



Submission to the Commission of Inquiry – Corporate Parenting and the Link Between Child Safety and Youth Justice

Dear Commissioner,

I write on behalf of the National Therapeutic Residential Care Alliance (NTRCA) to formally submit our attached submission and supporting papers in response to the Commission of Inquiry into the Child Safety System's call for submissions regarding corporate parenting and the link between the child safety and youth justice systems.

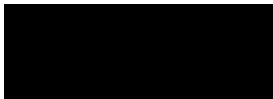
NTRCA is the national peak body representing providers, practitioners and researchers delivering therapeutic residential care across Australia. Our members work with children and young people who have experienced significant trauma and adversity, many of whom are known to both the child safety and youth justice systems. As such, NTRCA has a strong interest in, and responsibility to contribute to, the Commission's examination of how corporate parenting obligations are discharged for children in non-family-based care, and how systemic interactions between child safety and youth justice shape children's life trajectories.

The attached submission draws on national evidence, Queensland practice experience, and the lived realities of children, young people, and the workforce supporting them. It focuses in particular on the experience of children in residential care, the over-representation of children in care within the youth justice system, and the ways in which current system structures and practices can contribute to the criminalisation of trauma rather than its therapeutic resolution.

NTRCA appreciates the Commission's willingness to hear from the sector and from those with direct experience of the operation of these systems. We would welcome the opportunity to meet with the Commission, or its representatives, in person to further discuss the issues raised in our submission, clarify any matters of interest, and contribute constructively to the Commission's deliberations.

Thank you for the opportunity to make this submission and for the important work of the Commission. Please do not hesitate to contact us should you require any further information.

Yours sincerely,



Shelley Wall
Chairperson
National Therapeutic Residential Care Alliance



Submission to the Queensland Child Safety Commission of Inquiry

Corporate Parenting and the Link Between the Child Safety and Youth Justice Systems

Submitted by:
National Therapeutic Residential Care Alliance (NTRCA)

Date: January 2026

1. Introduction

The National Therapeutic Residential Care Alliance (NTRCA) welcomes the opportunity to make this submission to the Queensland Child Safety Commission of Inquiry in response to the Call for Submissions on corporate parenting and the link between the child safety and youth justice systems.¹

NTRCA is the national peak body representing providers and practitioners delivering therapeutic residential care across Australia. Our members support children and young people who have experienced significant abuse, neglect, disrupted attachment, and cumulative trauma, and who often present with complex needs that cannot be safely met in family-based care.

This submission draws on:

- NTRCA's published position on **therapeutic residential care as the standard model of care**²;
- The practice experience of residential care services operating within Queensland;
- National and state-based evidence regarding the over-representation of children in care within the youth justice system.

NTRCA's submission focuses on the Department of Child Safety, Seniors and Disability Services' role as corporate parent under Queensland law, and the systemic interactions between child protection and youth justice that contribute to children in care entering, or remaining within, the youth justice system.

2. Corporate Parenting under Queensland Law

2.1 Statutory framework

In Queensland, the Department of Child Safety, Seniors and Disability Services (the Department) exercises statutory responsibilities under the *Child Protection Act 1999 (Qld)*. When a child is subject to a child protection order granting guardianship to the chief executive, the State assumes parental responsibility for that child.³



The concept of **corporate parenting**, while not explicitly defined in the Act, is reflected in the objects and principles of the legislation, including:

- Ensuring the safety, wellbeing, and best interests of children;
- Providing care that promotes stability, belonging, and development;
- Recognising the child's need for supportive, nurturing relationships.⁴

For children placed in **residential care**, these responsibilities are particularly significant. Residential care is used when children cannot live safely with family or in family-based care, often due to complex trauma histories and high support needs.

2.2 Corporate parenting in residential care

NTRCA submits that effective corporate parenting in residential care requires more than placement provision and compliance monitoring. It requires:

- Therapeutically informed care models;
- A stable, skilled, and supported workforce;
- Active advocacy across service systems, including education, health, disability, housing, policing and youth justice;
- Long-term planning that prioritises relational permanence and future outcomes (Corrales et al., 2025a).

NTRCA's position paper *The importance of therapeutic residential care as the standard model of care* argues that residential care should be understood as a **therapeutic intervention**, not a containment or crisis response.²

3. Is the Department an Effective Corporate Parent?

3.1 Children and young people in residential care

NTRCA submits that the Department does not consistently meet community expectations of effective corporate parenting for children placed in residential care.

Systemic challenges reported by Queensland-based providers include:

- The highest number of children in residential care of all states and territories, a statistic that has remained stable over many years (see for example, AIHW, 2025)
- The ongoing, and worsening, over-representation of First Nations children in residential care across QLD (SNAICC, 2025)
- Placement instability and repeated placement breakdowns;
- Limited access to specialist therapeutic and clinical supports;
- Workforce shortages, high turnover, and inconsistent training;
- Care responses that prioritise risk management over therapeutic engagement.

Research consistently demonstrates that instability and lack of relational continuity exacerbate trauma-related behaviours and increase the likelihood of escalation into crisis responses.⁵ This is exacerbated for First Nations children who in 2024 were 8.6 times more likely to be in OOHC compared to their non-Indigenous peers (AIHW, 2025), and for whom OOHC is associated with cultural disconnection, removal from Country and quite often, limited access to appropriate cultural support to enable connection with Elders, community, and culture (see for example, Krakouer 2023, Beaufils et al., 2025).



3.2 Children known to both child safety and youth justice

Children in out-of-home care, particularly those in residential care, are significantly over-represented in the youth justice system.

National data indicate 25.4% of children under community-based supervision and 28.3% of children in detention in 2023 had been in OOHC at some point in the previous 10 years. A higher proportion of First Nations children under community-based supervision (29.7%) or in detention (33.1%) had been involved with child protection systems, relative to non-Indigenous children (21.5% and 22.2%, respectively).

This pattern is replicated across states and territories (see for example, the Victorian Sentencing Advisory Council, 2019; Baidawi & Ball, 2022; Malvaso et al., 2019), and internationally (see for example Herz et al., 2023) contributing to what has been termed as the 'care criminalisation' (McFarlane, 2018) phenomenon. Specifically, research has shown that children in OOHC, particularly residential care, are at an increased risk of experiencing criminalisation by virtue of being in care (Corrales et al., 2025b; Paterson-Young et al., 2024).

