



YOUTH JUSTICE REPORT

Consultation with young people in
out-of-home care about their experiences
with police, courts and detention

Background

What is the issue?

Young people in out-of-home care (OOHC) are 19 times more likely to have contact with the youth justice system.¹ Research also shows that young people can be victims of crime while in care. CREATE is concerned about how many young people in OOHC have contact with the justice system, whether these young people have support during their time in the justice system and how the justice system can better meet the needs of young people with a care experience.

Trigger warning: *Some information presented in this report may be distressing for some readers.*

What did CREATE do?

CREATE spoke to 136 young people across Australia aged 18 to 25 years. They were asked to think about the most significant contact they have had with the justice system, including the police, courts and youth detention. They were asked about how they were treated by police and other people that work in the justice system such as lawyers, and whether they felt the police treated young people with a care experience differently to other young people. They were also asked about what support they received from caseworkers and caregivers during

their time with the justice system. Importantly, young people were also asked to provide recommendations for how the justice system can better meet the needs of young people with an OOHC experience.

Why did young people get involved with the justice system?

Young people had contact with police and courts for all kinds of reasons. Based on the type of experiences they had, the participants were divided into three different groups: those who identified as having committed an offence (for ease throughout this publication, this group will be referred to as offenders), victims of crime and young people reported missing.

Offenders

Eighty-six young people reported they had contact with the youth justice system because they were doing something wrong or dangerous.

The most common offence reported by about a quarter of young people (27%) was physical assault.

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

Sometimes though young people were doing things that were not as serious, like getting on a train without a ticket, or stealing snacks from a shop. Stealing related offences were reported by just under one-quarter (23%) of participants.

Train evasion, I didn't pay my fare, my go card did not have money on it (Female, 20).

I got caught stealing from IGA... I stole a chocolate bar (Female, 18).

In some cases, police were called for crimes committed in a residential care facility, that may not have resulted in police involvement if they occurred in a home environment.

I smashed a window in the [residential] unit, and stole my mate's scooter (Male, 19).

Some young people stole clothes or broke into buildings to sleep because they were homeless, and others got into fights with people or damaged property because they were going through a rough time and didn't know how to handle it and control their behaviour.

A worker in a residential care unit escalated my behaviours by not letting me smoke on the balcony and made me go down the end of the driveway to smoke in the cold, and I got very angry and upset and trashed my room. The worker called the police (Female, 20).

Victims

Thirty-two young people talked about coming into contact with the justice system because they had been a victim of a crime. They most commonly identified being physically assaulted followed by being sexually abused. Others reported being threatened, having their property damaged, and witnessing a crime.

Those reported missing

Eighteen young people said they had contact with police because they had been reported missing. Nine young people said they were intentionally running away because they did not like their placement or felt unsafe.

A lot of interactions were either running away or suicide attempts. I ran away for the first time at five due to abusive carers (Male, 22).

¹ Australian Institute of Health and Welfare (2017). Young people in child protection and under youth justice supervision 2015-16. Canberra Author.

² Biehal, N. (2014). Maltreatment in foster care: A review of the evidence. *Child Abuse Review*, 23, 48-60.

³ Font, S. (2015). Child protection investigations in out-of-home-care: Perpetrators, victims, and contexts. *Child Maltreatment*, 20 (4), 251-257.

Eight young people said they had not run away but had left the placement for a short while but did not tell their workers.

... one of the workers dropped me off to see a friend at a park, so they were fully aware of where I was, after about an hour I started receiving phone calls from the resi saying that I had absconded and where was I... about 30-45 minutes later police showed up at this house (Female, 18).

One young person had been reported missing, even though her foster carer had kicked her out.

I was kicked out of my foster placement but it was reported as absconding. The police called me and said I had run away, I told them this was untrue (Female, 22).

What was the outcome?

Offenders

Just over half of the offenders (52%) were charged with an offence. Eight of the 86 young people received no charge, but 10 people were sentenced to detention. Other participants received a warning/caution, a fine, were referred to a diversion program, or had their charges dropped. Some young people did not report official outcomes, but said they were suspended, expelled or moved from their placement. In Australia,

in order to go to court you need to first be charged. However several young people said that they were not charged but that they still went to court. This shows that young people lack understanding of the process and the question must be asked – is essential information not being provided to them by people working in the justice system?

Victims

The 32 young people who reported being a victim of crime reported the following outcomes:

- 19% said their perpetrator had been sentenced;
- 16% obtained a restraining order against their perpetrator;
- 9% dropped their charges.

Almost three in ten of those who identified as being a victim were not aware of the outcome of their involvement in the justice system.

