

# “Dying to be heard”\*: Family Violence in Aboriginal communities and Implications for Fatality Reviews



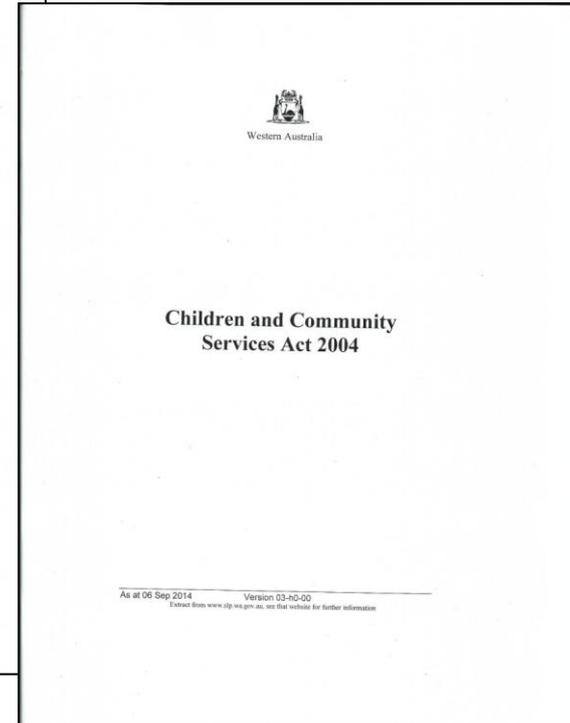
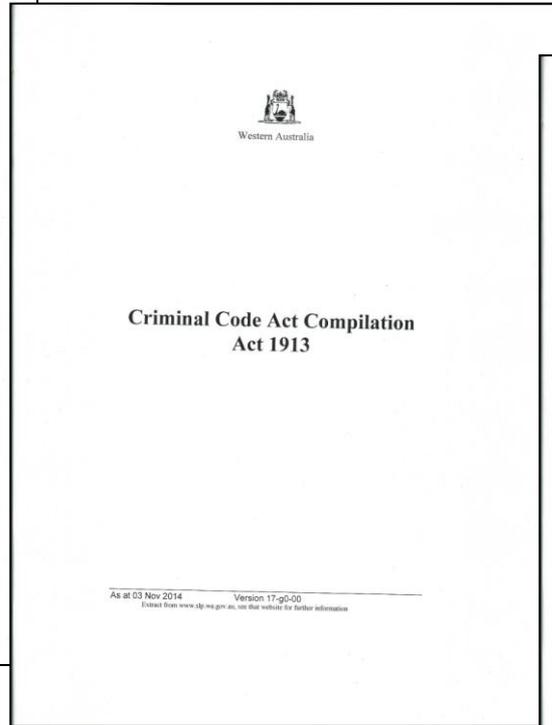
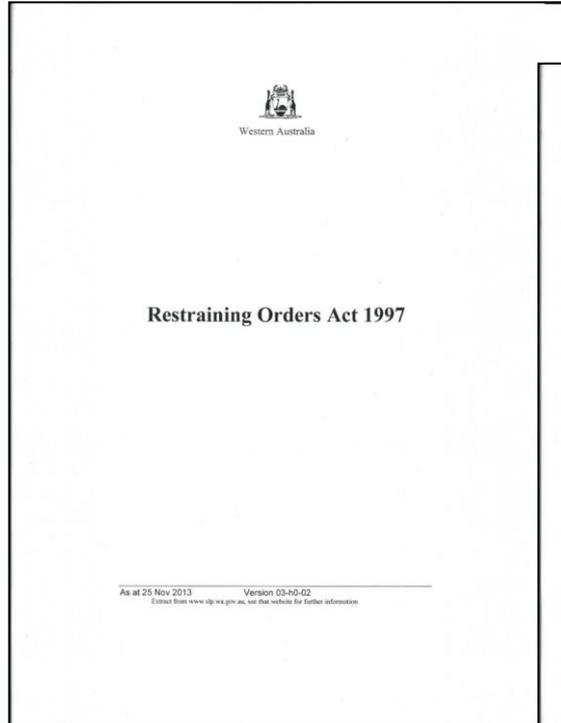
(KALACC, 2006)

