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Indigenous Offenders: Issues and Challenges for Correctional Psychologists

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> *The overrepresentation of First Nations peoples in post-colonial criminal justice systems is an ongoing critical public policy issue.* (Lockwood, Hart, & Stewart, 2015, p. 769)

There are many challenges faced by Indigenous communities that are not experienced by other groups. These relate to political (e.g., colonization, historic and contemporary conflict), moral (e.g., acknowledged status as citizens, or even as persons), and socioeconomic (e.g., land confiscation and resource displacement) issues. To understand Indigenous offenders then, one clearly needs to appreciate the context of Indigenous peoples more broadly. The aim of this chapter, however, is not to provide an overview of this context or to present a comprehensive account of the diversity of Indigenous peoples and offenders. Rather, our intention is to introduce some of the practice issues that are relevant for those who work directly with Indigenous and Aboriginal offenders. Suffice it to say, however, that the context for many Indigenous peoples includes: (a) disproportionate representation in criminal justice environments; (b) discrepancies in sociopolitical autonomy and power; (c) recognition of diversity within communities; (d) marginalization and low participation in correctional psychology practices; and (e) the distortion of cultural values in the justification of offending. An understanding and appreciation of local knowledge, perceptions, and practices is, in our view, a prerequisite for developing correctional interventions that are relevant and sustainable for the offender and their community. Furthermore, there is a case to be made for inviting members of the community to participate collaboratively in the development and application of all assessment tools and rehabilitation practices, if not least to create a joint understanding of the implications and social consequences of these practices for the individual, their families, and even the community.

From the outset we note that other groups defined in a non-dominant context are not the focus of this chapter. However, practitioners who work with other minority groups or

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communities most readily identified by ethnicity (e.g., migrants, refugees) or lifestyle (e.g., lesbian, gay, bisexual, transgender, and intersex [LGBTI], religion) may find some resonance with the issues raised here. This may include large minority groups who also experience discrimination, such as African Americans or those in the United States from Hispanic cultural backgrounds. We also note that the term *Indigenous* is ambiguous and not widely agreed upon, so for the sake of convenience, in this chapter we refer to Indigenous peoples[1] as those who are typically a non-dominant group which has an acknowledged claim to be the original inhabitants of a given land.[2] In some jurisdictions this distinction is quite clear, such as with the Aboriginal and Torres Strait Island peoples of Australia, the various iwi[3] that comprise the Māori of New Zealand, and the Maya of Guatemala. In other regions this is somewhat contested (e.g., Africa, the Middle East) as a result of nomadic migration and dislocation. Peoples who are regarded as Indigenous typically claim the right to define themselves and often reject the notion that outsiders can do so. Self-identification is seen as a basic human right, but not one that is always honored in the correctional setting.

Indigenous Peoples are Over-Represented in Criminal Justice Settings

Perhaps the most tragic feature, common to all Indigenous peoples in the developed world, is their conspicuous over-representation in their respective criminal justice systems. As can be seen in Table 18.1, Indigenous peoples in Canada, Australia, and New Zealand are grossly over-represented in terms of rates of imprisonment and community sentences when their relative presence in the general population is taken into consideration. For instance, although Aboriginal and Torres Strait Island people in Australia comprise only 3% of the general Australian adult population, they represent 27% of the total full-time prisoner population (as at March 2015; Australian Bureau of Statistics, 2015).

Table 18.1 General Comparison of Imprisonment and Community Sentenced Rates of Indigenous Peoples in Australia, Canada, and New Zealand (ca. 2015)

	Imprisoned		*Community Sentence/order*		*General population*	
Country	*Total*	*Indigenous*	*Total*	*Indigenous*	*Total*	*Indigenous*
Australia[a]	36,122	9,885 (27.4%)	59,992	11,780 (19.6%)	21,507,717	669,900 (3.1%)
Canada	15,327[b]	3,542 (23.1%)	7,827[b]	1,318 (16.8%)	32,852,325[c]	1,836,035 (5.6%)
New Zealand	8,641[d]	4,389[f] (50.8%)	36,451[d]	15,859[f] (43.4%)	4,242,048[e]	598,605 (14.1%)

[a] Australian Bureau of Statistics, 2014, 2015, 2016.
[b] Public Safety Canada, 2015.
[c] Statistics Canada, 2016.
[d] Department of Corrections (New Zealand), n.d.-a, n.d.-b.
[e] Statistics New Zealand, 2016;
[f] approx.

