Djirra

Sharing stories, finding solutions

SUBMISSION TO THE ROYAL COMMISSION INTO VICTORIA'S MENTAL HEALTH SYSTEM

July 2019

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Executive Summary

Part of my journey is to freely speak about my experiences and not be ashamed. I had post-natal depression, I had suicidal ideation. I still have depression, I still have anxiety. I have been in a family violence situation. I want to show Aboriginal women that there is a light at end of the tunnel, I'm proof of that and that you can get through this. I want to help other people to do the same. I wouldn't be where I am today if I kept my mouth shut.

Aboriginal staff member reflecting on their own experience, Djirra, 6 June 2019

The Royal Commission into Victoria's Mental Health System ('the Commission') is a significant opportunity to make positive and long-lasting changes to the mental health system. Djirra is pleased to work closely with the Commission to enable Aboriginal and Torres Strait Islander women to achieve our best mental health and social and emotional wellbeing. It is an opportunity to break down barriers that Aboriginal and Torres Strait Islander women experience in accessing culturally appropriate mental health support and to invest in early intervention and prevention efforts to ensure that Aboriginal and Torres Strait Islander women now and into the future are strong in culture, strong in identity.

The Royal Commission into Family Violence recognised that family violence is a key driver of poor mental health.[1] Family violence not only has a devastating impact on the physical, emotional and social wellbeing of Aboriginal and Torres Strait Islander women — it is a leading contributor to Aboriginal and Torres Strait Islander child removal, homelessness, poverty, drug and alcohol misuse and incarceration.[2] Nationally, in comparison with other women, Aboriginal and Torres Strait Islander women are 32 times more likely to be hospitalised for family violence, twice as likely to report very high levels of anxiety and distress[3] and 21 times more likely to be imprisoned.[4]

The Royal Commission into Family Violence was one of the first times that the Victorian State Government listened to the voices of Aboriginal and Torres Strait Islander women impacted by family violence. The recommendations from the Final Report, handed down in 2016, have already begun to make a significant difference to Aboriginal and Torres Strait Islander women's lives through increased and much-needed investment in Djirra. This allowed us to grow and move towards having state-wide reach. The Royal Commission into Victoria's Mental Health System is

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1 See *Royal Commission into Family Violence: Report and Recommendations* (Report, March 2016) ch 20.

2 Ibid vol 5, 12.

3 Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence in Australia* (Report, 28 Feb 2018) 83 *('Family, Domestic and Sexual Violence in Australia')*. See generally Australian Bureau of Statistics, *The Health and Wellbeing of Aboriginal and Torres Strait Islander Women: A Snapshot, 2004–05* (Catalogue No 4722.0.55.001, 14 May 2007) ('*Health and Wellbeing Snapshot*').

4 Human Rights Law Centre and Change the Record Coalition, *Over-Represented and Overlooked: The Crisis of Aboriginal and Torres Strait Islander Women's Growing Over-Imprisonment* (Report, May 2017) 10 ('*Over-Represented and Overlooked*').

the essential next step in recognising and addressing the demonstrated links between family violence, trauma and mental illness for Aboriginal and Torres Strait Islander women.

The high rates of family violence experienced by Aboriginal and Torres Islander women can be attributed to structural and intersectional forms of inequality and oppression: Aboriginal and Torres Strait Islander women are targeted for disproportionate levels of state and interpersonal violence because we are Aboriginal and Torres Strait Islander and because we are women. It is important for the Royal Commission to understand that colonial violence is not a stagnant piece of history. Intersecting systemic racism and systemic sexism keep Aboriginal and Torres Strait Islander women trapped in violent situations and cycles of trauma. The mental health system can present as yet another form of violence.

This submission will share what Djirra has learnt from our many years of working on the ground at the frontline with Aboriginal women who experience family violence:

Section One explores the intersecting systems and structural drivers that contribute to poor mental health for Aboriginal and Torres Strait Islander women.

Section Two aims to give a deeper understanding of the complex and unique barriers that Aboriginal and Torres Strait Islander women face when seeking to access the mental health system.

Section Three highlights the critical role that Djirra plays in supporting Aboriginal women on their journey to social and emotional wellbeing through culturally safe access to early intervention and prevention and wraparound support.

In summary, Djirra's submission asks that the Commission recognise that:

- All mental health services must be **culturally appropriate, trauma-informed and safe** for Aboriginal and Torres Strait Islander people, particularly Aboriginal and Torres Strait Islander women. However, only Aboriginal and Torres Strait Islander community-controlled services can be truly culturally safe.

- Djirra plays an **essential role within the mental health system** for Aboriginal and Torres Strait Islander women. Djirra is a culturally safe pathway to mental health treatment and services for Aboriginal women as well as a provider of early intervention and prevention programs, community education, legal support and counselling. Djirra supports many Aboriginal women who would otherwise **fall through the cracks** of the mainstream mental health system.

- Funding for Aboriginal and Torres Strait Islander-specific recommendations and services must go to Aboriginal and Torres Strait Islander community-controlled organisations with relevant expertise so that **self-determination is put into practice** and not just a 'tick the box' exercise.

- The inherent **links between mental health, family violence and trauma**, including transgenerational trauma, must be recognised. Intersecting forms of oppression and discrimination, including disproportionate rates of interpersonal and state violence, are key drivers of poor mental health for Aboriginal and Torres Strait Islander women.

- Achieving better mental health outcomes for Aboriginal and Torres Strait Islander women requires dedicated recommendations, programs and funding streams that **address the unique mental health needs expressed by Aboriginal and Torres Strait Islander women**.

- **Aboriginal and Torres Strait Islander women have the solutions** to issues affecting our lives. There is no need to reinvent the wheel: Aboriginal and Torres Strait Islander organisations already know what works. We need sustained investment in programs and approaches that are already making a difference in our communities.

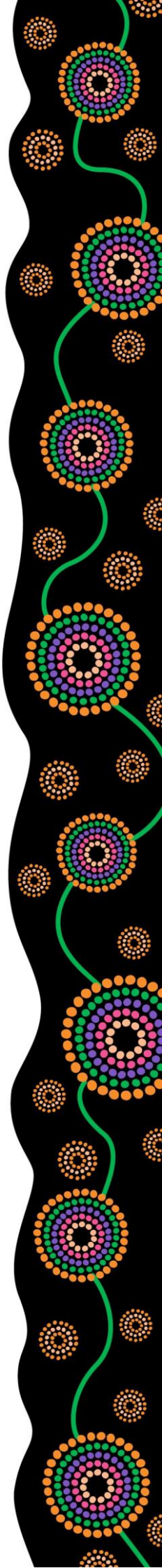
This submission includes quotes from Aboriginal women who work at Djirra, reflecting on their personal experiences and their frontline work supporting other Aboriginal women. It also includes quotes from Aboriginal women who have participated in Dilly Bag and attended Koori Women's Place, as well as quotes from the non-Aboriginal counsellor who has been working with Djirra for many years.

Djirra welcomes further opportunity to share our experience and expertise with the Commission and would be pleased to take part in further consultation processes or to appear before hearings.

For further comment or consultation, please contact Amanda Bresnan (Manager Strategy).

Acknowledgement

Djirra would like to acknowledge that this document was developed on the lands of the Wurundjeri people of the Kulin Nations. Djirra pays respect to all Elders past, present and emerging and recognises their unceded sovereignty.



Summary of Recommendations

In response to the terms of reference for this Royal Commission, Djirra is pleased to provide the following recommendations:

Self-determination as the foundation to improving mental health for Aboriginal and Torres Strait Islander people

1. Embed self-determination at every level as the foundation for improving the mental health and social and emotional wellbeing of Aboriginal people in Victoria.

2. Ensure that funding for Aboriginal and Torres Strait Islander specific recommendations goes to services and programs that are identified, developed and determined by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander people.

3. Provide long-term, flexible block funding for all Aboriginal and Torres Strait Islander funding arrangements to Aboriginal and Torres Strait Islander Community Controlled Organisations with relevant expertise.

Support for Aboriginal and Torres Strait Islander mothers to address mental health concerns and keep kids in their care

4. Establish an Aboriginal and Torres Strait Islander child protection notification and referral system that requires child protection workers to refer all Aboriginal mothers at risk of having their children removed to Djirra for independent, specialist and preventative legal advice and culturally safe wraparound support at the earliest opportunity.

5. Establish directives that require the Department of Health and Human Services to refer all Aboriginal women in contact with child protection to Dilly Bag and to provide relevant support to enable Aboriginal mothers to attend Dilly Bag.

6. Recommend that the Department of Health and Human Services pays for ongoing therapy for all family members, not just the children, who are involved in the Child Protection system, especially Aboriginal and Torres Strait Islander mothers experiencing family violence.

7. Establish directives that restrict the Department of Health and Human Services from seeking multiple court-ordered conditions relating to mental health unless expressly recommended by a qualified mental health professional.

End the expansion of the prison system and improve support for Aboriginal and Torres Strait Islander women in prison

8. End the incarceration of Aboriginal and Torres Strait Islander women with mental health issues.

9. Invest in Aboriginal and Torres Strait Islander Community Controlled Organisations with relevant expertise to support Aboriginal and Torres Strait Islander women with mental health issues in the community, not in prison.

10. Recognise that the prison system is inherently unsafe for Aboriginal and Torres Strait Islander women and cannot be made culturally appropriate.

11. Urgently commit to ongoing, increased, long-term funding for Djirra to continue its critical early intervention and prevention work in the prison, as current funding ends in December 2019.

12. While working to end the imprisonment of all Aboriginal and Torres Strait Islander women, immediately cease the human rights abuses currently occurring within Victorian prison system, including by:

    - Eliminating solitary confinement as a matter of priority;
    - Eliminating the over- and under-medication of women in prison with mental health conditions; and
    - Increasing timely access to trauma-informed and culturally appropriate mental health professionals.

13. Ensure that funding in the Victorian State budget for early intervention and prevention programs to support Aboriginal and Torres Strait Islander women in contact with the criminal legal system to address underlying issues, including mental health and family violence, go to an Aboriginal and Torres Strait Islander community controlled organisation with relevant expertise such as Djirra.

14. End the expansion of the prison system in Victoria and redirect those resources towards culturally appropriate mental health care services, accessible and affordable housing and family violence prevention and support services in the community.

15. Establish a women's residential program for Aboriginal and Torres Strait Islander women in contact with the justice system which is comparable to Wulgunggo Ngalu Learning Place.

Reduce contact with police for people in mental health crisis

16. Recognise that mental health experts should be the first responders to mental health crises, call outs and welfare checks, not the police.

17. Invest in Aboriginal and Torres Strait Islander community controlled organisations with appropriate expertise to develop culturally appropriate public health responses for Aboriginal and Torres Strait Islander people experiencing mental health crisis.

18. Establish directives for police to link people in need in with relevant support services rather than charging them during a mental health episode, such as for homelessness or drug-related offences.

19. Remove mandatory sentencing, particularly as it relates to police and emergency service response to mental health incidents.

Change unfair laws that disproportionately criminalise Aboriginal and Torres Strait Islander women and children

20. Abolish the offence of public drunkenness and replace it with an adequately funded and culturally appropriate public health responses.

21. Decriminalise other minor and non-violent offences including minor drug use and possession, drunk and disorderly behaviour, public nuisance and begging alms.

22. Raise the age of criminal responsibility to 14 years old to prevent the disproportionate criminalisation of Aboriginal and Torres Strait Islander children and young people.

23. Change the harsh bail laws introduced in 2018 so that people are not compelled to 'show exceptional circumstances' for low-level offences linked to poverty and homelessness.

24. Create legislative amendments to recognise parental status as a mandatory mitigating consideration for bail and sentencing, including a legislative presumption that prioritises non-custodial sentencing and rehabilitation pathways for Aboriginal and Torres Strait Islander women who are at risk of losing their children as a result of a custodial sentence.

Safe, stable and suitable housing as a precondition to mental health treatment

25. Ensure that the Royal Commission's recommendations take into account housing as an essential component of mental health treatment for people experiencing or at risk of homelessness, especially for Aboriginal and Torres Strait Islander women experiencing or at risk of family violence.

26. Increase investment into Aboriginal and Torres Strait Islander community controlled housing and homelessness services for Aboriginal and Torres Strait Islander women experiencing family violence and implementation of strategies to improve housing affordability more generally.

27. Provide sufficient, secure, long-term funding for Djirra to have access to housing stock to develop a residential program for Aboriginal and Torres Strait Islander women exiting prison and those at risk of imprisonment.

Overcoming barriers to employment for Aboriginal and Torres Strait Islander women who have been criminalised

28. Decrease barriers to employment for Aboriginal and Torres Strait Islander women who have been in prison, including the reduction of unfair restrictions on obtaining Working With Children Checks and the full implementation of a spent convictions scheme.

Investment in the Aboriginal and Torres Strait Islander mental health workforce and culturally appropriate services

29. Resource Djirra to build its team of trauma informed and culturally appropriate counsellors and to expand its wellbeing program for Aboriginal women, including the Koori Women's Place, across the state.

30. Commit significant and sustained investment into building the Aboriginal and Torres Strait Islander and Torres Strait Islander mental health workforce.

31. Invest in Aboriginal and Torres Strait Islander community controlled organisations with relevant expertise, such as Djirra, to design and deliver training for the mainstream mental health workforce that addresses the intersections between systemic racism, family violence, trauma and mental health stigma.

32. Increase investment in mental health practitioners and facilities in rural and regional areas, to ensure that all Aboriginal and Torres Strait Islander people in Victoria have access to culturally appropriate and trauma informed mental health treatment without being forced to travel away from family, community and Country.

Increased funding for culturally safe and trauma-informed counselling through Djirra

33. Provide dedicated, long-term funding to enable Djirra to establish a well-resourced counselling and wellbeing program for Aboriginal women. This must include:

    - Culturally appropriate individual counselling support at Koori Women's Place;
    - Individual counselling support at all early intervention and prevention workshops, including dedicated funding to enable trusted and qualified counsellors to be on-site for the entire duration of Dilly Bag;
    - Culturally appropriate group counselling options at Dilly Bag and Koori Women's Place; and
    - Follow up counselling sessions over the phone or face to face.