Victoria Hovane  
Managing Director  
Tjallara Consulting Pty Ltd  
E: [ipas.vhovane@yahoo.com.au](mailto:ipas.vhovane@yahoo.com.au)  
M: 0417 928 216

# Introduction: First People of Australia



# Holding the Law



# “Dying to be heard”

*“Our people are living on the cross roads and the walk is a rough, rugged, cloudy journey to reach what the Government wants us to do. It’s not our system, I’ll tell you that. Some of us are lucky to learn that. Where do we go after that? We are still a separate people. You are there. We are over here. **You don’t want to know our way and we are given no choice but to go your way**”* (James Gaykamangu, Millingimbi, NT, cited in The Elders Report 2014, p.52).

# “Dying to be heard”

*“Our biggest issue is getting Governments to understand where (Law) and culture fits into their mainstream funding programs across all levels of government...”* (Dean Gooda, Fitzroy Crossing, WA cited in The Elders Report into Preventing Indigenous Self-harm and Youth Suicide 2014, p.16).

# Fatality Reviews in Context

Need to hit the reset button – a different approach to understanding FDV in Aboriginal communities is required:

- Onset and Development
- Maintenance
- Responses
- Opportunities

# Opportunities

- Located in two highly interrelated and readily available concepts:
  - Aboriginal Law; and
  - Aboriginal Culture.

**Aboriginal Law** continues to provide guidelines for everyday living (KALACC, 2006).

*“...the unchanging legacy of creative ancestors who formed the world in the Dreamtime...and established the all-encompassing moral and practical rules by which succeeding generations of Aboriginal people have lived for thousands of years”* (KALACC, 2006, p.15).

*“...a complex system of governance which regulates people’s social, political and economic lives...it also defines the kinship structures, cultural traditions and spiritual beliefs of all Kimberley peoples and governs the restricted esoteric practices of its initiated members...(it) provides the basis for traditional medicine, education and specialised training. This knowledge is encoded within the Dreaming stories, ceremonies, song cycles, cultural activities and dances of all language groups in the region” (KALACC, 2006, p.16).*

# Aboriginal Law: Women & Men have equally important roles and responsibilities



*“...(W)e’ve got it strong boss womans. They got authority to say whatever, whatever we doing”* (Roy Wiggin, Bardi, 2004 cited in KALACC, 2008, p.26).

*“...I can’t speak for woman. Brother and I, we work for woman, we do things for woman, but we can’t touch their ground”* (John Watson, Nyikina, 2004 cited in KALACC, 2008, p.26).

# Aboriginal Culture

Culture or the ways in which people **apply** Aboriginal Law may be subject to change in response to western influences (KALACC, 2006).

*“It’s how you live, how you talk, how you just present yourself...So, our young people these days don’t realize culture not only means ceremonial time...”* (Ngalu, Patsy Bedford, Bunuba, 2004, cited in KALACC, 2006, p.49).

*“...it’s tied up with relationships, skin groups and kinship. It also keeps us together, and that’s one of the intangible things, one of the things we can’t see but we feel. It binds us together and makes us know who we are...It helps us try to do the best things, to look at **how life can be lived with the proper dignity**”* (Kimberley Land Council, Crocodile Hole Report, 1991 cited in KALACC, 2006, pp. 49-50).

# Aboriginal Law & Culture (ALaC) Framework

(Tjallara-Hovane Trust © 2013)

## Values

- Law
- Culture
- Spirituality
- Ancestors
- Land
- Language
- Community
- Family & Kinship

...

## Principles

- 4Rs
  - Respect
  - Relationships
  - Reciprocity
  - Responsibility
- Courtesy
- Dignity ...

