

When systems collide: Exploring the lived experience of ‘care criminalisation’ in South Australia

Australasian Youth Justice Conference Presentation, Thursday 18 April 2024

SLIDE 1



Good afternoon to you all. My name is Shona Reid, I am an Eastern Arrernte Woman from the Northern Territory I wish to humbly and respectfully acknowledge the lands, waters, skies, histories, legacies, talents, creations, sciences, care, love, kindness, giving and generosity of the Wurundjeri Woi Wurrung people. Thank you for welcoming me to this place as a guest from my country.

I'd like to pay my deep respect to the some 4800 children in care today, approximately 700 of whom are in residential care. I would also in the same light like to pay my respect to the 36 children in the youth detention centre today – of which about 25% are also children in care.

SLIDE 2



Who is the Guardian?

Four roles in one office:

- (1) Guardian
- (2) Training Centre Visitor
- (3) Child and Young Person’s Visitor
- (4) Youth Treatment Order Visitor



SLIDE 3



Who is the Guardian?

gives me the capacity see, listen, hear and feel first hand

Firstly

Visit, advocate for and promote the rights and best interests of children and young people in care and detention

Secondly

I am an independent statutory officer who cannot be directed by government and reports to Parliament through the Minister.



In summary, I humbly hold the responsibility of overseeing the work and conduct of government as it aims to care for children, in out-of-home care and youth detention.

I provide individual advocacy and systemic advocacy – and as I tell the kids, I am independent, I am not a part of government and I talk directly to parliament to let them know what's working well or not well for children and young people.

This combination of oversight and individual advocacy gives me the opportunity to see the impacts, evolution, and nuance of systemic problems in 'real time' – and work towards solutions for both individuals, and systemic change.

SLIDE 4

What? 'Care Criminalisation'



1. Disproportionate Representation in the Criminal Justice System
2. Systemic and Structural Factors
3. Behavioural Responses to Trauma
4. Policies and Practices
5. Lack of Advocacy and Representation
6. Long-term Consequences



Just so we are all on the same page – I want to take a moment to share with you what I mean by out-of-home care.

Out-of-home-care, put plainly, is described as a place where children who cannot live with their biological families reside. It can be:

- **Family-based placement**, with people that children and young people know like aunts, uncles, grandmas or grandpas, we call this Kinship
- Other people children and young people know like neighbours, friend's parents, even child care workers or other people that mean a lot to them, these are known as **specific child only carers**
- **General family-based carers**, people who provide care who do not know the child or young person
- There is also a care type called **residential care** it typically is a house most likely with multiple children (sometimes known to each other sometimes not) with staff providing 24/7 supervision and care. In some instances, there may be only one child in this house.

The environment aims to be safe and supportive, offering structured routines and various activities to promote the children's wellbeing and development.

I think it is safe to say – that I have long held the position that there that there are relatively few instances where a residential care placement is in the best interests of children and young people.

However, I do acknowledge that there are instances where residential care may be necessary if all other options (safety planning at home, kinship care, family-based care) have been exhausted or are simply unsafe for that particular child in that particular situation.

The concept of 'care criminalisation' refers to the phenomenon where children in out-of-home care (such as foster care, group homes, or residential care facilities) are more likely to come into contact with the criminal justice system compared to their peers who are not in such care.

The theory of 'care criminalisation' looks at *why* this happens to children with care experiences.

This issue encompasses a range of systemic, social, and individual factors that contribute to higher rates of criminalisation among these vulnerable populations.

Here are the key aspects of this phenomenon:

1. Disproportionate Representation in the Criminal Justice System

Children in out-of-home care are disproportionately represented in the juvenile justice system. This overrepresentation can be attributed to a range of factors, including heightened surveillance and stricter enforcement of laws against these children, who may already be facing complex emotional and behavioural challenges.

2. Systemic and Structural Factors

The child welfare system often struggles with limited resources, high caseloads, and frequent changes in placements, which can lead to instability in the lives of children. This instability can exacerbate existing behavioural issues and lead to interactions with law enforcement. Furthermore, there is sometimes a lack of adequate

psychological support and intervention for the trauma that many of these children have experienced, which can lead to behaviours that are criminalised.

3. Behavioural Responses to Trauma

Many children in out-of-home care have histories of trauma, abuse, or neglect, which can manifest in behaviours that are perceived as problematic or criminal. Traditional responses to these behaviours might not take into account the underlying causes, leading to punitive actions rather than supportive interventions.

4. Policies and Practices

Certain policies and practices within both the child welfare and juvenile justice systems may inadvertently contribute to the criminalisation of these children. For example, some systems may have a low threshold for involving law enforcement in incidents that might be managed differently in a family setting.