34. Provide dedicated, long-term funding to enable Djirra to support Aboriginal women and their children to access specialist and culturally appropriate external counselling, to complement the counselling and wellbeing support provided through Djirra.

About Djirra

Established 16 years ago, Djirra is an Aboriginal Community Controlled Organisation that provides services across the state of Victoria. Djirra provides culturally safe and holistic assistance to Aboriginal people, primarily women, who are experiencing, or have experienced, family violence and/or sexual assault.

95% of our clients are Aboriginal women and all of our community engagement programs are designed for Aboriginal women by Aboriginal women. As such, this submission focuses on the experiences and needs of Aboriginal and Torres Strait Islander women.

In March 2018, we changed our name from Aboriginal Family Violence Prevention and Legal Service Victoria to Djirra. This change of identity was the culmination of many years work with and for Aboriginal women across Victoria. It allowed us to expand our positive and holistic approach to supporting Aboriginal women on their journey to wellbeing.

Djirra is the Woiwurrung word for the reed used by Wurundjeri women for basket weaving. Traditionally, when women gathered to weave, important talks took place and problems were solved. Djirra symbolises Aboriginal women today, coming together to share stories, support each other and find solutions.

Djirra provides a range of services and programs, including:

- Frontline legal assistance — focusing predominantly on family violence, child protection, family law and victims of crime assistance;
- Holistic, wrap-around support;
- Outreach to women in prison;
- Early intervention/prevention programs — including our signature programs Sisters Day Out, Dilly Bag and Young Luv;
- Koori women's place — a unique cultural initiative which provides a suite of cultural and wellbeing workshops, and individualised support;
- Community education and cultural awareness training; and
- Policy, advocacy and law reform work to identify systemic issues in need of reform and advocate for change to improve Aboriginal and Torres Strait Islander women's access to safety, justice and equality.

In 2017–18, Djirra's programs and services reached 2,582 people (predominantly women) with flow-on impacts to approximately 3,870 children. We had a 52% increase in women attending Sisters Day Out workshops taking the total number of attendees to 10,000 since Sisters Day Out commenced in 2008.

As an Aboriginal Community Controlled Organisation, Djirra is directed by an Aboriginal Board and has a range of systems and policies in place to ensure we provide culturally safe services in direct response to community need.

Aboriginal and Torres Strait Islander women, mental health and family violence

Key statistics

Nationally, Aboriginal and Torres Strait Islander women are twice as likely to report high or very **HIGH LEVELS OF ANXIETY AND DISTRESS** than other women.[5]

Aboriginal and Torres Strait Islander women are 32 times more likely to be **HOSPITALISED DUE TO FAMILY VIOLENCE** in comparison to other women.[6]

Up to 90% of violence against Aboriginal and Torres Strait Islander women is likely to go **UNREPORTED**.[7]

Nearly 70% of Aboriginal and Torres Strait Islander women who have **EXPERIENCED PHYSICAL VIOLENCE** in the last 12 months reported high levels of psychological distress. [8]

At least 90% of Aboriginal and Torres Strait Islander women **IN PRISON** have experienced family violence or sexual abuse.[9]

Aboriginal and Torres Strait Islander women in prison are three times as likely to be **HOSPITALISED FOR MENTAL HEALTH ISSUES** compared to Aboriginal and Torres Strait Islander women in the community.[10]

Over half of Aboriginal and Torres Strait Islander women who have experienced physical violence in the last 12 months had been **HOMELESS** compared to 25% who had not experienced family violence.[11]

Transgenerational trauma continues to affect Aboriginal and Torres Strait Islander people in Victoria: over 47% have a **RELATIVE WHO WAS FORCIBLY REMOVED** from their family due to **STOLEN GENERATIONS POLICIES**.[12]

MEN'S VIOLENCE AGAINST WOMEN, as well as parental **MENTAL ILLNESS**, are key drivers of the forced removal of Aboriginal and Torres Strait Islander children into **OUT-OF-HOME CARE** at 12 times the rate of non-Aboriginal and Torres Strait Islander children.[13]

Aboriginal and Torres Strait Islander women experience a high risk of emotional distress or mental health conditions during the **PERINATAL PERIOD**.[14]

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5 *Health and Wellbeing Snapshot* (n 3).

6 *Family, Domestic and Sexual Violence in Australia* (n 3).

7 Matthew Willis, *Non-Disclosure of Violence in Australian Indigenous Communities* (Trends & Issue Report, Australian Institute of Criminology, No 405, January 2011) 1.

8 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, 2014–15* (Catalogue No 4714.0, 28 April 2016) Table 31.3 ('*Social Survey 2014–15*').

9 *Over-Represented and Overlooked* (n 4) 13.

10 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2009* (Report, 2009) 7.62. Note that this source compares Aboriginal women in prison to Aboriginal women in Western Australia.

11 *Social Survey 2014–15* (n 8) Table 31.3.

12 Department of Health and Human Services (Vic), *Balit Murrup: Aboriginal Social and Emotional Wellbeing Framework, 2017–2027* (Report, October 2017) 16 (citations omitted) ('*Balit Murrup*').

13 Commission for Children and Young People, *Annual Report: 2016–17* (Report, 2017) 5; Australian Government Productivity Commission, *Report on Government Services 2017* (Final Report, 2017) vol F, table 16A.17.

14 Beyondblue, *Clinical Practice Guidelines: Depression and Related Disorders — Anxiety, Bipolar Disorder and Puerperal — in the Perinatal Period* (Guidelines, February 2011) 4.

Links between family violence and mental health

Family violence is not an 'Aboriginal and Torres Strait Islander problem'. Family violence against Aboriginal and Torres Strait Islander women is not perpetrated solely or even largely by Aboriginal and Torres Strait Islander men. This is especially true in metropolitan areas. In Melbourne, 85% of Aboriginal and Torres Strait Islander women are with non-Aboriginal and Torres Strait Islander partners.[15] Across Australia, most Aboriginal and Torres Strait Islander couples consist of one Aboriginal and Torres Strait Islander person and one non-Aboriginal and Torres Strait Islander person.[16] However, Aboriginal and Torres Strait Islander women are impacted by family violence at vastly disproportionate rates.

Family violence has devastating impacts on the mental health and social emotional wellbeing of Aboriginal and Torres Strait Islander women, their children and their communities.[17] The strong connections between family violence and poor mental health were acknowledged in the Victorian Royal Commission into Family Violence, which stated:

> Violence takes an enormous toll on a person's mental health and wellbeing: it can be very difficult to recover and rebuild after being belittled, denigrated and made to feel worthless, sometimes for years.[18]

As explained by Aboriginal women who work at Djirra:

> ***"It comes down to a woman's worth. Especially emotional abuse, the words stick with you, you tend to believe it, your whole life is miserable, your whole life declines"***

> ***"For our women, the abuse is not only about being a woman, it's about being Aboriginal."***

Every Aboriginal and Torres Strait Islander woman who walks through Djirra's door experiences symptoms or issues that could be described or diagnosed as mental illness, including:

- Extreme levels of anxiety
- Chronic depression
- Post-traumatic stress disorder
- Schizophrenia
- Bipolar features
- Symptoms relating to mood destabilisation and dysregulation
- Personality disorders
- Psychosis
- Post-natal anxiety and depression (mostly undiagnosed)
- Use of alcohol and drugs to manage trauma and distress
- Grief and loss
- Attention deficit disorder or opposition defiance disorder in children

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15 Nicholas Biddle, 'Indigenous and Non-Indigenous Marriage Partnerships' (2011 Census Paper No 15, CAEPR Indigenous Population Project, Australian National University, 2013) 4.

16 78% nationally and 92% in major cities: Australian Bureau of Statistics, *Census of Population and Housing: Understanding the Increase in Aboriginal and Torres Strait Islander Counts, 2016* (Catalogue No 2077.0, 17 October 2018).

17 See, eg, Aboriginal Family Violence Prevention and Legal Service Victoria, Submission to Royal Commission into Family Violence (June 2015) 15 <https://djirra.org.au/wp-content/uploads/2018/02/FVPLS-Victoria-submission-to-Royal-Commission-FINAL-15Jul15.pdf>.; Australian Institute of Health and Welfare, *Specialist Homelessness Services 2017–2018* (Annual Report, 2018) <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-2017-18/contents/client-groups-of-interest/indigenous-clients>.

18 *Royal Commission into Family Violence* (Summary and Recommendations, March 2016) 17.

However, Western psychiatric classification systems are limited in their ability to fully identify and understand the causes and symptoms of distress for many Aboriginal and Torres Strait Islander people.[19] Further, Aboriginal and Torres Strait Islander women face many barriers in accessing support and safety within the mainstream mental health system (see Section Two). As such, many mental health issues may be undiagnosed. It is often only through conversation with a trusted Djirra staff member in a culturally safe way that women will share their struggles with mental health issues.

Almost all Aboriginal women that Djirra works with carry complex trauma, which is:

> Cumulative, repetitive and interpersonally generated, and includes ongoing abuse which occurs in the context of the family and intimate relationships …complex trauma places the person at risk for not only recurrent anxiety … but also interruptions and breakdowns in the most fundamental outcomes of healthy psychobiological development.[20]

The following page describes how experiences of family violence and abuse can lead to a build-up of 'survival energy' and the impacts this has for Aboriginal and Torres Strait Islander women's mental health.

This isn't sickness, it's trauma.

Counsellor, Djirra, 4 June 2019

[19] Graham Gee et al, 'Aboriginal and Torres Strait Islander Social and Emotional Wellbeing' in Pat Dudgeon, Helen Milory and Roz Walker (eds), *Working Together* (Telethon Kids Institute, 2nd ed, 2014) 59 <https://www.telethonkids.org.au/our-research/early-environment/developmental-origins-of-child-health/aboriginal-maternal-health-and-child-development/working-together-second-edition/>.

[20] Cathy Kezelman and Pam Stavropoulos, *The Last Frontier: Practice Guidelines for Treatment of Complex Trauma and Trauma Informed Care and Service Delivery* (Guidelines, 2012) 99 (citations omitted).

What is survival energy?

When the fight or flight process is triggered in the system – by real or perceived threat – a cascade of chemicals or neurotransmitters (i.e., adrenalin, noradrenalin, cortisol and more) are released to aid the escape. These chemicals make the system very powerful and strong. The system gets ready to fight or run through a startle response, muscle tension, increased heart rate, lowered immune system, narrowed focus and attention and so on.

In a successful escape, the chemicals would be metabolised out of the system, the muscles would relax, the story would be told as a story of triumph and comfort would be sought and given by loved ones. There is a return to safety, homeostasis and the window of tolerance.

However, if we cannot run or fight, and our escape is unsuccessful (an incomplete biological response) then the body/mind/spirit system becomes overwhelmed. This is especially true if it occurs over and over as in the case of complex compounding interpersonal situations (e.g. family violence, chronic sexual, physical, and psychological abuse, and neglect).

The pattern in the body, including all the survival chemicals and responses are stored in the body system in a type of schema. The body stays primed to fight or run from the threat, even if the threat has passed. This can be one year late or 50 years later or more. The body is at its limit and therefore the slightest thing can push it into overwhelm (anger outbursts, avoidance, relational problems etc). This is the survival energy misdirected.

This stuck pattern creates:

- hypo/hyper aroused states (depression and anxiety and in extreme cases psychosis)
- hyper vigilance (always looking out for danger)
- exaggerated startle response
- dissociative patterns
- embedded grief and loss
- depersonalisation and derealisation experiences
- nightmares and flashbacks (as a way of processing the overwhelm in the system).
- Inability to filter out irrelevant things and fixating on them
- Emotions become too large and too quick (or not enough)
- Somatic presentations and chronic illness, including aches, pains, digestive issues, headaches, autoimmune disorders

An array of mainstream mental health diagnoses will be used to explain the condition, such as bipolar, personality disorders (especially borderline personality disorder) and in children ADHD or oppositional defiance. Behaviours such as substance use, eating disorders, risky sexual behaviour, self-harm, gambling and more are used in an effort to regain homeostasis as the internal chemical system goes awry and chemical support is sought from the outside.

All the chemicals that are relegated to help the system flee or run is the survival energy. When it gets stuck (trauma) it causes all sorts of behavioural and interpersonal difficulties. It stays trapped in the body and psyche and can cause debilitating symptoms that persist for years. This energy can keep us stuck in the past, reliving horrible situations like they were still happening, unable to engage with life and unable to feel fully present. You can't just "get on with it" when this is going on in your system.

Estelle Snelling
Psychotherapist
2 July 2019

Self-determination and social and emotional wellbeing

Recommendation: Embed self-determination at every level as the foundation for improving the mental health and social and emotional wellbeing of Aboriginal and Torres Strait Islander people in Victoria.

Recommendation: Ensure that funding for Aboriginal and Torres Strait Islander specific recommendations goes to services and programs that are identified, developed and determined by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander people.

Recommendation: Provide long-term, flexible block funding for all Aboriginal and Torres Strait Islander funding arrangements to Aboriginal and Torres Strait Islander Community Controlled Organisations with relevant expertise.

