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‘Taking the wheels off’: The criminalisation of young people in out-of-home care with cognitive impairment

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Key words: Out-of-home care, crime, cognitive impairment

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Abstract

Children in out-of-home care (OOHC) with cognitive impairment are significantly overrepresented in the criminal justice system. Little attention has been given to the connection between those with cognitive impairment who also have a care background and how these combined factors are linked to their criminal behaviour. A qualitative study utilising semi-structured interviews with 11 service providers to this cohort was conducted with the aim of investigating the views of these professionals and gaining insight into factors contributing to the criminalisation of children in OOHC with cognitive impairment. Five themes were identified using thematic analysis, suggesting that the primary areas of concern for service providers to this cohort are; (1) *Increased Vulnerability*, (2) *Lack of Belonging and Security*, (3) *Challenges with Identification, (4) Steering to the Criminal Justice System* and (5) *Lack of Support*. These findings have important implications for both policy and practice which are discussed in full.

Keywords – OOHC, cognitive impairment, crime

Taking the wheels off: The criminalisation of young people in out-of-home care with cognitive impairment

The Australian criminal justice system interacts with a disproportionate number of children and adults with current or past experience of Out of Home Care (OOHC), who also suffer from cognitive impairment (Baldry, McCausland, Dowse & McEntyre, 2015; Indig et al., 2011; McFarlane, 2015). In Australia, child protection services assist vulnerable children at risk of harm through abuse, neglect, or inadequate care and protection by their parents (AIHW, 2017). When parents are found to be incapable of providing appropriate care, children are placed in OOHC. Although this is considered an intervention of last resort in Australia, there are approximately 55,600 children in OOHC (AIHW, 2017), 20,316 of whom are based in New South Wales (NSW) (more than any other State in Australia). This figure has continued to rise every year since 2011 (AIHW, 2017).

While research in Australia is at present limited, there has been an increasing focus on the overrepresentation of children in OOHC in the criminal justice system (Gerard, McGrath, Colvin, & McFarlane, 2018; Malvaso & Delfabbro, 2017; McFarlane, 2015; Mendes, Baidawi & Snow, 2014). Individuals with cognitive disability have also been found to be overrepresented in the criminal justice system (Baldry et al., 2015, Ellem & Richards, 2018). For instance, a recent study on the NSW prison population found that of those who had been in OOHC, 90 percent also had cognitive impairment (Baldry, 2014). To date little attention has been paid to the relationship between those with cognitive impairment who also have a care background and how these combined factors contribute to this overrepresentation. The present study aims to investigate the views and experiences of service providers to these individuals, to understand their perceptions of the factors contributing to the overrepresentation of

people with cognitive impairment and an OOHC background in the criminal justice system. We define cognitive impairment in line with the NSW Law Reform Commission (2012), as an ongoing impairment in cognition related to damage or deterioration of the brain or mind, arising from factors such as intellectual disability, dementia, acquired brain injury, drug or alcohol related brain damage or autism spectrum disorders (p. xxvii).

OOHC, Cognitive Impairment, and Crime

Children in OOHC are a particularly vulnerable group, and their life outcomes are generally poor (Bromfield, Higgins, Osborn, Panozzo & Richardson, 2005; Staines, 2016). Research with this cohort both nationally and internationally suggests that compared to the general population, they suffer from a range of physical and developmental problems (Nathanson & Tzioumi, 2007), including poor mental health (Tarren-Sweeney & Hazell, 2006), worsened educational outcomes (Delfabbro & Barber, 2003), and increased involvement in the criminal justice system (Malvaso & Delfabbro, 2015; McFarlane, 2015; Ringland, Weatherburn & Poynton, 2015).

In particular, research increasingly shows a link between OOHC and contact with the criminal justice system (Malvaso & Delfabbro, 2015; McFarlane, 2010, 2015; Schofield et al., 2014). In 2008, the NSW Inquiry into Child Protection Services (Wood, 2008) found that up to 39 percent of females and 28 percent of males in prison had previously been in OOHC. The 2015 NSW Young People in Custody Health Survey (NSW Health, 2016) found 21 percent of young people in juvenile detention had been placed in OOHC before the age of 16. Ringland, Weatherburn, and Poynton (2015), in a study of 17,638 young people involved in the NSW criminal justice system found 10% of their sample had a history of care. Further, in an analysis of NSW Children's Court files, it was found that children in OOHC were 68 times more likely

to appear before the NSW Children's Court as compared to their peers not in care (McFarlane, 2010). Legal Aid NSW also conducted their own independent analysis of their 'high service users' between 2005 and 2010 and discovered that 46% of these clients had a history of being in OOHC (Van de Zandt & Webb, 2013). Similar findings have also been observed in international jurisdictions including Sweden (Vinnerljung & Sallnäs, 2008), Scotland (Carnie & Broderick, 2015), and the United States (Ryan & Testa, 2005).

There is also substantial evidence suggesting young offenders have significantly lower cognitive ability than those who do not offend (Kenny & Nelson, 2008). Individuals with cognitive impairment are significantly overrepresented in the criminal justice system, with some estimating 10% of offenders have this condition (Baldry et al., 2015; McBrien, Hodgetts & Gregory, 2003). Males with cognitive impairment are three times more likely, and females four times more likely, to have a criminal record than those in the general population (Fogden, Thomas, Daffern, & Ogloff, 2016). Further, life course persistent offenders (Moffit & Caspi, 2001) have traits commonly associated with those with cognitive impairment such as neuropsychological deficits, attention deficit and hyperactivity symptoms, impulsivity and challenging temperaments.

Although it is clear there is overlap between care, cognitive impairment and crime, the relationship is complex. Explanations for the link between care and crime vary but it has been argued these can be divided into two categories: the 'risk factor' approach, which views this relationship as a result of the individual pathologies of the child, and the 'adverse influences' approach, which argues the care/crime link is a result of the care environment itself (Staines, 2016). More recently, Stanley (2017) identified five explanations for this relationship: the history of trauma and abuse

suffered by these children; instability in care placements; the criminalisation of children's behaviour in care; the lack of support received by adult care leavers; and different bail and sentencing outcomes.

A history of trauma, abuse and neglect, and poor parental supervision are clearly associated with both placement in care and contact with criminal justice authorities (Cashmore, 2011; Darker, 2008; Goodkind, Shook, Kim, Pohlig & Herring, 2013). Cashmore (2011) found maltreatment from childhood until adolescence, or during adolescence to be particularly important in determining contact with the criminal justice system.

