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Disproportionate over-representation of Indigenous students in New South Wales government special schools

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Abstract

A significant gap exists in the Australian research literature on the disproportionate over-representation of minority groups in special education. The aim of this paper is to make a contribution to the research evidence-base by sketching an outline of the issue as it presents in Australia's largest education system in the state of New South Wales. Findings from this research show that Indigenous students are equally represented in special schools enrolling students with autism, physical, sensory, and intellectual disabilities, but significantly over-represented in special schools enrolling students under the categories of emotional disturbance, behaviour disorder and juvenile detention. Factors that might influence the disproportionate over-representation of Indigenous children and young people are discussed, and based on these observations, some practical implications for policy and practice are provided.

Keywords: disproportionate overrepresentation, minority groups, Indigenous students, behaviour disorder, juvenile justice, disability, special education.

Introduction

Disproportionate over-representation is a term that is used in education research to describe the inequitable distribution of particular social groups referred to or enrolled in special education settings when compared to their natural distribution within the total student body (Coutinho & Oswald, 2000). The concept finds its genesis in the United States where researchers have found that students from some minority groups are significantly over-represented in special education. Lloyd Dunn (1968) first noted the over-representation of minority students in "separate programs for socioculturally deprived children with mild learning problems" (p. 5) four decades ago; yet, despite improvements in technology and school practice, it seems little has changed (Artiles, Kozleski, Trent, Osher, & Ortiz, 2010).

Nor does it appear that disproportionate over-representation is unique to North America. The British researcher, Bernard Coard (1971) became concerned by the disproportionate placement of West Indian children in classes for the "educationally subnormal" in the late 1960s. Similar trends have since been reported by Dyson and Gallannaugh (2008) who argued recently that disproportionality is an effect, not of erratic incidence patterns, but of social and economic marginalisation. In so doing, they asserted that the problem was not simply a question of

“misdiagnosis” but the misleading attribution of “special educational needs” to individuals who experience difficulties that are actually “systemic and structural in origin” (Dyson & Gallannaugh, 2008, p. 37).

Despite growing international evidence of disproportionate over-representation in special education, Australian research is almost silent on this issue. The silence does not mean that disproportionality does not exist here; simply that its extent remains unknown. This gap in our knowledge is due mainly to the lack of public access to statistical databases (Dempsey & Foreman, 1995; Westwood & Graham, 2000), which has led to a paucity of the kinds of data required to conduct such analyses at the system, state or national levels. This research draws on diverse methodologies to outline disproportionate over-representation in one Australian state, New South Wales.

Going to school in New South Wales, Australia

Similar to the United States, Australia has a federal/state system of government and, although the Federal government has exerted significant influence in recent years through targeted funding and a new national system of curriculum, assessment and reporting (ACARA, 2010), education remains a responsibility of the states and territories; each of which varies in size and governance. New South Wales (NSW) is Australia’s oldest and most populous state, comprising almost one third of the national population. In 2009, there were over 1.1 million school students, two thirds of whom attended government schools. NSW has one of the largest “private” school markets in the world with Catholic and other non-government providers claiming a larger proportion of student enrolments each year (Campbell, Proctor, & Sherington, 2008). Insufficient enrolment data are available for non-government schools to test who educates whom, therefore the remainder of this analysis focuses on the bulk of the student population attending New South Wales government schools.

Over 736,000 children are enrolled in some 2230 government schools across 10 administrative regions. According to the NSW Department of Education and Training (DET, 2008), approximately 27% of students are from Language Backgrounds Other than English (LBOTE), 20% are in disadvantaged schools receiving priority funding, 11% are in programs supporting English language learning, 5% identify as Indigenous, 2% have refugee status, 4% have a confirmed disability within the categories eligible for targeted support funding, and a further 8% have additional learning support needs.

While a distinction between “disability” and “special educational needs” has been drawn elsewhere (see Dyson & Gallannaugh, 2008; OECD, 1995), efforts to make this distinction have been neither explicit nor coherent in NSW. This is exemplified by the Department’s own distinction between students with “challenging behaviour” and students with “disruptive behaviour”. The former title refers to students with a “confirmed” diagnosis of disability within the categories eligible for support in NSW government schools, whereas the “disruptive” title refers to disobedient or disaffected students “whose behavior can no longer be supported in their home school” (DET, 2010, p. 1). These students may have a diagnosis, but not one that meets the eligibility criteria (e.g., ADHD). Entry to special schools and support classes for students with disruptive behavior does not require a diagnosis; however, a confirmed diagnosis in an eligible disability category is required for all other students.