Ten young people who had reported being victims of crime said their cases went to court, but only seven actually attended court. Young people said they dropped their charges because they felt overwhelmed, lacked support, and were told to by other people.

I was given a choice - to drop the charges and stay there - or continue. My foster mother said that she would destroy all my belongings - photos and other things I had from my birth mother...felt like I had no choice (Female, 23).

Over one third of comments from offenders and more than half of the comments made by young people reported missing, related to feeling humiliated, disrespected and intimidated by justice system officials.

Those reported missing

Over two-thirds of the young people (67%) who had contact with the police because they went missing said the police returned them to their placement. A further 17% said the police checked they were okay but did not make them return to placement. One young person was taken to a watch house, one was taken to hospital to have a mental health assessment, and one participant was picked up by police and taken to a new placement.

The police officers used excessive force, I had four police officers sitting on my back just to hand cuff me. After they had cuffed me, I was taken to the watch house for most of the night, the resi workers came to get me six hours later (Female, 20).

How did young people feel when speaking with police and the courts?

Young people were asked how they felt about their contact with the justice system. Some had positive experiences or felt that it wasn't too bad however a lot had negative feelings about it.

Offenders and young people who were reported missing felt disrespected, fearful and anxious

It is really worrying that over a third of the comments from the offenders, and more than half of the comments made by young people reported missing, related to feeling humiliated, disrespected and intimidated by justice system officials. Young people reported that they felt unfairly treated

because no one explained what was happening, they were not given a chance to tell their side of the story, and because in some cases, the police used excessive force or were rude.

They made me feel like a bad person, I don't know why someone didn't just sit down and talk to me about what was going on and why. I had no support, no one cared. If they had asked me why I could have told them why I was doing it and it might have been able to be fixed earlier (Male, 24).

I feel that the police and courts contributed to making me feel like crap by not listening to me – I was just another resi kid in their eyes (Female, 19).

Thirteen young people who went missing reported they were treated unfairly and disrespectfully by the police who found them. They believed the police were excessive in their use of handcuffs to restrain them and didn't give them a chance to explain why they had run away.

Police showed up and told me I had absconded and I should be ashamed of myself... said that I was lucky that they were not going to put handcuffs on me because normally that is what they have to do for people like me, I was made to feel quite small and inferior, I felt like a criminal (Female, 18).

Offenders and young people who went missing also said they were scared and anxious throughout their justice system contact. Those who

had committed a crime did not know why they were being questioned by police, and were especially anxious about what sentences they would receive. Those who went missing felt anxious because no one explained what was happening and they felt they were going to be punished.

I was quite freaked out throughout the whole process because I didn't know what was going to happen (Female, 24).

I was probably just frightened and I felt like I had done something wrong... I wasn't sure what was going to happen next and if I was in big trouble (Female, 22).

Victims felt disempowered and let down by the justice system

Young people who had contact with the justice system because they were a victim of a crime said they felt let down by the justice system. Young people wanted the police to have intervened more, and wanted the processes to be faster. Young people were also disappointed that getting police involved did not make them feel safer.

I felt let down, I felt like they would have done more if we were a "normal family"... I felt like we are always pushed to the back because we are foster kids. Police think we just make up stories, because of our care experience (Female, 18).

Even though there was a restraining order on my dad it didn't stop him from contacting me and threatening me all the time... (Female, 18)

Over half the victims reported that being involved with the justice system resulted in feelings of powerlessness. Having to give testimony and being questioned by police was difficult, especially when the young person felt unsupported.

... [The Department] should have explained to the judge that I had PTSD...It made me feel like everyone just gave up on me...I wasn't given a fair opportunity...I was chucked in with the defence lawyer. Of course a 15 year old is going to lose their temper when you keep asking them the same questions again and again and accuse them of lying (Female, 18).

Young people also felt powerless when they had to remember traumatic events in order to provide a witness statement, particularly when no one told them whether the perpetrator would be charged, or how their cases were progressing.

You just feel so powerless, and you've lost control of your life, you have trouble remembering the details etc. It was such a murky time of my life, and the legal process made it more murky. You're told your accuser doesn't have power and control over you anymore, and after it all, that wasn't changed (Female, 25).

Positive interactions with the justice system

A quarter of the participants who offended felt their experiences with the justice system were fair and straightforward. These young people felt they had been treated well and with respect by justice system personnel, had been given a chance to explain their actions, and received a sentence that was justified.

The police were always very supportive, they didn't treat me like a criminal, they saw that there was something deeper there. Not about the robbery but rather risk taking. They spoke to me about the risks about continuing this behaviour could lead to prison (Female, 20).