This criminalisation occurs not because children in care are inherently more 'deviant', antisocial or prone to criminal activity, but because the child protection and care systems actively contribute to their criminalisation through entrenched practices, policies and processes that criminalise trauma (Corrales et al., 2025b). This can be most clearly seen in the way that children who are absent or missing from placement are 'apprehended' under 'safe custody warrants' which can often lead to altercations with police resulting in criminal charges. It is also clearly seen in the way that children in residential care – who are known to be at an increased risk for criminal and sexual exploitation (Gatwiri et al., 2020) – are criminalised for their vulnerability (Corrales et al., 2025b).

NTRCA submits that this over-representation reflects systemic shortcomings rather than individual deficits. In particular:

- Trauma-related behaviours in residential care are more likely to attract police attention;
- Behaviours that would be managed informally in family homes are routinely criminalised in residential settings;
- Youth justice responses – including denial of bail, and detention – are sometimes used in place of adequately resourced therapeutic care. For example, Paterson-Young et al., (2024) found that in Victoria, NSW, England and Wales the absence of genuinely therapeutic placements and supports in the OOHC system directly contributed to the criminalisation of children through the inherent instability that exists within these systems that fuels children's trauma. The result is that children end up being 'managed' through the youth justice system in an attempt to provide 'therapeutic supports' that ultimately increase the risk of criminalisation via ongoing contact with youth justice.

The criminalisation process can be clearly seen in the way child protection is perceived to be failing to advocate for and support children in conflict with the law. A recent comparative research project exploring judicial decision-making involving dual-system impacted children in Victoria, NSW, England and Wales (see Corrales et al., 2025b; Paterson-Young et al., 2024), found that child protection systems will use youth justice responses as an alternative



placement for children, including by actively advocating against the grant of bail. This occurs despite clear legislative provisions in most states and territories that prohibit bail refusal on the basis that a child does not have safe or stable accommodation. As one specialist magistrate in NSW stated:

“I think the biggest issue is the ones where they can’t go back to that particular placement. So the ones that are granted bail, the court will say, okay, you’ve been granted bail. But you’re not to be released until accommodation is found for you. Sometimes some of these kids are kept in custody for weeks at a time after that, because no viable accommodation placement has been found. And I’ve always found it troubling. I mean, FaCS (Department of Communities and Justice) in New South Wales have that definition of a young person that is at immediate risk of harm, and if [the young person] meets that definition, then the Department are obligated to throw all of their resources at supporting that young person. I’ve always found it strange that a young person in custody doesn’t fall within that definition of a young person at an immediate risk of harm. So what we find ends up happening is they’re granted bail and they’re in custody for ages, because no one’s in my view trying hard enough to find them alternative accommodation” (NSW Magistrate)

This pattern is inconsistent with the State’s obligations as corporate parent.

3.3 Transitions between systems

Transitions represent a critical vulnerability point. NTRCA has particular concerns regarding:

- Young people transitioning from youth detention into residential care without adequate planning or therapeutic support;
- Young people leaving care into adulthood without stable housing, relationships, or ongoing support.

Evidence shows that poor transition planning increases the risk of re-offending, homelessness, and re-entry into statutory systems.⁷ An effective corporate parent would anticipate these risks and plan accordingly.

4. The Link Between the Child Safety and Youth Justice Systems in Queensland

4.1 Structural pathways into youth justice

NTRCA does not submit that Queensland’s child safety system is intentionally designed to funnel children into youth justice. However, structural features of the system create conditions in which justice involvement becomes more likely.

These include:

- High levels of trauma among children entering care;
- Placement instability and disrupted caregiving relationships;
- Limited availability of intensive therapeutic responses;
- Reliance on police as first responders to behaviour in residential care.



As noted above, this has led to what is commonly described as the **criminalisation of children in care** (McFarlane, 2018).⁸

4.2 Police involvement in residential care

Residential care services report higher rates of police call-outs compared to family-based placements. This reflects:

- Low tolerance for risk in congregate care environments;
- Limited authority or support for workers to manage crises therapeutically;
- Absence of alternative, non-police crisis response options.

The routine involvement of police in care-related incidents increases the likelihood of formal charges and deeper justice system engagement, particularly for Aboriginal and Torres Strait Islander children.⁹ As the research by Corrales et al (2025b) highlights, an over-reliance on police to manage trauma-based behaviours in residential care is an entrenched feature of residential care systems and occurs even when formal protocols to reduce the criminalisation of children in residential care are in place.

These protocols – which have the potential to divert children from criminal legal systems – do not appear to function as intended, in large part because of significant variability in their application, a lack of understanding of the impacts of trauma on children’s development and behaviour, and a pervasive culture of risk mitigation and management within child protection and OOHC to priorities organisational risk management over therapeutic responses to vulnerable and highly traumatised children.

5. Dual-Order Children and Inter-Agency Coordination

Children subject to both child protection and youth justice orders often experience fragmented service responses. While Queensland has information-sharing frameworks, practical barriers remain, including:

- Parallel planning processes between Child Safety and Youth Justice;
- Unclear accountability for overall outcomes;
- Tensions between compliance-focused justice responses and therapeutic care objectives.

From the child’s perspective, these arrangements result in multiple systems exercising authority, without a single entity acting as a consistent, nurturing parent.

6. Lived Experience

6.1 Residential care workers and carers

Workers report:

- Insufficient access to specialist consultation during crises;
- Pressure to involve police when alternative supports are unavailable;
- Emotional and moral distress when care responses become punitive.



These factors contribute to workforce burnout and turnover, further destabilising care environments.

6.2 Children and young people

Young people with experience of both systems describe:

- Feeling labelled and stigmatised as “offenders”;
- A lack of trust in systems meant to protect them;
- Responses that prioritise control over understanding and support.

6.3 Other children in care and communities

NTRCA acknowledges the impact on other children in care and on local communities when behaviours escalate in residential settings. These impacts underscore the importance of:

- Well-resourced, therapeutically designed placements;
- Small, purpose-designed residential environments;
- Specialist responses for children with the highest needs.

