

The Disadvantage of Youth: Can Teenagers be
Held Responsible for their Actions?

The Connections between Out-of-Home Care and Youth Justice

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THERE ARE ALMOST
48,000
KIDS IN CARE
ACROSS AUSTRALIA.

Child Protection Australia 2012-13 (AIHW)

did you know:



1 out of 3
kids will be separated
from their siblings
when they enter care

CREATE Report Card 2013

43% of children placed
in out-of-home
care are under
5 YEARS
OLD?

Child Protection Australia 2012-13 (AIHW)

35%
of young people
will experience
homelessness in the
first **12 months** after
leaving care?

CREATE Report Card 2009

INDIGENOUS KIDS ARE
10x
MORE LIKELY TO ENTER CARE?

Child Protection Australia 2012-13 (AIHW)

Young people in child protection & youth justice in Australia¹

In 2014-16²

(excludes New South Wales
and Northern Territory)

43,326

young people were involved
in the **child protection** system.

7,185

young people were under
youth justice supervision.



2,814

young people were
involved in **both systems.**

16x  

Aboriginal and Torres Strait Islander young people were **16 times** more
likely to be involved in **both systems** than non-Indigenous young people.

Data source: Australian Institute of Health and Welfare. (2017). *Young people in child protection and under youth justice supervision 2015-16*. Data Linkage Series no. 23. Cat. 8540.0

¹ Data excludes New South Wales and the Northern Territory. Young people refers to those aged 10-16 years at 1 July 2014.

² Data is restricted to the period between 1 July 2014 and 30 June 2016. This means that data presented on young people involved in both systems during this period does not include those who were involved in either system before 1 July 2014.

All types of abuse (sexual, physical, emotional) and neglect are associated with offending:

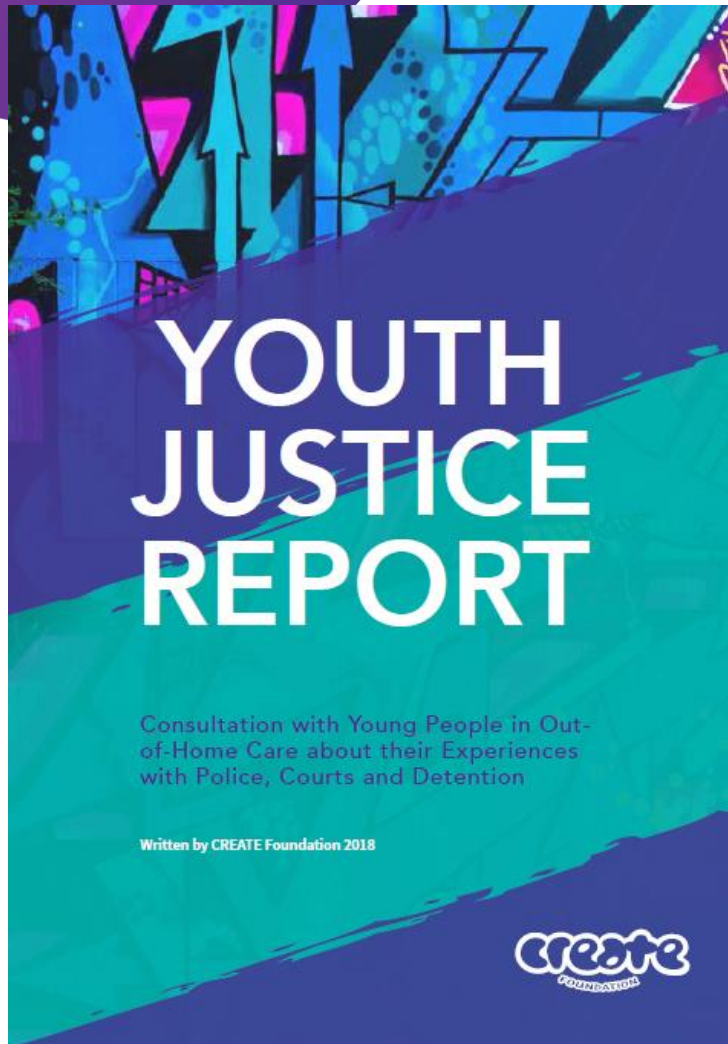
- Chronicity
- Severity
- Timing

The link between maltreatment and offending is complex – interactions of various individual, social, cultural, biological risk factors:

- Male gender
- Indigenous status
- Substance use
- Education experiences
- Low social economic status

Certain features of the care experience are also associated with an increased risk of offending:

- Placement instability (Ryan & Testa, 2005)
- Being placed in a residential facility (Baskin & Sommers, 2011; Ryan et al., 2008)
- Lack of comprehensive leaving-care planning (Mendes, Snow, & Baidawi, 2012)



Spoke to 148 young people aged 18-25 with a care experience and identified as having contact with the justice system:

- 86 offenders
- 32 victims
- 18 reported missing
- 9 experienced court processes following care entry
- 3 had attempted suicide and police attended as part of a crisis response

Thematically analysed responses regarding what led to their police involvement, how they were treated by youth justice professionals, and how they were supported by caseworkers and carers.

