiwi Islands Youth Diversion and Development Unit in the NT was scored as high, by

providing a culturally competent community-based response. The program abided by Tiwi law and values, and kinship responsibilities and obligations, to meet the social needs of children involved with youth justice (Stewart et al. 2014). Upholding social and cultural authority was achieved through employing staff with strong cultural knowledge and through the provision of counselling and support to local leaders. Family was involved in holistic assessment of the child's needs to ensure that the support was appropriately tailored to meet mental health, substance use, education, employment and family concerns, to improve self-worth and behaviour (Stewart et al. 2014).

#### **Indigenous court (n = 2)**

The Children's Koori Court at Work VIC (Borowski 2011) and the Youth Koori Court Parramatta Pilot Project NSW (Williams et al. 2018), both respect the value of Indigenous involvement and ownership of the administration of the law. The intention of Indigenous youth courts is to build the capacity for increased accountability for code of conduct and behaviour of children. Court processes include Elders, family and community networks to support children to change behaviour in the hope of ultimately reducing the overrepresentation of Indigenous Australian children in the juvenile justice system. However, the cultural responsiveness of the evaluations of the Indigenous court process varied from moderate (Borowski 2011) to high (Williams et al. 2018). The Youth Koori Court Parramatta Pilot Project was scored as high by assessing and supporting identified health, education, accommodation and cultural needs through Action and Support Plans (Williams et al. 2018). The Children's Koori Court at Work provided background to a child's challenges during court proceedings and was more targeted towards fostering Indigenous ownership of the administration of the law rather than holistic supports of complex needs (Borowski 2011).



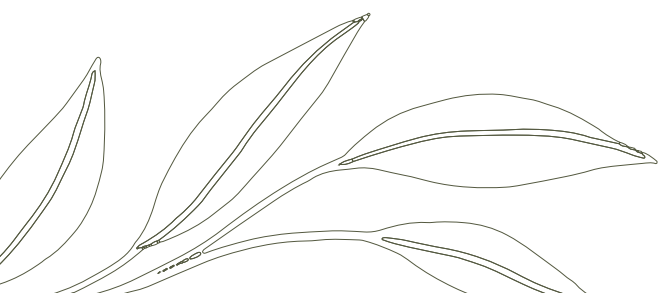


## Discussion

This scoping review has provided evidence regarding ways to resist incarceration practices by identifying available evaluated diversion programs. The cultural responsiveness of the diversion programs was examined through an Indigenist and decolonising framework by prioritising Indigenous Australians concepts of holistic health and wellbeing (Gee et al. 2014). An Indigenist perspective of health and wellbeing harmoniously embodies a collective and balanced connection to spirit, connection to body and behaviours, connection to mind and emotions, connection to family and kinship, connection to community, connection to culture and connection to Country and land (Gee et al. 2014). Ten of 31 diversion programs in the scoping review addressed all of the culturally responsive domains, according to the health and wellbeing framework, scoring 7 for program content and 7 for program outcome (Coffin 2019; Cullen et al. 2017; Faulkner et al. 2010; KPMG 2018; Nous 2023; O'Reilly et al. 2019; Palmer 2013; Stacey 2004; Stewart et al. 2014; Williams et al. 2018). The 10 programs that were found to have high levels of cultural responsiveness (total score of 14) reported quantitative and qualitative successes in key findings outlined in [Supplementary Table S5](#) of this scoping review. Similarities within these programs were the identification and therapeutic support of complex needs of children through Indigenous-led, place-based and interdisciplinary collaboration centring holistic alternative diversion pathways away from incarceration.

The Maranguka Justice Reinvestment Project included in this scoping review serves as an excellent example of an Indigenous-led, placed-based, holistic, healing and family-focused initiative delivered across the life-course to address complex needs and reduce incarceration practices (KPMG 2018). In 2013, the town