7. What Needs to Change

NTRCA recommends that the Queensland Government:

1. Adopt **therapeutic residential care as the standard model** for non-family-based placements.²
2. Clarify and strengthen **corporate parenting accountability** for children with dual child protection and youth justice involvement.
3. **Reduce reliance on police** as first responders in residential care through alternative therapeutic crisis responses.
4. Implement **integrated care and justice planning** for dual-order children.
5. **Strengthen transition** planning from detention to care and from care to adulthood.
6. **Invest in the residential care workforce**, including training, supervision, and clinical support.

8. Conclusion

Children in residential care are among the most vulnerable children for whom the Queensland Government assumes full parental responsibility. When these children enter the youth justice system, it reflects systemic shortcomings in care, support, and coordination rather than individual failure.

Strengthening corporate parenting through therapeutic care, stable relationships, and integrated systems is essential to reducing youth justice involvement and improving outcomes for Queensland’s children and young people.



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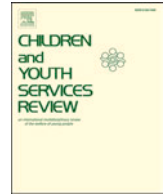
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Impact of trauma and placement in residential or congregate care on the criminalisation of children in England/Wales and Australia

Claire Paterson-Young^{a,*}, Tatiana Corrales^b, Ian Warren^c, Patricia McNamara^d

^a Institute for Social Innovation and Impact, University of Northampton, UK

^b Monash University, Australia

^c Deakin University, Australia

^d University of Melbourne, Australia

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ABSTRACT

Children in residential care have the most complex needs of all children growing up in Out-of-Home care (OOHC), due to complex trauma from pre-care experiences of abuse and neglect, inadequate therapeutic supports while in care and significant placement instability. Some argue that residential care settings are intrinsically criminogenic, as evidenced by significant over-representation of this cohort in youth justice. However, little is known about how children's experiences of trauma, including removal from family and placement in OOHC, is viewed by lawyers and decision-makers in criminal cases involving children in care. Criminal justice decisions can have long-term ramifications for children in care and custodial sentencing can often be a precursor to ongoing incarceration into adulthood. This qualitative, cross-national study explored the impacts of trauma and placement in residential or congregate care on the criminalisation of children in England/Wales and Australia. In-depth interviews were conducted with 28 legal, youth justice and judicial stakeholders in England, Wales (UK), New South Wales (NSW) and Victoria (Australia). While there are considerable differences in the operation of child protection and youth justice systems between these jurisdictions, thematic analysis using NVivo14 identified confirmed ongoing systemic factors associated with criminalisation identified in previous literature persists despite attempts to address these through policy and practice reforms. These factors include an absence of therapeutic supports, unstable and unsafe residential care placements, over-reliance on police to respond to minor incidents, increasingly punitive police responses lacking awareness of the impacts of childhood trauma and inappropriate use of custody as an 'alternative' placement. These findings suggest the similar systemic processes across these jurisdictions are likely to reflect deeply entrenched ideologies about 'care' and 'protection' that function to criminalise trauma. The implications of these systemic factors when children are exposed to formal criminal justice decision-making are considered.

1. Introduction

Out of home care (OOHC) involves placing children and young people in alternative living arrangements, such as foster care, kinship care,¹ or residential care facilities,² when they cannot safely remain with their primary caregivers. The 'OOHC to juvenile justice pipeline' has been well-established in England and Wales, Australia and elsewhere (see for example Baidawi, 2020; Ball, Baidawi and Fitzgerald, 2024; Shaw and Greenhow, 2021), with extensive research establishing the

prevalence, characteristics, trajectories and needs of dual system³ involved children (Baidawi and Sheehan, 2019; McFarlane, 2018). A limited but important body of research explores the role of trauma as a mitigating factor in sentencing for violent crimes both among juveniles and adult offenders (Forsyth, 2016; Jackson et al., 2021) and the application of trauma-informed models of juvenile justice (Buckingham, 2016; Ezell et al., 2018). Despite growing research investigating the intersections between developmental trauma, experiences of OOHC and the criminal justice system (Malvaso et al., 2016; McGrath et al., 2020),

* Corresponding author.

E-mail address: Claire.Paterson-Young@northampton.ac.uk (C. Paterson-Young).

¹ Kinship care is the preferred placement option for OOHC provided by a child's family or people known to the child (e.g., teachers, friends).

² Residential care refers to group homes or treatment centres staffed by professionals.

³ Refers to children who are simultaneously involved with both the child welfare system and the juvenile justice system.

few studies examine the opinions of legal advocates, youth justice practitioners, and decision-makers on how trauma and criminalisation impact formal justice decision-making when an OOHC child is charged with and processed for a criminal offence in England and Wales, or throughout Australia.

2. Background

Children in care are at a particularly heightened risk of criminalisation⁴ (Baidawi and Ball, 2022; Baidawi and Sheehan, 2019; McGrath et al., 2020; McFarlane, 2018) and care-criminalisation needs to be understood within the context of the developmental trauma many children in the OOHC system experience (Zaharieva and Anglin, 2019). Children in OOHC, particularly those growing up in residential/congregate care, exhibit more severe developmental trauma than children in the mainstream community. This is true across multiple psychosocial domains. OOHC children are more likely to have significant mental health needs, histories of exposure to interpersonal aggression and violence, and challenges with substance abuse (Águila-Otero et al., 2020; Hallam et al., 2020). Emerging evidence suggests children in care are also more likely to have diagnosed or undiagnosed intellectual disabilities, cognitive impairments, neurodivergence, and developmental disorders (Baidawi and Piquero, 2020; McCausland and Dowse, 2022).

Early exposure to sustained interpersonal trauma adversely impacts brain development, resulting in difficulties with executive functioning (decision-making, impulsivity) and emotional regulation (Hambrick et al., 2019). This can be compounded when children experience significant placement instability and/or abuse within their care settings (Schofield et al., 2007). For example, (author, 2021) found that children in England and Wales experience trauma in secure care settings that mirrors the experiences of trauma in the family home. If unaddressed, the sequelae of developmental trauma can lead to increasingly complex and challenging emotional and behavioural difficulties that come to the attention of the criminal justice system (McFarlane, 2018; Day et al., 2023). Literature shows children who experience trauma and OOHC are exposed to increased risks of victimisation and involvement in criminal activity (Cauffman et al., 2005). Failure to tailor support for children in care also generates a cycle of exposure to future criminalisation (author, 2019).