I learnt my lesson only because the cops were doing their jobs and I know not to do that again. They were totally fine. He let me know that there was a camera on his vest and was talking to me nicely (Male, 19).

Three of the 18 young people who were reported missing similarly described satisfactory encounters with the police, because they thought the police were caring, and they reassured the young people that they were there to check on their welfare.

Eight young people who were victims also had positive experiences, because they perceived the police as respectful and wanting to help them.

It was fair and good. They were trying to identify who [the stalker] it was ... They took the appropriate measures and were going to do something about it (Female, 19).

For a kid it was pretty intense and I knew that they had to it. The police woman was pretty nice though and spoke well to me as a child. And I got a teddy bear from them (Female, 18).

The justice system as a learning experience for offenders

Eight of the 86 offenders (9%) described their contact with the justice system as a learning experience that motivated them to change. They reported being connected with support services and learned ways to better control their behaviour from their youth justice officers.

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

I learnt my lesson from having to go to court, I learnt it is not worth taking the risk, it does not look good on my record in the future with getting a job (Female, 22).

1/3

of offenders (during their contact with police) and one-fifth of offenders who went to court

1/4

of victims

Young people overwhelmingly reported they had "no one" to support them during their various stages of contact with the justice system including:

2/3

of those young people who were reported missing

1/5

of young people who were sentenced to detention



Recommendations from young people to improve the justice system

Young people were asked how the system could be improved to ensure issues are better dealt with.

More support

Most young people felt they should have been provided with more support, particularly emotional support, from caseworkers and family.

Not having a second voice made it ten times harder. It would be better to have a support person and advocate. It would be so much easier than having to learn the law at a young age (Female, 20).

More support from my carer and caseworker to talk through feelings about why it happened and how I felt after (Male, 20).

More information

Offenders wanted more specific information including the nature of their charge, whether they would be issued a warrant and their most likely sentence.

Victims wanted to know more about whether police were following up on their issues and how the perpetrator would be dealt with. They also wanted to know about services they could access for more assistance, such as victim compensation.

Young people who were reported missing wanted the police to clarify that they were there to check on the young person's welfare and not to punish them.

More empathetic and less antagonistic police behaviours

Young people who offended described the police as “arrogant”, “rude”, “frightening” and “intimidating” and felt that their interaction would have been better if the police didn’t act this way.

Young people who went missing seemed to have similar views and described the police as “unfriendly” and “scary”.

Young people felt that if the behaviour and attitude of the police had been different, then they would have reacted more calmly. This is important as some young people received additional charges and were placed in watch houses because their behaviour escalated when interacting with police.

The police purposely spoke to me in a way that was stern, because I feel like they didn’t want a positive outcome. They could have done it positively, but they chose not to (Male, 20).

The police were really rough with my friend which is why I jumped in and why the whole situation escalated (Female, 22).

Victims also felt that police should have been more empathetic, which would have helped them disclose distressing information.

Opportunity to be heard

Offenders felt their interactions could have been improved if they had been given a chance to tell their side of the story. They wanted to describe their motivations and triggers behind their offending behaviour.

They were abrupt, no discussion on what the issue was or why I did what I did, they just charged me without even thinking about talking to me... I was another welfare kid running around that they didn’t have the time or respect for which just made me act up even more (Female, 22).

Young people who went missing similarly wanted a chance to explain why they ran away, especially those who felt unsafe in their placements.

Someone should have been asking about the reasons for running away... what if it was more serious? One of the people living there with me at the time would leave me sexually explicit letters under my door... I did not feel comfortable - not safe (Female, 23).

Young people who had been a victim of crime wanted their claims to be taken seriously and believed.

They could have not told me no one was going to believe me because I was a foster kid. That has stuck with me for life. I guess they could have treated me like they believed me (Female, 25).



Better management by placements

Some offenders and young people who went missing felt that it was not the justice system that needed improving but rather things in their placement that motivated their offending or running away that needed to be better dealt with or better managed.

Young people felt residential workers should have been better trained to de-escalate challenging behaviour, and that foster carers should have been more understanding of the young person.

My foster carers at the time should have cared for me better. Showed some love and care... When I was in foster care, I wasn't treated fairly. They didn't connect with me. They searched my bag and did not trust me and treated me like a criminal (Male, 19).

How the justice system relates to young people in out-of-home care

Over half of young people believed the justice system did not meet the unique needs of young people in OOHC and should have a better understanding of how trauma influences the behaviour of young people.

I don't think they get trauma or behaviours expressed by children and young people in care so there isn't a lot of understanding towards them. It's a lot about punishment rather than rehabilitation. It's more you did the wrong thing regardless of the reasons behind it (Female, 22).