It is also the case that Indigenous communities are heavily impacted by crime. Although high crime rates characterize many communities irrespective of cultural heritage, Lloyd et al. (2015) argue that *hyper-incarceration* can mean that prison is perceived by those communities as being "accepted, expected and normalized" (p. 2). They add that the cascading risk of growing up in regular contact with the criminal justice system, and in communities where many members are, or have been, incarcerated, can result in the distortion of social norms so that prison can become a social institution that reflects a normative pattern of expectations and behaviors: an anticipated life event. Furthermore, normal everyday processes of interacting with family (siblings, cousins, parents, and friends) are lost, making it increasingly difficult to establish and maintain meaningful relationships with those outside of the prison system, depriving people of the opportunity to live a fulfilling life. The influence of this social context on personal responsibility for behavior is recognized in some parts of the law, and yet it is rarely considered in psychological assessments or interventions. For example, in Australia, although the same sentencing principles are applied in every case, courts are also bound to take into account all material facts, including those which exist only by reason of the offender's membership of an ethnic or other group (*Neal v. R*, 1982; *R v. Fuller-Cust*, 2002). The "material facts" that have been found to be relevant in sentencing Indigenous offenders include the severe social and economic disadvantage, accompanied by endemic alcohol abuse (which exists in some Indigenous communities). Anthony (2010) describes this in relation to the *R v. Fernando* (1992) case law where Justice Wood held that:

> … the equal treatment of Indigenous offenders required, where relevant, consideration of their subjective circumstances, including their Indigenous background where it threw "light on the particular offence and the circumstances of the offender" (p. 62).

The judge added that where alcohol abuse was indicative of the socioeconomic circumstances and environment in which the offender had grown up, that it should be taken into account as a mitigating factor, and that there was a need to consider rehabilitation orders. This was, in his view, because recognition of the relationship between alcohol abuse and violence in Indigenous communities required more carefully considered approaches than imprisonment. In *Police v. Abdulla* (1999), the South Australian Supreme Court held that the Fernando principles should receive "broad application" beyond "Aborigines living in the more remote communities," and the Court of Criminal Appeal has further noted that these principles are "not restricted to traditional Aboriginals" (*R v. Smith*, 2003). This legal acknowledgement of how cultural issues can mitigate personal responsibility for offending requires recognition by those who are seeking to assess risk and delivering offender rehabilitation.

Indigeneity and Power

In a broad sense, indigeneity raises issues of power, historic conflict, contemporary struggles for sociopolitical autonomy, and differential notions of knowledge, meaning, and praxis. The impact of an individual's cultural heritage and sociopolitical legacy can, in important ways, inform the perpetration (and victimization) of violence among specific communities. For instance, Ellerby (1994) described Aboriginal sex offenders in Canada as being more likely than non-Aboriginal sex offenders to exhibit issues associated with: displacement, abandonment, and racism; personal identity confusion; a history of maltreatment; poverty; death due to

illness, suicide, and violence; deficits in education, employment skills, financial position, and social supports; and histories of more aggressive sexual behaviors. This suggests that a range of pervasive stressors that have the potential to impact on attitudes toward others and interpersonal behavior may be manifest across a population.

Wohl and Aponte (1995) have further argued that Indigenous peoples have historically been under-served by social services, with societal forces continuing to put these groups at risk. To put this another way, the lack of essential services available for Indigenous people after release from prison may be a significant contributing factor to higher recidivism rates (Lloyd et al., 2015). Without access to comprehensive health care and social support, Indigenous people simply return to the same environments that led to their incarceration.