While care experience does not inevitably lead to conflict with the law, children in OOHC are significantly overrepresented in the youth justice systems in England and Wales (McGrath et al., 2020) and throughout Australia (e.g., Baidawi and Sheehan, 2019; Malvaso et al., 2016). In the UK, Lord Laming's review titled 'Keeping children in care out of trouble' (Prison Reform Trust, 2016) highlighted that only 1 % of children are in care yet approximately 59 % of children in custody have experienced care. Research conducted in Secure Training Centres in England also found 43 % of children had experienced OOHC (author, 2019; author, 2021). According to the HM Inspectorate of Probation (2012), 98 % of children in care lived in privately-run children's homes or independent placements, with only 1 % living within 50 miles of their families. Taylor (2016) found 40 % of children in custody are from Black and Ethnic Minority (BAME) backgrounds, with 38 % experiencing care in Young Offender Institutes and 52 % in Secure Training Centres.

Australian data is consistent with these figures. The Victorian⁵ Sentencing Advisory Council (2019) found that 15 % of children appearing before the criminal division of the Children's Court had experienced at least one OOHC placement, with 68 % of these children

spending some time in residential care. Similar patterns are reported in NSW and South Australia (Malvaso et al., 2019; McGrath et al., 2020). Australia's colonial history also continues to differentially impact First Nations⁶ communities, with Aboriginal and Torres Strait Islander children grossly over-represented in the child protection, OOHC and juvenile justice systems. In the 2022–23 national reporting period, First Nations children were 12 times more likely to be in OOHC than non-Indigenous children (Australian Productivity Commission, 2024a), 21.5 times more likely to be on community-based supervision orders, and 27 times more likely to be in youth detention (Australian Productivity Commission, 2024b). This commences a disturbing pipeline directly linking care-criminalisation (McFarlane, 2018) with adult overimprisonment (Cunneen, 2015/2016).

3. Rationale

Dual system involved children often grapple with complex trauma, which is exacerbated by placement instability (Schofield et al., 2007; Day, 2021). Barriers to identity formation and negative self-perception (Ward, 2011), and exposure to environments that tend to criminalize (Taylor et al., 2014) are additional challenges of living in OOHC. While the role of trauma as a mitigating factor in sentencing for violent crimes by juveniles and adults (Forsyth, 2016; Jackson et al., 2021) and the application of trauma-informed models of justice in juvenile or youth justice settings (Buckingham, 2016; Crosby, 2016; Ezell et al., 2018) have been widely investigated, the intersection between developmental trauma, experiences within the OOHC systems and formal criminal justice decision-making, including how appropriate sentencing dispositions are made after conviction, remain to be examined. This cross-national comparative study involving interviews with key stakeholders engaged in the youth/juvenile court systems across England and Wales (UK), and NSW and Victoria (Australia), aims to address these gaps.

4. Methodology

4.1. Research aim

This paper draws from a broader comparative study examining professional views of the impact of OOHC on sentencing decisions before the Children's and adult courts in England and Wales, and NSW and Victoria. This paper focuses on the impact of a child's history of trauma and experience of OOHC, particularly in residential/congregate care, on decision-making processes in the justice system. It explores impacts of trauma and placement in residential or congregate care on whether and how criminal decision-making in England/Wales and NSW and Victoria considers the experience of trauma. These four jurisdictions were chosen because, the research team has extensive knowledge of the OOHC and youth justice systems within these jurisdictions, and despite considerable differences, the four jurisdictions share a common basis for the development of their child protection and youth justice systems. We therefore focus specifically on systemic similarities across the four jurisdictions.

4.2. Participants and procedure

Participants could engage in an online or in-person interview undertaken by members of the research team in their respective jurisdictions. Interviews focused on participants' understandings of the impacts of developmental trauma and histories of OOHC on criminalisation processes. It considers whether the legal systems in England and Wales, and NSW and Victoria consider experience of trauma and OOHC

⁴ The process of treating individuals as criminals through formal legal systems for behaviors that may stem from underlying issues such as trauma or socio-economic factors.

⁵ In Australia, each state and territory has separate jurisdiction over child protection and criminal justice. New South Wales and Victoria, where this study was conducted, are the two most populous Australian states.

⁶ The term First Nations refers to the multiple Aboriginal and Torres Strait Islander Nations that are the traditional custodians of the lands, seas, and waterways of the Australian continent.

in decision-making processes and whether the intersections of trauma/OOHC are considered. The interview schedules designed for the research involved questions such as:

- (1) What are some of the key factors that you consider when working with a care experienced young person?
- (2) What impacts do you think that a history of out-of-home care have on a young person?
- (3) How is this issue factored into decision-making when young people engage in criminal behaviour?
- (4) Do you think care experience is taken into consideration in sentencing children and young people?
- (5) How would you describe the 'culture' around sentencing those convicted who have an out of home care background?

Interviews lasted around 60–90 min and were recorded with participant consent. Transcription was undertaken by a registered service in the United Kingdom that adheres to privacy legislation and by the research team in Australia. In England and Wales, 14 interviews were conducted with Youth Justice professionals, Magistrates, and Lawyers/Barristers. In NSW and Victoria, interviews were conducted with 17 participants including judges, magistrates, lawyers and children's advocates. The project received human research ethics approval from the institutional review board at X University and at the University of X (removed for peer review). Table 1 provides an overview of participants engaged in the project.

4.3. Qualitative analysis

Braun and Clarke's (2019) Reflexive Thematic Analysis, grounded in critical criminological and social work perspectives, was used to analyse the interview data. Fully anonymised interview transcripts were uploaded to QSR Nvivo version 14 (Lumivero, 2023), with analysis proceeding over multiple phases, including familiarisation and coding, theme development, review, and producing the analysis. Initial coding

Table 1
Participant Overview.