Complex trauma for Aboriginal and Torres Strait Islander women does not only exist at an individual level. Mental health for Aboriginal and Torres Strait Islander women and their children, families and communities cannot be understood without recognising the profound ongoing impact of colonisation and transgenerational trauma:[21]

> Nationally, Aboriginal and Torres Strait Islander communities have suffered significant trauma because of colonisation. Generations have experienced wave after wave of debilitating shocks and harmful events including massacres, forced removal of children, forced removal from country, the destruction of Indigenous forms of governance, and the breakdown of family and community functioning. This experience has left individuals, families and communities in immense pain and has resulted in wide spread trauma that is cumulative and collective in nature […] Emerging evidence continues to strengthen the link between the experience of trauma and poor mental health outcomes.[22]

The terminology of mental health, and the focus on the mental health system as a discrete entity, risks being 'individualistic, pathologising and exclusionary'.[23] For this reason, the term 'social and emotional wellbeing' is sometimes preferred, as it is:

> an inclusive term that enables concepts of mental health to be recognised as part of a holistic and interconnected Aboriginal view of health which embraces social, emotional, physical, cultural and spiritual dimensions of wellbeing. … Importantly, social and emotional wellbeing is a source of resilience which can help protect against the worst impacts of stressful life events for Aboriginal people and provide a buffer to mitigate risks of poor mental health.[24]

"For Aboriginal women, there is a fine line between mental health and spiritual health"

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

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21 Aboriginal and Torres Strait Islander Healing Foundation, *Growing Our Children up Strong and Deadly: Healing for Children and Young People* (Report, 13 August 2013). See also SNAICC, Submission No 123 to Productivity Commission Inquiry into Mental Health (5 April 2019) 3.

22 Aboriginal and Torres Strait Islander Healing Foundation, Submission No 193 to Productivity Commission Inquiry into Mental Health (5 April 2019) 4–5 <https://www.pc.gov.au/__data/assets/pdf_file/0016/240415/sub193-mental-health.pdf>.

23 Victorian Aboriginal Children and Young People's Alliance, Submission to Royal Commission on Mental Health (2019).

24 *Balit Murrup* (n 12) 10.

The terms are sometimes used interchangeably, 'either as an attempt to subvert the stigma associated with mental illness or to try and move away from biomedical perspectives of mental health and mental illness'.[25] However, there are important differences:

> The first is that placing mental health *within* a broader SEWB [social and emotional wellbeing] framework helps to make explicit that, for many Aboriginal and Torres Strait Islander peoples and communities, mental health issues are still entwined with the past injustices associated with colonisation.[26]

As discussed in the previous section, mental wellness for Aboriginal and Torres Strait Islander women cannot be understood as separate from issues of safety from violence and healing from trauma. Addressing the disproportionate levels of state and interpersonal violence against Aboriginal and Torres Strait Islander women must be a core component of a holistic approach to achieving social and emotional wellbeing for Aboriginal and Torres Strait Islander women.

Self-determination must be recognised as the only way to improve mental health outcomes for Aboriginal and Torres Strait Islander women and their children, families and communities. Djirra supports *Balit Murrup: Aboriginal Social and Emotional Wellbeing Framework* however we call for greater recognition of the unique needs and experiences of Aboriginal and Torres Strait Islander women impacted by family violence. Self-determination means that Aboriginal and Torres Strait Islander community controlled organisations with relevant expertise and on-the-ground experience working with Aboriginal and Torres Strait Islander women, such as Djirra, require increased investment in order to design, deliver and evaluate solutions for our women that we know work.

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[25] Graham Gee et al (n 19) 56.

[26] Ibid 63 (emphasis added).

What are the key drivers of poor mental health for Aboriginal and Torres Strait Islander women?

This section explores the key issues that contribute to poor mental health and social and emotional wellbeing for Aboriginal and Torres Strait Islander women who have experienced family violence. The Commission must understand and address the impact of these complex and intersecting issues if it is to achieve any substantial long-lasting change in the prevention, support and treatment of mental illness for Aboriginal and Torres Strait Islander women.

Child protection intervention and child removal

Recommendation: Establish an Aboriginal and Torres Strait Islander child protection notification and referral system that requires child protection workers to refer all Aboriginal mothers at risk of having their children removed to Djirra for independent, specialist and preventative legal advice and culturally safe wraparound support at the earliest opportunity.

Recommendation: Establish directives that require the Department of Health and Human Services to refer all Aboriginal women in contact with child protection to Dilly Bag and to provide relevant support to enable Aboriginal mothers to attend Dilly Bag.

Recommendation: Recommend that the Department of Health and Human Services pays for ongoing therapy for all family members, not just the children, who are involved in the Child Protection system, especially Aboriginal and Torres Strait Islander mothers experiencing family violence.

Recommendation: Establish directives that restrict the Department of Health and Human Services from seeking multiple court-ordered conditions relating to mental health unless expressly recommended by a qualified mental health professional.

In Victoria, Aboriginal and Torres Strait Islander children are now **20 times more likely to be forcibly removed** from their families into out-of-home care compared to other children.[27] Research also shows that 88% of Aboriginal and Torres Strait Islander children in out-of-home care in Victoria have experienced family violence. **Men's violence against Aboriginal and Torres Strait Islander women is the number one driver**, along with alcohol and drug abuse, of the disproportionate and escalating rates of Aboriginal and Torres Strait Islander child removal in Victoria. [28]

To reduce the disproportionate and escalating rates of family-violence driven child removal, there is a desperate need for **greater front-end support for Aboriginal and Torres Strait Islander mothers**. The earlier that mum is linked in with a specialist Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, the better the outcomes are for her and her children.

Early referral to specialist, culturally safe and preventative legal and non-legal support from an Aboriginal and Torres Strait Islander community controlled organisation with family violence expertise, such as Djirra, is an essential step to support Aboriginal mothers to take **proactive**

[27] Australian Institute of Health and Welfare, *Child Protection Australia: 2017–18* (Report, 2019) 53.

[28] Commission for Children and Young People, *Always Was, Always Will Be Koori Children: Systemic Inquiry into Services Provided to Aboriginal Children and Young People in Out-of- Home Care in Victoria* (Report, 2016) 47.

action and engage early with culturally safe and specialist supports to **address interrelated mental health, family violence and child protection concerns.**

Djirra's frontline experience indicates that many Aboriginal families, particularly mothers experiencing or at risk of family violence, do not recognise child protection intervention as a legal issue until it is 'too late'. Indeed, Djirra routinely hears of clients being implicitly or explicitly **discouraged from seeking legal advice** by child protection workers.

To avoid or minimise the escalation of child protection matters and keep Aboriginal and Torres Strait Islander children in Victoria safe and strong in their families, communities and culture, **an Aboriginal and Torres Strait Islander and Child Protection Notification and Referral Scheme** (similar to the existing Custody Notification Service) should be established. This would require child protection workers to provide warm referrals to Djirra or another Aboriginal and Torres Strait Islander community controlled organisation with relevant expertise for all Aboriginal and Torres Strait Islander parents and carers in contact with the child protection system to **independent, culturally safe, specialist and preventative legal advice and ongoing culturally safe wraparound support** at the earliest possible opportunity, especially where family violence is a factor in potential child removal.

Many Aboriginal and Torres Strait Islander mothers have a realistic fear that **disclosing and seeking help** for family violence and mental health **will lead to their children being forcibly taken** from their care. Through Djirra's on the ground work with Aboriginal and Torres Strait Islander women and their children, we see the way mental health is treated in the child protection system every day. The following story illustrates some of the key issues, which will be explored further in this section:

> ***"A woman comes to us for support because child protection has become involved. She has experienced horrific violence from her partner, which greatly affected her mental health. She forgets to come to appointments, she started drinking around the kids. A report made to child protection about her behaviour. They take her kids away because of family violence and mental health concerns, essentially blaming her for the trauma she has experienced. She goes on a downward spiral, making it even less likely she'll be able to get her kids back.***
>
> ***Did anyone ask along the way what happened to her beforehand to get to the point where she was so mentally unwell? Is it transgenerational trauma? Is it the family violence she has experienced? If we treat the mental health side of things, if we understand trauma, things could get better.***
>
> ***Along the way she's had five, six, maybe even seven workers that she has to try to manage and keep hold of. No leading worker. She is the one who has to remember appointments, get to things on time. She's supposed to keep up with this while dealing with mental illness, trauma, family violence. And they're wondering why she's missing appointments or turning up late! And then they're blaming her for that as well."***
>
> Aboriginal staff member, Legal Team, Djirra, 17 June 2019

Limited understanding of the link between family violence, trauma and mental health

The Royal Commission into Family Violence recognised that family violence profoundly and negatively impacts women's mental health.[29] However, there is little meaningful recognition by the child protection system of the link between family violence, trauma and mental health.

Djirra observes that the understanding of family violence and mental health is very uneven across child protection workers. Too many child protection workers do not recognise the ways in which mental health issues occur as a result of family violence and trauma. There is also a limited understanding of the ways in which involvement with the child protection system itself causes significant stress and can contribute to, or exacerbate, mental health issues. There needs to be a set standard training on family violence for all child protection workers that includes education around the impact of family violence and trauma on the mental health and wellbeing of Aboriginal and Torres Strait Islander mothers.

Aboriginal and Torres Strait Islander mothers are punished for seeking help with mental health

> ***"When I was pregnant, I was afraid to speak out, even though I know there was not a problem with my parenting. Because I'm an Aboriginal woman, I was worried I would be seen as not being capable."***
>
> Aboriginal staff member reflecting on their own experience, Djirra, 6 June 2019

At times, there may be serious mental health issues which raise protective concerns and place children at risk. However, mothers are often the first to recognise when they are in need of support. Yet when Aboriginal and Torres Strait Islander mothers proactively reach out to the Department of Health and Human Services ('DHHS') for additional support caring for their children, too often they are punished. Many Aboriginal and Torres Strait Islander women won't raise concerns around mental health because of realistic fears of child protection intervention.

CLIENT STORY

Gen (not her real name) is an Aboriginal woman who reached out to DHHS for support with parenting. She was finding it difficult to cope on her own as she was experiencing ongoing family violence from her ex-partner and she recognised that this was impacting her mental health. However, not long after, her children were forcibly removed from her care and separated across several different out-of-home care placements. Like for so many Aboriginal mums, what started as Gen proactively and voluntarily reaching out for support with mental health issues ended up having devastating impacts on her and her children's mental health and wellbeing.

[29] *Royal Commission into Family Violence* (Final Report, March 2016) vol 1, 32.

Assuming that mother's poor mental health is an equivalent protective concern alongside the perpetrator's use of violence

DHHS also often sees his use of violence against her and her poor mental health as a result of this violence as equivalent protective concerns. Often DHHS will only focus on the present protective concern, not historical or ongoing family violence, without recognising how much this is linked to her current poor mental health. If the perpetrator continues to use violence against her, it is unlikely that her mental health will significantly improve. Djirra often sees cases where children are placed in the care of the perpetrator while the mother is in prison or a refuge, with little weight given to the extreme violence that he has used against her, often in front of the children.

Not providing or adequately linking women with appropriate support to address mental health issues that are identified protective concerns

> ***"Most of these women are amazing mums, they're beautiful parents. But they don't give a chance to Aboriginal mums."***
>
> Aboriginal staff member, Legal Team, Djirra, 6 June 2019

Most child protection matters that Djirra undertakes involve the mother's mental health issues being identified as a protective concern. However, DHHS often expect mothers to address or 'fix' their mental health with no real support to do so. DHHS expects parents to get mental health plans of their own accord, which means that they are only provided with 10 sessions of support. DHHS do not pay for parental mental health treatment in most cases. There needs to be a shift towards providing or linking parents, particularly mothers, with meaningful support and services to address their mental health issues, not punishing them. DHHS should be paying for long-term mental health treatment for every family member, parent and child.

CLIENT STORY

Renny (not her real name) is an Aboriginal woman whose kids are in out-of-home care. DHHS ordered that Renny has to attend psychological counselling, Alcohol and Other Drug counselling and drug screens three times a week. DHHS have provided no assistance with Renny's transport to and from appointments. This means that she has to spend countless hours each week trying to get to all her appointments by public transport, which gives her severe anxiety. If she doesn't make it to all her counselling sessions and drug screens on time, Renny won't be able to get her kids back.

CLIENT STORY

Susie (not her real name) is an Aboriginal mother who has agreed on an undertaking in court to see a psychologist. This psychologist has a very poor understanding of family violence and has given Susie highly inappropriate and insensitive advice that put her safety, dignity and mental health at risk. However, Susie feels like she has no choice but to keep seeing this psychologist because otherwise DHHS could remove her children from her care. The psychologist has the power to report on her mental health to DHHS, who originally cited her mental health as a protective concern. Susie grew up in DHHS care, and so she has very serious fears about what could happen to her kids in out-of-home care.

Removal of children because mothers cannot get access to required mental health supports

DHHS provides little support for mothers to address mental health concerns or the underlying factors driving her mental ill health — often, the violence perpetrated against her by her former or current partner. Djirra observes that DHHS will often simply tell the woman to get an Intervention Order. This places the onus on her to address the family violence.

Djirra has worked with many Aboriginal mothers who initially become involved with DHHS on a voluntary basis. These are women who recognise that they are struggling, who are doing the best they can to take care of their kids despite mental illness, trauma and family violence, who voluntarily reach out for some extra support. Yet after 90 days, DHHS are obligated to either close the matter, or bring the matter to court.

Despite voluntarily reaching out for support, and without receiving any meaningful help, this mother is now at risk of having her children forcibly removed from her care. Once a court order is in place, the mother has to fight through the court system for the children to be returned to her care and/or for DHHS to cease involvement with their family.

Not understanding that mental health issues create barriers to engaging with services, and instead viewing these behaviours as evidence of non-cooperation or lack of responsibility

Severe mental health issues can present significant barriers to engaging with support services. Chronic depression and anxiety, common among the women Djirra works with, can manifest as missing appointments, turning up late, trying to reschedule appointments on the day or not answering phone calls. There is little understanding among child protection workers that these patterns of behaviour are connected to mental health issues, and they are instead used to demonstrate that a mother is not sufficiently engaged with services or capable of taking parental responsibilities seriously. Similarly, frontline workers report that Aboriginal and Torres Strait Islander women who experience schizophrenia or delusions are often judged or labelled as dishonest or ‘difficult to work with’. Mental health services label Aboriginal and Torres Strait Islander women in these ways shows how systemic racism intersects with mental health stigma, leading to Aboriginal and Torres Strait Islander women being less likely to be believed and supported.