There is also clear support for the relationship between placement instability and contact with the criminal justice system for children in OOHC (Goodkind et al., 2013). One study found that three or more placements doubled the risk of offending for males compared to those moved less than three times, while for females, any placement increased the risk of offending (Widom, 1991). Placement instability is a particular problem for children with cognitive impairment due to their behavioural difficulties, and these children are ultimately less likely to be reunited with family post-care (Slayter, 2016). Changes in placement may interfere with psychological and emotional wellbeing, reduce opportunity for bonding and social support, disrupt education, increase anger and anxiety around the loss of care-givers or siblings, compounding existing behavioural difficulties and increasing the risk of criminal behaviour over time (DeGue & Spatz Widom, 2009, Staines, 2016). In addition, placement type, whether home-based care (foster or kinship care) or residential care (care provided by paid staff in a residential setting), also affects offending behaviour. It has been found children in residential care are more than twice as likely to have been arrested compared to those in foster care (Ryan, Marshall, Herz & Hernandez, 2008).

Others have argued it is not the complex needs of this vulnerable group which leads them to the criminal justice system, but rather the failure of community and criminal justice services to provide adequate care, support, and protection (Baldry et al., 2015; Ellem & Richards, 2018; Gerald et al., 2018; McFarlane, 2015). It has been suggested by some researchers that the removal of a child from home and placement in OOHC may be responsible for both trauma and disruption to primary attachments which can then lead to later criminal behaviour (DeGue & Spatz Widom, 2009; Doyle, 2008). New placements impact a child's ability to form attachments, and there is evidence supporting a strong association between insecure attachments and all types of criminality (Ogilvie, Newman, Todd & Peck, 2014). At the same time, the dangers of leaving children exposed to high risk situations and perpetual maltreatment if they remain with family who are incapable of providing adequate care must also be accounted for.

It has also been argued children living in residential care facilities are more likely to come to the attention of police for behaviour that would normally be dealt with informally (McFarlane, 2015; Staines, 2016). In a recent Australian study examining the perceptions of workers in the residential care system, a lack of staff training and inconsistent residential policies were reported to have led to the use of police as behavioural management tools (Gerard et al., 2018). The Wood Inquiry in 2008 highlighted a lack of adequate care and support for the OOHC population, with many being held on remand in custody due to a lack of suitable accommodation to return to, or an unwillingness of carers to take them back. In a recent Australian study, young people with cognitive disabilities perceived interactions with police to lack procedural fairness in some circumstances (Ellem & Richards, 2018). For many with cognitive

impairment, prison often becomes the default option because of the lack of housing, community based care, or support (Baldry et al., 2015).

Children with cognitive impairment are at higher risk for child welfare involvement due to an increased risk of maltreatment through abuse and neglect. In Australia, disabled children are three times more likely to experience abuse than other children (Slayter, 2016). Unfortunately, cognitive impairment is often undiagnosed and instead individuals with these impairments are seen to be difficult and troublesome and often criminal (Baldry et al., 2015). Previous research has identified a lack of awareness of what cognitive impairment is amongst professionals within the criminal justice sector and the specialised services required by this disadvantaged group (Snoyman, 2010). People with cognitive impairment are commonly thought to have a mental health disorder and within the criminal justice system are regularly dealt with under mental health legislation (Baldry, 2014). It is frequently reported that the first opportunity this population has for an assessment and diagnosis of cognitive impairment is in prison, when it is too late to access intervention services (Baldry et al., 2015).

There are a number of factors that help perpetuate the relationship between cognitive impairment and the criminal justice system (Baldry et al., 2015). Diversionary or rehabilitative options are lacking and this is likely to increase reoffending (Borzycki & Baldry, 2003). Cognitive impairment can also compromise understanding of court processes, sentencing and bail conditions. Behaviour reflecting this lack of understanding can be interpreted as disengaged or even obstructive and this might impact on bail and sentencing determinations (Cant & Standen, 2007). In particular, misinterpretation of bail conditions has been shown to be a significant predictor of reoffending for those with cognitive impairment (Baldry et al., 2015).

A lack of educational attainment compounds these factors (Goodkind et al., 2013). Education is well-recognised as a protective factor against criminal involvement, however children in care are an academically disadvantaged population (AIHW, 2015). This is particularly the case for individuals suffering from cognitive impairment. A survey of prisoners in NSW found that those with cognitive impairment had the lowest levels of educational attainment, which is significant as prison populations generally have low levels of education regardless of a diagnosis of cognitive impairment (Baldry, Dowse & Clarence, 2012; Kenny & Nelson, 2008). This vulnerable population may experience complications with language, communication, or other special needs which can then interfere with their ability to engage in the educational environment (Sanger, Moore-Brown, Magnuson & Svoboda, 2001). This may then trigger truancy, exclusion and other challenging behaviour which is often interpreted as bad behaviour and dealt with accordingly (Osler, Watling & Busher, 2001).

Rationale and Aim of the Current Study

Children and young people in care with cognitive impairment are a population at significant risk of entering our criminal justice system. However, little is known about the experiences of children with a disability in both OOHC and the criminal justice system. Service providers who work within this setting and interact daily with both the child and the systems have the potential to provide unique insights into the reasons behind the criminalisation of this cohort. To date little research has focused on the experiences and perspectives of these service providers. The current study will conduct in-depth interviews with a sample of these individuals to gain a greater understanding of the nexus between care, cognitive impairment, and criminalisation.

Qualitative research provides an opportunity to capture participants' views in depth and further explore the underlying problems in order to capture ideas and

promote change. Semi-structured interviews have proved to be a useful method of data collection in qualitative research as they provide an avenue for participants to freely and openly share their views and experiences on a particular topic (Willig, 2008). Therefore, it is the objective of the current study to explore, through the use of in-depth interviews, the personal and professional experiences of service providers to individuals with cognitive impairment in OOHC and how they interact with the criminal justice system. It is expected that the ideas and themes generated by this study will contribute to a greater understanding of the factors that contribute to the increased criminalisation of this cohort and in turn, inform policy that will address this overrepresentation.

Research Design

Design

A qualitative study was conducted utilising semi-structured in-depth interviews.

Participants

Participants were three male and eight female service providers, representing seven different NSW state government and community organisations. Potential participants with two or more years' experience in provision of services to children and young people with intellectual disability who have been or who are currently in OOHC were approached to be interviewed.

Data Collection

Semi- structured in depth interviews were conducted by the first author with participants either in person (n = 9) or by phone (n = 2). All interviews were conducted individually except for one, where one participant was interviewed face to face, while their colleague joined the interview by phone. Each interview was arranged to occur at

times and locations convenient to the participant and lasted between 30 minutes to one hour in length.