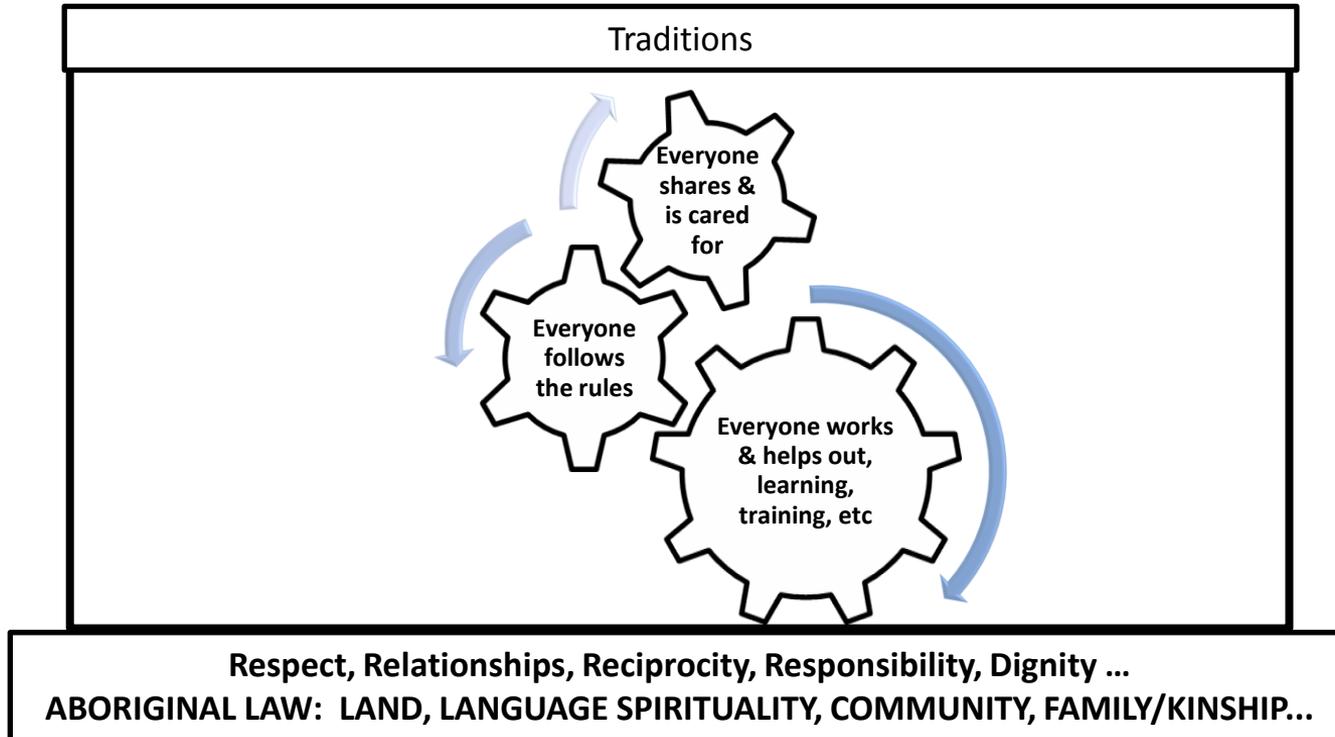
## Practices

- Work
- Learning
- Training
- Following Rules
- Caring
- Sharing
- Recreation ...

## Traditions

- Customs
- Ceremony
- Dance
- Song
- Language
- Story-telling
- Art ...

# Cultural Schema: **Law Way** (Tjallara-Hovane Trust ©2013)



# Onset and Development

- Colonial violence
- Dispossession of land (Gibbs, 1996).
- Sudden and violent deaths of important members of families and communities (Harris, 1994).
- Observance of beliefs, social customs, rituals and ceremonies undermined (Gibbs, 1996).
- Practices and rules came under intense pressure (Gibbs, 1996).
- **Aboriginal societal systems and mechanisms for regulating behaviour undermined (Law & Culture)**

# Onset & Development: Lessons from the deaths of our People since colonisation



Photos courtesy of Bohemia, J. & McGregor, B. 1995. *Nyibayarri: Kimberley Tracker*.  
Canberra: Aboriginal Studies Press.



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Canberra: Aboriginal Studies Press.

# Lesson: Aboriginal People have no value

*“Those simply shot were fortunate. Many were cruelly tortured, maimed, blinded, burnt and castrated...They were shot for dog meat. Women were chained to the huts of white settlers, used by the men, then tortured to death, some being forced to wear the heads of their murdered husbands...Worst of all to the Aborigines was the perpetual theft of their children for sexual purposes, or if they were lucky, to be domestic servants” (Harris, 1994, p.89).*

# Lesson: Whitefella way is violent and sadistic

*“...the belly of a black man is ripped open, and an intestine is severed, one end of which is nailed to a tree, and the wretched being driven round and round until his bowels are wound round the tree – and death releases him from unutterable agonies”*  
(Harris, 1994, p.118).