Young people also felt that the justice system should understand that those in care may lack the ability to use certain coping strategies if something was happening in their environment to escalate their behaviour.

Sometimes young people in care are treated differently in the justice system because people might think they are a naughty kid and have been kicked out of home when it's not the case (Male, 18).

When asked specifically how the justice system related to people with a care experience, 43% of participants felt the justice system held negative attitudes towards young people in out-of-home care with young people stating that they felt the police thought of them as "delinquents", "no hopers", "trouble makers" and "scum".

The justice system could not care less about kids in care. They see us as not worth bothering about and that we deserve what happens to us because there is a reason that we are in care (Female, 22).

43%

of participants felt the justice system held negative attitudes towards young people in out-of-home care

I don't think that the police are that nice and that they could deal with us better. They could be more understanding of why we get angry and we've had to deal with a lot of stuff in the past (Male, 18).

Some young people said they received harsher consequences than other young people not in OOHC, because the justice system had a particularly negative image of them already. Some young people also said those in care committed crime because people expected them to.

We are not really treated like kids, we are held to greater responsibility than anybody else. If another young person living at home has a fight with their sibling they are not held to the same responsibility (Female, 25).

You feel like people expect you to do the wrong thing. People don't give young people in care a chance to prove themselves so what are they supposed to do, they just think oh well I might as well do the wrong thing (Female, 22).

Young people expressed concern that those in care would be less likely to go to the police for help when they needed it, and that these negative experiences with police could compound the traumatic experiences they have already had.

The justice system actually amplifies the worthlessness that young people who are in care feel... I think that there's still a huge amount of abuse being unreported and unacted on due to the system being so un-childfriendly and so unresponsive (Other, 23).

It is dehumanising. It further disempowered us, instead of protecting you (Female, 25).

On a positive note, a small proportion felt that the justice system related positively to young people in care. In several of the accounts, it appeared that they thought it was positive overall because their experience was a good one.

I feel great about how it is, don't change anything. Because I was able to get a good outcome" (Male, 21).

Being involved in youth justice has been a positive experience for me and helped support me through court processes. If I didn't have this help I would have ended up in detention (Male, 18).

Seven offenders and one victim further stated that they felt that the justice system did not discriminate against young people in care, but rather treated them the same as other young people.

Same as everybody else. If you stay out of trouble they are going to be friendly but if you commit an offence then they are going to treat you like a normal criminal which is perfectly valid (Male, 19).



Recommendations

- 1. Police, court officials and workers in juvenile detention facilities should adopt a trauma informed approach when working with young people in out-of-home care.**

This means understanding how experiences of trauma can influence behaviour and helping to treat trauma not just punishing young people. To reduce the risk of re-traumatising young people, the justice system needs to ensure young people know what's going on, are informed along the way and don't feel threatened.

- 2. Young people, regardless of whether they are an offender, a victim or have run away from their placement, need to be given the opportunity to have their voices heard.**

Considering some young people engaged in offending behaviour or ran away from placement because they felt unsafe and other young people reported being a victim of abuse in their placement, there is a need for child protection workers to encourage young people to speak up about their concerns, knowing they will be taken seriously and will not be unfairly blamed.

**3.**

There is a need for greater clarity regarding the roles and expectations of caregivers and professionals in supporting young people through the justice system.

A high proportion of young people with a care experience are unsupported during their justice system contact. Child protection, youth justice, and community service agencies who provide placements for young people in OOHC need to work together to develop clear protocols about how best to support young people who may have contact with the youth justice system at each stage.

**4.**

We must Snap that Stigma for young people in OOHC.

There is a need for increased public education and awareness of the impacts of negative language and stereotypes for young people in OOHC.

Key Findings

86

reported committing an offence



32

were a victim of a crime

had contact with police because they were reported missing

18



1 in 10

1 in 10 victims dropped their charges due to feeling overwhelmed, unsupported, or because people told them to

28%

were not aware of any outcome



38%

of the 86 offenders reported "no one" supported them during police contact





those who had **no** support during police contact



43%

of participants felt the justice system held stigmatised attitudes against young people in out-of-home care

26% of offenders

27% of victims

&

19% of young people reported missing



reported satisfactory experiences with the police because police were respectful, helpful and listened to the young people

CREATE Foundation is the national peak consumer body for children and young people with an out-of-home care experience. We represent the voices of around 48,000 children and young people currently in care, and those who have transitioned from care up to the age of 25. Our vision is that all children and young people with a care experience reach their full potential. Our mission is to create a better life for children and young people in care.



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