After brief introductions, prior to each interview, the first author gave a preamble which included information on informed consent, seeking permission to record and notifying participants of the right to withdraw at any point during the interview.

All interviews were digitally recorded using a mobile phone and were transcribed by the first author verbatim. All references to interviewees were removed to ensure anonymity.

An interview schedule was utilised containing questions designed to provide structure whilst also allowing opportunity to explore matters relevant to the research question. Questions investigated perceptions of the relationship between children and young people in care with cognitive impairment and offending behaviour, the challenges faced by and supports provided for this cohort, the influence of cognitive impairment on sentencing, awareness of cognitive impairment amongst other professionals in the sector, and how the problems identified could be addressed more effectively.

This study received ethical approval through the Charles Sturt University Human Research Ethics Committee.

Data Analysis

Data were analysed thematically according to the six phases described by Braun and Clarke (2006). Familiarity with the data was achieved through reading and re-reading transcripts. Items of interest to the research question which appeared to form repeated patterns across the data set were extracted and coded. Codes were then sorted into potential themes, by combining coded data extracts which appeared to sit under a

similar broader idea. These ‘candidate themes’ were then further refined by reviewing all the coded extracts within a theme to ascertain whether they formed a clear pattern. It was at this point where a number of candidate themes were combined which did not appear to hold their own and some data extracts were relocated which seemed to fit better under other themes. In keeping with the method applied, the entire data set was then reviewed once again to ensure that identified themes provided an accurate reflection of the data set overall.

To ensure the validity of findings, participants were provided with an overview of generated themes and feedback was sought. Four participants responded, affirming the accuracy and suitability of themes generated, suggesting that findings were in agreement with their personal experience and views on the research topic.

Findings

Five themes were identified: *(1) Increased Vulnerability, (2) Lack of Belonging and Security, (3) Challenges with Identification, (4) Steering to the Criminal Justice System* and *(5) Lack of Support.* These themes represent the common perceptions and experiences of a small group of service providers who work with people with cognitive impairment who are currently in or have been in OOHC, and have also had contact with the criminal justice system. These findings are described and discussed below.

Increased Vulnerability

Participants perceived the multiple risk factors associated with having a cognitive impairment and being in OOHC increased the likelihood of contact with the criminal justice system. Participants referred to the trauma, abuse and neglect experienced by these children and young people, reporting cognitive impairment compounded the challenges facing them, making criminal behaviour an almost inevitable outcome, as illustrated in the following quote: “…so, Out of Home Care,

your trauma, abuse and neglect. Add in… you know, add in there the child's vulnerability due to intellectual disability and yeah… there's a trajectory that is difficult to head off" (Fiona). Research has found exposure to multiple risk factors in childhood, such as maltreatment, low academic achievement, hyperactivity, and peer delinquency has an additive effect, increasing the potential for delinquency (Herrenkohl et al., 2000). Our respondents recognised the complex needs of those with cognitive impairment and an experience with OOHC (Baldry et al., 2015; Darker, 2008).

Children in OOHC with cognitive impairment were perceived to be vulnerable to crime because, "…their ability to assess risk is lower and so they can be abused and exploited by others" (Tony). Respondents saw a reduced ability to comprehend the consequences of actions, and this had the effect of heightening susceptibility to the influence of criminal associates, a perception consistent with research demonstrating the relationship between involvement with antisocial peers and offending behaviour (Gifford-Smith, et al., 2005; Moffit & Caspi, 2001; Pratt, et al., 2010). One care worker commented: "… you know, they're naïve, and they'll just do whatever their peer tells them to do" (Sharon). Association with pro-social peers along with academic achievement and effective use of free time are by contrast commonly reported protective factors against offending behaviour (Hoge, Andrews & Leschied, 1996). Respondents perceived a decreased ability of those with cognitive impairment to engage productively in known protective factors:

> I think what happens is that kids come into care obviously for a reason and oftentimes it's because they've been quite seriously damaged, assaulted, traumatised, do you know, all of those things. And for all kids, dealing with that is difficult, but for kids with intellectual disability… it's more difficult because they've got…more limited cognitive capacity in terms of their ability to

> problem solve, to think things through, to resolve things. They've got more limited communication skills in terms of being able to, talk about what's going on for them. It's harder for them to get counselling, it's harder for them to benefit from counselling and so what results from that is… problem behaviour. (Penny)

Our respondents clearly perceived this population to be vulnerable to criminal activity, mainly due to the compounding influence of the risk factors associated with OOHC status and being cognitively impaired. Further to this, their reduced ability to engage in protective factors against crime makes them even more vulnerable to criminalisation.

Lack of Belonging and Security

Children and young people with cognitive disability in OOHC were seen as lacking a sense of belonging and security as a result of both pre-care and in-care factors, and this was perceived to be a driving force leading to engagement in crime or with criminal associates. Interviewees described this cohort as having insecure attachments, resulting from both their treatment prior to entry into care, but also perpetuated by an OOHC system which fails to provide safety, stability and care. One respondent commented "… I just think that we don't… we just don't protect them enough, we just don't… we don't look after them enough" (Penny). Another explicitly recognised the role of attachment:

> And I guess what we see with a lot of kids who experience drift in care and multiple placement breakdowns is often that the lack of… having a secure attachment. So, these kids have disorganised attachment or insecure attachments and you know, that comes out in their behaviour. That means that placements break down and I guess you know, that lack of sense of belonging and… the

> (in)secure attachment just means that their likelihood is to go on to… enter in Juvenile Justice systems or criminal systems (Belinda)

This theme is consistent with Bowlby's theory of attachment (1947), which argues the development of a secure attachment to a carer has an important role in ensuring the survival and psychological health of the child. Schofield and Beek's (2006) model of a secure base, which is founded in attachment theory (Ainsworth & Bell, 1972), suggests that positive family relations are an essential element in building security, particularly for adolescents who are fostered, and research has shown secure attachment is protective, and insecure attachment predictive of offending behaviour (Levinson & Fonargy, 2004; Ogilvie et al., 2014).

Service providers reported the OOHC system prioritised placements of convenience over the best interests of the child. It was often reported that placement decisions were determined on the basis of availability, not suitability, which then regularly lead to placement breakdown:

> …sometimes five kids would be removed and then two would go to one part of New South Wales, one would go to another aunty, wherever they could get them a bed. And it just, I don't know, to me that just seemed criminal…. because…it's so hard to find a bed and stuff. It's impossible for them to relocate children in Out of Home Care… and then they put more pressure on the foster carers to take more kids and then it's more likely that foster carers actually going to break down in a screaming heap as well… (Sharon)

Placement instability was thought to be linked to a lack of acceptance and belonging, which in turn was linked to seeking acceptance and belonging amongst criminal associates. Previous research has found arrest rates rise with increasing placement moves (Degue & Spatz Widom, 2009), and further insecure attachment is a

predictor of offending (Olgilve et al., 2013). However, the competing roles of placement instability, attachment, and contact with the criminal justice system, and in particular the causal relationships between these variables remains unclear and is a matter requiring further research.

