

# Pathways Into Youth Justice: Strengthening Policy and Program Supports for Young People in the Youth Justice System Who Are Transitioning From Out-of-Home Care

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Local and international research suggests an overrepresentation of young people leaving state out-of-home care in the youth justice system. A range of factors appear to contribute to this correlation including child abuse and neglect, placement instability, experiences of residential care, and unsupported transitions from care. This article presents the findings of a Victorian pilot study conducted in partnership with Whitelion, a not-for-profit organisation specifically offering support to 'young people involved with or at risk of involvement with the youth justice and/or out-of-home care and leaving care services' (Whitelion, 2012), to examine the interrelationship between the child protection and youth justice systems, and particularly to explore the processes that take place when young people involved in the youth justice system leave state care. A series of interviews and focus groups with Whitelion workers were used to explore whether leaving care plans and policies address and minimise involvement with youth justice; the role, if any, of formal consultations by child protection services with youth justice regarding this group of care leavers; and the ongoing role of youth justice postcare, particularly when young people are in custody at the time of their exit from care. Some significant implications for policy and practice are identified.

■ **Keywords:** leaving care, youth justice, child abuse and neglect, inter-agency collaboration, prevention

Young people leaving state out-of-home care are one of the most vulnerable and disadvantaged groups in society. Their precare experiences of abuse and neglect, their often poor in-care experiences, their accelerated transitions to adulthood, and the lack of ongoing support they receive on leaving care make them vulnerable to a number of poor outcomes (Mendes, Johnson, & Moslehuddin, 2011; Osborn & Bromfeld, 2007a; Stein, 2006).

One specific concern is the overrepresentation of care leavers in the criminal justice system, and particularly in youth detention facilities, compared to young people from non-out-of-home care backgrounds. Youth justice in Victoria refers to the systems that aim to ensure 'care, custody and supervision' to young people aged 10 to 18 who have been charged with a criminal offence (Youth Services and Youth Justice, 2010). In Victoria, these services may be extended to young people aged 17 at the time of offending, but aged less than 21 at the time of sentencing, enabling adult courts to sentence a young offender to a Youth Jus-

tice Centre rather than adult prison (Department of Human Services [DHS], 2000). Youth Justice orders in Victoria comprise community-based orders (including probation, Youth Supervision orders, Youth Attendance orders and parole) as well as custodial orders (which comprise remand, Youth Residential orders for young people aged 10 to 14 and Youth Justice Centre orders for those aged 15 to 20) (DHS, 2010a, 2010b). Young people may also be placed in custody on remand after being charged with an offence while they await sentencing (DHS, 2010b).

The disproportionate representation of care leavers among youth justice populations, globally, is of concern given the likelihood of further negative outcomes for this group. Research indicates that young people who have been under youth justice orders are more likely to experience involvement with the adult criminal justice system (Kalb & Williams, 2002), and a range of associated negative health and socioeconomic consequences (Lynch, Buckman, & Krenske, 2003).

## Victorian Leaving Care Legislation and Policy

The national out-of-home care standards introduced in December 2010 include a requirement that all young people have a *transition from care plan* commencing at 15 years of age. The plan, which is to be reviewed annually, details proposed assistance with housing, health, education and training, employment and income support (Department of Families, Housing, Community Services & Indigenous Affairs [FaHCSIA], 2010). However, these standards make no specific reference to those young people who are in custody immediately prior to, or during, their transition from care.

Victoria legislated via the *Children, Youth and Families Act 2005* for the provision of leaving care and after-care services for young people up to 21 years of age. The 2008–09 state budget allocated \$3.17 million growing to \$3.65 million recurrently to support care leavers that includes funding for both service delivery, and brokerage support for individual care leavers to cover accommodation, education, training and employment, and access to health and community services (Trombin, 2008). This is in addition to the existing Office of Housing program that is funded annually to \$985,000, and enhanced funding of \$3 million over four years for that program from the national partnership agreement on homelessness (Finegan, 2010).

The *Children, Youth and Families Act 2005* Section 16 G appears to oblige the government to assist care leavers with finances, housing, education and training, employment, legal advice, access to health and community services, and counselling and support depending on the assessed level of need, and to consider the specific needs of Aboriginal young people. The Victorian government has recently established mentoring, postcare support and flexible funding support for young people transitioning from care or postcare in all eight regions. They have also introduced a 1300 Leaving Care Helpline at Melbourne City Mission's Melbourne Youth Support Service that will provide assistance via phone and drop in to young people and agencies that work with them (DHS, 2010c). However, no specific reference is made concerning the availability of ongoing support for care leavers who are on community-based or custodial orders at the time of their discharge.

Similarly, the Victorian Protocol between Child Protection and Juvenile Justice does not address case management responsibility for those young people who have transitioned from care (DHS, 2005). The Youth Justice Community Support Service does, however, provide a range of postrelease support services to all young people exiting custodial facilities including those who were previously in out-of-home care. These services include intensive case management, and assistance with transitional housing (Youth Parole Board & Youth Residential Board Victoria, 2011). It is unclear whether there is any formal collaboration between these Youth Justice services and the leaving care services detailed above to support care leavers who have been in custody.

## Australian and International Studies

A number of Australian studies have found a significant correlation between experiences of state care and involvement in crime. For example, five New South Wales (NSW) studies found that young people in or leaving care were disproportionately involved in the juvenile justice system (Carrington, 1993; Community Services Commission [CSC], 1996; McFarlane, 2010; NSW Ombudsman, 2010; Wood, 2008).