There are 6 categories of disability eligible for support in NSW government schools: Physical Disability, Hearing Impairment, Vision Impairment, Intellectual Disability, Autism, and

Mental Health Problems. The NSW government provides a continuum of provision ranging from supported enrolment in a regular class in a regular school, enrolment in a support class in a regular school, through to enrolment in a separate special school (DET, 2011). These schools, termed “Schools for Specific Purposes” (SSPs), form the most restrictive placement option in NSW and, over the last three decades there has been both change in and extension of their use.

NSW Schools for Specific Purposes

The earliest special schools in NSW were established by the Royal Institute for Deaf and Blind Children in the 1860s. The first government special school, Glenfield Park, was established in the western suburbs of Sydney in 1927 (Snow, 1990), however the education of children with a disability was principally a private concern until government schools for special purposes and support classes increased from the 1940s. The 1970s heralded a new era for students with a disability internationally with the legislation of the *Education for all Handicapped Children Act* (EHA, 1975) in the United States, together with the release of the highly influential *Warnock Report* in the United Kingdom (Warnock, 1978). Although increased funding for the integration of students with a disability was recommended in the otherwise influential Karmel Report (1973), progress was slow in Australia.

Despite general acceptance of the philosophy underpinning integration across Australia from the mid-1970s, implementation was complicated by the low level of funding provided by the Commonwealth Schools Commission, and the general lack of coordination by state governments with whom responsibility for school education actually lies (Gow, 1988). This situation began to improve however after the *1981 International Year of Disabled Persons* succeeded in highlighting the inequity and hardship faced by people with a disability (Forlin, 2006). By the end of that pivotal year, every jurisdiction in Australia had a policy on the inclusion and support of students with a disability (Forlin, 2006). Enrolment statistics reflect a considerable change in placement with the number of students enrolled in special schools across Australia dropping by 37% from 23,350 in 1982 to 14,768 in 1992 (De Lemos, 1994).

While some states, like Victoria, adopted a more progressive approach (Collins, 1984; Dempsey, Foreman, & Jenkinson, 2002), others were less inclined to embrace genuine change (Conway, 2006; Dempsey & Foreman, 1995). For example, though NSW recorded a 30% decline in special school enrolments between 1985 and 1995, McRae (1996) reported that there had been very little real increase in the inclusion of students with a disability in mainstream classes from 1986, despite the introduction of the national *Disability Discrimination Act* in 1992. In fact, students leaving special schools appeared to be transferring to other forms of segregated placement such as support classes, which were said to be acting as “surrogate” special schools within “mainstream” school campuses (McRae, 1996, p. 23). Also of concern were newly emerging trends that pointed to increased diagnosis in particular categories of disability. Implicating shifts in funding policy as opposed to widespread epidemiological change, McRae (1996) pointed to large and sudden increases in the number of students classified as disabled in NSW government schools. For example, in the 12 months between 1994 and 1995, the “identification of students with mild and moderate intellectual disabilities rose 4.8% and 8.1% respectively, and behaviour disorders rose 33.4%” (McRae, 1996, p. 24).

Graham and Sweller (2011) find that these trends have accelerated. Between 1997 and 2007, the percentage of students with a disability classification more than doubled in NSW government schools; rising from 2.7 to 6.7% of total enrolments. While special school enrolments did decline during the mid-1980s, this trend reversed just a decade later leading to a dramatic shift in the

student population within special schools. Their analysis finds that the space created by the evacuation of students with physical, hearing, vision and mild intellectual impairment (leading to a 60% decrease in each of these support categories) was filled partly by the enrolment of larger numbers of students classified with moderate intellectual impairment (+ 34%), together with a 254% increase in the enrolment of students under the category of behavior disorder (Graham & Sweller, 2011). These shifts triggered an overall increase, as well as a substantial change, in the characteristics of the student population enrolled in government special schools.