There appeared to be a general perception amongst interviewees that children and young people with cognitive impairment in the OOHC system are a neglected group. This ongoing lack of care and protection was clearly seen as both a justification for criminal behaviour and a lack of motivation to do anything different:

> …well, for a lot of people they get into trouble and nobody really cares. So, what's the motivation to stay out of trouble… and I think those groups (peer support groups for those with intellectual disability with a criminal history) have motivated some people. You know, there are people who are going to be disappointed in them if it happens… you know, supportive but disappointed. So, I think that could be something that's missing for a lot of people when they're young (Lauren)

There was a clear perception amongst professionals interviewed as part of this study that the ongoing lack of belonging and security that children in OOHC with cognitive impairment experience, is considered to be a significant contributor to their offending behaviour.

Challenges with Identification

The question of identity arose in a number of our interviews. This theme manifested itself in three ways. First, participants spoke of the difficulty workers in the sector had in associating disability and criminality. Second, participants reported the difficulty in distinguishing challenging from criminal behaviours. Third, respondents

spoke of how young people with cognitive impairment resisted being identified as disabled.

Respondents reported the difficulty workers in the sector had in reconciling the competing identities of disability and criminality. As one participant commented, “People with disability are nice, until they commit crimes and then they’re no longer disabled, they’re just criminal. We can’t… it’s as though we can’t hold those two ideas in our head at the same time” (Penny). Although there is considerable evidence pointing to a close relationship between cognitive impairment and crime (Fogden et al, 2016; Hirschi & Hindelang, 1977), this bifurcation has some support in the ‘counterfeit deviance’ account, which holds people with intellectual disability who commit sexual offences do so because of lack of sexual knowledge, lack of sexual opportunity, and sexual naivety (Hinsburger, Griffiths & Quinsey, 1991). Although subsequently questioned (Michie, Lindsay, Martin & Grieve, 2006), this view retains some currency among service providers to young people with cognitive impairment. Of greater concern, the National Disability Insurance Scheme (NDIS) perpetuates the presumption that cognitive impairment and criminality can be easily distinguished by funding disability services but not criminogenic needs. As one respondent commented, “I think that the NDIS… I mean they’ve got a really strong view of… there are disability needs and there are criminogenic needs and they fund disability needs but they don’t fund criminogenic needs” (Penny). Further, this belief system was perceived to promote a siloed approach, as another worker commented: “I think it is about understanding the compounding nature of all of these things. That they can’t be separated and it needs a whole of person approach rather than seeing something as disability, something as criminogenic, something as health” (Samira, p. 8). This view also ignores the complexity behind the interrelationship between disability, offending behaviours, and

other complex needs such as drug and alcohol addiction and histories of trauma and abuse (Baldry et al., 2015).

The theme of identity also emerged in respondent accounts of how behaviour perhaps best thought of as challenging is misinterpreted as criminal. One respondent commented, “we are criminalising challenging behaviour. That’s what we’re doing, we’re criminalising challenging behaviour” (Penny, p. 35). Academic and behavioural problems at school were seen to result from children being labelled as troublesome and suspended or expelled, rather than a recognition the behaviour was a response to trauma and a function of their cognitive capacity. Research shows young people with poor language skills are more likely to be labelled as challenging or difficult (Sanger et al., 2001), and further a robust relationship between challenging behaviour, school exclusion, and offending (Osler et al., 2001). A respondent commented:

> I think in the education space we can do a lot to support teachers in terms of helping them understand how young people are presenting. Because intellectual disability isn’t that obvious…and…behaviourally how young people present can be misconstrued by the system and I think that’s really problematic, and that sets young people up for failure as well. So, if you’re not understanding that someone has a comprehension issue, they’re not understanding an instruction, you know… it’s very easy to call a young child naughty when really it’s a processing issue (Sarah)

Further, it was reported that initial difficulties with diagnosis compound these problems. “The people in our program, they’re not obviously with disability you know…these are people who, they’re just guys, they just look a bit dodgy, … they look like criminals” (James). Where cognitive impairment is not identified, the person is

presumed to be more capable than they really are and as a result can miss out on required services. For instance:

> One of the things that I have consistently seen in working with people with intellectual disability in the justice system, is that their expressive language skills are better than their receptive language skills, which is a big problem because they sound more competent than they are (Penny)

Lack of adequately trained staff in OOHC is a recurrent topic in the literature (Cant & Standen, 2007; Cino, 2014; Gerard, et al., 2018), and this is consistent with our respondents' experiences of school contexts: "the schools may not have the systems, may not have the supports to actually undertake the screening, to undertake the assessments. I think people do the best with what they've got, and that's the reality of it…" (Sarah). In the care context itself, lack of training leads to difficulties in identifying cognitive impairment:

> The big change is the role that the FACs or NGO case worker would play in identifying that their (disability) supports would be needed. That's not generally something that, well for a start, they (the caseworker) may not you know, have any expertise in that area at all to know that, you know, there's something that requires support. Let alone to actually be able to identify and provide advice to the child or family around what they might want to see in a package of support. (Fiona, p. 16)

These problems in identifying cognitive impairment have the potential to lead to this vulnerable population failing to receive appropriate support services. Participants in the current study perceived this to be a significant contributing factor to the criminalisation of those in OOHC with cognitive impairment.