Correctional services are typically regarded as a government agency, meaning that any services they provide are inextricably linked with those social institutions (such as law enforcement and criminal justice) that have been responsible for historical abuse and the disproportionate exercise of power. This aversive relationship between offenders, their communities, and social institutions—perceived or actual—may adversely influence the level of trust that exists between the offender and the service provider. Homel, Lincoln, and Herd (1999), for example, comment that practitioners cannot understand matters relating to risk without understanding the impact of traumatic experiences such as forced removals and institutionalized racism, as well as the ongoing protection afforded by strong social bonds to family and other factors relevant to cultural resilience, personal control, and family control. Day et al. (2008) have further reported that Indigenous prisoners (in Australia) are more likely to experience symptoms of trauma, have greater difficulty identifying and describing feelings, and perceive higher levels of discrimination than non-Indigenous prisoners.

Indigenous Peoples Are Diverse

Although Indigenous peoples may share common histories or experiences, it should be noted that these communities are not homogeneous, either across peoples or within communities. LaPrairie (2002) has, for example, challenged the then-conventional wisdom about the presumed homogeneity of aboriginal (Canadian) offenders, noting age-group, socioeconomic, risk-need, and Aboriginal status differences, as well as regional variations. In Australia, McCausland and Vivian (2010) also describe considerable variation in rates of Indigenous offending from one area to another, even in those areas that have comparable Indigenous populations to each other. They argue that local factors are critical to any understanding of risk and protective factors in Aboriginal communities. For example, their conversations with key representatives from one Indigenous community indicated that high alcohol consumption, lack of meaningful employment and activity, poverty, and inequality, as well as environmental disruptions (e.g., drought), contributed directly to higher crime rates. In addition, grief and mental health problems, an "acceptance" of crime, a lack of understanding of the criminal justice process (irrespective of regular contact), disjointed, inappropriate, or remote service delivery (as well as poorly evaluated programs), and community dynamics were all identified as attributes of a community in which crime was high. Alternatively, better employment opportunities, a good working relationship with police, a collective sense of a positive future, school–community relationships, strong women leaders, and local solutions to local problems (and perceived lack of government interference) were seen as positive attributes of a community in which crime was low. The take-home message of this type of community research is that the

challenges and needs of communities will vary, and practitioners are thus advised to develop an understanding of the communities from which their clients come. However, it is also the case that community-level variables are poorly understood; they have been little investigated or absorbed into mainstream correctional psychology practice.

Marginalization

Indigenous peoples have also been susceptible to social disempowerment resulting from colonization,[4] economic dislocation, and the imposition of alien legal, educational, and religious systems (Lee, 1995). On an everyday level, Indigenous peoples are subject to multiple prejudices in relation to: (a) criminal histories and associations (e.g., gangs); (b) lower socioeconomic status and poverty; and (c) ethnicity. Marginalization involves the tacit or active side-lining of a community, usually as a result of low political influence or consideration. The impact can include reduced subsidization of resources that are necessary for community health. For instance, Nielsen (2004) described Canadian and North American examples of *legal* processes that have forbidden Indigenous peoples from holding religious ceremonies, *educational* processes that have restricted many Indigenous children to poorly resourced schools (thus making them marginally unemployable), *political* processes that have forbidden Indigenous peoples from voting or forming political lobby groups, and *economic* processes that have made it illegal for Indigenous peoples to work off their reservation, reserve, or mission without giving up their Indigenous status. Any attempt to resist or challenge these processes was defined as criminal behavior.

The challenging relationships that can exist between Indigenous peoples and social services can harm efforts to establish the extent of offending in a community. For instance, Day, Jones, Nakata, and McDermott (2012) observed that the extent of violence in some Aboriginal (Australia) communities can be difficult to determine due to under-reporting, a lack of appropriate screening by service providers, and incomplete identification of Indigenous status in data sets. Furthermore, the recognition of marginality in the course of encountering indigeneity and one's role in perpetuating that marginality—tacitly or otherwise—by virtue of representing a state institution can also be aversive to psychologists. The experience of collective guilt and white privilege can be problematic in practice because guilt is an unpleasant emotion that can prompt unhelpful coping responses (such as avoidance or denial), and even threaten social identity through the promotion of shame (Gunn & Wilson, 2011).