Various studies from Victoria, Western Australia and Queensland also provided similar findings (Centre for Excellence in Child and Family Welfare, 2008; Johnson et al., 2010; Lynch et al., 2003; Martyn, 2006; Owen et al., 2000; Parliament of Victoria, 2009; Raman, Inder, & Forbes, 2005; Stewart, Dennison, & Waterson, 2002; Stewart, Livingston, & Dennison, 2008; Wise & Egger, 2008).

For example, a 2001 audit of a sample of the Victorian out-of-home care population revealed that 8% of the group had some current or past involvement with Youth Justice services. This figure rose to 13% when those young people aged under 10 (who are ineligible for youth justice involvement in Victoria) were excluded from the sample, and to 38% for 13 to 18 year olds in residential care (DHS, 2001). A recent qualitative study of 20 care leavers in Victoria aged 18 to 26 years at the time of interview found that 14 had been in trouble with the law, and 11 faced criminal charges both during their period in care and following discharge (Moslehuddin, 2010).

A national study by Maunders, Liddell, Liddell, and Green (1999) found that more than half the 43 care leavers they interviewed had committed criminal offences since leaving care. Four of these young people had spent time in prison. Similarly, two national studies by Morgan Disney & Associates and Applied Economics (2006) and the Australian Institute of Health and Welfare (AIHW; 2008) cite numerous studies from the states and territories confirming a link between time in out-of-home care and involvement in the juvenile justice system and later in the adult criminal justice system. The two national surveys by McDowall (2008, 2009) for the Create Foundation also report a disproportionate number of care leavers (19.2% and 27.8% respectively) involved with the juvenile justice system.

Specific surveys of youth justice populations also suggest a high correlation. The 2003 inmate health survey of the NSW Department of Juvenile Justice custodial population indicated that 28% of the cohort had a history in out-of-home care (Allerton, Champion, Kenny, & Butler, 2003). More recently, three successive Victorian Youth Parole and Youth Residential Board annual reports estimated that one third to one half of young people in custody had a current or previous involvement in state care (Youth Parole Board and Residential Board of Victoria, 2009, 2010, 2011). Similarly, the 2010 review of the NSW Juvenile Justice System estimated that 28% of male and 39% of female juvenile detainees had a history of out-of-home care placement (Murphy, McGinness, Balmaks, McDermott, & Corriea,

2010), and the 2011 NSW Health Survey of Young People in Custody found that 27% had spent time in out-of-home care including 40% of the young women (Indig, 2011).

Studies from New Zealand, the United Kingdom (UK), Ireland and Norway also suggest links between state care experiences and criminal activities leading to youth and/or adult detention (Annull et al., 2005; Barn, Andrew, & Mantovani, 2005; Dixon, Wade, Byford, Weatherley, & Lee, 2006; Ferguson, 1966; Hill, Lockyer, & Stone, 2007; Jacobson, Bhardwa, Gyateng, Hunter, & Hough, 2010; Kelleher, Kelleher, & Corbett, 2000; Kristofersen, 2009; Lipscombe, 2006; Prison Reform Trust, 1991; Stewart, Smith, Stewart, & Fullwood, 1994; Taylor, 2006; Tye, 2009; West & Farrington, 1973; Yates, 2000). For example, a 2002 UK report identified that 41% of 304 young people aged 12 to 18 who received Detention and Training Orders (a combination of a custodial and a community-based sentence) had state care backgrounds (Hazel et al., 2002, p. 7).

In contrast, Biehal, Clayden, Stein, and Wade (1995) presented a more optimistic picture, noting that more than half their sample of care leavers had never had any involvement with the police. About a quarter of the sample had been involved in minor offences while in care such as criminal damage, shoplifting, and fighting, but had not offended since leaving care. Only a small number of young males had moved into what they call 'incipient criminal careers'. Their activities correlated with school behaviour problems and truancy, involvement in a heavy drugs culture both in and after care, and a lack of housing stability postcare.

United States (US) and Canadian research also suggests that care leavers are overrepresented in the criminal justice system (Barth, 1990; Casey Family Programs, 2001; Courtney & Dworsky 2006; Cusick & Courtney, 2007; Fowler, Toro, & Miles, 2009; Grogan-Taylor, Ruffolo, Ortega, & Clarke, 2008; Jonson-Reid & Barth, 2000; Packard, Delgado, Fellmeth, & McCready, 2008; Ross, Conger, & Armstrong, 2002). A summary of various North American studies noted that between 18% and 50% of care leavers had been incarcerated since leaving care (Tweddle, 2007).

## Juvenile Offending and Leaving Care

No Australian studies have specifically examined juvenile offending and contact with youth justice systems among state wards during the period of leaving care (i.e., during late adolescence). This is a significant time for two reasons: first, research indicates that in general it is during this period that offending increases (Farrington, 1986; Hirschi & Gottfredson, 1983); and second, offending behaviour during this time is likely to impact upon the success of the transition from state care. Two international studies have specifically examined the association between leaving care and youth justice, albeit with a focus on crime rates rather than organisational or interorganisational practice and policy responses.