5. Lack of Advocacy and Representation

Children in care may lack proper advocacy within the legal system. They might not receive the legal representation or support they need to navigate charges or accusations, leading to higher rates of conviction and deeper involvement in the criminal justice system.

6. Long-term Consequences

The long-term consequences of being criminalised can be severe for these children, affecting their chances for successful adult lives. Criminal records can limit educational opportunities, employment prospects, and the ability to secure housing, perpetuating a cycle of poverty and legal entanglement.

SLIDE 5



The Number Games



Children in care = 1 in 100 children in South Australia

Children in care = 1 in 3 children in youth detention

I want to share with you some of the knowledge and learnings I have from undertaking my mandate – however I am always nervous to share statistics and numbers.

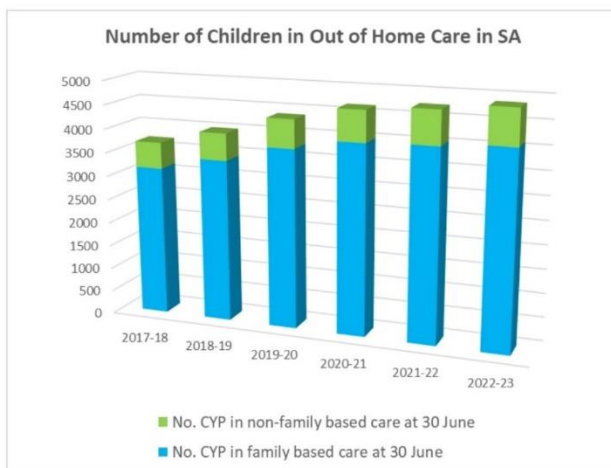
Often children and young people are reduced to demographic statistics, with their individual personalities sidelined to focus on their vulnerabilities or all the stuff that has gone wrong for them.

So, while demographic information is important to understand and service this vulnerable population. I want to reiterate that my intention is to engage with children and young people first as the individuals they are and their feelings, experiences, lives are much, much more than the numbers I share with you.

For South Australia:

- Children in care = 1 in 100 children in South Australia
- Children in care = 1 in 3 children in youth detention

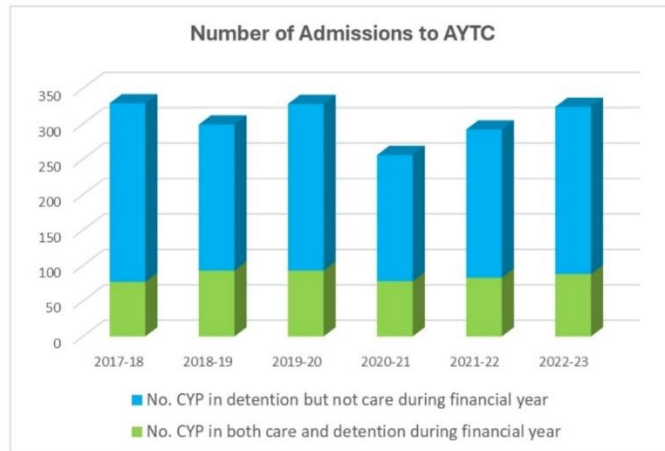
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As you can see although growth of children into out-of-home care is slowing in South Australia, we continue to see a growing residential care sector creating not only economic pressure of the child protection and out-of-home care sector but also a pressure on a system to parent a child in 'artificial' type family care arrangements.

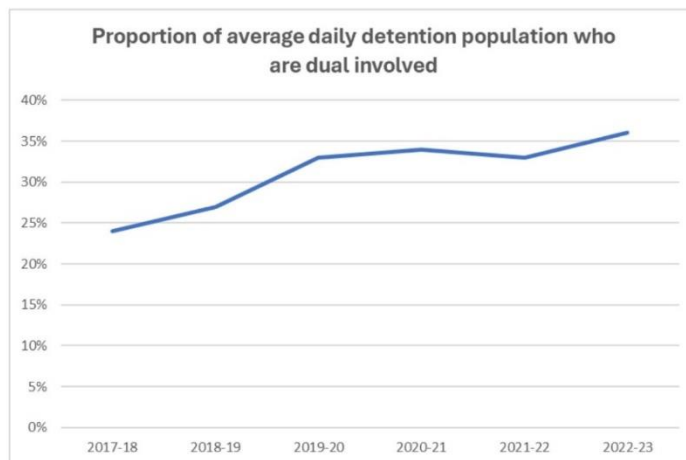
Residential care plays a significant part on shaping children’s connections and interconnections with various types of the system – including the criminal justice system.