CLIENT STORY

Allie (not her real name) is a young Aboriginal woman who grew up in DHHS care who now has kids of her own. She has chronic depression and anxiety and she is frequently homeless which makes it very difficult for her to get to psychologist appointments or contact visits. Allie has received no support from DHHS to help her attend appointments and contact visits, so sometimes she can't get there in time or at all. DHHS takes this as evidence that she is not a capable parent.

"No woman wants to say, 'I can't cope' because then child protection comes in. So you just put up with the bullshit. Or you just think you're a bad mum because no one really discusses it."

Aboriginal staff member, Legal Team, Djirra, 6 June 2019

Lack of awareness about Aboriginal and Torres Strait Islander women's experiences of post-natal depression

Approximately 40% of mothers who experienced family violence reported depressive symptoms after the birth of their child: almost four times the rate of those who did not experience violence.[30] As discussed, Aboriginal and Torres Strait Islander women, especially those experiencing family violence, face substantially increased barriers to seeking assistance of mental health services for post-natal depression because of fears of intervention by the child protection system. While there is little dedicated research,[31] Djirra's frontline work supporting Aboriginal women suggests that a high number of Aboriginal mothers experience undiagnosed post-natal depression.

Onerous and ineffective conditions relating to mental health on child protection orders

It is common for Aboriginal and Torres Strait Islander mothers to receive child protection orders with multiple conditions related to mental health. For example, to see an AOD counsellor in addition to a psychologist and family violence counsellor. These extensive conditions are often not mandatory. The requirement to see several different counsellors, when one counsellor could likely cover it, is not only excessive and ineffective. It is also traumatic, as women are forced to tell their story over and over again to different professionals. Understandably, women struggle to maintain all their appointments, particularly if they have contact visits with children in different placements.

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30 Eastern Community Legal Centre, 'It Couldn't Have Come at a Better Time: Early Intervention Family Violence and Legal Assistance' (Report, 2018) 10.

31 See, eg, Centre of Perinatal Excellence, *Aboriginal and Torres Strait Islander Perinatal Mental Health Mapping Project* (Final Report, June 2014) 14.

There needs to be much greater understanding by DHHS workers on what therapies are available, and what type of mental health issues relate better to certain types of therapies. At present, DHHS will generally just assume that clients need the 10 sessions with a psychologist as per the mental health plan, and not look at other, specialised services, such as DBT or psychiatrist treatment. Some DHHS workers may recognise that other forms of therapy are better for clients, however this is very inconsistent. This leads to scenarios where DHHS has made orders for Aboriginal and Torres Strait Islander mothers that are not actually relevant to their specific mental health needs. This can place women in a double bind: unable to be reunified with their children without undertaking the form of therapy specified on the order, yet unable to access that as they do not meet the criteria for the mental health condition it treats.

CLIENT STORY

Samantha (not her real name) was ordered by DHHS to attend Dialectical Behaviour Therapy (DBT). At the time, there was a three-month waiting list just for an assessment. This meant that Samantha's kids remained out of her care for an extended period of time. When she was finally assessed, Samantha was told her she was not actually eligible for DBT. This could have been avoided if DHHS understood and responded to Samantha's individual mental health needs.

CLIENT STORY

Jackie (not her real name) was sexually assaulted in her home by her ex-partner, the father of her children. After the assault, DHHS removed her children from her care. DHHS claim that Jackie's mental health is the primary protective concern, without recognising that her mental health issues are directly caused by the violence she continues to experience at the hands of her ex-partner.

CLIENT STORY

Layla (not her real name) is an Aboriginal woman who is involved in an ongoing family law matter regarding the custody of her children. In an affidavit, Layla told the court about the repeated severe physical assaults she experienced at the hands of her ex-partner. Layla explained to the court that her past drug use was related to her experiences of family violence and she is voluntarily participating in rehabilitation and doing really well now. However, the Family Court continued to focus on her history of drug use, which had originally been listed by DHHS as protective concerns, and would not take the extensive family violence from her ex-partner into account.

Unrealistic time limit on reunification

The two-year time limit on reunification is another concern. If mental health is one of the primary issues of concern to DHHS, two years is not a long time to address a person's mental health condition, especially if women are also highly traumatised and living in extreme poverty. The time limit is particularly punitive to mothers with mental health issues. The time limit has particularly devastating consequences for Aboriginal and Torres Strait Islander women in prison.

Impacts on family law matters

Any outcomes or decisions in Child Protection matters substantially influence family law matters. Family law orders are even more intractable once they are made. Commonly, allegations of the mother's mental health issues will be raised as a protective concern by the father/partner/perpetrator. A history of extreme violence is weighed against woman's mental health issues as though they are equal concerns. The evidentiary burden is on the woman and her legal representative, who have to show that her parenting capacity is not diminished and that it is in the children's best interests to be in her care.

Over-imprisonment

Recommendation: End the incarceration of Aboriginal and Torres Strait Islander women with mental health issues.

Recommendation: Invest in Aboriginal and Torres Strait Islander Community Controlled Organisations with relevant expertise to support Aboriginal and Torres Strait Islander women with mental health issues in the community, not in prison.

Recommendation: Recognise that the prison system is inherently unsafe for Aboriginal and Torres Strait Islander women and cannot be made culturally appropriate.

Recommendation: Urgently commit long-term and increased funding for Djirra to continue its critical early intervention and prevention work in the prison, as current funding ends in December 2019.

Recommendation: While working to end the imprisonment of all Aboriginal and Torres Strait Islander women, immediately cease the human rights abuses currently occurring within Victorian prison system, including by:

– Eliminating solitary confinement as a matter of priority;
– Eliminating the over- and under-medication of women in prison with mental health conditions;
–Increasing timely access to trauma-informed and culturally appropriate mental health professionals.

Recommendation: Ensure that funding in the Victorian State budget for early intervention and prevention programs to support Aboriginal and Torres Strait Islander women in contact with the criminal legal system to address underlying issues, including mental health and family violence, go to an Aboriginal and Torres Strait Islander community controlled organisation with relevant expertise such as Djirra.

Recommendation: End the expansion of the prison system in Victoria and redirect those resources towards culturally appropriate mental health care services, accessible and affordable housing and family violence prevention and support services in the community.

Recommendation: Establish a women's residential program for Aboriginal and Torres Strait Islander women in contact with the justice system which is comparable to Wulgunggo Ngalu Learning Place.

It is not a coincidence that Aboriginal and Torres Strait Islander women are over-represented in prisons, police cells and on the streets. **The system is not broken** — it has always been designed to lock up First Nations people. The compounding impacts of experienced family violence and incarceration is a key structural cause of high rates of poor mental health for Aboriginal and Torres Strait Islander women.

Almost all Aboriginal and Torres Strait Islander women entering prison have experienced violence, trauma and mental illness. Prisons **create and exacerbate mental health problems** by forcibly removing Aboriginal and Torres Strait Islander women from their children, family, community and Country. Locking someone in an extremely controlled and violent environment that is designed to punish and strip away their dignity is inherently and **profoundly traumatic at every level**.

Yet, for many people who are incarcerated, this may be the **first time they receive any sort of assistance** for their mental health and other health-related matters. This is no different for Aboriginal and Torres Strait Islander women. For some Aboriginal and Torres Strait Islander women, being in prison might also be the first time they have felt safe from family violence.

> ***"Women have said to me on the phone, 'I'm just going to commit a crime to come back to jail'. So some women do petty offending just to be safe, to be away from the perpetrator, to have a roof over their head and a meal."***
>
> Aboriginal staff member, Djirra, 17 June 2019

No woman should have to go to prison to feel safe or to be well. We must address the root causes of Aboriginal and Torres Strait Islander women's over-incarceration — systemic racism, family violence, poverty and homelessness — and create the necessary solutions and support for mental health in the community.

Below are key statistics regarding Aboriginal and Torres Strait Islander women in prison:

- Aboriginal and Torres Strait Islander women are the **fastest growing prison population** in the country.[32]
- Aboriginal and Torres Strait Islander women are **disproportionately imprisoned** at 21 times the rate of non-Indigenous women.[33]
- Around 80% of Aboriginal and Torres Strait Islander women behind bars are **mothers**.[34]
- Around 90% of Aboriginal and Torres Strait Islander women behind bars have experienced **family violence or sexual abuse.**[35]
- Almost all (92%) Aboriginal and Torres Strait Islander women in prison have a **lifetime diagnosis of mental illness**.[36]
- Aboriginal and Torres Strait Islander women in prison were almost three times as likely as Aboriginal and Torres Strait Islander men to have received a diagnosis of **post-traumatic**

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32 *Over-Represented and Overlooked* (n 4) 17.

33 Australian Bureau of Statistics, *Prisoners in Australia, 2016* (Catalogue No 4517.0, 8 December 2016).

34 *Over-Represented and Overlooked* (n 4) 13.

35 *Over-Represented and Overlooked* (n 4) 13. See generally Australian Institute of Health and Welfare, *Family, Domestic and Sexual Violence in Australia* (Report, 28 February 2018) 83.

36 James R P Ogloff et al, *Koori Prisoner Mental Health and Cognitive Function Study* (Final Report, February 2013) 13. This study also found that the most prevalent mental illnesses are major depressive episodes and PTSD — linked to trauma: at 13.

stress disorder (PTSD), with the majority reporting **trauma connected to sexual assault**, serious physical assault or being threatened with a weapon.[37]

- Aboriginal and Torres Strait Islander people in prison are disproportionately more likely to have an **intellectual disability** than non-Aboriginal and Torres Strait Islander prisoners.[38]
- 33% of female prisoners in Victoria have **acquired brain injury** vs 2% among the general population.[39] There is no specific data regarding Aboriginal and Torres Strait Islander women in prison but the numbers are likely to be even higher.[40]
- Most Aboriginal and Torres Strait Islander women receive **short term custodial sentences** for **non-violent low-level offending** — that is, 'crimes' of poverty.[41]
- In February 2019, almost 60% of Aboriginal and Torres Strait Islander women in Victorian prisons were **on remand**.[42]
- In 2017, two-thirds of women held on remand in Victoria **did not go on to receive a custodial sentence** for their charges.[43]
- Over one-third of Aboriginal and Torres Strait Islander women entering prison on remand were **homeless or in unstable housing** (35%) before entering prison[44] and 61% reported having **used drugs daily** prior to entering prison.[45]

> ***"When we go to the prison I think how the mental health system in there doesn't work for our women: it is too rigid, too exposed."***
>
> Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

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37 Edward B Heffernan, The Mental Health of Aboriginal and Torres Strait Islander People in Custody (PhD Thesis, University of Queensland, 2016) 3, 104. It is likely these findings, which show extremely high unmet mental health needs, can be generalised to other states and territories, as the Australian Institute of Health and Welfare has identified very similar health profiles in its surveys of Aboriginal and Torres Strait Islander people in prisons around the country.

38 See Eileen Baldry et al, 'Reducing Vulnerability to Harm in Adults with Cognitive Disabilities in the Australian Criminal Justice System' (2013) 10(3) *Journal of Policy and Practice in Intellectual Disabilities* 229; Shannon Dias, Robert S Ware, Stuart A Kinner & Nicholas G Lennox 'Co-occuring mental disorder and intellectual disability in a large sample of Australian prisoners' (2013) 47(10) *Australian & New Zealand Journal of Psychiatry* 938.

39 Department of Justice (Vic), 'Acquired Brain Injury in the Victorian Prison System' (Corrections Research Paper No 4, 4 April 2011) 6.

40 See, eg, India Bohanna et al, *Assessment of Acquired Brain Injury in Aboriginal and Torres Strait Islander Australians: Guidance for DisabilityCare Australia* (James Cook University, The Cairns Institute, 2013) 16.

41 See, eg, Department of Justice and Community Safety, *Women in the Victorian Prison System* (January 2019) 8 ('*Women in the Victorian Prison System*'). See also Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Final Report No 133, December 2017) 349 [11.10] ('*Pathways to Justice*').

42 As at 28 Feb 2019, email correspondence, information provided to Djirra by Department of Justice and Community Safety, in response to request by Djirra March 2019.

43 *Women in the Victorian Prison System* (n 41) 13.

44 Ibid 9. This is almost three-quarters of Aboriginal women surveyed — 72%, compared to 59% non-Aboriginal women.

45 Ibid 10.

Lack of appropriate mental health support for women in prison and exiting prison

Access to mental health support for women in prison, including more counselling, is a key issue. In Djirra's experience, issues regarding mental health treatment in the prison include:

- **Limited or delayed access to counselling**. It can take more than 3 months to access a psychologist assessment or counsellor through the Centre Against Sexual Assault for Aboriginal and Torres Strait Islander women, despite being on a 'priority' list.
- **Lack of continuity of medications** (and other medical and therapeutic supports) when women enter prison, are transferred between prisons, or are on release.
- **Under-medication**. For example, lack of access to methadone or women being forced to withdraw from substances when they are not ready.
- **Overmedication**. For example, the excessive use of drugs, such as Seroquel, to manage emotional distress and mental health issues, essentially placing women in a 'chemical straitjacket'.
- **Use of solitary confinement** to 'manage' women with mental health conditions and the reliance on isolation for suicide and self-harm prevention.
- **Inappropriate or delayed responses from prison officers** to mental health concerns and requests for support, treatment or other action.
- **Delays by prison health staff** in providing mental health treatment and support.
- **Lack of communication** around mental health treatment. For example, failing to explain to women why they are being put on certain medications, and subsequently cutting them off from those medications without explanation.

In our work with Aboriginal women in prison, Djirra observes that prison staff often do not appropriately identify and respond to women experiencing mental health crises. Furthermore, Djirra estimates that at least 80% of the Aboriginal women we work with in the prison have an **acquired brain injuries as a result of family violence** (being repeatedly physically assaulted), sometimes in addition to alcohol drug use and childhood abuse. Failure to understand the prevalence or impacts of acquired brain injuries ('ABIs') leads to highly inappropriate and punitive response to Aboriginal and Torres Strait Islander women experiencing severe mental suffering and distress, as discussed in the following section.

"We know that trauma festers in isolation and restraint. Well, prison traffics in these in bucket-loads."