Participant	Jurisdiction	Position
UKP01	Wales	Youth Justice
UKP02	England	Youth Justice
UKP03	England	Legal Professional
UKP04	England	Youth Justice and Academia
UKP05	England	Youth Justice
UKP06	Wales	Legal Professional
UKP07	Wales	Legal Professional
UKP08	England	Legal Professional
UKP09	England	Youth Justice and Children Services
UKP10	England	Legal Professional
UKP11	England	Legal Rights Organisation
VICP12	Victoria	Senior legal professional (youth crime)
VICP13	Victoria	Senior legal professional (youth crime)
VIC14	Victoria	Legal advocate (youth crime)
VICP15	Victoria	Senior legal professional (youth crime)
VICP16	Victoria	Legal professional (youth crime)
VICP17	Victoria	Magistrate
NSWP18	NSW	Magistrate
VICP19	Victoria	Independent Children's Advocate
NSWP20	NSW	Judge
NSWP21	NSW	Judge
VICP22	Victoria	Judge
NSWP23	NSW	Magistrate
NSWP24	NSW	Senior legal professional (youth crime)
VICP25	Victoria	Senior legal professional (child protection)
VICP26	Victoria	Senior legal professional (child protection)
VICP27	Victoria	Senior legal professional (child protection)
VIP28	Victoria	Senior legal professional (child protection)
UKP29	England	Magistrate
UKP30	England	Magistrate
UKP31	England	Magistrate

from each jurisdiction was undertaken separately, with regular reflective meetings amongst the research team designed to ensure consistency. As the analysis progressed, the research team combined and recoded all transcripts to ensure identified themes accurately reflected issues arising in the data within and across each jurisdiction.

Initial codes captured an important significant segment for analysis. These were gradually refined and abstracted into four key themes capturing latent constructs in the data (Braun and Clarke, 2019). These themes revealed profound systemic similarities across all jurisdictions relating to the ways structural disadvantage, including experiences of developmental trauma and placement in OOHC, are considered when the criminal legal system views the culpability and 'just punishment' of children. These systemic similarities are attributable to four overarching themes identified in the data: 'criminogenic and traumagenic nature of placements – absence of stability and therapeutic support'; 'police involvement in care'; 'advocating for children in court'; and 'sentencing children – understanding care experience'. While the first three themes reinforce and expand on trends identified in prior research (see: Baidawi and Ball, 2022; Baidawi and Sheehan, 2019; McGrath et al., 2020; McFarlane, 2018; Schofield et al., 2007; Day, 2021), the fourth is an original insight stemming from our analysis.

5. Finding and results

5.1. Criminogenic and traumagenic nature of placements – absence of stability and therapeutic support

The traumagenic nature of OOHC placements is a key aspect of the criminalisation of children in residential care. Respondents considered the lack of stability and safety associated with multiple placements impacts children's psychological, social and educational wellbeing. While the primary purpose of OOHC should be to create safe and secure environments for children, many participants across the four jurisdictions noted that some placements were inappropriate and/or created negative environments for children.

The provision that was offered, the placement was just awful. It was worse than being at home and he spent the whole-time being a [missing person]. (UKP01)

Some interview participants reflected on the inappropriate nature of home-based placements, as opposed to residential placements. In Australia, this includes placement in kinship care.

I was working in a...very diverse borough ... [with lots of] multi-ethnic foster placements. You could not place a child necessarily with someone of the same ethnicity because in practical terms it wasn't going to work... the poor level of foster care in many places is a real issue. (UKP02)

The foster care placements break down ...and then those kids will either end up in new foster care placements or end up in resi⁷ units. So, I think it's just that complete lack of stability for them. (VICP25)

Dual system children in care in the UK also experience unregulated⁸ placements that create additional challenges for Magistrates and Judges in determining the suitability of available placements. However, respondents often felt courts have a duty to find appropriate emergency and longer-term placements for children in OOHC. As one participant noted:

⁷ Residential care.

⁸ Unregulated placements "do not meet the criteria of a children's home and...fall into the category of "other arrangements" under section 22C of the Children Act 1989 and under the Care Planning, Placement and Review (England) Regulations 2010" (Foster, 2021, p.21).

I don't think we've progressed in anything ... we just talked about the unregulated placements post 16, the deaths and one of those deaths, the murder, was local. Nothing's changed, absolutely nothing... (UKP02)

In NSW, this issue was mirrored through the privatisation of OOHC placements operated by non-government organisations. One respondent indicated the privatisation of the residential care system raises concerns about the quality of care provided to children and the over-reliance on police to manage trauma-based behaviours.

... they generally have carers that are not particularly paid well, not particularly trained well, and they're having to deal with kids who have really complex issues and complex backgrounds. And often the way to deal with it is calling the police. (NSWP24)

The suitability of regulated placements is also a concern for children 'ageing out' of care, who experience multiple challenges in accessing proper accommodation:

It appears that there just is no [suitable placement] that isn't really a protection for these children who get caught up in the criminal justice [system]. (UKP03)

Another key contributor to the criminalising and traumatising nature of OOHC is the lack of suitable regulated placements for dual system involved children. This can often lead to children receiving custodial instead of community sentences.

...we do get kids being remanded and we do get kids sentenced to custody because there's nothing available... what was happening before the unregulated⁹ accommodation was that children were being placed in caravans and it being called 'a holiday' and then being moved every 28 days because the holiday could only last 28 days... that was their placement. (UKP04)

A similar challenge was identified in NSW and Victoria, with the following highlighting the way custody can be used as an 'alternative' placement option.

The court will say, okay, you've been granted bail. But you're not to be released until accommodation is found for you. Sometimes some of these kids are kept in custody for weeks at a time after that, because no viable accommodation placement has been found... I've always found it strange that a young person in custody doesn't fall within that definition of a young person at an immediate risk of harm... (NSWP24)

Instability in placements and the absence of therapeutic support for children in OOHC is a compounding factor in the criminalisation of children. When children are frequently moved between different placements and experience unregulated placements, in the disruptions to their sense of stability and continuity can exacerbate trauma. Without consistent therapeutic support to address their emotional and psychological needs, these children may struggle to develop coping mechanisms and resilience.

5.2. Police involvement in care

The over-reliance on police to manage trauma-based behaviour within residential care has been considered in previous research and practice (see [Hunter et al., 2024](#); [Day, 2021](#); [Day et al., 2023](#); [Shaw and Greenhow, 2021](#); [Walsh, 2019](#)). However, despite multi-agency protocols in all jurisdictions, participants expressed concerns over the continued criminalisation of children in care, which is perhaps most apparent when children are missing from their placements. Respondents in each jurisdiction noted the management of children missing from care

is a key factor in their criminalisation.

A big issue for me is the whole business about the police being called for missing incidents, which can be as simple as the child being 15 min late back [home].... the police are there waiting for them, the police are looking for them.... [its] the whole thing of being forced into this environment where that contact with the police is normal. I've seen incidents spiral out of that, numerous times... (UKP02)

In Victoria, children missing from placements are apprehended under 'safe custody' warrants issued by the Children's Court and enforced by the police. However, the overt criminalisation of children who are absent from their place of residence fails to acknowledge why children may be missing, and the inherent trauma of 'apprehending' a child and returning them to their placement.