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As you can see from the Admissions for the South Australian Adelaide Youth Training Centre, there has been some slight variance in the numbers of admissions but what has stayed steady is admissions of children and young people with Guardianship orders.

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In fact, what we can see if we look at the average daily detention population is that dual involved children and young people has increased from 24% in 2017-18 to 36% in 2022-23.

Underlying these figures:

- We've seen positive changes in reducing the detention population, but we haven't seen that same change extend to children in care
- Two things going on:
 - number of children in care is rising;

- o Policy changes aimed at reducing detention population aren't necessarily reaching children in care
- As seen in the last slide, there's not a large increase in the number of children being admitted to detention – which means the issue is how long they are spending in detention

There are a range of systemic and structural issues underlying these numbers – that is the focus of the rest of this presentation.

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In summary – from the numbers, from my observations and from the words of the experts (the kids).

The key message I hope to leave you with today is:

- It's not about the kids – it's a systems issue
- It's not about removing accountability or agency from children and young people
- It's about recognising that children and young people can get funnelled into systems issues bigger than them, which are very difficult to avoid or get out of.

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Throughout this presentation I have included a number of quotes provided with expressed permission from children and young people who have expert knowledge about the system and how they interact within it.

To do justice to their words and their faith in me – I present them to you in good faith – that you will hear them – please do not take these words and repurpose them. These statements are provided in a specific context, and it is in this context I use them today.

I trust in you to use this information and their words in the manner in which it is intended – which is to honour their faith in us and respect that they too have big feelings that are overwhelming and all encompassing. I ask you to hear these words and take them with you, as I do, for our betterment as adults.

In that spirit, please use these quotes for your own learning, not for your own sharing.

Some of these quotes are confronting but they are real statements that have been made to me and my team in our work with children and young people, and I think it is important to share them.

Children and young people with care and detention experiences are the experts in this conversation and they are very aware of the care criminalisation phenomenon. They also have their own view about what causes it.

My engagement with children and young people often focuses on a strong sense of personal accountability and a desire to change and make things better.

But, their wisdom is strong – and so is their sense of fairness and accountability, for the role that adults and systems play in their story.

That wisdom is what we see in these statements on the screen, from the young people who know what it is like.

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SA Dual Involved - Inquiry



- February 2021 – December 2021
- Analysed data for 71 children and young people in both care and detention
- Detailed interviews with 16 young people
- Final report with recommendations to:
 - Improve supports for those at risk of youth justice involvement
 - Address systemic problems contributing to that risk
- Follow-up project – South Australia Youth Detention Population Project:
- Detailed population analysis for 2022-23 financial year, including 88 children and young people in both care and detention



In February 2021, my predecessor Penny Wright undertook a deep dive to understand what is happening in South Australia with regards to children and young people both on guardianship orders and detention/remand orders.

During the course of this work an analysis of 71 children on dual orders were undertaken and 16 detailed interviews also took place.

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SA DI - Inquiry Data



Of the 71 children and young people detained during the period of the SADI Project

- 90% of dual involved children lived in residential care
- 35% were girls and young women
- 25% were under the age of 14 years
- 42% were First Nations children
- 37% had a diagnosed disability

Of the 16 young people interviewed:

- 73% reported they had been charged with assaulting carers
- 87% reported they had been charged with property damage



The key statistics from administrative data analysis are on the screen. What we saw was:

- High rates of young people who ordinarily live in residential care
- Higher rates of population groups who are vulnerable to admission to detention – First Nations children, children with disability, those under the age of 14 years, girls and young women

- High self-reported rates of young people charged with property damage or assaulting carers at their residential care houses.

Recommendations in this report were wide ranging looking at the way the Department for Child Protection work with and support at risk children in this area, safe placement matching, supporting children and young people through the criminal justice system more effectively, reviewing bail and remand practices, safety of children and young people in police cells – greater system accountability and reporting responsibilities for this group of young people and reduction of police involvement in residential care settings.

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What the EXPERTS said



“Yeah, that actually was doing my head in and I just grabbed something, threw it at the door. Twenty minutes later the cops rock up and say I’m getting done for fucking aggravated assault ‘cause I threatened them.”

“I’ll tell you, literally I was just fucking hosing them down with the hose and I got charged for assault ‘cause they told me stop. I didn’t stop.”

“No, they would lock the door, just unlock the door to the office and they kept the door locked ... you know, the door in between the office from the unit and like so you would have to smash the window if you wanted to get out when they won’t listen to you.”