Counsellor, Djirra, 4 June 2019

How prisons create and compound trauma and mental ill health

Women in prison are frequently placed into solitary confinement when they experience severe mental health issues. Djirra has received anecdotal information that some Aboriginal women have been placed in isolation because they are at risk of self-harm or suicide, or in psychosis, or even just for periods of high emotional expression or distress (for example, in relation to a court date or a family or interpersonal incident). This involves being in small concrete cells, with constant video surveillance and minimal access the courtyard. Women often do not know how long they will be in solitary confinement or why they were put there in the first place. Solitary confinement is an **inhumane and dehumanising** form of punishment and control that significantly **worsens underlying trauma** and distress. Solitary confinement should never be used to 'manage' women experiencing mental health issues. Djirra calls for the **immediate elimination of solitary confinement** for all women in prison, especially any woman experiencing mental health issues.

'All humans … become traumatised in these situations. People come out of there like a different person, they have to pull up all the defences to cope with it.'

Counsellor, Djirra, 4 June 2019

In the absence of adequately funded, trauma-informed and culturally appropriate housing and mental health support in the community, **prisons effectively warehouse people living with mental illness** who are otherwise put in the 'too hard' basket, including many Aboriginal and Torres Strait Islander women who have experienced family violence. The construction of new mental health units in Dame Phyllis Frost Centre suggests that prisons are becoming surrogate mental health wards. Going to prison should never be a prerequisite for accessing mental health support or drug treatment. **Mental health care must take place in the community not in custody**, and specialist Aboriginal and Torres Strait Islander community controlled organisations must be funded to provide culturally safe support for our women as a matter of priority.

"It is very hard to process trauma when you are in a situation that is traumatic itself."

Counsellor, Djirra, 4 June 2019

Research shows that people with a psychiatric illness are significantly more likely to come into contact with police than other people, and their **first arrest often occurs before their first contact with mental health services**.[46] This is likely to be even more so for Aboriginal and Torres Strait Islander women, who are targeted for arrest at increased rates and are 20 times more likely to be incarcerated than non-Aboriginal and Torres Strait Islander women nationally.[47]

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[46] Australian Institute of Health and Welfare, *The Health of Australia's Prisoners* (2019) 28 ('*The Health of Australia's Prisoners*'), citing VA Morgan et al, 'A Whole-of-Population Study of the Prevalence and Pattern of Criminal Offending in People with Schizophrenia and Other Mental Illness' (2013) 43(9) *Psychological Medicine* 1869.

[47] Australian Bureau of Statistic, *Prisoners in Australia, 2018* (Catalogue No 4517.0, 6 December 2018) Table 21. See also Victoria Aboriginal Legal Service, *Addressing Over-Incarceration* (Discussion Paper, October 2017) 3; Human Rights Law Centre, 'Aboriginal Women 10 Times More Likely to Be Targeted by Police at Time of Tanya Day's Death in Custody', *News* (Web Page, 30 April 2019) <https://www.hrlc.org.au/news/2019/4/30/aboriginal-women-10-times-more-likely-to-be-targeted-by-police>.

Urgent need to divest resources away from prisons towards community mental health

While we want people currently in prison to receive better mental health support, as is their right, we do not want new mental health facilities to be used as a **misguided rational to justify prison expansion**. We urgently need resources to be redirected towards adequately funding and expanding mental health services and support in the community that are not connected to policing or imprisonment.[48] We can eliminate the need for prison-based mental health treatment by dramatically increasing the investment in wraparound community-based support and services, including specialist Aboriginal services like Djirra.

Prison expansion not only harms Aboriginal and Torres Strait Islander women's mental health, it comes at an extremely high cost to the community. It costs between $100,000 and $130,000 dollars per year to keep someone in prison.[49] **The cost to the lives of our women behind bars, and the lives of their children, is unquantifiable.**

Djirra does not support the Victorian Government's recent announcement to invest $1.8 billion dollars towards expanding the prison system. It is hypocritical of the State Government to commit in advance to all the recommendations of the Royal Commission into mental health, while simultaneously expanding the abuses of the prison system. Djirra calls for the urgent **divestment of funds marked for prison expansion towards community controlled solutions** to ending family violence and addressing mental health concerns in our communities.

The Victorian Government must acknowledge the **interface between mental health and incarceration**. It is a concern that this link has not been made by the Government in establishing this Royal Commission and in the investment it is making into the prison system. It would be a significant oversight if this is not acknowledged in the findings of the Royal Commission.

The most recent state budget allocated a mere $209 million in additional funding for public housing. The Victoria Government cannot continue to ignore the **fundamental role of safe, secure and stable housing** in prevention, management and recovery from mental illness. Supporting people to engage in mental health treatment in their communities instead of prisons achieves **far better outcomes, both socially and economically**.[50] Appropriate and affordable housing is a more cost effective and just solution to reducing over-incarceration and recidivism.[51]

History shows us that once prisons are built, they fill up and become overcrowded.[52] Instead, funds must be used to fully and responsibly fund **real solutions to our urgent problems**. This is the only solution that it will make a real and direct difference to Aboriginal and Torres Strait Islander women and children.

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48 See Alicia Bell et al, *Letter to the East Bay Express Editors*: <http://criticalresistance.org/wp-content/uploads/2016/06/EBX-911-response-FINAL.pdf>.

49 Andrew Burshnell, *Australia's Criminal Justice Costs: An International Comparison* (Report, December 2017) 4. Anthony Morgan, *How Much Does Prison Really Cost? Comparing the Costs of Imprisonment with Community Corrections* (Research Report, Australian Institute of Criminology No 5, 2018) 1.

50 See generally Paul White and Harvey Whiteford, 'Prisons: Mental Health Institutions of the 21st Century?' (2006) 185(6) *Medical Journal of Australia* 302, 303.

51 Chris Povey, Lucy Adams and Sarah Roberts, *Homelessness and Policing: Submission to the Consultation on the Victoria Police Field Contact Policy and Cross Cultural Training* (Submission, Justice Connect, 14 August 2013). Matthew Willis, *Supported Housing for Prisoners Returning to the Community: A Review of the Literature* (Research Report, Australian Institute of Criminology, No 7, 2018) 7–11.

52 See, eg, Joshua Guetzkow, 'If You Build It, They Will Fill It: The Consequences of Prison Overcrowding Litigation' (2015) 49(2) *Law & Society Review* 401; Christopher Knaus, 'Prisons at Breaking Point but Australia is Still Addicted to Incarceration' *The Guardian* (Web Page, 29 December 2017) <https://www.theguardian.com/australia-news/2017/dec/29/prisons-at-breaking-point-but-australia-is-still-addicted-to-incarceration>.

Djirra's early intervention and prevention in the prison

While advocating for the end of imprisonment for all Aboriginal and Torres Strait Islander women, the work Djirra currently does in the prison makes a vital difference to the lives of Aboriginal women behind bars struggling with mental health.

Djirra provides wraparound culturally safe legal and non-legal support for Aboriginal women in Dame Phyllis Frost Centre and Tarrengower prisons as well as providing access to trauma informed and culturally safe counselling for Aboriginal women in the prison.

Every year, for the past three years, Djirra has provided:

- two Dilly Bag workshops at Dame Phyllis Frost Centre;
- two Dilly Bag workshops for women on Community Corrections Orders; and
- three Sisters Day In workshops at Dame Phyllis Frost Centre per year.

Djirra's funding for this critical work ends in December 2019. Djirra's work in the prison supports Aboriginal women to walk away from violence and attend to their mental, physical and spiritual wellbeing, as well as their relationships and cultural responsibilities as Aboriginal women in the community. Djirra needs ongoing, secure, long-term, increased funding to continue the early intervention and prevention programs we deliver in the prison.

"For women to show feelings and emotions in the prison is already a big ask because then they become vulnerable."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

Over-policing

Recommendation: Recognise that mental health experts should be the first responders to mental health crises, call outs and welfare checks, not the police.

Recommendation: Invest in Aboriginal and Torres Strait Islander community controlled organisations with appropriate expertise to develop culturally appropriate public health responses for Aboriginal and Torres Strait Islander people experiencing mental health crisis.

Recommendation: Establish directives for police to link people in need in with relevant support services rather than charging them during a mental health episode, such as for homelessness or drug-related offences.

Recommendation: Remove mandatory sentencing, particularly as it relates to police and emergency service response to mental health incidents.

Systemic racism and the history of colonisation in this country mean it is **hard for Aboriginal and Torres Strait Islander people to trust the police**. Djirra sees too often how the system fails Aboriginal and Torres Strait Islander women. Aboriginal and Torres Strait Islander women in Victoria are 10 times more likely to be targeted by than non-Aboriginal and Torres Strait Islander women for public drunkenness.[53] Across Australia, Aboriginal and Torres Strait Islander women are targeted for imprisonment at over 20 times the rate of non-Aboriginal and Torres Strait Islander women.[54] Aboriginal and Torres Strait Islander people with mental illness and intellectual disabilities are significantly more likely to experience earlier and more frequent contact with the criminal legal system.[55]

Police are often called when a person experiences mental health crisis. For many people who have experienced violence, trauma, post-traumatic stress disorder, paranoia or delusions, the presence of police escalate rather than assist the mental health crisis. A law enforcement response to an episode of mental ill-health is a **misplaced intervention for a person requiring healthcare**.

Police are never appropriate first responders to mental health crises or severe intoxication. Importantly, increased mental health training cannot undo the fundamental role of police in a carceral state: to stop and arrest people. As such, we do not simply want more mental health training or mental health specialist units within the police force. We want to **decrease the use of police as mental health first responders and reduce contact with police overall**. We want genuine public health responses to mental health crises that are designed and delivered by adequately funded Aboriginal and Torres Strait Islander community controlled organisations. Anytime there is a call out for an Aboriginal and Torres Strait Islander person experiencing a mental health crisis (especially if the situation that involves legal implications) a relevant Aboriginal and Torres Strait Islander Community Controlled Organisation, such as Djirra, the Victorian Aboriginal Legal Service or the Victorian Aboriginal Health Service, should be contacted as soon as possible.

There are many models that could be drawn on. For example, CAHOOTS (Crisis Assistance Helping Out On The Streets) is a crisis intervention team in Oregon, United States, which provides free assistance for people experiencing mental illness, public intoxication, substance abuse, suicidal ideation, disorientation and homelessness. Counselling, information and referral, transportation to social services, dispute resolution, first aid and non-emergency medical care is also provided.[56] The aim of CAHOOTS is to support people in crisis without criminalising them. This is much closer to what a public health approach to mental illness and public intoxication could look like. Aboriginal and Torres Strait Islander Community Controlled Organisation with appropriate expertise should be the ones to **design, develop and deliver culturally appropriate public health approaches and services** to support Aboriginal and Torres Strait Islander people experiencing mental health crises and public intoxication.

In Victoria, the crisis assessment and treatment team ('CAT team')[57] is designated to provide support for people experiencing psychotic episodes, suicide attempts and self-harm.

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53 Human Rights Law Centre, 'Aboriginal women 10 times more likely to be targeted by police at time of Tanya Day's death in custody' (Web Page, April 30 2019) <https://www.hrlc.org.au/news/2019/4/30/aboriginal-women-10-times-more-likely-to-be-targeted-by-police>

54 Australian Bureau of Statistic, *Prisoners in Australia, 2018* (Catalogue No 4517.0, 6 December 2018) Table 21

55 See Baldry et al, '"It's Just a Big Vicious Cycle that Swallows Them Up": Indigenous People with Cognitive and Mental Disabilities in the Criminal Justice System' (2016) 8(22) *Indigenous Law Bulletin* 10, 10, 12–13.

56 White Bird Clinic, 'CAHOOTS FAQ' (Web Page) <https://whitebirdclinic.org/cahoots-faq/>.

57 Also known in Victoria as the Acute Community Intervention Service ('ACIS').

Anecdotally, Djirra legal staff report difficulty getting the CAT team to provide support for Aboriginal and Torres Strait Islander women experiencing a mental health crisis where there is also co-occurring family violence. It is unclear if this is because of family violence, racism, or a lack of capacity or insufficient training. Djirra recommends **resourcing of Aboriginal and Torres Strait Islander community controlled organisations** to design solutions for Aboriginal and Torres Strait Islander people in acute mental health need that decrease reliance on the police and reduce overall police contact.

Unfair laws and sentencing regimes

Recommendation: Abolish the offence of public drunkenness and replace it with an adequately funded and culturally appropriate public health responses.

Recommendation: Decriminalise other minor and non-violent offences including minor drug use and possession, drunk and disorderly behaviour, public nuisance and begging alms.

Recommendation: Raise the age of criminal responsibility to 14 years old to prevent the disproportionate criminalisation of Aboriginal and Torres Strait Islander children and young people.

Recommendation: Change the harsh bail laws introduced in 2018 so that people are not compelled to 'show exceptional circumstances' for low-level offences linked to poverty and homelessness.

Recommendation: Create legislative amendments to recognise parental status as a mandatory mitigating consideration for bail and sentencing, including a legislative presumption that prioritises non-custodial sentencing and rehabilitation pathways for Aboriginal and Torres Strait Islander women who are at risk of losing their children as a result of a custodial sentence.

Abolish public drunkenness

Public drunkenness is a health issue, not a criminal justice issue. The Royal Commission into Aboriginal Deaths in Custody recommended decriminalising public drunkenness in 1991.[58] Yet in 2019, we have seen Tanya Day's coronial inquest arising out of her tragic death in police custody after being arrested while intoxicated on the train.[59]

Many people living with mental illness and trauma cope with their symptoms by using substances, often as self-medication. Women who have experienced family violence or sexual

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58 Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 3 [21.1].