Consuming illicit substances, stealing necessities and negative peer influences

“I needed money as I had been released from detention, I was living in a shelter and had nowhere to live and the residential unit wouldn’t have me back, so I re-offended.” (Male, 15/19)

*“...they just bought you clothes you didn't get much choice ...so I had to go and steal better clothes., I was only 15 and my first time in care was in a house with other kids doing crime, I never did this stuff before I came into care.”
(Male, 15/24)*

“I was on ice and dope and coming down, and got into an argument with my girlfriend and accidentally stabbed her.” (Male, 17/18)

Care Criminalisation:

– policies and practises contributing to overrepresentation of young people with a care experience in the youth justice system (McFarlane, 2015)

“There was new workers on and they didn't know how to deal with me and my brother arguing and escalated the situation. Me and my brother had a fight and I did property damage.” (Male, 16/18)

“Police where called out to the residential facility because I was using bad language towards to workers.” (Female, 14/24)

“We – me and another young person – were angry with the youth workers so we went to the office in the residential house and broke the window. The police came and charged us with wilful damage, trespassing and break and enter.” (Female, 14/18)

“I was smoking marijuana, the youth workers smelt it and called the police.” (Female, 15/22)

Protecting self & others from threats

“[The police officer] was belting into my friend. He was not fighting back, he was shielding. I went back to try to grab my friend and protect him. I pushed him once in the chest. The officer backhanded me and then got his OC spray and sprayed me and my friend right in the face... I was charged with assaulting a police officer.” (Female, 17/19)

*“I had problems with one of the girls at the resi. We had an argument because she was stealing my stuff, she kicked me and I hit her back... the workers weren't there at the time but they called the cops and the cops took me away.”
(Female, 17/25)*

Anger, frustration and behavioural escalation

“I lost my cool and did unlawful damage to the extent of \$3,500.00. We had rotten food in the cupboards at the residential house, the youth workers said that the food was OK to eat but it wasn't. I then took the rotten food and went to hide it in one of the other young people's cupboard and found a whole heap of my belonging and then I started going off about that – one of the youth workers told me 'to calm down son', from here I went off, I wanted to bash the young person who stole my things.” (Male, 14/19)

“Me not understanding my emotions and feelings in fiery situations or climactic situations. I snapped and got agitated when people weren't understanding my thoughts and feelings. It resulted in me lashing out and police being called, and I got charged with something... Damage to property and verbal and physical assault towards staff and other residents.” (Male, 16/20)

Trauma, the Brain, and Youth Justice

Early adversity, neglect and abuse is associated with deficits in executive functioning, such as behavioural regulation, and an overly sensitive flight or fight response.

The justice system can be re-traumatising for young people especially when they don't know what is happening or why, and when they have no support.

Key Findings

Over a third felt they had been treated unfairly and disrespectfully, and almost 20% said they felt anxious and scared;

Young people described not being told what was happening or why, police being antagonistic, and in some cases police using excessive force.

Almost 40% reported no support during police contact and 20% reported no support during court

A third felt stigmatised because of their care experience

“There is a lot of judgement, especially from police. They tend to think that because we are in care that we are all going to get into trouble.” (Male, 15/22)

Key Findings

- Approximately a quarter of participants felt that at least a part of their justice contact was fair and straightforward;
- 10% further described their contact as a learning experience;
- Key to these experiences was being treated with respect, having sufficient information, and feeling supported.

“At the time I felt like it was a bit excessive - but I think it helped me get on the right path. Support and consistency from youth justice helped understand what was OK was not OK...” (Male, 15/24)

“The police were always very supportive. They didn't treat me like a criminal.”
(Female, 14/20)

Moving Forward

creating a better life
for children and young
people in care

- Addressing care criminalisation
 - Protocols between police and out-of-home care providers
 - Increased training and education for caregivers
- Adoption of a trauma informed youth justice system
 - Assessing for trauma
 - Clearly explaining judicial processes
 - Careful use of language
- Review policy and practice guides: why are caregivers not providing support for these young people?

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