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Tug-O-War... Push & Pull



- Running away
- Fitting in with other kids
- Crime to survive
- Better than home
- Relationships

When talking with children and young people about what pushed and pulled them away from residential care settings, and increased their vulnerability, the consistent themes they discussed were:

- Running away
- Fitting in with other kids
- Crime to survive
- Better than home
- Relationships

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What the EXPERTS said



"We are the kids who aren't wanted"

"I learnt on the streets, learnt how to go to the shops, steal things. I'd watch other people that I was with do it so then I just learnt how to do it and I started looking after myself."

"most kids who come in here, especially at a young age, are in care. And they live with older kids. Those 16, 17 year olds, like we look up to them, you know? We look up to them, as a older person, like a older sister, cause we hate the carers. Like a older sister, older brother, and if they're doing crime then we think that's the right thing to do cause we don't have that figure in our life, if that makes sense, to look up to"

"The only reason I'm out actively offending is 'cause I hate my house, or I hate people in the house. I'm offending to get out. Until things change, and if they don't change by the time I get like released out, I'm going to reoffend more just to get back in here"



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What the EXPERTS said



"--- don't even got a home 'cause your care house is not your home. That's just somewhere where they want you to stay and I don't stay there."

"I don't care if I'm in [detention]. I like it in here, get to meet new people, get food. This, this is better than my [residential care] house."

"I've been more than 76 MPR [last year]. they always just put me on MPR some reason, which I don't find fair. 'cause then the cops are always looking for me. They [cops] take me straight home again. Even if I don't want to go home. Oh, they take me sometimes to the cells waiting for my carer to pick me up. Depends where I am."

"I was asking when I was like 12, 13, I was like, "Can my mate come over?" and, yeah, they just. "Nuh, no one's allowed to come here, only DCP children," you know. Not even other DCP kids from other homes are allowed in. They just call the cops on them. "Get out."



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What the EXPERTS said

"Well, I was lucky enough to be in, put in a foster family. So, yeah, it, it was all right for the first 12 years and then, I don't know, they just - I, I went to respite one time and I didn't hear anything from my family for like 3 months and then I was just stuck there and I started getting into crime in the resi homes. ... I didn't have no guidance, you know"

"I don't have a mum and dad or my little brother or my siblings. So it was, it was, yeah, I just felt abandoned, I guess, felt lonely and like, like I didn't have no one."

"Like, they're all different carers all the time so it's hard to kind of trust people as well as like get along with them."

"See, we had good carers and, and after a while they just started taking away all the good ones and, and sticking in the bad ones with the, the shit kids, you know, 'cause we were bad. We were shit kids but the good carers were the ones that were keeping us good"



SLIDE 18

**Welfare.
Police.
Police.
Welfare**



"They kept putting us in the same situation but expecting a different outcome."

A young person provided an insightful articulation of her experience in becoming a dual involved young person, where they are repeatedly placed in circumstances of foreseeable harm that perpetuate their involvement in the youth justice system. The cumulative and cyclical effects of interconnected systemic failures are demonstrated in this diagram.

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What the EXPERTS said

"I'm destined for the adult system anyway. I was born into institutions, I'll stay in institutions my whole life"

"The carers get me to get charges by calling me fat and ugly and provoking me. [DCP] tell me there's not enough carers, so it won't change"

"I don't feel safe for my future. I feel like I'm in a road that's just going to go downhill every day"

And they will laugh at you too. The cops laugh at you when you're in the room. Like they will laugh, bro. They're like, "Ha ha," like, "Can't wait to see you back in lockup"



SLIDE 20

What the EXPERTS said

The only reason I'm out actively offending is 'cause I hate my house, or I hate people in the house. ... I'm offending to get out. Until things change, and if they don't change by the time I get like released out, I'm going to reoffend more just to get back in here [KTYJC]. You know, I'll do whatever I can-- to get back. I learnt on the streets, learnt how to go to the shops, steal things. I'd watch other people that I was with do it so then I just learnt how to do it and I started looking after myself

Like, they're all different carers all the time so it's hard to kind of trust people as well as like get along with them.

Like I said like they're, the workers, they don't treat you how they treat their own children so it's hard to kind of feel like a child if you're in that, you know, 'cause it, yeah, it's nothing a normal child would go through, an average child anyway



SLIDE 21



**MACR
&
'Care Criminalisation'**




Last month I took the opportunity to speak one-on-one with children and young people at the Adelaide Youth Training Centre – many of whom were on dual orders – about their views on the minimum age of criminal responsibility.

In South Australia, children as young as 10, or in Year 5 at primary school, can still be charged with a criminal offence, and sent to detention.

I talked to them about their experiences of detention, their worries for little kids who come into detention and what they think would help stop kids from getting into trouble. I collated quotes from what they had to say and submitted it on their behalf (with their consent, and excitement) to the South Australian government.