59 Elise Worthington and Sarah Curnow, 'Tanya Day Got on a Train to Melbourne: She Never Made It Home', *ABC News* (Web Page, 6 December 2018) <https://www.abc.net.au/news/2018-12-06/aboriginal-women-tanya-day-dies-after-injury-in-police-custody/10581650>; Victoria Aboriginal Legal Service, 'Time for Action to End Deaths in Custody', *Media Release* (6 December 2018) <https://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=2ahUKEwiWi8Ssz4HjAhXOSH0KHZ88D3sQFjACegQIARAC&url=https%3A%2F%2Fvals.org.au%2Fassets%2F2018%2F12%2FVALS-06.12.18-time-to-act-on-deaths-in-custody-FINAL.docx&usg=AOvVaw2rCWM4CK1aofcnJBn-KKZ7>. See also the open letter to the Hon Daniel Andrews MP: <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5cb2bbc7e2c483d2509c8c76/1555217356060/Open+Letter_Repeal+Public+Drunkenness.pdf>.

assault are more likely to misuse alcohol and other non-prescription drugs than other women as **a way of coping with trauma**.[60]

Other low-level public order 'offences' grounded in poverty and homelessness, including drunk and disorderly behaviour, must be decriminalised as an essential step towards decreasing our reliance on incarceration as a response to health issues. Low level charges must be urgently **taken out of the toolkit that the police use to 'deal with' mental health situations**, as Aboriginal and Torres Strait Islander women's lives are at risk.

Djirra works with many Aboriginal women who are put on a path to imprisonment after being charged with a minor non-violent offence such as shop-theft or possession of a drug of dependence. The Royal Commission into Aboriginal Deaths in Custody highlighted that **laws of this nature are often used disproportionately against Aboriginal and Torres Strait Islander people**.[61] We cannot continue relying on the criminal legal system to respond to the underlying issues of mental ill health, trauma and poverty, as it only leads to further criminalisation and incarceration of Aboriginal and Torres Strait Islander women.[62] Decriminalisation of minor offences is a key way of decreasing overall contact with the police and criminal legal system.

In making this recommendation we caution against the enactment of alternate modes of arrest for these offences, such as the paperless arrest laws that were introduced in the Northern Territory. We strongly advocate for **community based public health approaches to public drunkenness.** Investment in alternative response services, such as culturally appropriate community controlled sobering up centres, could provide a needed interruption to unnecessary criminalisation of people in acute need of support.

Raise the age

Djirra supports the call for the Victorian Government to change the law to **raise the age of criminal responsibility to 14 years**. The current legal minimum age of criminal responsibility in Victoria is 10 years.[63] This is the age at which a child can be investigated for an offence, arrested by police, charged and locked up in a youth prison. This is against medical evidence that children aged 10 to 14 years lack emotional, mental and intellectual maturity, with limited capacity for reflection before action.[64]

Prisons are extremely harmful for the mental health and wellbeing of children, significantly increasing their chance of experiencing depression and risk of suicide.[65] Criminalising the

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60 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission to Victorian Royal Commission into Family Violence, *Royal Commission into Family Violence* (June 2015) 21.

61 Australian Human Rights Commission, *Indigenous Deaths in Custody 1989 - 1996* (Report, October 1996) ch 6 <https://www.humanrights.gov.au/publications/indigenous-deaths-custody-chapter-6-police-practices>.

62 Australian Law Reform Commission, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Commission Report No 133, December 2017).

63 *Children, Youth and Families Act 2005* (Vic) s 344.

64 See, eg, Kelly Richards, 'What Makes Juvenile Offenders Different from Adult Offenders?' (Trends & Issues in Crime and Criminal Justice No 409, Australian Institute of Criminology, February 2011) 4; Laurence Steinberg, 'Risk Taking in Adolescence: New Perspectives from Brain and Behavioural Science' (2007) 16(2) *Current Directions in Psychological Science* 55, 56.

65 Chris Cuneen, 'Arguments for Raising the Minimum Age of Criminal Responsibility' (Conference Paper, Australian Social Policy Conference, 25–7 September 2017). See generally Barry Holman and Jason Ziedenberg, 'The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities' (Justice Policy Institute Report, 28 November 2006) 9. However, Holman and Ziedenberg concede that there is debate surrounding the relationship between youth suicide and juvenile detention: see, eg, Howard N Synder, 'Is Suicide More Common Inside Or Outside of Juvenile Facilities?' [2005] (February) *Corrections Today* 84; Gallagher, Catherine A. and

behaviour of young and vulnerable children creates a **vicious cycle of disadvantage** that can **entrench children in the criminal legal system**. The younger a person is targeted for criminalisation and detention, the higher the chance that child has of being imprisoned as a teenager.[66] Aboriginal and Torres Strait Islander children and young people are 14 times more likely to be trapped in youth prisons compared to non-Aboriginal and Torres Strait Islander children.[67]

The current minimum age in Victoria is one of the lowest in the world and is in breach of international human rights law and is **inconsistent with international standards**. The median age of criminal responsibility worldwide is 14 years old.[68] The United Nations Committee on the Rights of the Child consistently says that we should be working towards a minimum age of 14 years old. Raising the age of criminal responsibility was also recommended by the Royal Commission into the Protection and Detention of Children in the Northern Territory.[69]

Children should be in classrooms and playgrounds, not prisons. The Royal Commission should recommend that s 344 of the *Children, Youth and Families Act 2005* (Vic) be amended to raise the age of criminal responsibility to 14 years. It is crucial that these reforms be included in the recommendations made by the Royal Commission to prevent the criminalisation of children and the significant mental health risks associated with this.

Legislative presumption for non-custodial sentences

Short-term custodial sentences place Aboriginal and Torres Strait Islander women at significant risk of having children removed, losing housing and employment and compounding existing disadvantage and experiences of trauma. **Even just one week in prison has severe, disruptive and long-lasting consequences**, as Aboriginal and Torres Strait Islander mothers who have been incarcerated face significant barriers to getting children back once they have been removed into out-of-home care.[70]

Establishing legislative amendments to **recognise parental status as a mandatory mitigating consideration** for bail and sentencing, including a legislative presumption that prioritises non-custodial sentencing and rehabilitation pathways for Aboriginal and Torres Strait Islander mothers, would be likely to decrease the disproportionate incarceration of our women and the disproportionate removal of our children.

Dobrin, Adam, 'The Comparative Risk of Suicide in Juvenile Facilities and the General Population: The Problem of Rate Calculations in High Turnover Institutions' (2007) 34(10) *Criminal Justice and Behavior* 1362.

66 The younger a person was at the start of their first supervised sentence, the more likely they were to return to sentenced supervision. For those whose first supervised sentenced was community-based, around 90% of those aged 10–12 at the start of their sentence returned to sentenced supervision, compared with around 25% of those aged 16 and just 3% of those aged 17. More staggering were those sentenced to detention as their first supervised sentence; over 90% of those aged 10-12 at the start of their sentence returned to some type of sentenced supervision before they turned 18. This rate of return decreased with age, to around 80% of those 14 and 15, ~45% of those 16 and ~17% of those 17: Australian Institute of Health and Welfare, *Young People Returning to Sentenced Youth Justice Supervision: 2016–17* (Juvenile Justice Series No 22, 2018) 7–8.

67 Australian Institute of Health and Welfare, *Youth Detention Population in Australia* (Bulletin No 145, December 2018) 18.

68 Australian Institute of Health and Welfare, *Comparison Between Australian and International Youth Justice Systems: 2015–16* (Youth Justice Fact Sheet No 93, 2017).

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

70 Una Stone, Marg Liddell and Marietta Martinovic, 'Incarcerated Mothers: Issues and Barriers for Regaining Custody of Children' (2017) 97(3) *Prison Journal* 296.

Like the highly successful Koori Women's Diversion program in Mildura, the prioritisation of non-custodial and rehabilitative pathways for Aboriginal and Torres Strait Islander women, particularly those who are likely to have their children removed as a result of a custodial sentence, is ultimately likely to **reduce further contact with the criminal legal system** which is often linked to their experiences of violence, as discussed above.

Women's version of Wulgunggo Ngalu

Wulgunggo Ngalu is a highly regarded and successful program for Aboriginal men. No such program exists for Aboriginal and Torres Strait Islander women. Currently, Aboriginal and Torres Strait Islander women with insecure living arrangements (including due to family violence and/or poverty) are often denied bail and access to community corrections orders. Having access to a **purpose-built, culturally safe and genuinely rehabilitative residential facility** may enable more women to access such orders, thereby avoiding a custodial sentence and associated harms (loss of children, loss of housing, institutionalisation and a pathway to cycles of recurrent imprisonment). In addition, Aboriginal and Torres Strait Islander women are less likely to engage in residential programs if there is no capacity to keep their children with them. Aboriginal and Torres Strait Islander women are also less likely to comply with bail or community corrections orders conditions where they do not have **culturally appropriate, holistic, trusted support** — particularly where they are experiencing family violence and have limited control over their own security, living arrangements and daily choices.

Such a model could make a significant difference towards increasing access to bail and reducing incarceration and recidivism rates for Aboriginal and Torres Strait Islander women. It is also likely to **increase capacity to address the underlying issues** of Aboriginal and Torres Strait Islander women's criminalisation and improve Aboriginal and Torres Strait Islander women's safety and social and emotional wellbeing, with **positive flow-on effects** for maintaining strong and connected Aboriginal and Torres Strait Islander children, families and communities.

Homelessness and housing instability

Recommendation: Ensure that the Royal Commission's recommendations take into account housing as an essential component of mental health treatment for people experiencing or at risk of homelessness, especially for Aboriginal and Torres Strait Islander women experiencing or at risk of family violence.

Recommendation: Increase investment into Aboriginal and Torres Strait Islander community controlled housing and homelessness services for Aboriginal and Torres Strait Islander women experiencing family violence and implementation of strategies to improve housing affordability more generally.

Recommendation: Provide sufficient, secure, long-term funding for Djirra to have access to housing stock to develop a residential program for Aboriginal women exiting prison and those at risk of imprisonment.

Homelessness and housing instability is a key cause, and an outcome, of poor mental health for Aboriginal and Torres Strait Islander women. Research has demonstrated that **housing insecurity causes and prolongs mental ill-health**.[71]

Djirra's frontline workers unanimously report that **housing is the primary issue** facing the women that they work with. When people's basic needs for housing are not being met, it is not realistic to sustain mental health treatment or to achieve long-term social and emotional wellbeing in any meaningful sense.

"When sitting in front of people I often think: If you had somewhere to live, you wouldn't be feeling shit. What do I do about that as a mental health person? My hands are tied."

Counsellor, Djirra, 4 June 2019

Family violence is a key driver of Aboriginal and Torres Strait Islander women's homelessness. Over half (55%) of Aboriginal and Torres Strait Islander women who have experienced physical violence in the last 12 months had been homeless, compared to 25% who had not experienced family violence.[72] Aboriginal and Torres Strait Islander women who are homeless are at even greater risk of interpersonal and state violence, further contributing to deteriorating mental health.

"There is racial profiling going on. If you are Aboriginal, you're a single mum, you have a mental illness, you have fled family violence, now you're homeless. Services have a preconceived idea of what that all means. There is no way in hell that a private rental company is going to rent to a mother with that background."

Aboriginal staff member, Legal Team, Djirra, 17 June 2019

The number of Victorians who **exit mental health facilities into homelessness** has grown by 55% since 2012–13.[73] The number of people accessing Victorian homelessness services who report having a mental health issue has increased by 84% in this same period.[74] Aboriginal and Torres Strait Islander women are disproportionately represented across these cohorts.

Aboriginal and Torres Strait Islander people in prison are more likely (37%) to have been staying in short-term or emergency accommodation prior to their imprisonment than non-Aboriginal and Torres Strait Islander people.[75] Djirra works with many Aboriginal mothers on release from prison who are trying to keep themselves and their children safe from harm but are forced to live in temporary or crisis accommodation. Aboriginal and Torres Strait Islander women who **exit prison into homelessness** are more likely to be targeted by the police and child protection systems.[76]

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[71] See generally Guy Johnson and Chris Chamberlain, 'Are the Homeless Mentally Ill?' (2011) 46(1) *Australian Journal of Social Issues* 36.

[72] Australian Bureau of Statistics, National Aboriginal and Torres Strait Islander Social Survey, 2014–15 (Catalogue No 4714.0, 28 April 2016) Table 31.3.

[73] Data provided by Australian Institute of Health and Welfare's Specialist Homelessness Services Collection.

[74] Ibid.

[75] *The Health of Australia's Prisoners* (n 42) 22.

[76] Chris Povey, Lucy Adams and Sarah Roberts, Submission to the Consultation on the Victoria Police Field Contact Policy and Cross Cultural Training (14 August 2013) 3; Council to Homeless Persons, *Productivity Commission Issues Paper: The Social and Economic Benefits of Improving Mental Health* (Report, April 2019) 14; Matthew Willis, *Supported Housing for Prisoners Returning to the Community: A Review of the Literature* (Research Report

The latest Department of Health and Human Services' Quarterly Rental Report confirms Victoria's housing crisis continues to worsen, with rents rising more rapidly than inflation, especially in regional areas.[77] Aboriginal and Torres Strait Islander women are **disproportionately impacted by barriers to accessing affordable housing**, including increased levels of poverty and common experiences of discrimination by service providers.[78] Within the housing sector, as with other mainstream support services, systemic racism intersects with stigma around mental health and family violence.

Strict eligibility criteria for Aboriginal and Torres Strait Islander housing or family violence crisis housing often strict leaves Aboriginal and Torres Strait Islander victim survivors of family violence without an option.

"In regards to Aboriginal housing, they sometimes have properties they can't fill. Houses that are for women escaping family violence. You'd reckon we'd be able to fill them no problem – we can't! There is such strict criteria. We're talking about people with mental illness who need a roof over their heads. Mum would be able to see her kids if she had housing. Then we could start getting supports in place so that down the track long term we can look at reunification. But all because the perpetrator lives less than 10km away, all of that is off the cards."