# Lesson: Whitefella way is to sexually objectify Aboriginal Women & Children

*“The sinister and deadly consequence of this widespread, continual and unrelenting sexual exploitation of Aboriginal women and girls was that venereal diseases reached epidemic proportions” (Harris, 1994, p.241).*

*“...women were ‘black velvet’; orgies were ‘gin sprees’; men particularly obsessed with Aboriginal women were ‘gin jockeys’; men who took the women by force were ‘gin busters’; the more discreet were ‘gin burglars’;...managers who tried to protect Aboriginal women and girls from sexual abuse were ‘gin shepherds’ and were despised” (Harris, 1994, p.239).*

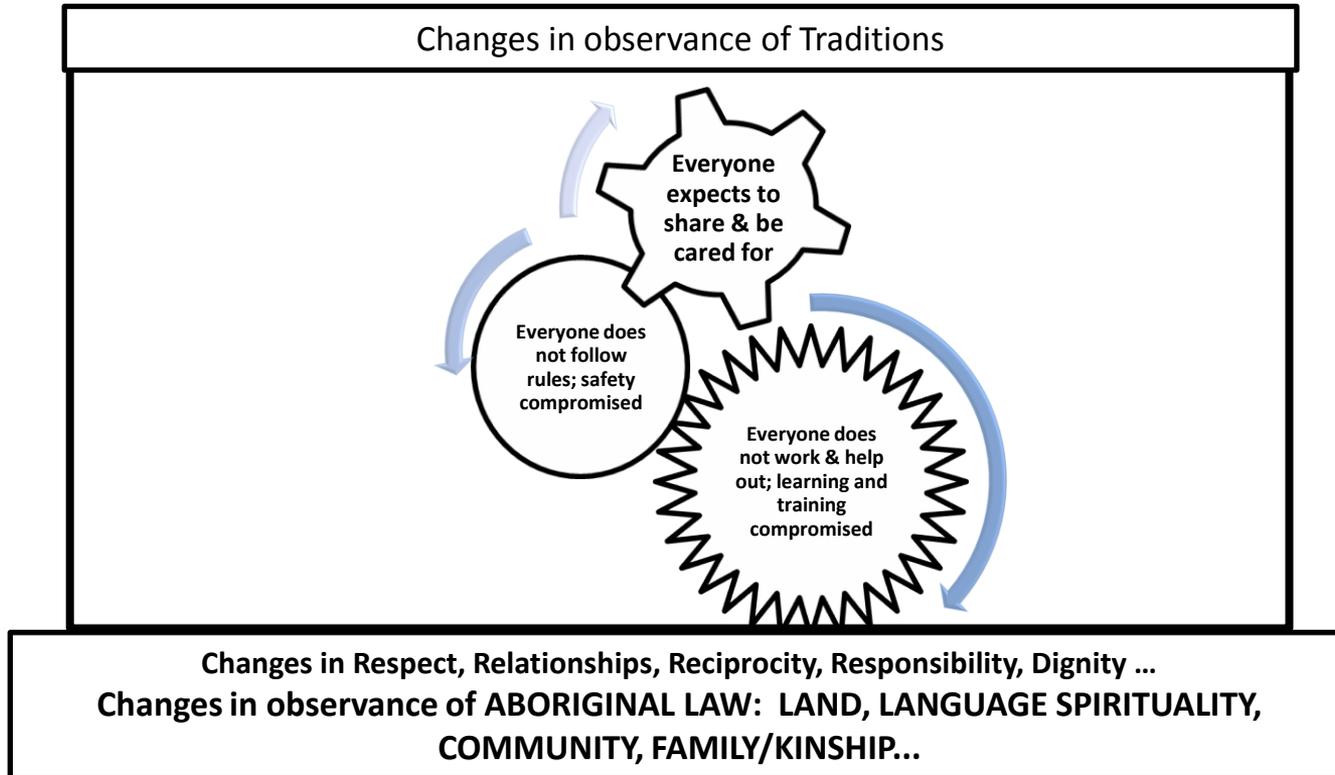
# Ongoing Lessons

- John Pat - DIC
- Mr Ward - DIC
- Ms Pickett – Murdered/Multiple RO Breaches
- Ms Dhu - DIC