I am about to publish this piece of work, which will be available on my website. It is a powerful collection of quotes from children and young people about different aspects of their expert experiences in the youth justice system.

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What the EXPERTS said



“it’s a waste of life in here”

“They harm themselves in here, and that. Get sad... crying everyday. Feel shit.”

“I remember being in court, looking at the judge and ...I was that short. I couldn’t when I was sitting on the seat I couldn’t actually see over the microphone. Like, I couldn’t actually see over the judge’s stand. I was that young, like.”



SLIDE 23

My Observations of Vulnerabilities

- Instability and Frequent Placement Changes
- Insufficient Training and Support for Caregivers
- Inadequate Mental Health Services
- School-to-Prison Pipeline
- Systemic Bias and Discrimination
- Policy Gaps and Inadequate Legislative Protection
- Poor Integration and Communication Between Systems



The system vulnerabilities that contribute to care criminalisation of children in out-of-home care are multifaceted, involving several institutional and procedural shortcomings within the child welfare and juvenile justice systems. Here's a closer look at some of these key vulnerabilities:

1. Instability and Frequent Placement Changes

Children in out-of-home care often experience frequent moves between different placements. This instability can disrupt their relationships, schooling, and access to consistent healthcare, including mental health services. The lack of continuity in care and relationships can lead to emotional and behavioural issues, which are sometimes handled through criminalisation rather than supportive measures.

2. Insufficient Training and Support for Caregivers

Foster parents and residential care staff may not always receive adequate training to handle the complex behavioural and emotional needs of children who have experienced trauma. Without proper training and resources, caregivers might resort to calling law enforcement rather than managing challenging behaviours through therapeutic interventions.

3. Inadequate Mental Health Services

Many children in the care system have experienced trauma and may have resulting mental health needs that go unmet due to insufficient services. The lack of accessible, consistent, and effective mental health care can lead to behaviours that are misunderstood and criminalised.

4. School-to-Prison Pipeline

Children in foster care or other forms of out-of-home care are more likely to experience educational disruptions and receive harsher disciplinary actions in schools. Schools may lack the resources to provide appropriate behavioural support,

leading to higher rates of suspensions or expulsions, which can increase the likelihood of juvenile justice involvement.

5. Systemic Bias and Discrimination

There can be systemic biases based on race, socioeconomic status, or the mere fact of being in care, which can influence how children's behaviours are perceived and treated by authorities. These biases can lead to a higher likelihood of these children being viewed through a criminal lens rather than being seen as needing support and protection.

6. Policy Gaps and Inadequate Legislative Protection

Policies governing the child welfare system may not adequately protect children from being criminalised. For instance, there might be insufficient guidelines on when and how law enforcement should be involved in incidents involving children in care. Furthermore, legal protections may not fully shield these children from the consequences of system-involved behaviours.

7. Poor Integration and Communication Between Systems

Frequently, the child welfare and juvenile justice systems operate in silos with poor communication and coordination between them. This can lead to inappropriate responses to the needs of children in care, where their behaviours are treated as legal issues rather than care needs.

Addressing these vulnerabilities requires systemic reform, including better integration of services, improved training and support for caregivers, enhanced access to mental health care, and policies that prioritise the wellbeing and rehabilitation of children over punitive measures.

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My Observations of Kids Coping

- Aggression and Acting Out
- Anxiety and Hyperarousal
- Attachment Disorders
- Dissociation
- Substance Use
- Risk-Taking Behaviours
- Difficulty with Authority
- School-related Challenges



Children in out-of-home care often come from backgrounds involving significant trauma, and the behavioural manifestations stemming from these traumatic experiences can sometimes be misunderstood or mishandled, leading to criminalisation. Here's a detailed look at some of the common trauma-related issues and behaviours:

1. Aggression and Acting Out

Exposure to violence, abuse, or severe neglect can lead children to develop aggressive or confrontational behaviours. In settings that lack appropriate therapeutic approaches, these behaviours may be seen as criminal. For instance, fights at school or aggressive responses during confrontations might lead to police involvement rather than counselling or support... Or arguing with their carer in their residential care unit.

2. Anxiety and Hyperarousal

Trauma can lead to a state of hyperarousal, where the child is perpetually on edge, easily startled, and constantly expecting danger. This can manifest in behaviours that are disruptive or difficult to manage, such as sudden outbursts, panic attacks, or extreme reactions to minor triggers. These responses can be misinterpreted as deliberate defiance or misconduct.

3. Attachment Disorders

Children who have experienced early attachment disruptions (such as being removed from biological parents) may have difficulty forming healthy attachments with caregivers or peers. This can lead to a range of behaviours including withdrawal, distrust, manipulation, or indiscriminate friendliness, which can complicate their interactions with adults and authority figures and lead to misunderstandings.