of Bourke in NSW was the first major pilot site in Australia to utilise an Aboriginal-led justice reinvestment model. For more than two decades before, the town's community showed a disproportionately high rate of crime, with the highest rate of youth crime and domestic violence in NSW. The community was given limited opportunities to make decisions and be involved in justice-based issues that impacted them. The local community worked together for 5 years to establish a new model for change. This involved collaboration and discussion among local Aboriginal leaders and statewide organisations to identify a new approach that would empower and enable the community to lead change and involve stakeholders in the process. Partnering with Just Reinvest NSW, the initiative was named the Maranguka Justice Reinvestment Project and was guided by the Bourke Tribal Council and their strategy: 'Growing Our Kids Up Safe, Smart and Strong' (KPMG 2018; p. 6). The justice reinvestment approach aimed to redirect funding from crisis response, youth detention and adult incarceration to achieve sustainable outcomes and savings, and long-term system change. The project sought to address the underlying causes of crime by redirecting funds towards crime prevention, diversion and community development initiatives. In doing so, it delivered numerous Aboriginal-led activities that were collaborative in nature, driving change among local community members through practical action, self-governance and positive role modelling, as well as working with justice agencies to evolve existing program designs, delivery models and police and court procedures to become a more 'proactive reinvestment model of justice' (KPMG 2018; p. 6). The Maranguka Justice Reinvestment Project demonstrated a positive impact within the community and the justice system, showing a 31% increase in the rate of year 12 student retention, an 84% increase in Vocational Education and Training course completion



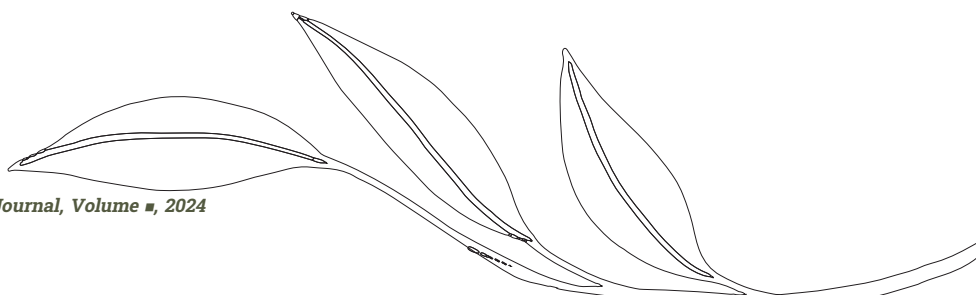


rate and a 38% increase in the number of driver's licenses achieved. Furthermore, the project saw a 27% decrease in the number of juvenile bail breaches, a 38% decrease in the number of juvenile charges for top five offence categories, as well as a 23% reduction in the number of police recorded incidents of domestic violence and domestic violence reoffending.

The critical need for increased provision of culturally responsive diversion programs is consistent with previous qualitative research conducted by [Cunneen et al. \(2021\)](#). This previous research explored the discriminatory and racist practices and criminalisation of Indigenous Australian children that heighten incarceration practices. The study focused on the limited and predominantly Euro-centric diversion programs for Indigenous Australian children in rural and remote regions. To counter violations of human rights principles related to hyper policing and the hyper incarceration of Indigenous Australian children, the research informs nine 'Good Practice Principles' in youth diversion for Aboriginal and Torres Strait Islander young people ([Cunneen et al. 2021](#), p.173). The Good Practice Principles suggest that diversion programs should: be self-determined by Indigenous communities inclusive of the voices of children; provide access that is not solely at the discretion of police; be culturally safe and culturally secure; include Indigenous Australian custom and law; deliver family-centred support based on a holistic view of Indigenous Australian health and wellbeing; include education, training and employment pathways and mentoring aligned with identified needs; be trauma-informed and inclusive of healing plans to meet needs; be appropriately funded with strong evaluation frameworks; and minimise the reach of criminalisation of children by increasing the age of criminal responsibility ([Cunneen et al. 2021](#)). The nine principals outlined by [Cunneen et al. \(2021\)](#) and the SEWB

Framework utilised in the current review ([Gee et al. 2014](#)) acknowledge Indigenous Australians' cultural strengths and collective definition of health and wellbeing interconnected with family, community, spirit and Country. Culturally responsive programs equally acknowledge challenges related to Indigenous Australians' lived experiences of intergenerational trauma and loss, racism, stigma, environmental adversity and social disadvantage ([Cunneen et al. 2021](#); [Gee et al. 2014](#)). Therefore, the programs that are highly culturally responsive have acknowledged both the strengths and challenges of Indigenous Australian children, and the need for young people to reconnect with their cultural identity, families, communities and Country ([Palmer 2013](#)). Further, these programs have prioritised the need for inclusive health, educational, employment and social services that centre family focused, trauma aware, healing informed and wrap around case management that acknowledges Indigenous sovereignty of Country, lore and culture, Indigenous peoples' rights, and Indigenous self-determination ([Smith 2021](#); [UN 2007](#)).