Cultural Distortions

Misapplication of customary values and rules is another area that practitioners need to consider when engaging with Indigenous offenders. Offenders may misapply, exaggerate, and/or distort traditional cultural principles or rules to justify their own behavior, thereby setting double standards of behavior (Memmott, 2010). For instance, the reluctance to report the crimes of a family member, particularly in relation to child sexual abuse, can be exacerbated in small populations where everyone in the community is likely to be related to a greater or lesser degree. Greer (in Gordon, 2013), commenting on remote Indigenous Australian communities, noted that the connection with land, family, and where one comes from is foundational to the identity of an Aboriginal person, so anything which may lead to rejection by the

community is avoided. As such, reporting sexual assault or even admitting that it happens is seen as striking out against the community, and any victim who speaks out is likely to risk rejection.

Another culturally informed barrier that enables the perpetuation of violence or sexual abuse can involve offenders taking advantage of their special community status to exploit vulnerable persons. For instance, Metge (1995) observed that whanau[5] and community depended on strong leadership from koroua[6] and kuia,[7] and that if a leading kaumātua[8] committed sexual offenses, especially if he had high mana[9] as a repository of esoteric knowledge, community members found it difficult to challenge him openly.

Correctional Psychology and Indigenous Practice

The general focus of effort in correctional psychology has been with achieving two primary outcomes: (a) developing and implementing offense risk measures; and (b) providing effective rehabilitation. In both of these areas the literature has been largely uninformed by cultural differences, an observation made over 20 years ago now by Bonta, Lipinski, and Martin (1992). Indeed, the contemporary scholarly literature prioritizes particular practices, such as the development and validation of actuarial risk assessment tools utilizing methodologies that are atheoretical, objective, and "culture-neutral." Given the inherent bias in this approach toward assuming that experiences are universal (and can be measured through common, standardized metrics), it is not hard to see why such research is often negatively perceived by Indigenous people (Trimble & Fisher, 2006). Furthermore, governments' sporadic interest in indigenous research has contributed to a marginal history of shaping justice projects and influencing policy decision-making (LaPrairie, 1999; van de Vijver & Leung, 2000). This, combined with a bias against the development of Indigenous-led research (especially if engaging alternative forms of knowledge generation), further reflects a selective reinforcement of scientific principles that is often reflected in poor research opportunities for Indigenous-led research (Sue, 1999). The major concern here, however, is that any understanding of the offender quickly becomes decontextualized and thus loses validity. It follows that a primary challenge facing any correctional psychologist is to *understand individuals in their context* and that appreciating the perspective of Indigenous peoples will often involve attempts to understand an alternative and collective worldview that does not superimpose neatly, if at all, on Western notions of knowledge in general or offending behavior in particular. To put this in different, and perhaps more practical, terms, it becomes important for the assessing psychologist to understand the extent to which Indigenous offenders experience unique life events which create offense pathways that are dissimilar to those of dominant cultural groups.

Risk Assessment

In September 2015, the Federal Court of Canada released a decision[10] allowing an action against Correctional Services Canada (CSC) for an unjustified violation of the plaintiff's section 7 right to life, liberty, and security of the person under the *Canadian Charter of Rights and Freedoms*. The plaintiff, Jeffrey Ewert, was a 53-year-old Métis prisoner who was serving two life sentences for second degree murder and attempted murder, and was sentenced to 15 months' imprisonment, to be served concurrently, for an escape from lawful custody conviction. At the time of the decision, he had spent 30 years in various federal correctional