Further analysis of NSW Department of Education and Training (DET) policy documents has found that this population increase coincided with the construction of a series of “behaviour” schools between 2001 and 2007 (Graham, Sweller, & Van Bergen, 2010). Despite strong evidence that these settings are becoming “holding areas for students that regular schools are either unable to or unprepared to work with” (Dempsey, 2007, p. 76), by the end of 2009, the NSW government had “introduced nearly 100 specialist facilities to support students with disruptive behaviour, including 35 behaviour schools, 22 suspension centres and 40 tutorial centres” (Patty & Gilmore, 2009). However, while DET reports that 35 of 106 Schools for Specific Purposes (SSPs) now cater to students under the general rubric of “mental health problems” (DET, 2010), elsewhere they report a total of 113 special schools. The research on which this paper reports therefore began with the aim to identify: (i) how many special schools there actually are in the NSW government sector; (ii) how many of these cater to students in the “Mental Health” support category; and, if possible, (iii) what defining characteristics can be determined about the students enrolled in those schools.

Method

To identify all government special schools across the state, the author drew on the NSW Department of Education and Training “Schools Locator” database. This online database lists all government schools and provides an in-built search engine to facilitate the location of schools by region, postcode, school type and various other features. An archive was developed containing information pertaining to all schools listed under the category of “Schools for Specific Purposes” (SSPs). In the process, it became clear that not all of these schools are required to provide the same level of public information. In some instances, the requisite data could be gathered from the school’s annual report when available on the school’s own website but, in quite a number of cases, there was no information listed there either. Indeed, one school’s “purpose” had to be identified through newspaper reports.

Another fruitful strategy was to search for the school on the relatively new “*My School*” website (www.myschool.edu.au), which was developed by the Australian Curriculum, Assessment and Reporting Authority (ACARA) and launched in early 2010. *My School* provides information about every school in Australia, through a complex socio-demographic index of student and school characteristics that was developed for the purpose of identifying and comparing the performance of schools serving similar student populations. The average performance of students enrolled in years 3, 5, 7 and 9 in the *National Assessment Program – Literacy and Numeracy* (NAPLAN) are displayed for individual schools on the *My School* website, and mapped against the average performance of the same year groups in statistically similar or “like” schools, as well as students in those year levels from all schools across the country. The aim has been to introduce “a new level of transparency and accountability to the Australian school system” (ACARA, 2010), and, in this case, *My School* has assisted in the identification, clarification and quantification of the purposes of special schools in the NSW government school sector.

Schools for Specific Purposes: How many are there and what do they do?

This research found that there were 113 Schools for Specific Purposes in the NSW government sector enrolling 4466 students (0.61% of total enrolments). A school typology was established from the information available, with schools falling into one of three categories:

1. *Traditional SSPs*
2. *Mental Health SSPs*
3. *Juvenile Justice SSPs.*

The majority of students in NSW Schools for Specific Purposes are enrolled in *Traditional SSPs* catering to students with so-called “low incidence” disabilities, such as intellectual impairment, severe physical disability, hearing and vision impairment, and autism. According to the DET “Schools Locator”, there are 64 such government schools across NSW, enrolling just over two thirds of all students in SSPs.¹ With a total of 41 SSPs, the next most common type of School for Specific Purposes in the NSW government sector is the *Mental Health SSP* (MH SSP) catering for students enrolled under the general rubric of “mental health problems”. The final category of School for Specific Purposes includes special schools situated within juvenile detention centres. *JJ SSPs* are provided by the NSW Department of Education and Training (DET) under a partnership agreement with the Department of Juvenile Justice.² According to the DET Schools Locator, there are eight *JJ SSPs* across NSW, one of which is a maximum security facility for young male offenders run by the Department of Correctional Services (the NSW government department responsible for adult prisons).

Students in NSW Schools for Specific Purposes

The *1975 Racial Discrimination Act* prohibits the identification of Australian students on the basis of specific language or ethnic backgrounds (Conway, 2006). Only somewhat global distinctions are made between Indigenous students (incorporating Aboriginal and Torres Strait Islander students) and students from non-English speaking backgrounds.³ Therefore, while DET publishes enrolment data for special schools and support classes disaggregated by age, gender and disability category, only state-aggregated data is reported for Aboriginal and Torres Strait Islanders (ATSI) and students from a Language Background Other than English (LBOTE). To date therefore, analyses have been limited to the data that researchers can access which, for example, prevented Graham, Sweller and Van Bergen (2010) from calculating “how many Aboriginal boys relative to other boys are enrolled in support classes and special schools by support category” (p. 237). This lack of access has prevented any serious investigation of disproportionate over-representation in special education in Australia; a long-standing state of affairs which is reflected both in the absence of local research literature on this issue and in the repeated calls by researchers for consistent and reliable data to be made available nationally (Dempsey & Foreman, 1995; Westwood & Graham, 2000). Furthermore, the dearth of quality empirical research in relation to Indigenous education more generally (Craven, 2005; de Plevitz, 2006) has presented a significant obstacle to evidence-based improvements in educational experiences and outcomes of the most vulnerable student group in Australian schools.