4. Dissociation

Some children cope with trauma by dissociating, which can involve zoning out or disconnecting from their surroundings. This can be perceived as noncompliance or resistance, especially in structured settings like schools or group homes, leading to punitive measures.

5. Substance Use

Adolescents dealing with trauma might turn to drugs or alcohol as a form of self-medication. This not only puts them at risk of substance abuse disorders but also increases the likelihood of criminalisation due to possession or use of illegal substances.

6. Risk-Taking Behaviours

Traumatised children might engage in risky behaviours as a plea for help, a way to feel control, or because they lack the ability to fully understand the consequences of their actions. These behaviours, such as theft, vandalism, or sexual promiscuity, are often criminalised.

7. Difficulty with Authority

Children who have been let down by adults in the past may exhibit strong distrust or disrespect towards authority figures, leading to conflicts with teachers, foster parents, law enforcement, and other authority figures. This can result in a cycle where children are further penalised and stigmatised.

8. School-related Challenges

Trauma can affect cognitive functions, concentration, and memory, making academic success more challenging. Behavioural problems in educational settings might lead to suspensions or expulsions, which further alienate the child and increase their risk of juvenile justice involvement.

Addressing these behaviours effectively requires a trauma-informed approach across all systems interacting with the child—from educational settings to foster homes and judicial proceedings. Such approaches focus on understanding and addressing the underlying causes of behaviours rather than treating them as disciplinary issues alone. This perspective helps in advocating for interventions that are rehabilitative rather than punitive, aiming to support the child's recovery and integration into society.

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My Observations of System Conduct

- Zero-Tolerance Policies in Schools
- Mandatory Reporting Laws
- Policing and Surveillance in Care Facilities
- Criminalisation of Status Offenses
- Inadequate Training for Caregivers and Officers
- Lack of Collaborative Practices
- Dependency Court Systems
- Not listening leads to not hearing



Several specific policies and practices in child welfare and law enforcement contribute to the higher rates of criminalisation of children in out-of-home care. These practices often stem from systemic approaches that prioritise control or punishment over rehabilitation and support. Here are some key areas where these policies manifest:

1. Zero-Tolerance Policies in Schools

Many schools adopt zero-tolerance policies that apply harsh disciplinary measures for infractions that could otherwise be resolved through mediation or counselling. Children in foster care, who might exhibit behavioural issues as a coping mechanism for trauma, are particularly vulnerable under these policies. Such school discipline can escalate to involvement with law enforcement, especially if the school has a policy of reporting incidents to police.

2. Mandatory Reporting Laws

While designed to protect children, mandatory reporting laws can sometimes lead to unintended consequences. For instance, foster parents and caregivers are required to report any legal infractions, however minor, to authorities as part of their duty. This can lead to law enforcement being involved in situations where alternative interventions might be more appropriate and beneficial for the child.

3. Policing and Surveillance in Care Facilities

Children in residential care facilities often live under conditions of heightened surveillance and control, where staff might rely on law enforcement to manage behavioural issues that could be addressed through therapeutic means. The routine involvement of police in managing conflicts or behavioural issues in these settings can lead to an increased likelihood of arrest and charges for behaviours that would not typically result in police involvement in a family home environment.

4. Criminalisation of Status Offenses

Status offenses are behaviours that are only considered offenses because of the age of the individual, such as truancy, curfew violations, or running away from home. Children in out-of-home care are more likely to commit these offenses due to instability in their living situations or as a response to trauma. The criminalisation of these behaviours disproportionately affects children in care, leading to higher interaction rates with the juvenile justice system.

5. Inadequate Training for Caregivers and Officers

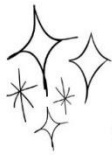
Both caregivers in the child welfare system and officers who may respond to incidents involving children in care often lack training on trauma-informed care and may not be aware of the unique challenges faced by these children. Without proper training, their default responses can escalate situations unnecessarily, leading to arrests or criminal charges.

6. Lack of Collaborative Practices

Insufficient collaboration between child welfare services and law enforcement can lead to a lack of understanding and miscommunication about the best approaches to handling incidents involving children in care. Without joint protocols that emphasise escalation and therapeutic interventions, there is an increased risk of defaulting to criminal proceedings.

7. Dependency Court Systems

The dependency court system, which handles cases of child welfare, sometimes lacks the resources to provide individualised attention to each case. Overburdened systems may rush to judgment or fail to consider the unique context of a child's behaviour, contributing to decisions that do not adequately prioritise the child's best interests and rehabilitation.