facilities. Ewert alleged that the psychological risk assessment tools used by CSC were not culturally appropriate for use with Aboriginal prisoners. Of interest was the debate between a number of expert witnesses about the veracity of the psychological assessment tests used in the case. The expert witness for Ewert provided evidence to demonstrate that the assessment tools were susceptible to various forms of cultural bias and that scores should not be used to inform legal decision-making because of the cultural differences between Aboriginal and non-Aboriginal groups. Based on the weight of the evidence, the Court determined that Ewert had been successful in proving that the assessment tests were unreliable due their susceptibility of cultural bias. Furthermore, the Court found that the results of the tests had a negative impact on Ewert by increasing his security classification and reducing his desire to apply for parole. Although the decision was subsequently overturned on appeal, a recent decision by the Supreme Court of Canada recognized the critical role played by Correctional Service Canada, particularly the use of risk assessment and classification processes, that may be unjustly prolonging the incarceration of Indigenous prisoners disproportionately to their non-Indigenous prisoners. This case highlights one of the unique challenges faced by correctional psychologists who encounter offenders who are not only culturally different from them, but also have a special political status, namely, the applicability of psychological science to Indigenous peoples and the impact that psychological approaches, especially risk assessment, may have for peoples who do not see benefits for them or their communities.

It is certainly the case that most current risk screening and classification tools have been validated with data from dominant culture (male) samples, and the ability of these tools to accurately predict recidivism in other cultural groups remains largely unexamined. This issue has been raised with the Static-99 (Hanson & Morton-Bourgon, 2009), the most commonly used and the most widely researched measure to assess risk of sexual reoffending, used internationally. The Static-99 has been consistently shown to have a moderate level of predictive accuracy for sexual reoffending.

However, differences have also been noted within subsets of the sex offender samples that have been studied. Långström (2004), for example, found that the Static-99 predicted recidivism among Nordic and non-Nordic Europeans, but failed to significantly predict recidivism among the African/Asian offenders in a Swedish national sample. Allan, Dawson, and Allan (2006) also reported poorer predictive validity (area under the ROC [receiver operating characteristic] curve of .65) for Australian Indigenous offenders assessed using another actuarial tool, the Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR), than for non-Indigenous sexual offenders (AUC of .74), although the latter figure is similar to that reported in the original Canadian validation data.

A more recent Australian study by Smallbone and Rallings (2013) also reported that the predictive accuracy of the Static-99 was lower for Indigenous than for non-Indigenous offenders for sexual (AUC = .76 vs. .82), non-sexual violent (AUC = .59 vs. .64), and any violent recidivism (AUC = .67 vs. .77). Although the authors of this study concluded that the Static-99 is no less accurate for Indigenous Australian offenders than it is for many other sexual offender populations, another study of the Static-99-R and Static-2002-R involving five independent Canadian samples has reported a number of significant differences between Aboriginal and non-Aboriginal sexual offenders (Babchishin, Blais, & Helmus, 2012). Aboriginal sexual offenders scored significantly higher than non-Aboriginal sexual offenders on total scores and items related to general criminality, while scoring lower on items related to sexual deviancy. Canadian Aboriginal sexual offenders were found to be significantly younger and to have lengthier criminal histories than non-Aboriginal sexual offenders; they were also found to

have lower educational achievement, higher rates of unemployment, and more extensive histories of substance abuse. For risk factors specific to sexual offending, they were less likely to have sexually deviant interests and paraphilias, and less likely to have male victims. In terms of predictive validity for sexual reoffending, the risk factors for general criminality were less predictive for Aboriginal sexual offenders, despite their higher average scores on these factors (risk factors associated with sexual self-regulation, social influences, and relationship stability had similar predictive validity for Aboriginal and non-Aboriginal sexual offenders). The predictive accuracy of the Static-99-R was similar for both groups of offenders, but the Static-2002-R had significantly lower predictive accuracy for Aboriginal sexual offenders.