Due to the development of the national *My School* website,⁴ this situation is slowly changing. Although not without its problems (Barrett & Minus, 2010; Lam, 2010), *My School* enabled this researcher to find information that was unavailable through the NSW Department of Education and Training (DET), and to ascertain what percentage of students enrolled in individual schools identify

as Indigenous. As the author had already determined how many Schools for Specific Purposes there were in the state and of what kind, it was then a relatively straightforward task to calculate the number of Indigenous students enrolled in each school. These enrolment numbers were then cross-checked by adding the totals of non-Indigenous students to the totals of Indigenous students for each school. This proved to be an accurate deductive method for the combined number of Indigenous and non-Indigenous students totalled 4466; the total number of students enrolled in special schools for 2009. Using these data, the author then set about determining whether Indigenous children and young people are over-represented in NSW Schools for Specific Purposes and, if so, whether disproportionality increases or decreases across the three school types (*Traditional SSPs*, *Mental Health SSPs* and *JJ SSPs*). This was achieved through the calculation of a series of indexes used to determine disproportionate over-representation drawn from the international research literature (Hosp & Reschly, 2002; Parrish, 2002; Parsons, 2008; Skiba, Poloni-Staudinger, Gallini, Simmons, & Feggins-Azziz, 2006).

Indexing Composition & Determining Risk

The determination of disproportionality in special education requires the setting and measurement of comparative parameters through which the representation of two or more groups can be reliably compared. The first step in determining proportional discrepancy is to establish *composition indexes* for each of the target groups (Indigenous and non-Indigenous) both in terms of overall enrolment and the target setting. As shown in Table 1 below, NSW government schools enrolled 736,647 students in the 2009 school year. Indigenous Australians comprised just 5.5% (DET, 2009) of the total school population but more than 13% of enrolments in Schools for Specific Purposes (SSPs).

Table 1

<i>Enrolment demographics for 2009 School Year</i>	<i>Total Enrolments</i>		<i>Enrolments in SSPs</i>		
	<i>N</i>	<i>% of Total Enrolment</i>	<i>N</i>	<i>Statewide Risk Index %</i>	<i>Statewide Composition Index %</i>
Indigenous students	40,605	5.50	594	1.46	13.30
Non-Indigenous students	696,042	94.50	3872	0.56	86.70
Total	736,647	100	4466	0.61	100

As discussed earlier, DET does not publish disaggregated enrolment data for Indigenous students by disability category or gender; however, due to the very clear division between the three types of special school and the students they serve, it has been possible to determine the number of Indigenous students within them. As shown in Table 2, Indigenous representation varied significantly by school type with almost 1 in every 4 students enrolled in *MH SSPs* and almost 1 in every 2 students enrolled in *JJ SSPs* identifying as Indigenous. Conversely, less than 6 from every 100 students in *Traditional SSPs* were Indigenous.

Table 2

<i>Special School Type</i>	<i>Total SSP Enrolments</i>		<i>Indigenous students</i>		<i>Non-Indigenous students</i>	
	<i>Composition</i>		<i>Composition</i>		<i>Composition</i>	
	<i>N</i>	<i>Index %</i>	<i>N</i>	<i>Index %</i>	<i>N</i>	<i>Index %</i>
MH SSP	1076	24.09	244	22.68	832	77.32
JJ SSP	379	8.49	175	46.17	204	53.83
Traditional SSP	3011	67.42	175	5.81	2836	94.19
Total	4466	100	594	13.30	3872	86.70

The aim of the relative risk ratio is to determine whether the probability, or ‘risk’, of being placed in a segregated setting is greater for one group of children than for another group (Oswald, Coutinho, Best, & Singh, 1999). As described by Skiba et al. (2006), a *risk index* is calculated by first dividing the number of students in a target group by their total enrolment in the state. *Relative risk ratios* are then determined by dividing the risk index for the target group (in this case, Indigenous students) by the risk index for the dominant group (non-Indigenous students). A ratio of 1 means the risk of being placed in a special school is the same for each group. A ratio of greater than 1 reflects a greater risk for the target group, Indigenous students, and correspondingly, a lower risk for non-Indigenous students.⁵

While the state-wide aggregates in Table 1 show that Indigenous Australians are significantly over-represented in Schools for Specific Purposes (5.5% of total enrolments versus 13% of enrolments in SSPs), these aggregates hide the fact that disproportionate over-representation of Indigenous students in special schooling can be fully explained by their over-representation in *MH SSPs* and *JJ SSPs*.