Respondents also reported people with cognitive impairment resist being identified as disabled. Previous studies have found that those with mental health conditions have been reluctant to reveal their illness for fear of stigmatisation (Barney, Griffiths, Christensen & Jorm, 2009; Powell & Clarke, 2006), and a similar phenomenon was reported in relation to cognitive impairment. Care workers reported:

> They (children in OOHC with cognitive impairment) did not want to be associated with anyone with a disability. They didn't see themselves as having disabilities. They were defiant, they were strong willed and they knew what they wanted and what they wanted was not to be living under a systems house that had rules" (Anthony)

Further, these individual had "learnt the skills to cover up the fact they have a disability" (Samira). This was perceived to be an important driver of criminalisation in this group. One respondent commented:

> …because they want to appear competent they'll pick up the key language that fits what they need. They can pick up the words and phrases that, you know… but they may well not understand them and so they don't understand their bail conditions, they don't understand their parole conditions, they don't understand what it is that they're meant to do and not meant to do. They get bits of paper that they can't read and they lose them (Penny)

This is consistent with McFarlane's (2015) analysis of NSW Children's court files, in which most of the recorded remand episodes related to a breach of bail conditions. It was also the view of our respondents that a criminal identity was in many ways preferable to their clients than one of disability, in that it leads to more acceptance not to mention status and authority. This account is consistent with Social Identity Theory (Tajfel & Turner, 1979), which argues individuals find preference for groups

that enhance self-esteem and provide a sense of belonging. One respondent commented "you can pick up a job fairly straight forwardly in crime and actually have status and some power, within a sort of crime subculture… and that status and that income is not really attainable in more mainstream ways" (Tony), whereas another thought for these young people "it is way cooler to be the crim…" (James), going on to note the criminal identity in many ways compensates for a life of abuse and violence.

To summarise, participants of this study perceived identification of and with disability, both for those who provide services and by those with disability, to be a crucial reason behind the criminalisation of the target population.

Steering to the Criminal Justice System

A consistent theme emerging from our interviews was that young people in OOHC with cognitive disability were directed to the criminal justice system rather than to appropriate support services. Entry into the criminal justice system was thought to be the default option in response to a lack of appropriate, effective and available care and support. Respondents reported default behavioural management techniques by OOHC staff often see police called to residential care facilities to manage challenging behaviour:

> So, a lot of these kids were in Out of Home Care and what they were noticing was that staff didn't know how to manage them. So, what were they doing? They were calling the police and asking them to come in and enforce behaviour that they couldn't manage, rather than finding an alternative pathway to manage these children. (Sarah)

This finding is consistent with other research which has also found a tendency for vulnerable groups to be directed to and managed by the criminal justice system (Baldry et al., 2015; Ellem & Richards, 2018; Gerard, et al., 2018; McFarlane, 2015).

Previous research has also found Apprehended Violence Orders (AVO) being used as a method of managing behaviour of children in OOHC (McFarlane, 2015). McFarlane's (2015) study identified the use of AVOs by police and carers for minor behavioural infractions (slamming doors, throwing objects). The participants of the current study reported continual breaches of AVOs (typically held by carers in group homes) by young people in OOHC with cognitive impairment. In the terms of labelling theory, these are classic instances of secondary deviance (Lemert, 1972) Instead of solving the initial problem, the use of AVOs in these contexts results in a continual cycle through the criminal justice system:

> So instead of taking what you think would be, "Ok, how as a service can we solve this problem? And what's really causing this to happen?"… you're steering to the justice system instead of solving the problem. People left in ridiculous situations that you just should know, it's bound to happen again, like of course it's going to happen again… because they're incompatible with somebody else in the home and it drives them crazy. (Lauren)

As previously discussed, the common perception of our respondents was that these children lack an understanding of court processes and outcomes due to their cognitive impairment and this compounds their involvement with the criminal justice system:

> Yeah, I think a lot of it is that they just don't understand… people with intellectual disability in the criminal justice system are one of the highest groups of people with breach of their court order offences, breach of bail, breach of section 32, breach of parole, breach of you know. That's what they… and they may end up, you know, they may have initially been charged for something reasonably minor, you know, got remanded in custody, gone before court and

> then from there on it's all about breaches you know… and whilst that's happening, their matter never gets quite resolved, you know what I mean. (Penny)

Consistent with previous research (Baldry et al., 2015; McFarlane, 2015) this pathway into the justice system was further strengthened by a lack of appropriate support and accommodation options leading to extended periods spent in remand custody.

> But they're (magistrates) very aware that there's not a lot of options for these young people. So, in some cases they really should in fact divert them from the justice system all together. But as magistrates will say, "where am I going to divert them to" (Rachael)

This relates closely to our final theme, which explicitly points to the lack of appropriate supports available for children in OOHC with cognitive disability.

Theme 5: Lack of Support

Deficiencies in the care, protection, and complex support needs required by vulnerable populations have been identified in previous research as being crucial to their involvement with the criminal justice system (Baldry et al., 2012). Interviewees reported while those with cognitive impairment in OOHC often present with the most challenging behaviour and are at significant risk of entering our criminal justice system, they continue to receive the poorest service or are even excluded from services altogether. As one respondent told us, "…the more challenging the kids, the more high risk behaviour the kids are displaying, the worse the service… the worse the services that they're in" (Penny). This perception was echoed in other interviews: "that's a group that tends to be less likely to be given access to treatment services because of their disability" (James). Exclusion from services was seen in part as a result of

programs being designed from a cognitive behavioural perspective, with those with cognitive challenges considered not to have the 'capacity to benefit'. However, in addition, services which cater specifically for those with cognitive impairment are lacking. For instance, there are currently no drug and alcohol services designed for this group in NSW (Churchill, Sotiri & Rowe, 2017):

> We have found it very hard to get people into drug and alcohol services, cause it's often cognitive behavioural therapy and they think, "well that's what we do, they can't really participate in that very well" (Lauren)

These exclusions were thought to be in part due to a preference for clients who will produce favourable outcomes, with one participant suggesting that services are "not going to want to take kids who are too difficult, because that might skew your outcomes, do you know..." (Penny). By contrast, others suggested that it is not necessarily exclusion from services that is the issue, but rather an issue of supply and demand: "I think the number of young people that need the help outweighs the level of support that's available" (Sarah). Where effective support is available it seems that it is often resource intensive, available to a limited number of clients and therefore unsustainable. There were concerns successful services have been discontinued prematurely for this cohort in response to cost saving measures, often undoing whatever good work had possibly been done for the client:

> You get a service in place, that's working for somebody and it's a bit expensive, and it's a bit resource intensive and so… they think, you know, "well this car's travelling alright with four wheels, we'll just take one away cause someone else needs a wheel", you know…and then… the car doesn't travel so well, but they still take a second wheel. They just, they don't really have an evidence base or a

> proper… a proper transition process for, you know, taking the wheels off (Penny)

Often it was perceived the best supports and services for this group are found in prison. One respondent commented: "…people with an intellectual disability will often say that about… especially in you know, the Long Bay Disability Unit. They will reoffend to go back in there, because they've got the routine and the structure that they want and the safety…" (Sharon).