The other night at (NAME), I went to pick up my kids and one little boy there, 12, was 3 times over the legal limit or whatever – he was out of it, and he was saying – and the coppers thought it was a joke – (NAME) was there and he was laughing at him, thinking it was a big joke and the young boy was going ‘she tried to munyge\*\* me, she trying to touch my prick’ and talking like that and I thought sheez....Because this little boy was off his head and saying ‘that woman there trying to...’ thing and ‘you want to charge her, she trying to – she wanted to suck on my thing and wanted me to...(t)hat was only a couple of weeks ago and the police just laughed about it (CMF03, p.30).

\*\*Local Aboriginal word for sexual intercourse

# Cultural Schema: **FDV Way** (Tjallara-Hovane Trust ©2013)



# Maintenance: Racial inequality

- Despite having no biological basis, the idea of distinct races still exists as a social construct ...*race is not in our heads because it is real, but rather it is real because it is in our heads* (Kaufman, 1999 p.101).
- The factors that lead to differential outcomes between 'races' live not in any 'racial' genes but in our **social institutions and practices**.

# “Dying to be heard”

*The Government’s ongoing approach is killing our people because the power and responsibility has been taken from the leaders and Elders* (Harry Nelson, Yuendumu, NT cited in The Elders Report 2014, p.36).

# “Dying to be heard”

*“We want the Government to understand that not supporting homelands, not supporting cultural education, and not supporting cultural activities is actually **a matter of life and death** for us. **It’s not just a nice little thing to support; it’s actually our people’s inner soul.**”* (Bernard Tipiloura, Melville Island (TIWI), NT cited in The Elders Report 2014, p.23).

**Fatality Reviews:** How can these cultural, systemic issues be adequately captured?

# Fatality Reviews in Context

- Racial inequality is systemically embedded in the foundations on which agencies, their policies and practices are based
- Emphasis on Individual rights and responsibilities
- Marginalisation of Aboriginal perspectives maintained

# Outcomes: Evidence in the Data

- Indigenous people are **2 to 5 times** more likely to experience violence as victims or perpetrators, than their Non-Indigenous counterparts (Willis, 2011).
- Indigenous women were **25 times** more likely to be hospitalised due to family violence related assaults and Indigenous males were **21.4 times** likely to be hospitalised than Non-Indigenous females and males (SCRGS, 2009).
- Indigenous Youth: **1 in 5** (20% or 20,900) young victims of physical violence. 49% (10,300) were physically injured or harmed; 61% (6,300) had not visited a health professional to receive treatment for their injury (67% in non-remote areas compared with 42% in remote areas) (ABS, 2010).

# Outcomes: Homicide Victimization

(Chan & Payne, 2013)

- Indigenous Australians are overrepresented.
- Indigenous homicide victimisation was **four times** higher than for non- Indigenous Australians.
- Indigenous males were **three times** more likely (4.6 per 100,000) than non-Indigenous males to be victims of homicide.
- Indigenous females were **five times** more likely (3.5 per 100,000) to be victims than non-Indigenous females.
- **Just over half (55%)** of all Indigenous homicide victims were killed in a **domestic homicide**, of which the most common subcategory was **intimate partner homicide** (n=25; 42%).

# Outcomes: Homicide Offending

(Chan & Payne, 2013)

- Indigenous Australians were overrepresented.
- Comprised 13% of the overall proportion of offenders, **five times** higher (7.1 per 100,000), than the Non-Indigenous population (1.3 per 100,000).
- As with their non-Indigenous counterparts, Indigenous offenders were **more likely to be male** (n=69; 85%) than female (n=12; 15%).

- Most Indigenous offenders killed an **Indigenous person** [(n=47; 58%); Indigenous female offenders (n=7; 58%) and Indigenous male offenders (n=40; 58%)].
- **Indigenous male offenders:** 46% killed a family member (n=32); 29 % killed a friend or acquaintance (n=20); and 22% killed a stranger (n=15).
- **Indigenous female offenders:** 83% of homicides (n=10) were classified as **domestic-related**, while only two incidents (17%) were classified as acquaintance homicides.