Culturally responsive diversion programs confer benefits by providing placed-based, holistic and intensive support to children to address the underpinning drivers of crime and by striving to improve access to health, education, housing, and social and welfare services. Diversion programs must facilitate equitable access to required services and therapeutic interventions that are free from the coercion and punitive social control that are applied through legal processes ([First Peoples Disability Justice Consortium 2016](#)). Additionally, the results of this review highlight that culturally responsive diversion must identify complex needs and provide aligned therapeutic support to strengthen connections to family, community and culture, and improve cultural identity and social and emotional wellbeing.





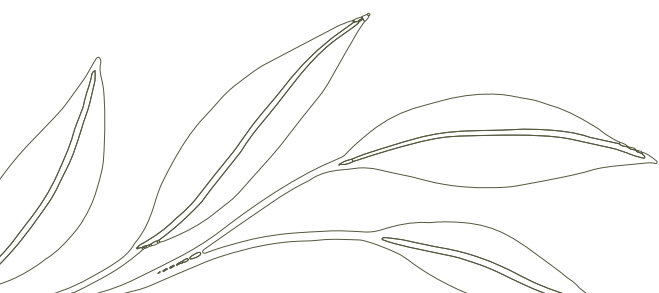
This is consistent with evidence that suggests a lack of culturally responsive screening, assessment and therapeutic interventions are available for children enmeshed in the youth justice systems, who are known to have high rates of unmet physical and social needs, neurodevelopmental and mental health disorders, and cognitive disability (Baldry et al. 2018; Holland et al. 2021; Walsh et al. 2021). It is necessary to resist normalising the marginalisation, social disadvantage and imprisonment of Indigenous Australian children living with existing mental health and neurodevelopmental disorders, trauma, homelessness and substance use (First Peoples Disability Justice Consortium 2016). To counter this entrenched neglect and disregard within Australian society, it is necessary to identify neurodevelopmental disorders, such as FASD, early in a child's life and provide culturally responsive therapeutic support (Hewlett et al. 2023). It is also critical to identify and nurture the strengths of a child with any neurodevelopmental condition and/or behavioural challenges; these children should not be punitively managed with school expulsion and youth detention practices that apply lifelong harm (First Peoples Disability Justice Consortium 2016). The underpinning drivers of crime should not be conceptualised as individual issues of a child that exist in isolation from their family, community and the environment in which they were born and grew up (First Peoples Disability Justice Consortium 2016). The findings of the current review highlight how better responses to children, and their families and communities, can be achieved through culturally responsive diversion approaches.

### Future directions

Policy and program development should adhere to the cornerstone principles of the Royal Commission into Aboriginal Deaths in Custody that has prioritised self-determination, the need for changes in police

practices and for imprisonment to be applied as a last resort (Australia. Royal Commission into Aboriginal Deaths in Custody 1992). In addition, these cornerstone principles align with children's rights to freedom, cultural liberty, dignity and respect outlined within the United Nations human rights mandates, including: the International Covenant on Civil and Political Rights, Convention Against Torture, United Nations Convention on the Rights of the Child, United Nations Convention on the Rights of Persons with Disabilities and United Nations Declaration on the Rights of Indigenous Peoples (Australian Law Reform Commission 2017; Australia. Royal Commission into Aboriginal Deaths in Custody 1992; Cunneen et al. 2021; Walsh et al. 2021; UN 1966, 1984, 1989, 2006, 2007). A strategy to resist incarceration practices of Indigenous Australian children is to improve the accessibility and availability of diversion programs in Australia, with an increased focus on cultural responsiveness within these programs, including the ways they are developed, delivered and evaluated, with consideration of program outcomes (Cunneen et al. 2021). The results of the current study indicate that the SEWB framework could be used to support the development, implementation and evaluation processes of culturally responsive diversion programs to ensure that community-led and Indigenous knowledge and measures of success are prioritised.

Improved availability and access to culturally responsive diversion programs for Indigenous Australian children aligns with the policy position for youth justice in Queensland, known as the 'Four Pillars' (Atkinson 2018). The Four Pillars include 'to intervene early; keep children out of court; keep children out of custody and reduce reoffending' (Atkinson 2018, p. 21). Furthermore, improved access and availability of culturally responsive diversion programs provide an opportunity for greater considerations for state and





territory governments to raise the age of criminal responsibility from age 10 to 14 years. The Queensland Parliamentary Community Support and Services Committee report concerning raising the age of criminal responsibility agenda in Recommendation 5 outlined:

*any alternative proposal to the youth justice system considered by the Queensland Government should include adequate and effective diversion programs and services including place-based and culturally appropriate practices, to support young people and address factors that address offending behaviours* (Parliamentary Committee 2022, p. 41).