There's a whole raft of very complex and pretty devastating reasons that children and young people leave resi. And the main way that the system uses to bring those children back is by a safe custody warrant. ... that whole process is for a warrant to be issued and police to go and retrieve those children...then the child or the young person will react... that also feeds the criminalisation of those children and young people because then they end up with charges for threatening police, for assaulting police, etc. (VICP19)

The risks associated with children missing from care include potential substance misuse, criminal exploitation and sexual victimisation. However, respondents expressed a shared concern that staff in residential homes were simply responding to internal management policies rather than exhibiting professional judgement when dealing with children missing from their placements.

More recently we've had a young chap who was 15. He was brought in because he kept going missing. He'd been put out of county for whatever reasons...he kept running away from the placement and coming back to [the area] ... his mother is in a hospital, she had terminal cancer and ... he wanted to be with her. It's as simple as that; he wanted to be with her. (UKP30)

Police involvement with children in OOHC is also related to the management of behaviour inside residential homes. Calling police to deal with minor behavioural issues (see [McFarlane, 2018](#)) was commonly cited in each jurisdiction as increasing the likelihood of arrests and care-criminalisation.

I think the other thing is ...children who commit offences within their places of living against care staff if they are post-16. It could be within their children's home; it could be within their (personal living) environment. (UKP05)

There can be a lot of difference between the different service providers as well around the willingness to charge or when they call police ...[Some] seem to be very willing to call police very quickly, while there are other service providers where they're less likely to call as quickly. (VICP25)

Introducing police to manage children's behaviour in OOHC, and different approaches by service providers to managing children in OOHC, illustrate the requirement for joint protocol and training programmes for child protection staff, residential care workers and police. These protocols should ensure a unified approach to crisis de-escalation and intervention that emphasises the child's safety and emotional well-being.

Criminal convictions resulting from behaviours exacerbated by the residential environment are addressed in England and Wales by the 'The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers' (Department of Education, Home Office and Ministry of Justice, 2018). This protocol recommends the co-development of local arrangements to reduce, but not necessarily prevent, the criminalisation of children in OOHC.

⁹ An unregulated placement that is not registered under the terms of the Care Standards Act 2000 and provides accommodation (only) without care provision.

... a huge problem for children ...in the care system is charges that originate from reports from the care provider. I know they are trying to stop this.... I certainly would not be reporting my child to the police for writing on the wall but that happens... (UKP08)

NSW¹⁰ and Victoria¹¹ also have protocols to reduce the criminalisation of children in residential care. Participants in NSW noted the protocol has been “applied inconsistently across the state, but I actually think it’s been quite effective in authorising the cops not to necessarily take action when they’re called to an incident in a residential care home.” (NSWP21). However, it was also noted the “police paid lip service to it, but some of the more sophisticated, larger NGOs...took a lot more notice.” (NSWP20). In Victoria, while a similar protocol was yet to be implemented at the time of the interviews, one respondent indicated:

... there was really no activity on implementing the framework throughout 2020, 2021, I think probably much of 2022. I understand that there’s an ... 18-month action plan that is close to being signed off. But ... implementation hasn’t started at all, or certainly hasn’t started in any real meaningful way. And that is reflected in [the data] we see. (VICP19)

Criminalisation in care also occurs by minimising and negating children’s experiences as victims. Respondents in each jurisdiction noted children who experience victimisation are not looked after as ‘children’ but are labelled and criminalised for the harms they have experienced as victims of abuse, interpersonal crime and systemic neglect at the hands of systems aimed at protecting them.

...[I]f you look at something like exploitation, I found from experience (that) these children, they are just criminalised all the time, we’re not looking at them as children, as victims... If they have been caught and they have got drugs on them, they are not willingly carrying those drugs, they have been exploited into doing that. (UKP11)

...[E]ven the system wrongs them... because you’ll often hear people call children in residential care resi kids. Even the police do it, they’re labelling them. And so, there’s marginalisation that comes through...But if they slowed down and realised that this child’s been a victim... (VICP22)

Magistrates also commonly reflected on whether children charged with and convicted of a criminal offence should ‘even be in the courtroom’.

Before we even get to the sentencing point, one of the things that we’ve pushed in this county, and we’ve raised it to national significance over the last decade, is whether or not the young person or the child should be there in the first place... I would suggest that really we need to go all the way back to saying should the child even be in the courtroom? (UKP29)

Australian specialist judges and magistrates with extensive history of sitting in the family and criminal divisions of the Children’s Court raised the importance of diversion for children with histories of trauma and OOHC noting that: “...there are lot of kids in OOHC who are given diversions. And they’ll get multiple diversions before it moves beyond that. And you know, diversions have a got a pretty good success rate.” (VICP17)

5.3. Advocating for children and young people in court

In each jurisdiction, dual system involved children in contact with multiple professionals’ experience ‘the hot potato’ phenomenon, with responsibility for supporting children in court passed on to other organisations. This means dual system children are often unsupported in

¹⁰ NSW Ombudsman. (2019). *Joint protocol to reduce the contact of young people in residential out-of-home care with the criminal justice system*: <https://www.facs.nsw.gov.au/download?file=585726>.

¹¹ DFFH (2020) A framework to reduce criminalisation of children in residential care: <https://providers.dhhs.vic.gov.au/programme-requirements-out-home-care-services>.

court.

A significant proportion ... are supported by an individual, sometimes a social worker, sometimes a Personal Advisor.¹² They haven’t got that supportive network around them, whereas a young person with a family might. (UKP09)

For the kids in residential units, they don’t have someone consistently looking after them. They might have a group of workers who they consistently have caring for them, but they don’t have someone like a constant adult caring for them...they’re almost deliberately moving workers on to get experience or so that the children don’t get too attached to particular workers, which is kind of counterintuitive ... (VICP25)

One participant referred to youth justice as the ‘forgotten social work space’, where dual system involved children fall between the gaps and often appear with no appropriate support.