Table 3

<i>Special School Type</i>	<i>Indigenous Risk Index %</i>	<i>Non-Indigenous Risk Index %</i>	<i>Relative Risk Ratio %</i>
MH SSP	0.61	0.12	5.08
JJ SSP	0.43	0.03	14.33
Traditional SSP	0.43	0.41	1.05
Total	1.47	0.56	2.63

It is important to note that while Indigenous students and non-Indigenous students face an equal risk of being in a *Traditional SSP*, their risk of being enrolled in an *MH SSP* is more than 5 times higher than that experienced by non-Indigenous students. Worryingly but somewhat predictably, given the high rates of incarceration of Indigenous youth (Cuneen, Luke, & Ralph,

2006), Indigenous students face more than 14 times the risk of being in a *JJ SSP* than non-Indigenous students.

Given that this research has identified significant discrepancy by SSP type, the question then arises as to whether there is discrepancy within the *MH SSP* group. As discussed, DET distinguishes between “challenging” and “disruptive” behaviour. This distinction is not purely semantic. One third of *MH SSPs* (ED/BD schools requiring confirmation of disability for enrolment) are the responsibility of Disability Programs Directorate, as are all 64 *Traditional SSPs*, while the remaining two thirds of *MH SSPs* (those not requiring diagnosis or confirmation of disability for entry) are the responsibility of Student Welfare Directorate. This group of special schools are specifically referred to as “behaviour” schools and, in recent years, there has been significant increase in their use, leading to growing interest in their effectiveness (NSW Parliament, 2010). While the aim of these schools is to remove, rehabilitate and reintegrate “students whose behaviour can no longer be supported in their home school” (NSWDET, 2009, p. 1), recent analysis of DET enrolment data suggests that a high proportion of students may be graduating from behaviour schools to juvenile detention (Graham, Sweller and Van Bergen, 2010). Whether this pattern is due to a failure in the ability of behaviour schools to rehabilitate disruptive students, or the reluctance of mainstream schools to re-enrol them, or a combination of both, is as yet unknown.

To determine whether any discrepancy exists between these two groups of special schools, the author divided *MH SSPs* into “behaviour schools” and “ED/BD schools”. Using data gathered from the DET Schools Locator and the *My School* website, enrolment numbers were calculated for Indigenous and non-Indigenous students in each school. Indigenous students constitute 27.1% of enrolments in NSW government behaviour schools and 18.8% of enrolments in ED/BD schools.

Table 4

<i>MH SSP Type</i>	<i>Indigenous Risk Index %</i>	<i>Non-Indigenous Risk Index %</i>	<i>Relative Risk Ratio %</i>
ED/BD	0.26	0.06	4.33
Behaviour	0.35	0.06	5.83
Total	0.61	0.12	5.08

Relative risk ratios show that Indigenous students face more than 5 times the risk of being enrolled in behaviour schools and more than 4 times the risk of enrolment in an ED/BD school than non-Indigenous students. Further, while non-Indigenous students are equally represented in each type of *MH SSP*, the risk of enrolment in a behaviour school for Indigenous students exceeds that for ED/BD schools (which require a confirmed diagnosis of disability prior to enrolment). An inverse pattern is found for non-Indigenous students whose risk of enrolment in ED/BD schools is higher than in behaviour schools. These are the only special schools in the state, other than those in juvenile detention, which do not require a diagnosis or confirmation of disability prior to enrolment.

Discussion

Research has shown that the increase in special school enrolments has coincided with the construction of a series of behaviour schools (Dempsey, 2007; Graham, et al., 2010), which do not require a diagnosis or confirmation of disability for entry. The findings discussed here show that Indigenous students not only face a higher risk of enrolment in a behaviour school than non-

Indigenous students, but a higher risk of enrolment in a behaviour school than in special schools requiring confirmation of disability. These discrepancies, together with the observation that “within-child explanations” (Skiba, et al., 2006, p. 420) cannot fully explain disproportionate representation in special education, the question then becomes: what systemic variables are contributing to racial disparities?