However, some service providers also indicated that it is not through deliberate decision making that the target group return to the criminal justice system, but through the malfunction of a siloed system which results in poor continuity of care. One respondent commented about this specifically:

> There's not the continuity of care, which I think is challenging for many people… and often, it's when they're back in the community when life is chaotic, even if they do have service provision, they don't necessarily understand the client group and then it falls down, and then they cycle back into the criminal justice system. (Samira)

The prioritisation of reducing risk for recidivism through the provision of services, treatment and support both in prison and post release, has indeed been a focus in literature in the past (Borzycki & Baldry, 2003). This poor continuity of care, once again, seemed to highlight that one of the most high risk, high needs groups are getting the worst possible service. A lack of adequate care and support for those in OOHC with cognitive impairment was evident across the accounts of all participants and viewed as a factor primarily responsible for the criminalisation of this cohort. Both the implications of these findings and the opportunity for improvements in service delivery to this population are summarised below.

Conclusion and Implications

The current study set out to explore the perceptions of service providers on the criminalisation of children and young people in care with cognitive impairment. The views of 11 service providers were sought to understand the factors perceived to determine this relationship and how these might be addressed to remedy this over-representation.

There are some limitations with the present study which are worth noting. All service providers interviewed in this study were employed by organisations based in NSW and represent their individual personal and professional experience. Therefore, the findings, while consistent with the literature reviewed, are not generalisable and comparisons should be made carefully. While the views of experts in the field were regarded as highly valuable in understanding the criminal pathway of those in care with cognitive impairment, future research should consider giving voice to the views of the children and young people themselves.

In spite of the limitations, the findings of the present study are of some interest. What became clear in discussion with these participants is that children and young people who are in OOHC and have cognitive impairment are a vulnerable population. They are exposed to numerous risk factors which make them susceptible to criminalisation. While the pathway to crime is complex and it is difficult to isolate individual factors in order to assign causality, it was the view of service providers in this study that the addition of cognitive impairment to already known risk factors associated with those in OOHC has a multiplicative effect, increasing their vulnerability for crime. This finding has clear implications on the need for early detection of those with cognitive impairment in child protection services in order to proactively seek preventative interventions and support.

The increased criminalisation of this cohort was also linked to the development of insecure attachments in response to a lack of belonging and security experienced prior to entry into care, but also within the child protection system. Continual placement changes while in care, poor placement decisions, and a lack of a consistent primary carer were all credited as explanations for the criminal trajectory of this population. This finding fits well with the recently revised NSW Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001, providing additional support for the need to identify early on in a child's life, a safe, stable and permanent family in which children in OOHC can experience belonging, care and protection.

An inability to recognise disability and criminality can be intricately entwined was reported as a philosophical barrier common in individuals working in almost every service delivery area relating to this clientele. The NDIS provides a clear example of this dichotomy, where funding is provided for disability related needs only but not criminogenic needs. The complexity and interrelated nature of the needs of those with cognitive impairment in OOHC, suggest that in order for the criminal pathway to be avoided, a more holistic approach to the support needs of this group must be provided.

The criminalisation of the challenging behaviour so often associated with children and young people in OOHC with cognitive impairment, was identified by participants of this study as a common occurrence in the education, OOHC and criminal justice systems. Misidentification of cognitive impairment and misinterpretation of trauma functioning was associated with a lack of training, skills and experience of professionals working with this cohort. This finding demonstrates the need for greater investment in trauma informed education and disability awareness for those working in the sector. In addition, early detection of impairments in cognitive

function through increased access to assessments within child protection and education services is essential. Participants in this study also spoke of the reluctance of those with cognitive impairment to identify as disabled out of fear of stigmatisation, discrimination, and abuse. This emphasises the importance of protecting the rights of those with disability when providing these services.

Our participants perceived children and young people with cognitive impairment in OOHC were more likely to come before court for minor offences or crimes of survival, such as stealing food or for breach of orders, and this was seen more as a result of limited cognitive capacity rather than deliberate attempts to break the law. The use of police services to manage the difficult behaviour of these children whilst in OOHC settings was also raised. While further training for professionals working with this cohort needs to be a priority, concrete solutions such as directions to food services or reading and writing assistance, could also help reduce this criminalisation.

Our findings revealed a lack of suitable support options, as well as exclusion from services because of cognitive impairment, a siloed approach to service provision within the sector which leads to a lack of continuity and delivery of what can only be described as deficient care and support for one of our most high risk populations. Children and young people with cognitive impairment in our OOHC system are all too commonly directed to systems of punishment instead of systems of care and support. This is a problem that needs to be addressed if we are ever going to see a change to the offending pathway of these children and young people in our governments' care. As the guardian of these children, governments cannot avoid responsibility for offending children in their care when they have failed to protect them from the factors known to promote or perpetuate offending in the first place. It is hoped that the findings of this study may influence current policy and practice within our education, OOHC, criminal

justice and community settings in a way that may promote better identification, care, protection, support, security and belonging of this highly vulnerable population, and in turn put a stop to this preventable pathway to criminalisation.

References

Ainsworth, M. D. S., & Bell, S. M. (1972). Mother-infant interaction and the development of competence. Retrieved from http://files.eric.ed.gov/fulltext/ED065180.pdf

Australian Institute of Health and Welfare. (2017). *Child protection Australia 2015–16.* (Child Welfare series no. 66. Cat. no. CWS 60). Retrieved from https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2015-16/contents/table-of-contents

Australian Institute of Health and Welfare. (2015). *Educational outcomes for children in care: Linking 2013 child protection and NAPLAN data.* (Cat. no. CWS 54). Retrieved from https://www.aihw.gov.au/reports/child-protection/educational-outcomes-for-children-in-care-linking/contents/table-of-contents

Baldry, E. (2014). Disability at the margins: Limits of the law. *Griffith Law Review, 23,* 370-388. doi:1080/10383441.2014.1000218

Baldry, E., Dowse, L., & Clarence, M. (2012). People with mental and cognitive disabilities: Pathways into prison. In *Background Paper for Outlaws to Inclusion Conference*. https://www.mhdcd.unsw.edu.au/sites/www.mhdcd.unsw.edu.au/files/u18/pdf/MHDCDbackgroundOutlaws%20Conf1.pdf

Baldry, E., McCausland, R., Dowse, L., & McEntyre, E. (2015). A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system. UNSW, Sydney. https://www.mhdcd.unsw.edu.au/

Barney, L. J., Griffiths, K. M., Christensen, H., & Jorm, A. F. (2009). Exploring the nature of stigmatising beliefs about depression and help-seeking: Implications for reducing stigma. *BMC Public Health, 9,* 61. doi:10.1186/1471-2458-9-61

Borzycki, M., & Baldry, E. (2003). Promoting integration: The provision of prisoner post-release services. *Trends and Issues in Crime and Criminal Justice, 262,* 1.