This study provides additional grounds to suspect that some instruments are less accurate when used with Aboriginal and other ethnic groups that have not been part of the normative samples for those measures, and, indeed, the need for local validation with sub-populations of offenders is now increasingly widely recognized (e.g., Craig & Beech, 2009). This is clearly a position that has some traction in the wider justice system. Maurutto and Hannah-Moffat (2007) have reported concerns from judges, prosecutors, and defense lawyers in Canada about the appropriateness of using actuarial risk assessments instruments and risk-based sentencing for Aboriginal young people, suggesting that risk assessments "introduce speculation and morally laden subjective assessments that reflect white, Western middle-class judgments … [that] could result in more intrusive and punitive dispositions for marginalized youth" (p. 467). The important point here is that the way in which the causes of offending in Indigenous communities are conceptualized has some significant implications for the way in which risk is assessed in a context in which the over- or under-assessment of a particular need may result in the delivery of an inappropriate level of intervention, or lead to an inaccurate overall risk classification rating. In short, it has been suggested that the "Indigenization" of existing measures approach is so subject to misinterpretation and cultural bias that the approach should be completely abandoned (Drew, Adams, & Walker, 2010).

Allard's (2010) review identifies a number of culture-specific risk factors in Australian Indigenous offenders, while noting that the risk factors for Indigenous offending in Australia are largely similar to those for the wider population (and that the higher incidence of these risk factors in Indigenous populations may help to explain higher rates of offending). For example, Allard discusses suggestions that forced removals, dependence on government, and racism (Homel et al., 1999) all contribute to risk of reoffending. In Australia, 8% of the Indigenous adult population was taken away from their family and one third had a relative removed, with strong correlations between having a family member taken and subsequent arrest and incarceration (Dodson & Hunter, 2006). Zubrick et al. (2004) also found that Aboriginal carers who had been forcibly separated from their natural family were almost twice as likely to have been arrested and charged with an offense at some time.

These findings are somewhat consistent with those of a New Zealand longitudinal study of more than 1,000 people born in Christchurch in 1977 (see Department of Corrections, 2007). This reported that although Māori were involved in violent offending at two to three times the rate of non-Māori, ethnicity did not predict offending once controls were introduced for family circumstances (including parental alcohol abuse and offending) and parenting behaviors (use of punishment and level of care). There is also some evidence to suggest that an insecure cultural identity is associated with risk of reoffending. A New Zealand study by Marie, Fergusson, and Boden (2009) reported that those with a Māori and another ethnic identity had higher offending rates than both what they referred to as "sole-Māori" and non-Māori. So, whilst some areas of need (e.g., finance, accommodation, education, employment,

substance use; see Bonta & Wormith, 2013) are clearly relevant to offenders from all cultural groups, the case can be made that individualized assessment and specialist service provision is required to understand and address what might be described as "culturally-specific" needs.

It might be assumed that the obvious solution here is to simply commission a series of studies around the world that validate each risk assessment tool with additional data collected from Indigenous offender populations. This would then establish which tools could be used with which groups and lead to the development of a range of new specialized assessment protocols in circumstances where predictive validity cannot be established. The problem, in essence, can be viewed as simply a short-term one, and, in the interim, psychologists have to make some "best guesses" about what to do when asked to assess individuals from groups for whom limited validation data are available. However, reservations about the routine use of risk assessment tools with Indigenous offenders go beyond those associated with concerns about a lack of local validation data to include the possibility that current tools overlook important causes of offending in Indigenous communities and, by doing so, fail to discern the interactions between key drivers of crime such as identity, cultural connectedness, mental illness, and substance abuse (see Day, 2003; Hsu, Caputi, & Byrne, 2009). This is critical to the overarching purpose of most correctional assessments: to inform the delivery of interventions that can meaningfully reduce the chances of further offending taking place. For some, such as Case (2006), there is a need to replace the "risk factor approach," which emphasizes aggregate correlates of crime, with a more holistic and sensitive methodology that considers the underlying causes of their over-representation, including social and economic marginalization grounded in historical processes. This implies that more meaningful, and ultimately more effective, interventions can then emerge.