Aboriginal staff member, Legal Team, Djirra, 17 June 2019

Programs that support mental health treatment, emotional wellbeing and healing are only truly effective if someone has housing. At the end of the day, people are empowered when they have safe and secure housing and they are connected into healthy communities. The Commission must recognise appropriate and affordable housing as a **precondition for mental healthcare**, and indeed, as a necessary component of that healthcare, including specialist housing support for women exiting prison. This understanding is currently missing from Victoria's mental healthcare system. The failure to properly respond to homelessness is exacerbating the demand pressures faced by Australia's mental health system.

"If people are housed, then we can do some healing."

Counsellor, Djirra, 4 June 2019

No 7, Australian Institute of Criminology, 2018) 11; Guy Johnson and Chris Chamberlain, 'Are the Homeless Mentally Ill?' (2011) 46(1) *Australian Journal of Social Issues* 29, 36.

[77] Department of Health and Human Services, 'Rental Report' (Web Page, 5 June 2019) <https://dhhs.vic.gov.au/publications/rental-report?utm_source=Council+to+Homeless+Persons+E-news+list&utm_campaign=4bfc288a1f-EMAIL_CAMPAIGN_2018_06_25_05_11_COPY_01&utm_medium=email&utm_term=0_47e37fdcf8-4bfc288a1f-423039609&mc_cid=4bfc288a1f&mc_eid=71788a1cc1>.

[78] See Lesley Cooper and Mary Morris, *Sustainable tenancy for Indigenous families: what services and policy supports are needed?,* Australian Housing and Urban Research Institute (August 2003) 15; Sharon Payne, 'Aboriginal Women and the Law' (Conference Paper, Australian Institute of Criminology Conference, 24–6 September 1991) 66.

Barriers to employment

Recommendation: Decrease barriers to employment for Aboriginal and Torres Strait Islander women who have been in prison, including the reduction of unfair restrictions on obtaining Working With Children Checks and the full implementation of a spent convictions scheme.

Poor mental health is strongly associated with reduced employment.[79] This is particularly the case for Aboriginal and Torres Strait Islander women living with mental illness. As discussed above, many Aboriginal and Torres Strait Islander women have been criminalised and incarcerated as a result of their experiences of mental illness, trauma and family violence.[80]

Around two-thirds of women on remand are released from prison without having served any time under sentence.[81] Yet these charges will still impact a woman's ability to seek secure and stable employment, for example, through preventing her from accessing a Working With Children Check.[82] Djirra calls for reduced barriers to employment for Aboriginal and Torres Strait Islander women who have been in prison. This must include **greater access to Working with Children Checks** for Aboriginal and Torres Strait Islander women who have been criminalised, and for the **full implementation of a spent convictions scheme** more broadly.

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79 Paul Frijters, David W Johnston and Michael A Shields, 'The Effect of Mental Health on Employment: Evidence from Australian Panel Data' (2014) 23(9) *Health Economics* 1058.

80 See, eg, Sisters Inside, Submission No 80 to Senate Finance and Public Administration References Committee, *Inquiry into Domestic Violence in Australia* (2014) 8.

81 *Women in the Victorian Prison System* (n 41) 13.

82 'Working With Children Check', *Victoria Legal Aid* (Web Page) <https://www.legalaid.vic.gov.au/find-legal-answers/working-with-children-check>.

What are barriers to accessing the mental health system?

Despite experiencing higher rates of mental health issues, Aboriginal and Torres Strait Islander women commonly experience many substantial barriers to accessing culturally safe and effective mental health services.[83]

A best practice mental health system **cannot only be 'person centred' in an individual sense**. It needs to recognise that relationships of trust, community, connection and cultural safety are key to the accessibility of mental health supports for Aboriginal and Torres Strait Islander people. Djirra is a key pathway service — linking our women up with mental health and other supports in a culturally safe way.

Djirra **cautions against a mental health 'Hub' model** as this is likely to create further barriers for Aboriginal and Torres Strait Islander women. A mainstream 'one stop shop' model that aims to centralise and streamline mental health support, treatment and referrals does not work for Aboriginal and Torres Strait Islander women.[84] All Aboriginal and Torres Strait Islander women have the right to culturally safe and specialist mental health support, including multiple access points. **Djirra is a unique, culturally safe and specialist pathway to the mental health system** for Aboriginal and Torres Strait Islander women. Djirra respectfully asks that the Royal Commission recognises the key role that Djirra plays in overcoming the barriers to accessing the mental health system, which are discussed in this section, and develops recommendations accordingly.

> ***"There are barriers to mainstream services, there is just not that understanding you know. It is like, straight away, you just say your Aboriginal and something just goes 'voof' and it is a whole different structure, it's like let's get this paperwork not that paperwork."***
>
> Koori Women's Place client, Djirra, 29 August 2018

Racism and mental health stigma in mainstream services.

Many Aboriginal and Torres Strait Islander people have a genuine fear and resistance to accessing mainstream mental health services due to **discriminatory government policies and practices**.[85] Mental health services can bring to mind oppressive histories and experiences of institutionalisation and abuse.

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[83] Australian Institute of Health and Welfare, *Effective Strategies to Strengthen the Mental Health and Wellbeing of Aboriginal and Torres Strait Islander People* (Issue Paper No 12, November 2014) 15.

[84] See National Family Violence Prevention Legal Services Forum, *Submission to the Australian Law Reform Inquiry into the Family Law System*, (November 2018) 30.

[85] Karen Bates and Simone Hurley, *Aboriginal Mental Health: Clinical Practice Guideline and Pathways – A Culturally Appropriate Guide for Working with Aboriginal Mental Health Consumers* (Report, February 2017) 10.

Djirra has contact with many mainstream services where **racism is still apparent** when they will not receive the referral of an Aboriginal woman experiencing family violence and mental illness:

"Because of being Aboriginal, having an ABI or mental illness, experiencing family violence – mainstream services refuse to work with them."

Aboriginal staff member, Djirra, 17 June 2019

Women with co-occurring mental health and substance misuse issues are put in the 'too hard basket'. They are often seen as drug addicts first and their mental health needs come second.

"Aboriginal women with mental health issues are treated as though they aren't a person."

Aboriginal staff member, Djirra, 6 June 2019

The delivery of support services, both within the mental health system and allied services like housing, is often too rigid — for example, if a client is late to an appointment, they miss out. Yet many women who Djirra support experience severe depression which presents major challenges to engaging within the expected framework or timeframe.

Prohibitive costs

"Some of the psychologists are 300 dollars a session. That's what you pay a barrister! I wouldn't go, I can't afford that."

Aboriginal staff member, 6 June 2019

Djirra is currently able to provide women with five sessions of free counselling. However, for women who have experienced significant trauma, family violence and sexual assault, five sessions are often inadequate.

Considering the complex trauma impacting every Aboriginal who walks through Djirra's door, it is irresponsible to encourage women to start working through past and ongoing traumatic experiences and then withdraw all therapeutic support for Aboriginal women who cannot afford to continue beyond those initial five sessions.

Expanding access to the mental health care plan is not in itself a solution because there is still generally a gap payment. For many women that Djirra works with, who struggle to afford food for the table, this gap payment would still be inaccessible.

Djirra should receive additional resourcing to have **sufficient financial capacity women to access fifteen counselling sessions free of charge**. Assuming that a client goes to one session per fortnight, fifteen sessions would allow Djirra to fund a full seven months of counselling. If required, a mental health care plan (ten sessions under Medicare) could then fill in the rest of the year, again at a rate of one session per fortnight for five months. This would give our clients, at minimum, **one full year of counselling**. See page 47 for Djirra's recommendation regarding dedicated, long-term funding to enable Djirra to support Aboriginal women and their children to access specialist and culturally appropriate external counselling, to complement the counselling and wellbeing support provided through Djirra.

This is an essential step towards the **mental health care system must recognising its own role in perpetuating systemic violence** against Aboriginal and Torres Strait Islander people and ensuring that Aboriginal and Torres Strait Islander women impacted by family violence have culturally safe access to counselling through a trusted and specialist Aboriginal and Torres Strait Islander community controlled organisation.

> ***"We start out with five sessions, then they're just scratching the surface. Even ten sessions is not enough – although that would at least bring it up to mental health care plan. With a mental health care plan, you still have to go to the doctor, you often need to talk to white people who don't know anything about your experiences. Fifteen sessions would be better."***
>
> Aboriginal staff member, Djirra, 17 June 2019

Lack of trauma informed and culturally appropriate practitioners

Recommendation: Resource Djirra to build its team of trauma informed and culturally appropriate counsellors and to expand its wellbeing program for Aboriginal women, including the Koori Women's Place, across the state.

Recommendation: Commit significant and sustained investment into building the Aboriginal and Torres Strait Islander mental health workforce.

Recommendation: Invest in Aboriginal and Torres Strait Islander community controlled organisations with relevant expertise, such as Djirra, to design and deliver training for the mainstream mental health workforce that addresses the intersections between systemic racism, family violence, trauma and mental health stigma.

There is a vast misunderstanding of culture and cultural safety among mainstream mental health practitioners. Aboriginal women that Djirra works with frequently report needing to explain themselves and educate the counsellor about their lived experiences. There is often an over-emphasis on diagnosis and medication and a lack of understanding of the profound and ongoing impacts of family violence, complex trauma and transgenerational trauma.

This is why it is imperative to invest in Djirra to build its team of trauma informed and culturally appropriate counsellors and to **expand its wellbeing program for Aboriginal women**, including the Koori Women's Place, across the state. Only Aboriginal and Torres Strait Islander organisations like Djirra are able to provide culturally safe and trusted access to early intervention and prevention and therapeutic support.

It is also vital to **build the Aboriginal and Torres Strait Islander mental health workforce** more broadly, which includes recruiting, training and accrediting more Aboriginal and Torres Strait Islander psychologists and counsellors. It is also important to provide resourcing to Aboriginal and Torres Strait Islander community controlled organisations to design and deliver training for the mainstream mental health workforce that addresses the intersections between systemic racism, family violence, trauma and mental health stigma.

The following quotes from Aboriginal women who work at Djirra illustrate some of the issues with the mainstream mental health workforce and the vital need for trauma informed and culturally safe support for Aboriginal women.

"They [non-Aboriginal psychologists] think they understand trauma but they are very insulated so they don't really. They might be counselling someone for family violence but they don't recognise that generation after generation of your family were removed and that impacts you too. And that family violence is generational. A mother's experience of family violence will echo her own mother's experience, and that will impact her daughter's experience of family violence and her ability to seek help. It's not just that you've been told the stories, you've witnessed it too. It's incredibly complex PTSD."

Aboriginal staff member, Djirra, 17 June 2019

"Women have said to us in the past, 'My grandmother spoke to me.' They experience a spiritual presence of some sort, they often won't express it because they think they'll be misdiagnosed, but they find it comforting or reassuring. Some mental health practitioners are quick to say they're hearing voices. There is a misunderstanding of spiritual connectedness to land, country and family."

Aboriginal staff member, Djirra, 6 June 2019

"Women say, 'What do I have in common with this person?' I've heard that many times. We need more Aboriginal psychologists, it's a no-brainer."

Aboriginal staff member, Djirra, 17 June 2019

"It is more of a diagnostic system than a therapeutic system. The diagnostic approach sets you up to be put on medication. We medicate poor people because they can't afford therapy."

Counsellor, Djirra, 4 June 2019

"We'll often ask women if they're seen a counsellor before. Women will reply, 'Yeah I have, but I've had to be the one educating the counsellor.' Would like to think it's getting better but still hear this from women frequently. There is little understanding among mental health practitioners of transgenerational trauma and the Stolen Generations."

Aboriginal staff member, Djirra, 6 June 2019

"We need more trauma-informed mental health practitioners, who have a good understanding of the work we do and the women we work with. We would be able to refer more women if there were more practitioners to refer to."

Aboriginal staff member, Djirra, 6 June 2019

Lack of rural and regional services

Recommendation: Increase investment in mental health practitioners and facilities in rural and regional areas, to ensure that all Aboriginal and Torres Strait Islander people in Victoria have access to culturally appropriate and trauma informed mental health treatment without being forced to travel away from family, community and Country.

The mainstream mental health system takes the view that healing happens away from everyday life, in a sterile, ahistorical and apolitical space.[86] This is particularly problematic for Aboriginal and Torres Strait Islander women with acute mental health needs in regional and rural areas, who are often **compelled to travel to Melbourne** or larger regional cities to receive mental health treatment. Being forced to travel far away from family, community and Country often worsens, rather than helps, Aboriginal and Torres Strait Islander women's mental health. This could be assisted by having adequate mental health facilities attached to regional hospitals so that women can receive treatment while also being supported by family.

Wait times for counsellors and psychologists in regional areas is a significant problem, with Aboriginal and Torres Strait Islander women frequently turned away or told to go to Melbourne because there is no capacity locally. For example, Djirra staff in Bendigo report that psychologists in the area currently have a waitlist of over six months.

Djirra staff working in regional locations report increased challenges regarding **confidentiality and privacy**. For example, women in small towns may not want to be seen walking into a service that is known to provide mental health support as this might identify them as having a mental health issue.

"We've got nothing here. The best you get here in terms of mental health support is counsellors."

Aboriginal staff member, 6 June 2019

[86] Agustina Vidal, Icarus Project, interview with Healing Justice Podcast, 2019.

Transport is another significant issue for Aboriginal and Torres Strait Islander women in regional areas. Most of the women who Djirra support across the state do not drive or do not own a car. This can make it very challenging for clients with mental health conditions to get to court or to appointments. There needs to be greater practical and financial support for Aboriginal and Torres Strait Islander women in rural and regional areas to enable them to access the support they need. This could include broadening out the restrictions that currently exist in relation to services transporting clients.

Djirra has worked with many Aboriginal women with diagnosed mental health issues who live in regional towns where there are no local psychologists, yet attending regular psychologist appointments has been listed as a **condition on a child protection order**. A visiting psychologist once a month is generally insufficient as they do not have capacity to see everyone in the town who needs support. Public transport to the nearest larger regional centre takes several hours which, with a small child in her care, is not practicable. A woman in this situation would potentially be in breach of her child protection orders for not seeing a psychologist, for no fault of her own — apart from living in a regional town.