SLIDE 26**Short Term IMPACT**

- Disruption in Education
- Increased Stigmatisation and Isolation
- Emotional and Psychological Impact
- Exacerbation of Behavioural Issues
- Detrimental Impact on Family Relationships and Placement Stability
- Barriers to Future Employment and Housing
- Physical Health Risks
- Potential for Recidivism



The immediate consequences for children in out-of-home care who are criminalised can be severe and multifaceted, impacting their emotional well-being, social development, educational prospects, and future opportunities. Here's a detailed look at some of these immediate consequences:

1. Disruption in Education

When children are criminalised, especially for behaviours occurring in school or as a result of school discipline policies, they often face suspensions or expulsions. This disruption in education can result in significant gaps in learning, lower educational attainment, and decreased school engagement, all of which have long-term implications for their future.

2. Increased Stigmatisation and Isolation

Being labelled as a troublemaker or a criminal can profoundly affect a child's self-esteem and identity. This stigmatisation can lead to increased isolation from peers and adults, exacerbating feelings of loneliness and alienation. For children in out-of-home care, who may already feel set apart from their peers, this effect can be particularly damaging.

3. Emotional and Psychological Impact

The experience of being treated as a criminal can induce stress, anxiety, and depression in children. The fear and uncertainty associated with being involved in the juvenile justice system can lead to long-lasting emotional trauma. This is particularly harmful for children who have already experienced trauma prior to their criminalisation.

4. Exacerbation of Behavioural Issues

Rather than addressing the root causes of problematic behaviours, criminalisation often exacerbates these issues. The punitive approaches used in the juvenile justice

system can reinforce negative behaviours and attitudes, leading to a cycle of misbehaviour and punishment.

5. Detrimental Impact on Family Relationships and Placement Stability

For children in foster care or other forms of out-of-home care, involvement with the criminal justice system can strain relationships with foster families and may lead to multiple placement changes. Each move can undermine the stability and sense of security that children need, impacting their ability to form lasting attachments and trust in adults.

6. Barriers to Future Employment and Housing

Having a record in the juvenile justice system can create barriers to employment and housing later in life. Even at a young age, having interactions with law enforcement can lead to a record that affects a child's future opportunities for jobs, college, and other life prospects.

7. Physical Health Risks

The stress and anxiety of being involved in the criminal justice system, combined with the potential for physical confrontations or harm while detained, can negatively affect a child's physical health. Stress-related conditions like hypertension and heart disease can have roots in traumatic childhood experiences, including those involving criminalisation.

8. Potential for Recidivism

Once children enter the criminal justice system, they are at a higher risk of recidivism, particularly if they do not receive effective rehabilitation. The system often fails to address the underlying personal and social issues that led to the initial behaviour, setting up a cycle that is difficult to break.

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Long Term **IMPACT**

- Educational Attainment
- Employment Opportunities
- Mental Health Issues
- Social Stigmatisation and Isolation
- Increased Risk of Re-Offending
- Housing Instability
- Physical Health
- Intergenerational Effects



The long-term consequences for children in out-of-home care who are criminalised can be profound and far-reaching, impacting almost every aspect of their adult lives. These consequences can perpetuate cycles of disadvantage and marginalisation, often lasting well into adulthood. Here's a detailed examination of these long-term consequences:

1. Educational Attainment

Criminalisation often disrupts education, leading to lower educational attainment. This can include dropping out of high school, which in turn limits access to higher education and vocational training opportunities. Reduced educational achievements place these individuals at a significant disadvantage in the job market.

2. Employment Opportunities

Having a criminal record can create significant barriers to finding employment, especially in fields that require background checks. This limitation can result in fewer job opportunities, reliance on lower-wage jobs, and an increased risk of poverty and economic instability.

3. Mental Health Issues

The trauma from both their early life experiences and subsequent interactions with the criminal justice system can lead to persistent mental health challenges, including depression, anxiety, and post-traumatic stress disorder (PTSD). These conditions can be debilitating, affecting relationships, work, and the overall quality of life.

4. Social Stigmatisation and Isolation

Stigma associated with being a former offender can lead to social isolation and difficulty in forming or maintaining personal relationships. This isolation can exacerbate existing mental health issues and hinder the development of a supportive social network, which is crucial for successful reintegration and personal development.

5. Increased Risk of Reoffending

Criminalisation sets a precedent for future interactions with the criminal justice system. Children who are criminalised are more likely to become involved in criminal activities as adults, partly due to limited social and economic opportunities and ongoing stigma, as well as the lack of effective rehabilitative programs within the juvenile justice system.