Bowlby, J. (1947). Forty-four juvenile thieves: Their characters and home-life. *The International Journal of Psycho-Analysis, 25,* 19-52.

Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology, 3,* 77-101. doi:10.1191/1478088706qp063oa

Bromfield, L., Higgins, D., Osborn, A., Panozzo, S., & Richardson, N. (2005). Out-of-home care in Australia: Messages from research. *A report to the Community Services Ministers Advisory Council commissioned by the Australian Government Department of Families, Community Services and Indigenous Affairs. Melbourne: Australian Institute of Family Studies*, 34-39.

Cant, R., & Standen, P. (2007). What professionals think about offenders with learning disabilities in the criminal justice system. *British Journal of Learning Disabilities, 35,* 174-180. doi:10.111/j.1468-3156.2007.00459.x

Carnie, J., & Broderick, R. (2015). Prisoner Survey 2015 (Vol. 15): Scottish Prisoner Service

Cashmore, J. (2011). The link between child maltreatment and adolescent offending: Systems neglect of adolescents. *Family Matters, 89,* 31-41.

Churchill, A., Sotiri, M., & Rowe, S. (2017). Access to the NDIS for people with cognitive disability and complex needs who are in contact with the criminal justice system: Key challenges. Retrieved from https://www.crcnsw.org.au/wp-content/uploads/2017/01/CRC_NDIS_BriefingPaper_Jan2017.pdf

Cino, G. (2014). A crime to be punished or a problem to be solved? Anti-social behaviour orders and young people with mild learning disabilities. *Journal of*

Intellectual Disabilities and Offending Behaviour, *5*, 64-77. doi:10.1108/JIDOB-03-2014-0004

Darker, I., Ward, H., & Caulfield, L. (2008). An analysis of offending by young people looked after by local authorities. *Youth Justice*, *8*, 134-148. doi:10.1177/1473225408091374

DeGue, S., & Spatz Widom, C. (2009). Does out-of-home placement mediate the relationship between child maltreatment and adult criminality? *Child Maltreatment*, *14*, 344-355. doi:10.1177/1077559509332264

Delfabbro, P., & Barber, J. (2003). Before it's too late: Enhancing the early detection and prevention of long-term placement disruption. *Children Australia*, *28*, 14-18. doi:10.1017/S1033507720000055 38

Doyle Jr, J. J. (2008). Child protection and adult crime: Using investigator assignment to estimate causal effects of foster care. *Journal of Political Economy*, *116*, 746-770. doi:10.1086/590216

Ellem, K., & Richards, K. (2018). Police contact with young people with cognitive disabilities: Perceptions of procedural (in)justice. *Youth Justice.* Advance online publication. doi:10.1177/1473225418794357

Fogden, B. C., Thomas, S. D., Daffern, M., & Ogloff, J. R. (2016). Crime and victimisation in people with intellectual disability: A case linkage study. *BMC Psychiatry*, *16*, 170. doi:10.1186/s12888-016-0869-7

Gerard, A., McGrath, A., Colvin, E., & McFarlane, K. (2018). ‘I’m not getting out of bed!’ The criminalisation of young people in residential care. *Australian and New Zealand Journal of Criminology.* Advance online publication. doi:10.1177/0004865818778739

Gifford-Smith, M., Dodge, K., Dishion, T. J., & McCord, J. (2005). Peer influence in children and adolescents: Crossing the bridge from development to intervention science. *Journal of Abnormal Child Psychology, 33*, 255-265. doi:10.1007/s10802-005-3563-7

Goodkind, S., Shook, J. J., Kim, K. H., Pohlig, R. T., & Herring, D. J. (2013). From child welfare to juvenile justice: Race, gender, and system experiences. *Youth Violence and Juvenile Justice*, *11*, 249-272. doi:10.1177/1541204012463409

Herrenkohl, T. I., Maguin, E., Hill, K. G., Hawkins, J. D., Abbott, R. D., & Catalano, R. F. (2000). Developmental risk factors for youth violence. *Journal of Adolescent Health, 26,* 176-186. doi:10.1016/S1054-139X(99)00065-8

Hingsburger, D., Griffiths, D., & Quinsey, V. (1991). Detecting counterfeit deviance: Differentiating sexual deviance from sexual inappropriateness. *The Habilitative Mental Healthcare Newsletter, 10,* 51-54.

Hirschi, T., & Hindelang, M. J. (1977). Intelligence and delinquency: A revisionist review. *American Sociological Review*, 571-587.

Hoge, R. D., Andrews, D. A., & Leschied, A. W. (1996). An investigation of risk and protective factors in a sample of youthful offenders. *Journal of Child Psychology and Psychiatry, 37*, 419-424. doi:0.1111/j.1469-7610.1996.tb01422.x

Indig, D., Vecchiato, C., Haysom, L., Beilby, R., Carter, J., Champion, U., ... Whitton, G. (2011). 2009 NSW Young People in Custody Health Survey: Full report. *Justice Health and Juvenile Justice*. Sydney. Retrieved from http://www.justicehealth.nsw.gov.au/publications/ypichs-full.pdf

Kenny, D.T. & Nelson, P. K. (2008). *Young offenders on community orders: Health, welfare and criminogenic needs.* Sydney, Australia: Sydney University Press. Retrieved from http://www.justicehealth.nsw.gov.au/publications/ch1-3.pdf

Lemert, E. M. (1972). *Human deviance, social problems, and social control*. Englewood Cliffs, N.J.: Prentice-Hall.

Levinson, A., & Fonagy, P. (2004). Offending and attachment: The relationship between interpersonal awareness and offending in a prison population with psychiatric disorder. *Canadian Journal of Psychoanalysis*, *12*, 225-251. doi:10.1002/j.2167-4086.2009.tb00406.x.

Malvaso, C. G., & Delfabbro, P. H. (2015). Offending behaviour among young people with complex needs in the Australian out-of-home care system. *Journal of Child and Family Studies, 24*, 3561-3569. doi:10.1007/s10826-015-0157-z

Malvaso, C. G., Delfabbro, P. H., & Day, A. (2017). The child protection and juvenile justice nexus in Australia: A longitudinal examination of the relationship between maltreatment and offending. *Child Abuse and Neglect, 64*, 32-46. doi:10.1016/j.chiabu.2016.11.028

McBrien, J., Hodgetts, A., & Gregory, J. (2003). Offending and risky behaviour in community services for people with intellectual disabilities in one local authority. *Journal of Forensic Psychiatry & Psychology*, *14*, 280-297. doi:10.1080/1478994031000084828

McFarlane, K. (2010). From care to custody: Young women in out-of-home care in the criminal justice system. *Current Issues Criminal Justice*, *22*, 345-353.