I think it makes a massive difference if a child’s social worker pitches up in court than if they don’t. And that isn’t standard practice across the country...And I think that thing about youth justice sits over here, and social care sits over here, and that’s why I talk about it being the forgotten social work space...[Workers] who can’t fulfil their statutory functions already and now taking on the statutory functions of another organisation. I despair of our mental health services. (UKP05)

Participants in all jurisdictions emphasised holding professionals accountable for providing appropriate support to children in OOHC who are brought before the criminal justice system for minor forms of offending.

We also need to hold professionals accountable, like having social workers of children present in the court to support (them). I believe this should happen, but ...in fact, in most cases it does not happen. Not just this, but also making sure reports are detailed. (UKP08)

The desire of a sentencing magistrate in the Children’s Court is to impose a sentence that allows institutions of youth justice and ... the care agency to have the opportunity to give as many resources as they can to that child so that they’ll recover and stop offending...the adult jail population is full of out of home care kids...if we don’t do something now... all we’re doing is creating a violent, angry, impaired group of adults who will offend in the future. (NSWP18)

Advocates and legal representatives who understand the needs and entitlements of children are central to supporting children in OOHC who face the criminal justice system. The Youth Justice Legal Centre in England and Wales has published a guidance document for legal representatives that highlights the importance of preventing the criminalisation of children in care, drawing on guidance from the Department of Education, Home Office and Ministry of Justice (2018). The need to adhere to this duty was identified in all jurisdictions examined in this study.

You need...a solicitor who understands the area of work. Someone who is able to advocate for that young person in court, that doesn’t have to be their solicitor. I’ve found that court is quite open to listening to ... advocates...[or] people that are working well with a young person. (UKP02) One way I personally deal with it is if they’ve got supportive parents, or a carer that the young person at least has a good relationship with, if you can get consent to have more involvement from them, that’s one way to go about it. I mean, there are little things that we can do. (NSWP24)

Respondents in England and Wales identified the need for professionals to support/advocate for children and young people in Problem-Solving Courts. This model requires legal professionals to attend court and provide meaningful support for young people in OOHC

¹² Personal Advisory roles were introduced by The Children and Social Work Act 2017 to provide care leavers up to age 25 with support (Department of Education, 2018).

who experience the criminal legal system.

... (this) places a duty on the agency that we are asking for the report from to come to court to deliver that report. ... [I]f we're going to do a complex sentencing then we will order those people to come to court because we need to hear from them what they are going to be doing for this child and this family. So, you'll have Youth Offending Service,¹³ case worker will be there ... and so will be the social worker and maybe the Family Support Officer and the substance abuse and all of those people who are going to be playing a key part. And as a Presiding Justice I will hold it as a meeting [by asking] 'What are you going to be doing for this family?' (UKP29)

While there is no equivalent model in NSW or Victoria, specialist courts take a restorative approach, particularly for First Nations children. The Koori Courts in NSW and Victoria were considered a more 'therapeutic' and culturally appropriate approach to working with dual system involved First Nations children despite legislative restrictions on their availability.

... [I]f it's a matter that's proceeding to a plea we'll be talking to the young person about whether the Koori Court is an appropriate option for them and if they want to participate in that process, then we'll support them through that process. And that's a much better culturally appropriate response for the young person. But at the moment, the Koori Court's only available post-plea. So young people don't have access to a culturally appropriate process all the way through ... and bail applications, for instance, are not heard in the Koori Court. So, you're in a mainstream court until your matter's resolved, and then is adjourned into the Koori Court. (VICP12)

5.4. Sentencing children – understanding care experience

Participants acknowledged awareness of trauma-informed practices is crucial for Magistrates and Judges when determining sentences for young people experiencing OOHC who are convicted of criminal offences.

I think magistrates are much more sensitive to and aware of trauma that impacts these children, and judges less so. We have one particular judge ..., a circuit judge, who is incredibly punitive ... he's up for responsabilising children and doesn't really get it. (UKP05)

In England and Wales guidelines indicate that OOHC experience is an overarching factor in sentence determinations (Sentencing Council, 2017, 2019). However, interview participants were not convinced this requirement was appropriately considered in all cases.

There is guidance on sentencing that does note experience of care for sentencing young people and adults, but I don't think it is taken into consideration as much as it should. It is difficult because we can't say that being in care means you should 'get a free pass' but it does have an impact on the life of the child. (UKP08)

OOHC is not a specific factor that must be considered in sentencing in NSW or Victoria. However, the High Court ruling in *Bugmy v. R* (2013) acknowledges that a history of childhood trauma can be considered to mitigate legal culpability and reduce the sentences of adult offenders. The application of this ruling to trauma-related experiences associated with OOHC is unclear but will be balanced against other considerations such as age and maturity, that are viewed as more 'pertinent' in the Children's Court jurisdiction.

...[S]ome people are profoundly affected by levels of trauma that are lesser [sic]... but that might be the child's entire reality. What I look at is 'has the child got a diagnosis as a consequence of what has occurred?' Or

is it the case that the Bugmy and Fernando factors exist? So, it's just been so disorganised and dangerous growing up that it must lead to a finding that the child has not had the same capacity to make a refined moral decision. (NSWP18)

... I don't think with children you need to kind of start fishing around for legal reasoning and legal parameters to give proper acknowledgement to the effects of trauma on a child. (VICP17)

Sentencing reports seek to provide the court with a comprehensive assessment of the needs of the child in light of the seriousness of any alleged offending. Pre-sentence reports in each jurisdiction provide detailed information on children's experiences of OOHC for consideration by judicial officers. This is especially important as children do not always have adequate support or appropriate legal advocacy in each jurisdiction.

...I think we do provide quite a detailed response to the supervision report to court every time, not just for specific sentencing. We've got enhanced case management within the Youth Offending Team so we will discuss what they've been assess[ed] at in terms of their cognitive [and] social development... We'll make sure the court are [sic] aware of that and what level we are assessing them in terms of their trauma level and what we would be doing... (UKP01)

I have a youth justice background report on every child, because I want to know about them, because for me, sentencing is an exercise in communicating with a child. And I want to do it properly... I don't know anything about this kid's story except what the solicitor told me, and often that's the broadest possible brush, right? So, I love the reports. I love the fact that they go through their mental health. I like the fact that they give me their story. I like the fact that they indicate what could be done to assist the child in the future... (NSWP18)

Consistent with the ethos of children's courts, where the focus is predominantly on diverting children away from custodial sentences and providing support opportunities for rehabilitation, Judges and Magistrates reflected on the importance of positive reinforcement for children in OOHC. This emphasis highlights the importance of integrating problem-solving approaches into criminal justice decision-making.