US researchers Cusick and Courtney (2007) focused specifically on this relationship. They initially compared the results of two large-scale longitudinal studies; the Midwest study involved interviews with 730 youth aged 17 to 18 who had been in care for at least one year prior to their 17th birthday, while the Add Health study's respondents consisted of the general population of youth aged 17 to 18 ( $n = 1938$ ). Each study also had follow-up interviews with participants at 19 years of age (Midwest study,  $n = 574$ , and Add Health study,  $n = 499$ ).

The results indicated that the care population was about twice as likely to report engagement in a variety of offending behaviours (from property damage to shooting or stabbing) during the year prior to their 17th birthday. But wards, like their peers, seem to have engaged in less crime as they got older and moved into adulthood. At age 19 the former wards displayed fewer differences in self-reported offending for most of the surveyed offences. While offending was lower for both wards and nonwards at 19, those who had been in care were still significantly more likely to report certain theft and violent offences.

The report also compared the self-reported arrests of the two groups. By the age of 19, more than half of the males (57%) and more than a third of the females (34%) who had been in care reported being arrested at least once. This compared with 20.1% of males and 2.8% of females who had ever been arrested by age 19 in the Add Health sample. While less than 2% of males and females in the Add Health sample reported being arrested since turning 18, 35.9% of males and 17.9% of females formerly in care reported arrest between 18 and 19 years of age.

The researchers later conducted a third wave of interviews with the care leavers when they were at least 21 years of age. The final report developed a typology of offending that distinguished between rare or nonoffenders (34% of sample), adolescent offenders (28%), desisting offenders (19%), chronic offenders (11%), and chronic nonviolent offenders who were 8% (Cusick, Courtney, Havlicek, & Hess, 2010).

Taylor's (2006) completed a qualitative study of 39 care leavers in the UK and their involvement with youth justice. Utilising in-depth interviews with care leavers, she found that while some young people had possessed a level of antisocial behaviour prior to entering care, the main factors which seemed to escalate involvement in crime seemed to be exposure to deviant peers (and subsequent peer-pressure or bullying into criminal involvement), as well as a lack of secure adult attachments (particularly in the residential care environment). Other aspects contributing to delinquent involvement included school exclusion and young people having the freedom to experience childhood after leaving traumatic home environments, behavior which Taylor referred to as *letting off steam*. On the other hand, having respect for a carer and feeling trusted by that carer, a perception of rules and boundaries as being fair and reasonable, and

feeling individually accountable for one's behaviour emerged as factors contributing to avoidance of delinquency.

In summary, the literature demonstrates that youth from out-of-home care backgrounds are overrepresented among those on community-based orders and in youth custodial settings. It has also been demonstrated that offending behaviour among looked-after children peaks during the period of transitioning from care. However, these findings alone are lacking in meaning and context (Taylor, 2006). The next section reviews the range of factors associated with offending amongst youth in and leaving out-of-home care.

### **Child Maltreatment and Juvenile Offending**

A number of studies have examined the links between child maltreatment and juvenile offending (Jonson-Reid & Barth, 2000; Luntz & Widom, 1994; Prichard & Payne, 2005; Smith, Ireland, & Thornberry, 2005). For example, a 2002 Queensland study by Stewart, Dennison, and Waterson brought together child protection and youth justice data for the 1983 birth cohort. Of the 6,541 young people who had either a child protection or youth justice record, 10% (647 children) had both (p. 3). They found that young people with one or more substantiated maltreatment records were more likely to have a later offending record than those with no substantiated maltreatment. Additionally, they found that those maltreated young people who had experienced an out-of-home placement were twice as likely (26% vs. 13%) to have subsequently offended than those who were maltreated but had never been placed out of home. They proposed that 'placement outside of the home is likely to be indicative of the seriousness of the maltreatment' based on the finding that young people who had been placed outside the home were more likely to have experienced multiple types of maltreatment. This finding that maltreated children who enter substitute care are more than twice as likely to offend than maltreated children who remain in the home has also been confirmed in the international literature (Ryan & Testa, 2005).

Theoretical analysis suggests that the association between child maltreatment and juvenile offending can be explained within the framework of attachment theory. For example, experiences of abuse and neglect may lead to weakened attachment (or sense of felt security) between a child and their care givers, subsequently enhancing the influence of any delinquent peers. It is surmised that together these constitute causal factors of delinquency among young people in care (Weatherburn, 2001).

While the link between abuse and neglect and juvenile offending is established, it has been emphasised by many authors that not all maltreated children offend (McFarlane, 2008; Stewart et al., 2002; Stewart, Livingstone, & Dennison, 2008). Additionally, in examining out-of-home care populations, it should be remembered that not all young people enter care as a result of abuse or neglect. Indeed, Minty

and Ashcroft (1987) found that 41% of a sample of young boys who were admitted into care due to parental illness, death or incapacity had received three or more convictions in adulthood. This leads to a challenging of the simplistic assumption that maltreatment itself is the sole cause of delinquency amongst young wards (Taylor, 2006).

Therefore, further studies have sought to uncover key factors associated with offending amongst young people in care. Overall, the literature seems to point to the following factors as influential amongst wards' offending behaviour: age and gender, age of entry into care, type of maltreatment experienced, placement stability or instability, group home status and age at exit from care (Jonson-Reid & Barth, 2000).