# Impacts of Deaths

**Experienced collectively – Widespread and compounded**

- Complex Trauma
- Loss, Grief, Mourning, Bereavement
- Distress
- Ongoing reminder of how we came to lose our well-being
- Disempowerment, frustration, anger, helplessness

**Fatality Reviews:** How can this be adequately captured?

# Responses: Making a difference

*“We have ceremony. We have Lore. We have leaders who stop bad things from happening and we (Lore men & women) don’t do it for the money. We have our Lore people and a system for good things and bad things. These laws and punishments have worked in our communities in the past, they work today and they will work in the future.”* (James Gaykamangu, Millingimbi, NT, cited in The Elders Report 2014, p.53).

## Example:

### Aboriginal Law: Discipline, wrong-doing and justice

Physical punishment\* viewed as “...*a strong deterrent to repeated misbehaviour, whilst allowing offenders to be cleared emotionally and psychologically of their guilt*” (KALACC, 2006, p.47).

*“(Customary Law), well that’s their way of finishing trouble in the community...If he go clear his trouble he’s finish, and he’s a free man again...”* (Harry Watson, Nyikina, 2004, cited in KALACC, 2006, pp.47-48).

**\* Punishment v Violence. Consult Law People on suitable alternatives!!**

## Example:

### National Aboriginal & Torres Strait Islander Health Plan 2013-2023

- Recognises the centrality of Law and Culture for health and well-being.

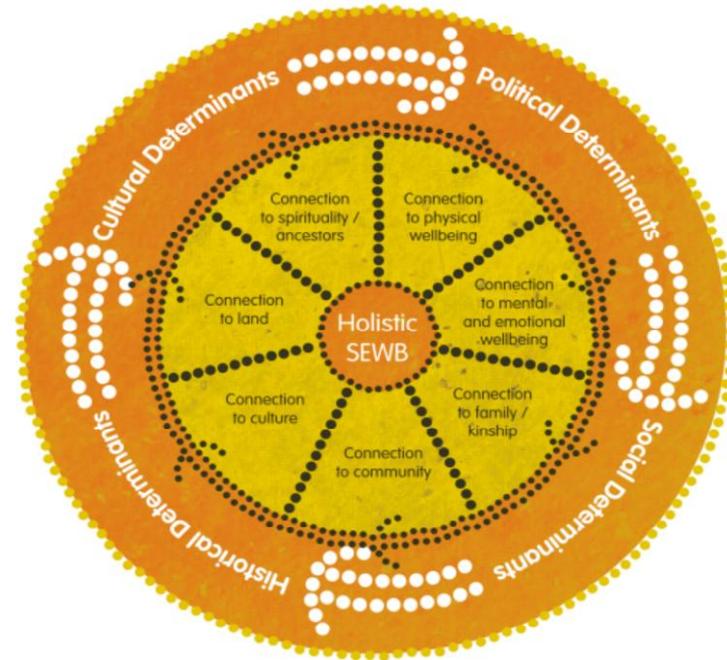
*“Aboriginal and Torres Strait Islander peoples have the right to live a healthy, safe and empowered life with a healthy strong connection to culture and country” (p.7).*

- Uses a lifespan approach.

# Risk and protective factors: SEWB

Determinants of Social and Emotional Wellbeing

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Artist: Tristan Schultz, RelativeCreative. Reference: Gee, Dudgeon, Schultz, Hart & Kelly, 2013  
on behalf of the Australian Indigenous Psychologists Association

# Invitation

- Let's get the proper story of FV in Aboriginal communities and the role that Law and Culture can play in promoting community safety.
- Establish a specific and well resourced strategy to involve Law People, Elders and Senior Aboriginal people in discussion on the way forward in respect to understanding FV and FV fatality reviews (e.g., Taylor, 2008).



Spider Snell performs part of *Kurtal juju* on the Ngurrara canvas in Canberra, 1997. The painting is a map of the traditional lands of Ngurrara Native Title claimants. (KALACC, 2006)



(KALACC, 2006)