According to Conway (2006, p. 19), “specialist behaviour placements are far more common in NSW than any other Australian state and territory”, and this is due in large part to political decisions rather than any consideration or evidence of their educational value. Conway (2006) notes that law and order features frequently in political campaigns and points to the current great diversity of special classes, schools, and units as the physical outcome. Political parties are heavily influenced by interest groups and none are more influential than the NSW Teachers Federation, which continues to agitate for increased availability of places in special schools and support classes for students with a disability or special educational needs. At the same time political stakeholders, including Federation, use these increases in special education enrolments as evidence of growth in the incidence of disability – thereby fuelling a vicious circle – despite the lack of research evidence to support such claims (Shattuck, 2006). In the process however, an unacceptable number of Indigenous students are getting caught between long-standing systemic racism and the new “hunt for disability” in schools (Baker, 2002; de Plevitz, 2006).

Attribution to cultural deficit avoids critical scrutiny of the dominant culture in Australian schools (Slee & Cook, 1994), preventing us from asking serious questions about our educational systems and allowing governments to continue playing politics with vulnerable children and young people. It also allows educators to continue engaging in practices that have long been discredited. For example, a recent longitudinal study in a rural Indigenous community found that schools were informally diagnosing Indigenous students as disabled “by default ... despite the lack of any medical evidence” (Ferrari, 2009, p. 4) in the belief that these children were suffering from Foetal Alcohol Syndrome. Gould (2008) found that “biological and medicalised explanations are privileged over and preclude other explanations for poor school performance and negative behavioural traits, such as linguistic diversity or social and cultural factors” (p. 308). For instance, challenging behaviour was attributed to a “bad gene” passed down through “descendants of Aboriginal people from all around the state who were forcibly removed from their homelands ... because they were ‘the worst of the worst, the trouble makers’” (Gould, 2008, p. 308).

Such assumptions ignore the impact and effect of teacher attitudes and competence, instructional quality, classroom context, curricular access and numerous other factors that “set the stage” for learning and behavioural difficulties (Frey, 2002; Stichter, Lewis, Johnson, & Trussell, 2004; Sutherland, Lewis-Palmer, Stichter, & Morgan, 2008). These are factors that are known to drive the disproportionate referral of ethnic minorities and Indigenous students in the United States, United Kingdom, New Zealand and British Columbia (Artiles, et al., 2010; Gabel, Curcic, Powell, Khader, & Albee, 2009; Harry, 1994; McBride & Kee, 2001; Parsons, 2008). At least two things are common to each of these jurisdictions, including NSW; that is, the groups most disproportionately overrepresented in special education are young representatives of historically dispossessed groups who have been “denied opportunities by institutionally sanctioned segregationist policies and practices” (Artiles, et al., 2010, p. 281). Further, each of the groups identified (Black Caribbean, African American, Maori, Native American and Indigenous Australians) are people of colour.

Indigenous people themselves attribute the disproportionate over-representation of their children and young people in special educational settings to a lack of cultural understanding on the part of schools, as well as growing boredom and resentment on the part of Indigenous students (DET, 2004; Keenan, 2009). Indigenous parents also point to the use of nonsensical disciplinary methods in schools (DET, 2004), such as the use of suspension for truanting, which serves to reward misbehaviour and drive an even greater wedge between Indigenous students and the academic curriculum. Their reasoning is supported by empirical research which has found that rates of suspension and expulsion are “the most robust predictor of special education disproportionality”, leading Skiba et al. (2005, p. 141) to conclude that “racial and ethnic disparities in discipline and special education referral may be further evidence of a general inability on the part of schools to accommodate cultural differences in behaviour”.

Other international researchers have noted the inappropriate use of special education processes and instruments that are “culturally and linguistically loaded” (Coutinho & Oswald, 2000, p. 147). Australian research has been slow in this regard however recent work from the field of speech pathology has strongly critiqued the use of assessment scales based on Anglophone cultural norms with children who speak Aboriginal English, often as their second language (Gould, 2008). Further complicating matters is the high rate of otitis media in Indigenous communities which can greatly affect a child’s ability to respond to teacher directions and learn from whole class instruction (Partington & Galloway, 2005). Difficulties hearing can present as oppositional behaviour (Augustine & Damico, 1995), as can difficulties with receptive and expressive language (Riccio & Hynd, 1993) which, not surprisingly, would be very common when many Indigenous children speak Aboriginal English and teachers speaking Standard Australian English have difficulty understanding them (DET, 2004; Lowell & Devlin, 1998).