### **Age and Gender**

Studies on juvenile delinquency among state wards have consistently reported that males offend at higher rates than females (Cusick & Courtney, 2007; Darker, Ward, & Caulfield, 2008; Jonson-Reid & Barth, 2000; Ryan, Marshall, Herz, & Hernandez, 2008; Ryan, Hong, Herz, & Hernandez, 2010; Stewart et al., 2002; Taylor, 2006). In addition, the risk of delinquency among young people in care increases with age. For example, Wise and Egger (2008) found that 19% of 10 to 14 year olds in the Victorian care system had been warned or cautioned by police or charged with a criminal offence, compared with 36% of those aged 15 and over. However, both of these findings are fairly reflective of offending amongst the general population, albeit more pronounced in nature amongst the out-of-home care group (Cusick & Courtney, 2007; Farrington, 1986).

### **Age During Maltreatment and First Out-of-Home Care Placement**

Three separate studies have identified both the developmental stage at which maltreatment occurs and the age at first placement as factors impacting upon juvenile offending. Jonson-Reid and Barth (2000) found that youth with a first child welfare placement between 12 and 15 years were more likely to spend time in youth detention, and Ryan and Testa (2005) similarly found that children whose first placement occurred at an older age were more likely to engage in delinquency. Stewart et al. (2002) found that maltreated youths who offended were older at the age of final substantiated maltreatment notification (mean = 10.6 years) than those who did not offend (mean = 8.6 years). Stewart et al. (2008) later confirmed the finding that children who experienced maltreatment into their adolescence were more likely to offend than children whose maltreatment occurred only prior to adolescence.

### **Type of Maltreatment**

Other research has demonstrated that the type of maltreatment experienced may affect the likelihood of juvenile offending. Ryan et al. (2008) found higher rates of arrest among youths who had experienced physical abuse as

opposed to emotional abuse, sexual abuse or neglect. Stewart et al. (2002) similarly found that 23% of young people who were victims of physical abuse subsequently offended, compared with 15% of young people who experienced only other forms of maltreatment (Stewart et al., 2002, p. 5). The authors further stated that sexual and emotional abuse were not related to offending amongst the sample analysed.

### Placement Stability

Placement stability or instability also appears to be a causative factor of juvenile offending among state wards. A number of studies have shown that those young people in care who offend have had a higher degree of placement instability than those who do not offend (CSC, 1996; Cusick et al., 2010; Taylor, 2006).

For example, Ryan and Testa (2005) found that the risk of delinquency for males who only experienced one or two placements was similar to those who remained at home, however, the risk increased for males who have had three or more placements. In contrast, the risk of delinquency in females is greater in maltreated females who have had a single placement (6%) than those who remained at home (3%), but this risk does not appear to increase with multiple placements. Research has yet to identify whether placement instability contributes to offending behaviour or whether delinquent behaviours are, in fact, leading to placement instability. Darker et al. (2008) attempted to disentangle these factors, and while they found that placement breakdown amongst young people who offended was more often instigated by the care-giver for administrative reasons than by the young person, the sample sizes were too small to detect any statistically significant differences.

### Group Home Status

Group homes or residential care settings are generally understood to be the most restrictive placement along the continuum of care and, therefore, often utilised as a last-resort option. Young people placed in residential care are generally older, more likely to be male, to have experienced multiple placements, and to have a range of behavioural issues as well as previous experience with the juvenile justice system compared with other young people in out-of-home care (Osborn & Bromfeld, 2007b; Ryan et al., 2008).

Taylor (2006) conducted in-depth qualitative interviews with 39 care leavers in the UK (20 of whom were currently in custody) with a view to understanding which aspects of the care experience may impact upon offending. She found that experiencing residential care (or group homes) was associated with a higher risk of offending and incarceration.

Given that those who are placed in residential care are more likely to possess a range of risk factors related to increased likelihood of delinquency, Ryan et al. (2008) sought to distinguish between the impact of group home placement and these associated risk factors upon offending. They found that residential placements were associated with a signifi-

cantly higher risk of delinquency even after controlling for a range of variables including age at placement, race, gender and previous placement instability. The authors concluded that the relative risk of delinquency for those young people who had experienced at least one group home placement was two and a half times greater than for youth in foster or kinship settings.

Researchers have interpreted such findings in terms of a peer contagion effect, whereby social learning 'shapes and supports deviant attitudes and behaviors' of young people exposed to high-risk peers in group home environments (Ryan et al., 2008, p. 1096). Peer pressure and the desire to 'fit in' were also noted as factors leading to offending behaviour in residential care environments (Taylor, 2006, p. 85).

Others have pointed to policies leading to a low threshold for police intervention in residential care environments, with the result that young people in group homes are prosecuted for successive offences, eventually leading to incarceration (Darker et al., 2008; National Association for the Care and Resettlement of Offenders, 2003).

### Supported and Unsupported Leaving Care Experiences

In her study of 39 care leavers in the UK, Taylor (2006) identified that only one of the eight young people who had left care aged 18 or over had served a custodial sentence. In contrast, 13 of the 20 individuals who had been discharged by the age of 16 had been held in custody (Taylor, 2006, p. 150). Additionally, Taylor found that regardless of their experiences while in care, the young people often had poor leaving care experiences, and commented that those who had become involved with alcohol and drugs were at particularly high risk of becoming involved in crime. Similarly, Lyon, Dennison, and Wilson (2000) found that young people felt that their needs were unmet in trying to navigate the transition to independent living. Crime was described as a necessity by young people to meet needs including maintaining accommodation and providing for children.