What is already working well?

There is no need to reinvent the wheel. Aboriginal and Torres Strait Islander organisations that work on the ground with Aboriginal and Torres Strait Islander women experiencing family violence, trauma and mental illness already know what works and what is needed. **Aboriginal and Torres Strait Islander women already have the solutions** to improving social and emotional wellbeing for their sisters, aunties, children, families and communities. **Listen to us.**

Achieving better mental health outcomes for Aboriginal and Torres Strait Islander women requires dedicated recommendations, programs and funding streams that **address the unique mental health needs** expressed by Aboriginal and Torres Strait Islander women. Funding for Aboriginal and Torres Strait Islander-specific recommendations and services must go to Aboriginal and Torres Strait Islander Community Controlled organisations with relevant expertise so that **self-determination is put into practice** and not just a tick-a-box exercise.

Djirra hopes that the Royal Commission will demonstrate a meaningful commitment to Aboriginal and Torres Strait Islander self-determination. This includes recognising that specialist Aboriginal and Torres Strait Islander organisations like Djirra play an **essential role within the mental health system** for Aboriginal and Torres Strait Islander women. Djirra provides all Aboriginal women with respectful, dignified and culturally safe responses to their needs. Without Djirra, many Aboriginal women who would **fall through the cracks** of the mental health system.

Djirra's innovative programs are designed and delivered *by* Aboriginal women *for* Aboriginal women. These approaches are **already making a difference** to the social and emotional wellbeing of our sisters, aunties, daughters, families and communities. This section will explore some of **Djirra's innovative approaches** to supporting Aboriginal women experiencing family violence, trauma and mental illness, including early intervention and prevention programs, culturally safe and trauma-informed counselling and wraparound support that break down stigma and barriers to accessing mental health support and build women's resilience and cultural strength.

Djirra's early intervention and prevention programs

Djirra's early intervention and prevention programs help build social and mental wellbeing for Aboriginal women in many ways, including:

"If you took the food out, or the hairdressing out, it would all fall to pieces. These are the necessary pieces to create sense of community and belonging."

Counsellor, Djirra, 4 June 2019

- Developing community connection
- Creating a sense of belonging and safety
- Providing education about trauma
- Encouraging women to talk about their experiences
- Encouraging women to access services
- Enabling women to see a counsellor
- Challenging stigma around family violence and mental health
- Re-engaging with culture and identity
- Regaining a sense of connection, control and belonging

Sisters Day Out plays a key role in breaking down the barriers to talking about family violence and seeking help for Aboriginal women.

"I see women supporting women in terms of spiritual health, mental health, emotional wellbeing, cultural wellbeing. Women are able to talk about how they feel."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

Dilly Bag is a four-day residential program that draws on cultural principles to promote healing Dilly Bag is delivered to a small group of Aboriginal women directly by Djirra Community Engagement Staff in different culturally safe locations across Victoria.

"It is powerful to be able to recognise they've got somewhere to hold them for a while, somewhere to refresh. Building cultural strength, managing anxiety, connecting with other women, that's all really important."

Aboriginal staff member, Djirra, 6 June 2019

Koori Women's Place

Djirra's Koori Women's Place is a unique initiative which supports Aboriginal women to lead strong, independent and positive lives as they confront the ongoing trauma of family violence. The Koori Women's Place provides a culturally safe service model, offering the right support in the right way, at the right time, through building trusting relationships with Aboriginal women and connection to culture.

"It is about understanding that they have place in this world as Aboriginal women, reconnecting with values around culture, kin, family. To see them get back strong in identity, it's like seeing a cloud lift."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

"To be in a room with Aboriginal women who had been through the same sort of thing, and to know that you weren't different and to know that you didn't stand out, actually it was really comforting. We have all got our own hurts and our own shame and it was empowering to know that"

Koori Women's Place client, Djirra, 29 August 2018

The Koori Women's Place aims to overcome the isolation that many Aboriginal women affected by family violence experience through creating connections with other Aboriginal women in a welcoming, accepting and culturally safe space. The Koori Women's Place assists Aboriginal women to access required supports, including mental health support. Cultural programs such as basket weaving and traditional medicine strengthen Aboriginal women's cultural identity and feelings of belonging and self-worth. Over the longer term, the Koori Women's Place's vision is for Aboriginal women to feel stronger in their identity and find solutions to tackle family violence as a key pathway towards increased social and emotional wellbeing.[87]

Breaking down stigma around trauma

[87] Koori Women's Place: Lapsing Program Evaluation, December 2018, Prepared by the Monitoring and Evaluation Team in the Koori Justice Unit, Department of Justice and Regulation, Victorian Government. December 2018.

At Dilly Bag, the counsellor runs group workshops on trauma that break down stigma, explore the origins and effects of trauma and provide opportunity to build skills in identifying and managing trauma symptoms. Learning that trauma is a *normal* response to terror and violence can be profoundly empowering for many Aboriginal women. As such, raising awareness of trauma is not only important in building a skilled trauma-informed mental health workforce, it is also important for victim survivors themselves.

"Women look into my eyes and say, 'Are you really telling me that I'm not broken?'"

Counsellor, Djirra, 4 June 2019

"When [the counsellor] delivers her session at Dilly Bag on trauma, women often comment that they now understand that their reactions to their trauma are normal and that they are not "crazy". Perpetrators tell them that they are the problem, that they are 'mental' or 'off their head', that's the language they use. But then women realise that everyone else in the room has experienced the same thing, and has responded in similar ways."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

Djirra staff member: As you know our counsellor lead a session about trauma, the other day and how that impacts on your bodies and I know you've heard her do that session a couple of times. Did you find that session helpful? Did you take anything away from…?

Participant: Well the breathing, the breathing was good for me because I have panic attacks and anxiety attacks so the breathing calms me down and relaxes me so I don't have to take Valium or medication. So and to understand your ups and downs, which was good to know, because you get your highs and then you get your lows as well.

Djirra staff member: Do you think it's important to have a counsellor available for women to access at the Dilly Bag?

Participant: Yes I agree, because at the time the woman will be quite shy, won't talk but if she is within the three days she might come out and communicate and talk to people. And then there's if she hears other women talking oh we've been through that and this and that she's doesn't feel like she's alone any more she can open. But if she feels comfortable with other people that's good.

Dilly Bag, 8 March 2019

Suicide prevention

First Nations people around the world are at significantly higher risk of death by suicide in comparison to the general population due to the ongoing impacts of colonisation and transgenerational trauma.[88] There are also strong demonstrated links between physical and sexual abuse, self-harm and suicidal behaviour.[89] In our on-the-ground work with Aboriginal women affected by family violence, Djirra frequently needs to assist in and de-escalate situations in which Aboriginal women are at risk of suicide.

Suicide prevention is much more than responding to crisis. Aboriginal women often disclose thoughts about suicide through open discussions about trauma. Djirra is a culturally safe space in which women feel safe to talk openly about thoughts of self-harm or suicide, sometimes for the first time. Djirra contributes to suicide prevention by:

- breaking down the shame and stigma of talking about traumatic experiences,
- not letting women fall under the radar,
- managing mental health through culturally safe counselling and referrals; and
- building a sense of connection, identity and hope.

"Because Djirra goes out into community, women can touch base with us over and over, this can take away the sense of isolation. That is a piece that we attend to very well."

Counsellor, Djirra, 4 June 2019

Trauma-informed culturally safe counselling

Recommendation: Provide dedicated, long-term funding to enable Djirra to establish a well-resourced counselling and wellbeing program for Aboriginal women. This must include:

– Culturally appropriate individual counselling support at Koori Women's Place;

– Individual counselling support at all early intervention and prevention workshops, including dedicated funding to enable trusted and qualified counsellors to be on-site for the entire duration of Dilly Bag;

– Culturally appropriate group counselling options at Dilly Bag and Koori Women's Place; and

– Follow up counselling sessions over the phone or face to face.

Recommendation: Provide dedicated, long-term funding to enable Djirra to support Aboriginal women and their children to access specialist and culturally appropriate external counselling, to complement the counselling and wellbeing support provided through Djirra.

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[88] See Anton C Clifford, Christopher M Doran and Komla Tsey, 'A Systematic Review of Suicide Prevention Interventions Targeting Indigenous Peoples in Australia, United States, Canada and New Zealand' (2013) 13:463 *BMC Public Health* 1, 2.

[89] See, eg, Mette Ystgaard, Ingebjorg Hestetun, Mitchell Loeb and Lars Mehlum, 'Is there a specific relationship between childhood sexual and physical abuse and repeated suicidal behavior?' (2004) 28(8) *Child Abuse and Neglect* 863.

Through a strong reputation and community trust, Dilly Bag is quickly able to create a space where Aboriginal women feel safe. Women who attend Dilly Bag frequently choose to share their lived experiences of trauma including childhood sexual assault. On this basis, Djirra received an amount of funding through the Royal Commission into Institutional Responses to Child Sexual Assault to employ a qualified, trusted, trauma-informed and culturally competent counsellor to be on site for a number of workshops:

"We quickly saw how amazing it was to have her there, what good came out of it. We realised that it was an absolute must."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

There is currently no line item in the Dilly Bag budget to enable a counsellor to provide on-site counselling and support at all workshops. Yet individual counselling to support women to process the trauma that may be brought to the surface at Djirra's early intervention and prevention workshops is an essential duty of care:

Any early intervention and prevention program in future needs to have a component of counselling. As a culturally safe service, counselling it is imperative that counselling is available for the whole duration of the workshops, for when women disclose, as well as providing ongoing support.

Djirra staff member: How important for you has it been to have a counsellor here? Whether you have spoken to her or not but just the fact that she's here?

Participant: I think it's really important because obviously people were talking about things that are quite triggering and upsetting and you need for it to be safe space, you need to be able to be held correctly and by someone who knows what they're doing.

Dilly Bag, 16 May 2019

"The women know we trust her, so even before they speak to her there is an existing trust."

Aboriginal staff member, Community Engagement Team, Djirra, 6 June 2019

The number of Aboriginal women who need and deserve trauma-informed, trusted and culturally safe therapeutic support, both in the prison and in the community, far exceeds the capacity of a single counsellor. This is why it is essential for Djirra to be resourced to expand our counselling team and wellbeing program, through Koori Women's place and at all early intervention and prevention programs.

Djirra has the appropriate expertise in family violence and trauma-informed practice to work with Aboriginal women whose behaviour often stems from a place of complex trauma. Djirra has over sixteen years of experience ensuring that Aboriginal women who might otherwise fall through the cracks of the service system are linked in and supported with culturally safe and trauma informed therapeutic support.

A **trauma-informed approach** to counselling involves:

"Trauma informed practice means I can expect that whatever comes up during a session is attached to a traumatic history. Whether a 'direct hit' or intergenerational transmission – it's not just 'shitty behaviour'"

- Not asking women to regurgitate their story again and again
- Understanding how trauma shapes the brain and psychobiological development
- Not focusing on diagnostic criteria
- Recognising the links between family violence, sexual assault and poor mental health
- Taking kinship, family, ceremony, grief, loss and sorry business into consideration
- Understanding the ongoing impacts of transgenerational trauma
- Acknowledging spiritual pain
- Developing strategies to regulate emotions and stay within 'the window of tolerance'
- Working from strengths based approach
- Being open to alternate forms of therapy, such as somatic experiencing
- Keeping contact and not letting women slip under the radar

Culturally safe counselling cannot exist without trust, relationships and connection. It is more than what happens during an hour of therapy. Culturally safe counselling involves:

- Open and respectful communication
- A culturally safe and welcoming physical space
- Aboriginal and Torres Strait Islander women feeling safe to express their cultural values
- Aboriginal and Torres Strait Islander women's identity, cultural knowledge and experiences is not questioned
- The counsellor being able to reflect on her own culture and privilege
- Recognising that the counsellor is not the expert
- Not blindly asking questions or giving advice
- Taking the time to get to know women
- Asking women how they would like to name and address their mental health concerns
- Understanding the central role of relationships and trust

"The relational piece is part of the treatment. It can't be separate. This is where other organisations fall down, they don't get it."

"You can't replace 50 years of community work with a policy and procedure"

"Culturally safe means allowing people to be who they are, not imposing my rules."

Counsellor, Djirra, 4 June 2019

Culturally safe and specialised wraparound support

Culturally safe wraparound support from specialised Aboriginal community controlled organisations such as Djirra plays a key role in achieving better mental health outcomes for Aboriginal women. Ensuring early access to specialist and culturally safe legal support from an Aboriginal organisation like Djirra is a crucial element of support and recovery. Addressing women's multiple, complex and interlocking legal issues is a necessary step to mental wellness. Early legal advice can help prevent the escalation of issues that would exacerbate mental health and other issues.

> ***"They [mainstream services] do that ping pong thing. There needs to be clarity. It needs to be holistic. Too often it's a case of, 'You don't meet our eligibility guidelines, so see you later!' Services need to be more wraparound, more inclusive, more culturally safe."***
>
> Aboriginal staff member, Legal Team, 17 June 2019

The wraparound support that Djirra already provides Aboriginal women affected by family violence could be further strengthened through embedding qualified and experienced social workers into Djirra's frontline staff. Most Aboriginal women who Djirra supports have complex interconnected needs relating to mental health, homelessness, alcohol and drug use. Taking into account important considerations around confidentiality, dedicated social workers could assist Aboriginal women with to navigate the complex intersections of the mental health, family violence and child protection systems. This would be particularly useful for Aboriginal women in the prison and post-release. Aboriginal women with long-term mental health needs have the right to ongoing culturally safe and specialised support without being rushed out the door. Djirra is best placed to provide wraparound support. Without organisations like Djirra, Aboriginal women will fall through the cracks.

> ***"There are some women I'm supporting because literally no one else will. They are Aboriginal women, they are on remand, they have experienced horrific family violence, they're struggling with mental illnesses or have an ABI. These women need strong case workers who can work with them one-on-one in an ongoing way."***
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> Aboriginal staff member, Legal team, Djirra, 17 June 2019