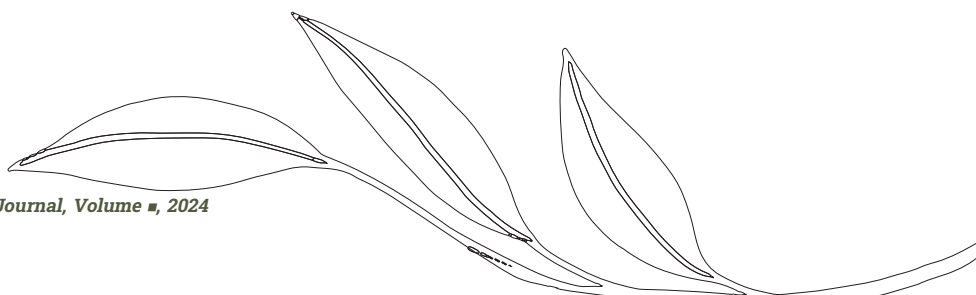
Additionally, raising the minimum age of criminal responsibility to at least 14 years in all states and territories in Australia more closely abides to international human rights mandates. But it should also be considered that a well-resourced nation such as Australia should be able to achieve the abolishment of detention for children entirely (AIHW 2022; OECD, ND; UN, 1989, 2006, 2007). Increased development and implementation of culturally responsive diversion programs would support the ability of state and territory governments in raising the age of criminal responsibility and reducing incarceration of Indigenous Australia children. To counter tough-on-crime policy that directs funding towards building of new prisons, Australia could consider the international exemplar provided by Norway that responds to children involved with the justice system under a 'welfare model' (Winterdyk et al. 2016). Norway's minimal age of criminal responsibility is 15 years, but children aged < 18 years are rarely arrested and incarcerated on very rare occasions. Norway's low crime rate is attributed to policies and specific programs, directed at meeting the welfare needs of children and their families, which are supported by the Ministry of Children and Family

Affairs rather than the criminal justice system (Winterdyk et al. 2016).

It is a child's fundamental right to gain equal opportunities to thrive and live in freedom with family and community. Future directions to prevent crime in Australia, which recognise this fundamental right, require Commonwealth and state and territory governments to take responsibility for the social determinants of mental health and wellbeing of all Australian children. It is evident that 'actions and public policies to address existing health inequalities need to be universal and inclusive, yet proportionate to need' (WHO 2014, p. 6). An inclusive Australian society should celebrate strengths and neurodiversity and tackle challenges within a 'health in all policies' framework, which promotes cohesive multisectoral approaches in the health, welfare, education and social service, and transport and housing sectors, ultimately supporting the abolition of youth incarceration (WHO 2014, p. 6).

### Limitations

The intention of this scoping review was to include studies that examined diversion programs for children between the ages of 10 to 17 years, which is reflective of the minimal age of criminal responsibility in most states and territories in Australia. The study did not include programs conducted in the prison setting, as the focus was on diversion programs and prevention strategies to reduce incarceration practices. A further restriction to this review was the absence of evaluated programs aimed at younger children. Early childhood programs would have provided insight regarding the benefits of assessment, intervention and support of complex needs of children aged < 10 years that ultimately may act to reduce risk of contact with the criminal justice system. Additionally, programs across the life-course such as parenting support programs,





men's groups and women's groups, which empower adult wellbeing and influence the wellbeing of children and the stability of home life, to reduce crime risks such as hazardous alcohol use and family violence, were not included in this review.

Established Indigenous-led diversion programs that were not evaluated were not included in this study. For example, the Tirkandi Inaburra program described its success within an annual report rather than an evaluation; therefore, this program was excluded (Inaburra 2020). The continued success of Tirkandi Inaburra is worthy of discussion, as it has been established for over 20 years and receives ongoing funding from the NSW Department of Community and Justice. Future research could be undertaken to provide research evaluations of the program.

### Conclusion

Imprisonment will not address the harm experienced by victims of crime or heal complex intergenerational trauma and complex needs experienced by Indigenous Australian children. Continued racialised health, social and justice systems in Australia are directly derived from colonisation; the subjugation of First Nations peoples has resulted in racially prejudicial and oppressive government policies and has influenced racial profiling, hyper-surveillance, over policing and over-incarceration of Indigenous children in Australia. To resist the incarceration of Indigenous Australian children with complex needs, funding, policy directions and public health responses need to be aimed at further development and delivery of culturally responsive diversion approaches, which have been shown in this scoping review to improve quality of life, holistic health and wellbeing, thus reducing offending behaviour. Justice reinvestment strategies provide an important opportunity to divert funding from prison infrastructure to Indigenous- and community-led

initiatives. Culturally responsive approaches apply prevention strategies across the life-course and are enhanced by the inclusion of holistic, family focused, trauma aware and healing informed screening, assessment and therapeutic support to address self-determined social and emotional wellbeing that is defined by Indigenous Australian children and their communities.