### Practice and Policy Implications

The reviewed literature has suggested a number of policy and practice strategies, which may reduce the flow of young people in and leaving state care to the juvenile and adult corrections systems. One persistent recommendation is that greater placement stability will facilitate improved outcomes for care leavers (CSC, 1999; Maunders et al., 1999). Where young people have specifically entered residential care, research has indicated that such experiences can be improved by the provision of smaller units and enhanced staff continuity. Additionally, the literature has suggested that policies should be revised to prevent the 'unnecessary criminalisation of young people' in residential care by examining the procedures and thresholds at which law enforcement is contacted in group home settings (Ryan et al., 2008, p. 1096; Taylor, 2006, p. 180).

Some commentators have argued that a welfare-based approach to managing offending is more likely to be helpful than a punitive response amongst care populations (Hart, 2006; Taylor, 2006). Similarly, literature from the juvenile justice field has identified many social and behavioural-based programs as effective practice for diverting youth from re-offending, including social competence training, diversion programs (such as mediation and group conferencing) as well as education, employment, recreation and mentoring programs that enhance social connections (Cusick et al., 2010; Taylor & Sallybanks, 2003).

Finally, significant supports and programs for young people in care are needed throughout the transition to adulthood. Holistic leaving care models are likely to address many of the key factors such as lack of stable accommodation and supportive relationships, substance abuse, and lack of income that leave care leavers particularly vulnerable to involvement in criminal activities (Mendes et al., 2011; Stein, 2008). Young people need to be aware of the types of support available, how to access these and the duration of availability of such supports if they are not taken up immediately after leaving care (Taylor, 2006).

### Further Research Directions

Further research should focus on developing in-depth understandings of the circumstances leading to transitioning youth being arrested (Cusick et al., 2010; Ryan et al., 2008; Widom, 2000). Ryan et al. (2008, p. 1096) explain that 'understanding the why is critical so that interventions can be developed to prevent the emergence of offending attitudes, beliefs and behaviors'. This information cannot be provided by examining aggregate statistical child protection and/or juvenile justice data alone.

There is also a dearth of research examining the way in which child protective and juvenile justice agencies collaborate to deliver services to these dual clients. In particular, the process by which these agencies navigate the discharge of a young person from the care and justice systems is of crucial importance. A number of studies suggest that links between child protection and youth justice systems to support young people in custody are poor, and that effective case planning is more often the result of commitment and dedication by individual workers rather than organised inter-agency processes. There is clearly a need for closer collaboration between juvenile justice and child welfare systems to share information, coordinate service delivery, and develop prevention and early intervention measures (Biehal et al., 1995; Chuang & Wells, 2010; CSC, 1996; Hart, 2006; HM Inspectorate of Prisons, 2011; Taylor, 2006; Wiig, Spatz Widom, & Tuell, 2003).

A potentially effective collaborative model appears to exist in the UK where continuing leaving care support is required to be provided to young people who are sentenced to a community order or imprisonment. According to The Care Leavers (England) Regulations 2010 Section 6C, their

personal adviser, who assists them from 16 to 21 years, is expected to review and update their pathway plan, to maintain regular contact during the period of sentence, and to ensure that suitable accommodation is available on release for those who were in prison. The roles and responsibilities of the respective social workers, youth offending team workers and probation workers, and local authority children's services managers, all seem to be clearly defined (Department for Education, 2010; Hart, 2006; National Care Advisory Service, What Makes the Difference, & European Union, 2009).

The discussion that follows presents the findings of a pilot study in Victoria, which aimed to illuminate the interaction between the child protection and youth justice systems when a dual client leaves the out-of-home care system, and suggest some potential directions for effective interagency practice in the future.

### Methodology

This study aimed to examine the interrelationship between the child protection and youth justice systems, and particularly to explore the processes that take place when young people involved in the youth justice system leave state care. Further objectives were to examine (a) the availability of targeted preventive social and educational programs to assist this group of young people while still in care; (b) how leaving care plans and policies address and minimise involvement with youth justice; (c) the role, if any, of formal consultations with youth justice regarding this group of care leavers; and (d) the ongoing role of youth justice postcare particularly when young people are in custody at the time of their exit from care.

A pilot study was designed in conjunction with Whitelion, a Victorian agency (with offshoots in South Australian and Tasmania) that provides support to young people at risk via a range of early intervention, role modelling, employment, mentoring, young women's and Indigenous programs. The research plan was to use the results of this study to later set the parameters for a larger and more representative study.

Whitelion specialises in assisting those who are being discharged from a custodial setting, and has a high proportion of dual clients who have spent time in both the out-of-home care and youth justice systems (Whitelion, 2009 — no annual reports seem to be available for 2010 or 2011). A qualitative, exploratory design was used to explore the perspective of a group of Whitelion professionals who had worked in either child protection, out-of-home care and/or youth justice services. Six workers were interviewed individually, and they are identified by number in the results and discussion. In addition a focus group was conducted with eight workers including three of the original six. Those eight workers were nominated as key informants by Whitelion. The focus group participants were not identified individually by the transcriber (see Tables 1 and 2 for summary).