McFarlane, K. (2015). Care-criminalisation: The involvement of children in out of home care in the NSW criminal justice system. (Doctoral dissertation, University of New South Wales). Retrieved from

http://unsworks.unsw.edu.au/fapi/datastream/unsworks:38185/SOURCE02?view=true

Mendes, P., Baidawi, S. & Snow, P.C. (2014). Good practice in reducing the over-representation of care leavers in the youth justice system. (Leaving Care and Youth Justice – phase three report) Melbourne, Monash University. Retrieved from http://www.smartjustice.org.au/cb_pages/files/leaving_care_youth_justice_phase_3_final_report.pdf

Michie, A. M., Lindsay, W. R., Martin, V., & Grieve, A. (2006). A test of counterfeit deviance: A comparison of sexual knowledge in groups of sex offenders with intellectual disability and controls. *Sexual Abuse: A Journal of Research and Treatment, 18,* 271-278. doi:10.1007/s11194-006-9019-y

Moffit, T. E., & Caspi, A. (2001). Childhood predictors differentiate life-course persistent and adolescence-limited antisocial pathways among males and females. *Development and Psychopathology, 13*, 355-375.

Nathanson, D., & Tzioumi, D. (2007). Health needs of Australian children living in out-of-home care. *Journal of Paediatrics and Child Health, 43,* 695-699. doi:10.1111/j.1440-1754.2007.01193.x

NSW Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Act 2001. Retrieved from https://www.legislation.nsw.gov.au/~/view/act/2001/91

NSW Health. (2016). *2015-16 Year in Review*. Retrieved from http://www.justicehealth.nsw.gov.au/publications/201516YearinReview.pdf

NSW LRC (New South Wales Law Reform Commission). (2012). *People With Cognitive and Mental Health Impairments in the Criminal Justice System*:

(Diversion, Report No. 135). Retrieved from http://www.disabilityjustice.edu.au/wp-content/uploads/2015/10/LRC-Report-135-People-with-Cognitive-Impairments-in-the-CJS-Diversion-2012.pdf

Ogilvie, C. A., Newman, E., Todd, L., & Peck, D. (2014). Attachment & violent offending: A meta-analysis. *Aggression and Violent Behavior*, *19*(4), 322-339. doi:10.1016/j.avb.2014.04.007

Osler, A., Watling, R., & Busher, H. (2001). *Reasons for exclusion from school.* (Research Report No 244). Retrieved from http://dera.ioe.ac.uk/4610/1/RR244.pdf

Powell, J., & Clarke, A. (2006). Internet information-seeking in mental health. *The British Journal of Psychiatry, 189*, 273-277. doi:10.1192/bjp.bp.105.017319

Pratt, T. C., Cullen, F. T., Sellers, C. S., Thomas Winfree Jr, L., Madensen, T. D., Daigle, L. E., ... & Gau, J. M. (2010). The empirical status of social learning theory: A meta-analysis. *Justice Quarterly*, *27*(6), 765-802. doi:10.1080/07418820903379610

Ringland, C., Weatherburn, D., & Poynton, S. (2015). Can child protection data improve the prediction of re-offending in young persons? *NSW Crime and Justice Bulletins* (Vol. 188, pp. 20). NSW Bureau of Crime Statistics and Research: Sydney.

Ryan, J. P., Marshall, J. M., Herz, D., & Hernandez, P. M. (2008). Juvenile delinquency in child welfare: Investigating group home effects. *Children and Youth Services Review, 30*, 1088-1099. doi:10.1016/j.childyouth.2008.02.004

Ryan, J. P., & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review, 27*, 227-249.

doi:http://dx.doi.org/10.1016/j.childyouth.2004.05.007

Sanger, D., Moore-Brown, B., Magnuson, G., & Svoboda, N. (2001). Prevalence of language problems among adolescent delinquents: A closer look. *Communication Disorders Quarterly*, *23*, 17-26. doi:10.1177/152574010102300104

Schofield, G., & Beek, M. (2006). *Attachment handbook for foster care and adoption*. BAAF.

Schofield, G., Ward, E., Biggart, L., Scaife, V., Dodsworth, J., Larsson, B., ... & Stone, N. (2014). *Looked after children and offending: Reducing risk and promoting resilience*. London: BAAF.

Slayter, E. M. (2016). Foster care outcomes for children with intellectual disability. *Intellectual and Developmental Disabilities, 54*, 299-315. doi:10.1352/1934-9556-54.5.299

Snoyman, P. (2010). Staff in the NSW criminal justice system understanding of people with and without disability who offend. (Doctoral Dissertation, University of New South Wales). Retrieved from http://library.unsw.edu.au/

Staines, J. (2016). Risk, adverse influence and criminalization: Understanding the over-representation of looked after children in the youth justice system. *Prison Reform Trust*. Retrieved from http://www.prisonreformtrust.org.uk/Portals/0/Documents/risk_adverse_influence_criminalisation_lit_review_lo.pdf

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. *Youth Justice, 17*, 57-72. doi:10.1177/1473225416669145

Tajfel, H., & Turner, J. C. (1979). An integrative theory of intergroup conflict. *The Social Psychology of Intergroup Relations, 33*(47), 74.

Tarren-Sweeney, M., & Hazell, P. (2006). Mental health of children in foster and kinship care in New South Wales, Australia. *Journal of Paediatrics and Child Health, 42,* 89-97. doi:10.1111/j.1440-1754.2006.00804.x

Van de Zandt, P., & Webb. T. (2013). High service users at legal aid NSW: Profiling the 50 highest users of legal aid services. *Legal Aid NSW*. Retrieved from http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0004/16537/Legal-Aid-NSW-Study-on-high-service-users-June-2013.pdf

Vinnerljung, B., & Sallnäs, M. (2008). Into adulthood: a follow-up study of 718 young people who were placed in out-of-home care during their teens. *Child & Family Social Work, 13,* 144-155. doi:10.1111/j.1365-2206.2007.00527.x

Widom, C. S. (1991). The role of placement experiences in mediating the criminal consequences of early childhood victimization. *American Journal of Orthopsychiatry, 61,* 195. doi:10.1037/h0079252

Willig, C. (2008). *Introducing qualitative research in psychology*. Berkshire, England: Open University Press.

Wood, J. (2008). Report of the special commission of inquiry into child protection services in NSW. Retrieved from http://www.dpc.nsw.gov.au/publications/news/stories/?a=33794