These observations are not new and attempts to close the gap between Indigenous and non-Indigenous Australians are ongoing. Residing deep within the Australian social imaginary however is the residual belief that social, economic and educational inequalities reflect real, biological differences (Dunn, Forrest, Burnley, & McDonald, 2004). For this reason, the fact that Indigenous children are disproportionately represented in special schools may not be greeted with surprise. Perhaps this reaction is to be expected, given the consistent gap that exists between Indigenous and non-Indigenous people in terms of life expectancy, infant mortality, chronic ill-health, unemployment and educational attainment (FaCSIA, 2011). However, the discrepancy that this research finds *between* special school types is one that should be enough to at least momentarily forestall simple conclusions. The finding that Indigenous disproportionality in special schooling overall can be fully explained by the over-representation of Indigenous children in special schools housing disaffected and marginalised youth should work to refocus attention on the deficit within and inadequacy of our own institutional practices. As noted by Waitoller, Artiles and Cheney (2010) however, the attribution of a diagnostic label works to reinforce deficit views and to justify both disproportionality and the differential treatment of minority groups. In the process, the sensitivity of the proverbial “canary in the coalmine” becomes the reason for its own fate.

Worryingly, the pervasiveness of deficit beliefs about Indigenous children and young people was noted in a major review of Indigenous education (DET, 2004) but, despite 71 recommendations, the identification and referral of Indigenous students to NSW government special schools has actually accelerated in the six years since (Sweller, Graham & Van Bergen, forthcoming). These research findings signal that, above and beyond the strategies adopted after the

2004 *Aboriginal Education Review*, there is an urgent need to: (1) determine whether there are any patterns relating to the referral of Indigenous students to special schools by geographic region; (2) establish rigorous protocols through which special school referrals can be scrutinised for potential bias; (3) to devise systematic processes to prompt the review of the cultural and academic practices within referring schools at point of referral, and (4) for all education systems in Australia to commit to full transparency by publishing comprehensive data on the enrolment of students in special schools and support classes by gender, age, category and ethnicity. Only then will researchers be able to determine the extent of disproportionality in this country and whom it affects.

Conclusion

Indigenous Australians have an equal chance of being enrolled in a special school serving students with autism or intellectual, physical and sensory disabilities as non-Indigenous students, but a much higher chance of enrolment in schools for students classified as having “mental health problems” (particularly behaviour schools for which a confirmation of disability is not required), and a significantly higher chance of ending up in juvenile detention. Certainly this constitutes evidence of disproportionality that has strayed well into the zone of “problematic” overrepresentation (Waitoller, Artiles, & Cheney, 2010). While some scholars note significantly lower Year 12 retention rates and lower attainment of tertiary qualifications as evidence of how Australian education system have failed Indigenous students (Craven, 2005), this research paints an even more disturbing picture. The persistent failure of Australian education systems to engage, support and understand Indigenous students may also be contributing to their disproportionate referral to particular types of special schools, the compounding effect of which are now under serious question (Graham, et al., 2010). This is not just because of the lack of evidence to support their claim to effectiveness but because they may further cement educational disadvantage and social exclusion for disenfranchised young people; particularly those indigenous to this country.

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¹ It should be noted that some of these schools report enrolment of students with conduct or behaviour disorders, however, when the school reports that their main student cohort is enrolled under the category of intellectual disability, they have been counted in the Traditional SSP group.

² Note only six regions have JJ SSPs: Hunter/Central Coast, North Coast, Riverina, South Western Sydney, Western NSW and Western Sydney.

³ The term "Indigenous" is used by ACARA on the *My School* website, while the New South Wales Department of Education and Training (DET) uses the term "Aboriginal and Torres Strait Islander" however each of these terms have specific meanings. The term 'Aboriginal' refers specifically to the Aboriginal people of mainland Australia and does not necessarily include Australia's other Indigenous population, the Torres Strait Islanders (NSW DoCS, 2007). Where possible, the term 'Indigenous' is used in this paper to acknowledge and recognise both groups.

⁴ Note: All data is provided to ACARA by the respective state education authority.

⁵ Conversely, a ratio of less than 1 reflects a lower risk for Indigenous students and a greater risk for non-Indigenous students.