**TABLE 1**

## Interviews

Interviewees	Worker 1	Worker 2	Worker 3	Worker 4	Worker 5	Worker 6
Gender	Male	Male	Female	Male	Female	Female
Whitelion role	Senior management	Custodial mentoring	Employment program	Employment program coordinator	Youth programs	Leaving care program
Former employment	Youth justice and child protection	No relevant experience	Youth justice	Youth justice, residential care and mental health	Child protection	NGO child welfare

Both interviews and focus groups were used in order to incorporate the varied perspectives of workers holding different roles within the organisation, and coming from a range of backgrounds and experiences. Nevertheless, the two sets of samples were seen as complementary given that all participants were currently working in the youth justice sector.

In-depth, semistructured interviews using both closed and open questions were used in the interviews and focus groups. Participants were asked to provide information about their contact at Whitelion or in previous employment with young people leaving out-of-home care who had also been involved in the youth justice system. They were then invited to present their views on six key issues: (a) why care leavers are overrepresented in youth justice; (b) their knowledge of ongoing support provided by child protection services to this group of care leavers; (c) the role of leaving care plans in addressing and seeking to minimise involvement with youth justice; (d) effective collaboration and consultations between child protection and youth justice at the time young people leave care; (e) actions taken by youth justice organisations to address the particular experiences and needs that care leavers bring into the youth justice system; and (f) best practice social and educational programs.

The interviews and focus group were conducted at Whitelion's offices in Melbourne, Australia. Ethics approval was obtained from the Monash University Standing Committee on Ethics in Research Involving Humans (SCERH). A thematic analysis was used to code the data and identify and analyse key findings.

## Results and Discussion

The discussion that follows presents the views of the six individual workers and eight focus group participants as a

targeted sample of workers on the six key issues that were discussed.

### Factors Contributing to Overrepresentation

The workers expressed a range of views similar to the existing literature about the factors underlying the overrepresentation of young people from out-of-home care in the youth justice system.

One key identified factor was the lack of stable family structure, and the absence of positive role models to encourage participation in constructive activities around education and employment as opposed to negative peer influences promoting involvement in substance abuse and crime. An associated factor was the absence of positive connections with the mainstream community via education or sporting clubs, or other creative or recreational pursuits.

One of the participants in the focus group commented that:

For us an achievement is finishing a year at high school. For them it's how many cars you can steal.

Similarly, Worker No. 2 commented:

It is the lack of direction and the lack of belonging . . . A lot of the young people that I work with find a sense of belonging through committing crime.

Another identified factor was the lack of attachment to supportive adults, and the often associated trauma resulting from child abuse or neglect and the absence of safety and security as a child. The trauma arguably leads to mental health problems that may be exacerbated by substance abuse.

Worker No. 6 argued that this trauma was often reignited by the anxiety of leaving care and the apparent loss of the state care safety net:

It's about knowing that the system has been there to pick them up for so long and its just not going to be there anymore.

**TABLE 2**

## Focus Group

1	2	3	4	5	6	7	8
Male	Male	Male	Female	Female	Female	Female	Female
Senior management	Custodial mentoring	CEO	Young women's program	Mentoring program	Mentoring program	Employment worker	Youth programs

There's not going to be someone who has to provide them with housing and food and all the basic necessities, and they are going to have to find that themselves . . . They are lashing out at that safety net just to make sure that it's still there.

She added that many of the young people have learnt from their experiences in the out-of-home care system that those who engage in risky behaviour often receive more support and attention. So sometimes young people offend to show they are 'not coping. It's just a way of waving that red flag and saying I need a hand here'. She also noted that many of the young people were 'delayed in their maturity and their development. So their ability to cope is much more limited than your average teenager'.

A further contributing factor was the residential care experiences of many young offenders. Those living in residential care were more likely to come to the attention of the police, less likely to receive personal support, and more vulnerable to peer contamination. According to a focus group participant:

It's a chaotic environment. It's not as safe generally or as nurturing as the home environment. It's an artificial environment. A lot of young people have similar sorts of background or issues. So therefore the opportunity to get involved in that level of offending is much higher.

And similarly, Worker No. 1 suggested that young people learnt bad habits as they moved from one residential unit to another, what he called 'the college of knowledge type of thing'.

Another factor was identified as intergenerational disadvantage. Young offenders often had parents and older siblings who had also been involved in the criminal justice system, and came from low socio-economic status backgrounds.

A further causative factor was identified by Worker No. 5 as the lack of substantial leaving care assistance with housing and other core needs.

### **Child Protection Support to Care Leavers Involved in Youth Justice**

Most of the workers suggested that child protection services provide little if any ongoing support to those young people leaving (or about to leave) state out-of-home care who are also involved in the youth justice system. The general view seemed to be that child protection delegate care responsibility for the young person to youth justice, and expect youth justice to organize housing and other key supports when the care leaver is discharged from custody.

In short, a custodial sentence seems to provide a convenient excuse for child protection to cease involvement. As Worker No. 6 commented:

Sometimes the young people will be locked up and their protective order will come up for review, and they'll just say oh well, they are locked up, so they are being cared for so we don't need to extend this order.

Worker No. 4 argued that in his experience, child protection services generally provide little planned transition support to care leavers, and instead tend to be quite reactive to the end of a care order. Worker No. 5 attributed this lack of planning to the high workloads of child protection workers, suggesting that many did not have time to engage with young people and plan their transition from care. However, Worker No. 2 cited an example of good practice whereby a child protection worker had remained involved with a young person in custody who was 18 years old, but he added that this was 'very rare'.