6. Housing Instability

Individuals with criminal records often face challenges securing housing, as many rental agreements include background checks that can exclude them. This can lead to housing instability, homelessness, or confinement to living in high-crime, low-resource areas, which can further hinder their chances of rehabilitation and economic stability.

7. Physical Health

Long-term exposure to stress, including that associated with criminalisation and its consequences, can lead to chronic health issues such as cardiovascular disease, diabetes, and exacerbated conditions related to poor access to health care. The stress of unstable living conditions and chronic unemployment also contributes to poor health outcomes.

8. Intergenerational Effects

The effects of criminalisation can transcend generations. Children of parents who have been criminalised and who have experienced out-of-home care are themselves at higher risk of adverse outcomes, including potential involvement in the child welfare system and the criminal justice system.

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What Would Help

- Implementing Trauma-Informed Care
- Spend time with kids
- Believe in kids
- Parents and families to help
- Adults who care
- Enhancing Training for Caregivers and Law Enforcement
- Diversion Programs
- Policy Reforms in Schools
- Improved Collaboration Between Systems
- Reducing Reliance on Law Enforcement
- Foster Care Placement Stability
- Support Services Post-Care
- Data Collection and Accountability



Proposed reforms aimed at reducing the criminalisation of children in out-of-home care focus on creating more supportive, understanding, and rehabilitative environments rather than punitive ones. These reforms span across legislative changes, policy adjustments, and practice modifications within child welfare agencies and youth justice systems. Here are some key proposed reforms:

1. Implementing Trauma-Informed Care

Adopting trauma-informed approaches across all systems that interact with children – such as schools, law enforcement, youth justice, and child welfare – ensures that staff understand the effects of trauma and how it can influence behaviour. This understanding can lead to more compassionate and appropriate responses to behavioural issues.

2. Enhancing Training for Caregivers and Law Enforcement

Training for foster parents, residential care staff, and law enforcement officers can be enhanced to include strategies for de-escalation, understanding behavioural issues related to trauma, and alternative dispute resolution techniques that do not involve the criminal justice system.

3. Diversion Programs

Increasing the use and scope of diversion programs that offer alternatives to arrest and prosecution for low-level offenses, especially those related to status offenses like truancy or curfew violations. These programs can include counselling, community service, or other forms of restorative justice.

4. Policy Reforms in Schools

Revising zero-tolerance policies in schools to prevent suspensions and expulsions for minor infractions, and instead use mediation or counselling. Ensuring that schools

have adequate resources to support students with behavioural issues, such as on-site counsellors or social workers, can help address problems before they escalate.

5. Legislative Changes

Advocating for laws that protect children in out-of-home care from being unnecessarily introduced to the criminal justice system. This can include laws that require alternative responses to status offenses and mandate child welfare agencies to use therapeutic interventions first.

6. Improved Collaboration Between Systems

Enhancing communication and coordination between child welfare agencies and juvenile justice systems to ensure that children receive consistent, supportive care. This can involve shared training programs, inter-agency teams, and joint protocols for handling incidents involving children in care.

7. Reducing Reliance on Law Enforcement

Establishing policies within child welfare settings that reduce the reliance on law enforcement to handle behavioural issues. This can include developing clear guidelines on when it is appropriate to involve police and ensuring that other options are exhausted first.

8. Foster Care Placement Stability

Implementing strategies to minimise placement changes in foster care, which can help provide a more stable environment for children. Stability can reduce behavioural issues and the subsequent likelihood of interactions with the criminal justice system.

9. Support Services Post-Care

Providing robust support services for youth aging out of the foster care system to help them transition to independent adulthood. This includes access to education, job training, healthcare, and housing support.

10. Data Collection and Accountability

Enhancing data collection to better understand the pathways through which children in care are criminalised and developing accountability mechanisms to monitor and evaluate the impact of reforms.

By implementing these reforms, policymakers, child welfare agencies, and community leaders can work together to significantly reduce the criminalisation of children in out-of-home care and improve their life outcomes.

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What the EXPERTS said

Yeah, the, yeah, the judge kind of looks at me differently. "Oh, he's got support. You know, we should try and help him." When they're not there they just would sentence me or something, you know. Yeah, it's a, it's a, fucking oath, it's a different, yeah, way different.

I'm going to end up in the big house, bro, you watch. I'm going to end up there, and I don't want to but where else is there to go, you know? Where there's nowhere to go on the outside I'll end up back in here, so when I'm on the outside and there's nowhere to go, can't come in here so where am I going to end up? In the big house.



SLIDE 30

Thankyou

Shona Reid

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- South Australian Child and Young Person Visitor
- South Australian Treatment Order Visitor
- South Australian NPM OPCAT - youth detention