### Contributors

All authors contributed to the conceptualisation of the study. LH drafted the manuscript. All authors provided editing and revisions of the manuscript. All authors have approved the final manuscript for submission.

### Declaration of Interests

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questions and meet inclusion and exclusion criteria of the study.

### Brief Author Biography

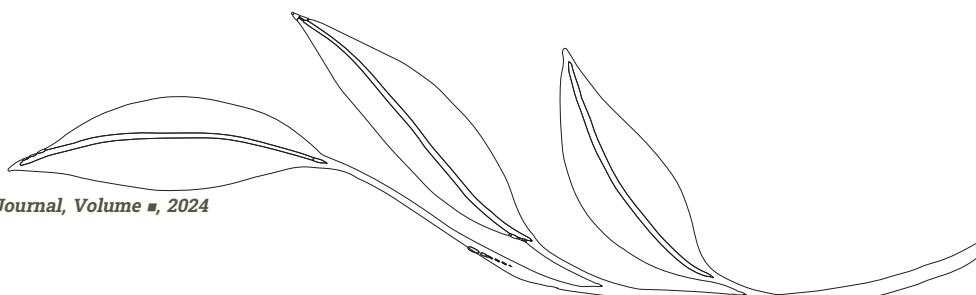
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### Supplementary material

Supplementary material associated with this article can be found in the online version at <https://doi.org/10.1016/j.fnhli.2024.100023>.

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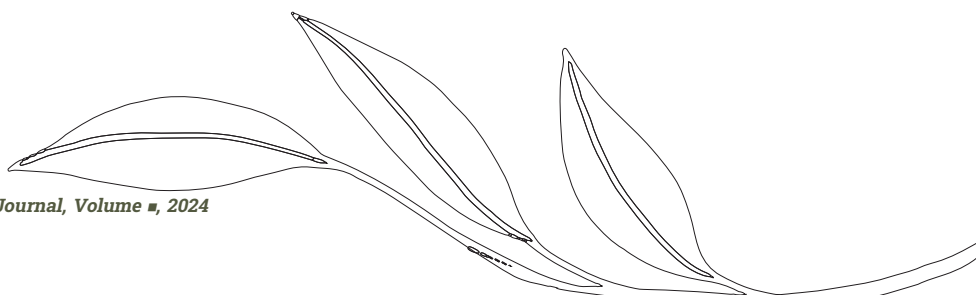


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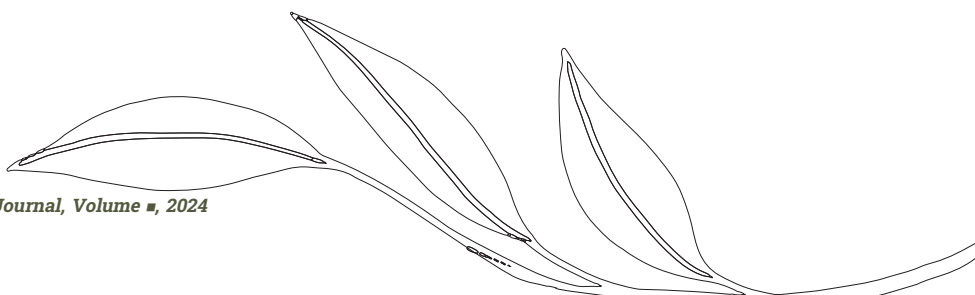
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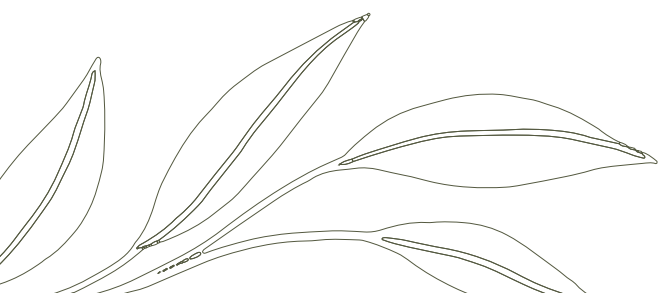


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