### **Leaving Care Plans and Youth Justice**

The workers and focus group participants also argued that leaving care plans rarely address youth justice issues, and that more typically youth justice end up taking guardianship responsibility for care leavers in custody. This gap in leaving care assistance can have a number of negative ramifications for the young person. For example, Worker No. 3 noted that the Youth Parole Board is unlikely to release a young person on parole if suitable accommodation has not been organised. It seems that often youth justice are left to sort this out via their client service plan even though according to Worker No. 4 some of these plans are based on ticking boxes without any active engagement with the proposed post-care support services.

Worker No. 5 suggested that there was a big gap between theory and practice:

I've just been reading the policy around leaving care and I think it's fantastic in theory, but there are so many problems in application. To put into practice is hard to do. You're looking at the retention rate of new workers in child protection being six months, when I started it was two years, and it went down to six months when I left . . . So much of the planning around leaving care is put aside because there's so much court work to do, there's so much administration and reports and supervision and client visits, and it gets to even a month before and they go oh geez guardianship order is coming up.

Worker No. 2 was able to cite some examples of good and poor practice. The positive example involved a child protection worker working collaboratively with youth justice to ensure that a young person was placed in stable housing upon leaving custody. In contrast, another young person received no assistance from child protection in accessing postcare support services such as brokerage. It was youth justice who linked him into mentoring services, and assistance with housing and drug and alcohol counselling. Worker No. 6 stated that 'sometimes leaving care plans refer specifically to interventions to reduce offending behavior, but mostly tend to be more generally focused on promoting independent living'.

### **Inter-Agency Collaboration**

In general, there seemed to be limited evidence of effective inter-agency collaboration between child protection and youth justice to support dual clients. One focus group



participant suggested that child protection typically 'hand over effective case management' to youth justice when the young person is in custody unless there are 'acute levels of risk to the young person or the community from the young person'. Another participant argued that child protection 'drop off when they get the sentence, so they are not involved when they are looking at the parole plan or the exit plan. I'm not sure child protection are a major player in the team'.

Worker No. 4 was equally critical, arguing that there is

a real gap between the support of young people leaving custody and then the support that they get in the community. No-one was following through. That's why Whitelion started to exist.

Conversely, one focus participant acknowledged that 'there are some great examples of child protection workers that do stay involved with kids when they are in youth justice'.

A number of the workers argued the case for greater communication between the two systems. According to Worker no. 1:

You should be sharing the relevant information, you should be getting your heads together and planning together, for the best interests of the child. But there's still silos.

He added that in practice, the relationship was

extremely variable. Sometimes there's an enormous amount of collaboration and sharing and goodwill, at other times it's just nonexistent. It will default to youth justice because they've got the body, and they've got the obligation beyond that leaving care order.

Worker No. 2 noted that the two systems need to work together to address different concerns:

It potentially makes sense if youth justice and child protection were both involved. It makes sense if youth justice were reactive in terms of trying to stem the flow of issues which may lead to further crime. You would think that child protection would take into consideration the young person's emotional and personal and developmental needs which I don't think are always addressed.

Similarly, worker no. 3 emphasised the shared responsibility of the two systems with youth justice focusing on their offending behavior, and child protection targeting broader issues such as family relationships, mental health and housing. And Worker No. 5 argued that there needed to be agreement on who would be the key worker, and this could be either the child protection or youth justice worker depending on who had the best relationship with the young person.

### **Youth Justice Responses to Child Abuse and Trauma**

A number of the workers stated that youth justice organisations such as the Department of Human Services, the Children's Court and the Youth Parole Board were able, with some limitations, to recognise and address the particular experiences and needs that care leavers bring into the youth justice system.

For example, Worker No. 1 noted that the Youth Parole Board had:

broad representation including a departmental representative who has got a lot of experience in the child protection system, and does ask questions about what about this and what about that and why haven't certain things happened.

He also argued that youth justice provide significant holistic support to young people both in custody and on parole:

When a young person enters one of the custodial centres, very early on there will be a range of assessments. So they'll look at some of the findings from the court . . . So that will be on record, so stealing cars and robbing people for money for drug addiction, got to work on that, okay why is drug addiction an issue, so let's work around some of that stuff, probably a referral to the Adolescent Forensic Health Service, so there might be some counselling, specific drug and alcohol work, and also looking at the home situation, or whatever home might look like.

Similarly when the young person leaves under parole:

They come under the supervision of a community justice worker. And their mandate isn't just to administer the order, make sure that they are not reoffending and whatever conditions they've got for parole, but also look at some of the underlying issues too, and support with that. So it's not a good thing exiting care from a youth justice centre, but sometimes they actually have a larger safety net under them.

He added, however, that:

There's been some changes over the past six years with community-based youth justice. And it's become a bit more administration of the order, as opposed to doing more case-work and support and trying to develop say vocational options, and looking at some of those factors that are contributing to offending, and helping the young person and the young person's family so that they are less likely to offend. There's not much time and capacity to do that these days, which I think is a real loss. And I think if there was more of that, we'd see a reduction in the re-offending rate, or the severity of the re-offending.

Similarly, Worker No. 2 argued that in his involvement with the Youth Parole Board:

They can be quite aware of the young person's needs and try to address them even though the child protection worker or the NGO may not have . . . They're quite aware of the topical issues. If a particular abusive drug seems to be the trend then they'll be quite aware of those, and be sure to address those issues with the young people involved in care or leaving care, albeit not in a holistic sort of response.