In concluding this section on assessment, it would be wrong to conclude that critiques of current risk assessment practices are the views of a few radicals. Similar arguments have been presented to support the development of gender-specific assessment practices (see Van Voorhis, Wright, Salisbury, & Bauman, 2010), and concerns have been widely voiced about the historical use of psychometric testing for racial discrimination purposes and the problems associated with the idea of a pan-Indigenous concept of culture that does not reflect between-community differences (it has been estimated that there are more than 600 distinctive Aboriginal cultural groups in Australia alone; Gillies, 2013). The alternative is to develop methods of psychological assessment from the ground up, operationalizing Indigenous theoretical constructs and Indigenous ways of thinking and conceptualizing, and adopting Indigenous knowledge protocols to guide the work. Indigenous consultation methods of this type have been recommended by the United Nations, and yet although measures developed in this manner could also subsequently be subject to statistical validation, the approach has not been widely embraced (or endorsed) by the psychology profession.

Offender Rehabilitation

Offender rehabilitation and reintegration efforts are greatly informed by observing those cultural processes that serve to promote a fair process as well as to develop opportunities for constructive dialogue. Poor sensitivity to cultural encounters (i.e., the misattribution of the causes of behavior) can result in poorly informed assessments, inappropriate interventions, and poor outcomes. This may take the form, for example, of overestimating deviancy and criminality across a given group, overlooking potentially powerful social supports, and undermining the individual's existing coping style. In addition, offenders may be cautious about engaging

with the correctional practitioner and concerned that any information provided in treatment will be misused to increase their experience of stigmatization (Korbin, 2002; Patel & Lord, 2001). As with risk assessments, offender rehabilitation processes typically occur in coercive contexts, and although an offender has the right to withdraw consent, the consequences for doing so may be costly (e.g., declined parole) and may also be interpreted as resistance. In the next section, we discuss some opportunities for exploring and understanding the context and realities of Indigenous offenders and some departure points for developing culturally responsive practices that can improve engagement in any effort to change offending behavior.

Understand the Issues for Indigenous Offenders and Their Communities

As discussed throughout this chapter, we advocate that an understanding of offending begins with an understanding of the offender and their context, or what McDermott (2008) refers to as being "clued in," adding that reciprocity, or the *sharing* of information, is central to establishing rapport. A working knowledge of the community from which every offender originates is valuable information for a clinical and cultural formulation. Indigenous peoples (and refugees) are likely to have a history of dislocation and migration that can inform an understanding of any individual's offending behavior. For instance, separation from place and community is inherently stressful, and can incur loss of meaningful role identity, introduction of downward social mobility (e.g., unemployment), and the erosion of family structures and community sanctions and attitudes.

To understand diversity also requires an understanding of systems and injunctions that inform the individual's role(s) within their given community and codes of conduct. So identifying behavior that is considered normative and acceptable within the community and that which is considered abnormal and prohibited (as well as the mechanisms for managing behavior in the interests of the community, such as ostracism, physical punishment, imprisonment) is always going to be important. Ultimately, the challenge for the correctional practitioner is to understand the *meaning* of specific behavior (i.e., offending) under these conditions. Some challenging rehabilitation issues include: (a) language (i.e., determining whether a translator is required) as well as mode of language: intervention efforts that are not well matched to the individual's learning style (i.e., the responsivity principle) may also be less effective if written homework tasks are required from offenders whose primary modality for learning and communication is oral; (b) attitudes toward victims: attending to how victims (e.g., women, children) are located within a community and a family offers insights into how offenders may invoke cultural justifications for their offending; (c) disclosures—describing and discussing offenses, especially sexual assaults—can be confronting for offenders whose culture prohibits open discussion of sexual behavior more broadly; and, (d) shame: those who are interdependent tend to be more concerned about negative evaluations from others than those who are independent. Cull and Wehner (1998), for example, describe shame as being deeply experienced by many Indigenous Australian men who have sexually offended. In addition, deviant behavior may result in loss of face or threat of loss of one's social integrity (Hall, Sue, Narang, & Lilly, 2000).