One of the participants in the focus group added, however, as a qualification that the Youth Parole Board members had 'not sat there for hours and worked through things with these young people. They look at a piece of paper or a book, and try to decide how to assist them. It's very impersonal'.

Worker No. 3 stated that ‘youth justice workers are obliged to consider the broader factors that contribute to offending behaviour, and to devise intervention plans that address those issues and needs’. She also confirmed that the Children’s Court and Youth Parole Board request presentence and progress reports that cover these underlying issues. For example, these reports are expected to clarify:

What is their offending background? What’s their family history? Their history in regards to their health, substance use and mental health — all of that is covered . . . And if they’ve got child protection involvement and residential care, that’s all information that you’d be putting in there, and you’d be liaising with child protection to find out their family background and what sort of trauma or abuse they’ve been exposed to just to understand where some of these behaviours have come from.

Both Workers No. 1 and No. 4 also commented on the lack of education and training among youth justice custodial officers around issues associated with trauma and attachment. Worker No. 1 stated that ‘working with dual clients in the custodial setting is actually a very complex job — more complex than adult custodial’.

Workers elaborated on the skills which would be required to effectively manage and rehabilitate dual clients in the custodial environment, and noted that in practice the environment is less therapeutic and more oriented toward risk management.

### Preventive Programs

The workers were able to identify a number of examples of existing and potential social and educational programs that would assist this group of young people. Some highlighted the importance of connecting the young people with activities and supports in the mainstream community. One example was the Whitelion employment program.

According to Worker No. 1:

The nexus between being unemployed and being homeless once they’re leaving care is huge. Unemployed and re-offending is huge. So the team do a great job in getting in early, working with the workers and the kids about vocational options, what sort of training and support that they need, and then matching them to an employer when they get out, and support them in that.

One young man of African descent, he was a refugee, did something that he regrets and got a long sentence. But the employment team worked with him and got him a job at the Australian Tax Office (ATO) via their Community Youth to Work Program. So in September during the football finals we had a lunch at the Melbourne Cricket Club dining room, and he came along with one of the senior managers of the ATO, and gave a brief talk about the experience and the importance of being given a chance for a job. He has been promoted to a team leader type level already, so that’s in 12 months, and he’s worked damn hard.

Worker No. 2 argued that a range of supports were important including a life skills program, facilitating better relationships with family members including for some young people their own partner and children, and ensuring that the young person was always actively involved in decision-making processes and forums.

Worker Nos. 3, 4 and 5 all emphasised the importance of early intervention programs including therapeutic counselling to help young people understand the basis of their emotions and potential triggers for violent behavior. In addition, alternative vocational pathways may be crucial for those with literacy problems.

Worker No. 6 emphasised the importance of promoting positive relationships so that every young person has a positive role model either with family members or a supportive educator, or via a formal mentoring program:

They’ve got someone to help steady them when things get a bit wobbly, someone who is always there as a bit of a back up and can come into play if the young person is about to get and have a drug and alcohol binge, or are about to chuck a hissy fit about something. If they’ve got someone who can just pop in and go hey, let’s just steady for a minute, let’s try and work this through, then sometimes that can intervene where they are about to go and offend, or it can lessen the effects of whatever it is that is leading them to offend.

### Implications for Policy and Practice

This pilot study has obvious limitations. It only sampled a small number of workers from one specific nongovernment agency in Victoria, and these workers seem to have greater knowledge of the youth justice rather than child protection perspective. The views expressed cannot be seen as representative of all nongovernment services working with this dual client group in Victoria, or as reflecting policies and practice in other states and territories. There are clear limits to the generalisability of the study data.

Nevertheless, the findings suggest that a range of pre-care, in-care and leaving care factors and experiences influence the entry of young people with out-of-home care experience into the youth justice system. Little is currently known about the background of this group of young people (at least in Victoria) such as the type of maltreatment or other reasons behind their entry into care, the age of their entry into care, their level of placement stability and type of placement(s), the age at which they left care, their leaving care plan and supports, and any major gender differences.

There is also no information available on the training (if any) that youth justice workers have in addressing young people’s experiences of abuse and neglect, the links between Victorian postcare services for care leavers and postrelease support services for offenders such as the Youth Justice Community Support Service discussed earlier, and no evidence as to whether the recently introduced Victorian postcare services for young people aged 18 to 21 years have

resulted in improved assistance to care leavers on youth justice orders.

It would appear from the study that there are no formal protocols (or at least none available to the general public) documenting the role that child protection services are expected to play with young people who leave care while on custodial orders. Good practice seems to depend on the skills and motivations of individual workers in both child protection and youth justice. There is clearly a need for greater and more formal collaboration between the two agencies to clarify their respective substitute care responsibilities, and ensure that care leavers receive the best support possible.

The study has suggested a number of key directions for further research.

Firstly, as suggested earlier, researchers need to find out far more about the demographic background of care leavers in the youth justice system. Secondly, they need to distinguish between those who began offending while in out-of-home care, and those who only began offending on leaving care, which may be directly related to the adequacy of their leaving care supports. Thirdly, they need to identify the various circumstances and agendas that influenced the offending of this group of young people.

A larger project based on a more representative sample and involving interviews with young people who have experienced both the child protection and youth justice systems, consultations with current child protection and youth justice workers and leading nongovernment leaving care service providers, and a case file audit of de-identified child protection case records including leaving care plans, will hopefully begin to answer some of these key questions.

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