Cultural biases among practitioners are often inadvertent, denied, and typically beyond immediate awareness (Dana, 2005). To practice in a culturally responsive way involves the development of specific and nuanced understandings of cultural expectations and boundaries.

An important prerequisite to working effectively with Indigenous clients, especially in Australia and New Zealand, is to be accepted as a person who is able to demonstrate appropriate respect to other community members according to cultural protocols. In an Australian Aboriginal context, for instance, unless the wider community supports the treatment that is being offered, there is little likelihood of people participating. Jones, Masters, Griffiths, and Moulday (2002) have suggested a range of additional strategies that can help practitioners engage with the communities and establish their credentials. These include regular, ongoing cultural awareness training; cultural oversight and advice from Indigenous Reference Groups, Elders Councils, or other Indigenous bodies; and regular cultural supervision from cultural experts to assist with matters of everyday practice.

Formative preparation practices and supervision that includes cultural experience and an appreciation of cultural diversity are recommended to promote practitioner self-development. This can also cue dialogue about the role of cultural constructs in correctional practice. Suggested approaches include: (a) developing agency capacity for brokering sound cultural supervision provision from individuals who have good standing in their particular community, as well as institutional or industry knowledge of the field of risk assessment and offender management. Educating practitioners on the histories, beliefs, and practices of their people as well as supporting new assessment practices can also be of immeasurable value in developing sensitivity in practice; and (b) conducting case conference meetings with cultural advisors can enrich cultural knowledge and enhance practitioner confidence. Such meetings may involve highlighting and discussing a critical incident (e.g., non-disclosure), failure to engage, or how to work with the offender's support in an efficacious way—especially if there is distrust of or animosity toward practitioners.

Preparation for any assessment and intervention in the correctional setting will involve the tripartite challenge described by Ridley, Li, and Hill (1998) of: (a) identifying cultural data; (b) interpreting that information; and (c) incorporating findings into a conceptualization that is accurate and comprehensive in communicating risk and risk management issues in ways that are meaningful to the offender. Critical in-session processes and skills that have the potential to enhance effectiveness include: (a) establishing credibility; (b) openness to the offender's explanatory model (cognitive distortions notwithstanding); and (c) being cognizant of etiquette: such as the use of native language with correct pronunciation, knowing proper terms to use regarding traditional cultural beliefs, attitudes, and practices, knowing what subjects may be considered inappropriate to discuss with strangers, use of correct greetings, significance of eye contact and physical touch, customs regarding the sharing of food, and understanding the importance of spending time to get to know each other and create a trusting working alliance before formal procedures are started. Learning to tolerate ambiguity is an important attribute when working with individuals whose model of the world and how they interact with it may be distinct or somewhat at odds with the practitioner's own cultural outlook and values.

Conclusion

In this chapter we have argued that cultural issues arise routinely in any clinical engagement in any correctional setting. It is a grim reality that many Indigenous and minority groups are over-represented in prisons generally, and so the likelihood is great that the practitioner will

encounter offenders from other ethnic groups and cultural backgrounds. Adopting an attitude that cultural difference is normative and to be expected implies an openness to diversity that represents a precondition for intercultural communication. The responsibility for strengthening practice in this area lies fully with the correctional profession.

Notes

1 For the sake of brevity, the focus of this chapter will be on Canada, Australia, and New Zealand as these are countries that have a recent history of colonization, share a similar philosophy of offender management, and have the presence of recognized Indigenous populations who are over-represented in their respective criminal justice systems yet are also a minority in their own countries.
2 Some other names for this distinctive status are Aboriginal (Australia and Canada), First Peoples (North America, Canada), or First Nations (Canada).
3 A term which means, loosely, major tribal grouping.
4 Colonization is an historical practice of assuming sovereignty via force or diplomacy.
5 Māori: Family and extended kin relationships.
6 Māoori: Venerated elder male.
7 Māoori: Venerated elder female.
8 Māoori: Elder.
9 Māoori: Prestige or status.
10 Ewert v. Canada, 2015 FC 1093 (CanLII).

Key Readings

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