But you might be saying to the kid, it's really great what you're doing at the moment, you did something of course, and that's why you're here. You're saying and doing the right things... So, the sentencing process for me, is focusing very much on positive reinforcement. Because the accountability, in many respects is already reflected before the court so you don't have to keep ramming that home (VICP22)

...because some children have even more complex difficulties than all the others we see, and they all have some degree of complexity, then we initiated in [the area] what we call a problem-solving hearing... But we were recognising that this was going to need a really concerted effort from a team of professionals, both for the family and for the child. (UKP29)

6. Discussion

Children in OOHC, particularly residential/congregate care, represent some of the most vulnerable children in our communities. This vulnerability is exacerbated within systems that function to criminalise and punish the trauma these children have experienced. Our findings from in-depth interviews with legal, judicial, youth justice and children's advocate stakeholders in England/Wales, NSW and Victoria illustrate that despite explicit sentencing guidelines in England and Wales, and multi-agency protocols in all jurisdictions, children continue to be criminalised by virtue of being in residential care (Hunter et al., 2024; Shaw and Greenhow, 2021; Walsh, 2019). Despite some important legal differences, participants in all jurisdictions pointed to consistent factors that contribute to the overt criminalisation of children in residential care.

Our findings reinforce trends identified in a growing body of

¹³ Youth Offending Service or Youth Offending Teams are responsible for supervising children on out of court disposals and youth sentences.

literature that emphasises significant structural and systemic issues influence the criminalisation of these vulnerable and marginalised young people (Baidawi and Ball, 2022; Meiners, 2017). Our study revealed consensus that the OOHC system directly contributes to the criminalisation of children through several interconnected systemic issues and processes, including a lack of residential stability and an absence of physical and relational safety for many children (Cameron-Mathiasen et al., 2022; Day et al., 2023). These factors contributed to children absconding from their placements, which triggers responses from residential care services, courts and child protection authorities that rely almost exclusively on their ‘apprehension’ by police. This response is experientially punitive, as highlighted by the Victorian Commission for Children and Young People report on systemic responses when children are absent or missing from residential care.

Many children and young people experience the processes designed to find and return them to care as criminalising. They describe being ‘arrested’, transported in police cars and held in police stations when they have not engaged in criminal conduct and, indeed, even when they have been victimised during their absence from care (Commission for Children and Young People, 2021, pg. 19).

These challenges within residential care systems, and the over-reliance on police to ‘manage’ trauma-based behaviours, contribute to a cycle of instability where children are constantly moved between placements. Participants noted children are often placed far away from their family and social connections, leading to increased distress, disconnection and dysregulation. The absence of adequate therapeutic supports within the residential care system in all jurisdictions leaves children vulnerable to further exploitation and criminalisation (Commission for Children and Young People, 2021; Edwards et al., 2023). This sets up a vicious cycle, where the risk of criminalisation increases due to trauma-based behaviour and the responses relied upon by child protection, OOHC, and criminal legal systems to protect then control these children.

Our findings also highlight challenges experienced by legal and judicial authorities when dealing with dual system involved children. Participants appeared to understand the impacts of childhood trauma on children’s developmental trajectories and appreciated the challenges associated with residential care placements, emphasising disconnection and lack of stability as key factors contributing to the increased risk of criminalisation of these children. This is consistent with a large body of research demonstrating that residential care is an important predictor of contact with the youth and adult criminal legal systems (Baidawi and Ball, 2023; Ball, Baidawi and Fitzgerald, 2024; Herz et al., 2023).

However, participants in all jurisdictions recognised the need to ensure judicial officers and legal representatives are provided with sufficient and pertinent information about a child’s trauma history and their experiences in care, even though the impact of this information in sentencing dispositions was unclear. Importantly, while specific sentencing guidelines in England and Wales compel judicial officers to consider OOHC as a mitigating factor, participants noted these guidelines are likely to be applied inconsistently. In Australia, judicial officers rely on case law to guide decisions involving the impact of childhood adversity and their placement in OOHC in mitigating legal culpability. However, as with participants in England and Wales, Australian participants highlighted the application of the *Bugmy* principles is variable and depends on how individual judicial officers weigh the impacts of trauma and OOHC against other established sentencing principles, such as a child’s age and maturity.

Our findings reinforce that the narrow lens of over-policing, or challenges within the residential care system, are insufficient to deal with the criminalisation of children in residential care. As Baidawi and Ball (2022) highlight, criminalisation occurs at the intersection of multiple systems. Courts have an important role to play in recognising long-term therapeutic supports are necessary to ensure impacts of trauma diminish over time. Despite ongoing debate around the

operationalisation of ‘trauma-informed’ care, there is recognition that person-centred approaches rooted in strength-based practice and awareness of the intergenerational impacts of historical trauma (author, 2021; Struik, 2017) can result in improved outcomes for these children (author, 2023). However, this requires multi-system responses to be consistently therapeutic, rather than simply applying ‘trauma-informed’ principles in ad-hoc and disconnected ways (Zelechowski et al., 2021). Arguably, by the time a child appears before a Children’s Court on criminal charges, the options for therapeutic responses are limited.

7. Limitations

There are some limitations to this study, including its representativeness and generalisability. We do not claim this data is either representative of or generalisable to all legal professionals, or judicial officers working with dual system involved children. Our data emphasises legal perspectives in each jurisdiction and does not include perspectives of child protection and OOHC service providers, or people with lived experience of dual system involvement. Including the views of service providers may have revealed additional insights into how children in care become criminalised through exposure to multiple statutory systems. The perspectives of dual system involved children would have provided a richer understanding of the process of criminalisation and the lived experiences at the intersections of OOHC and the criminal justice systems. This study was limited to four jurisdictions. Choosing to investigate the most populous jurisdictions in each country seems justified in terms of representativeness and accessibility to research participants.

8. Implications

An inspiring element within the often-dispiriting evidence from this research is the participants’ deep understanding of and commitment to these vulnerable children. Participants drew upon extensive experience and practice wisdom to suggest cultural, structural and systemic changes, including consistent therapeutic responses, would improve outcomes for care-experienced children who come before the criminal courts. Suggestions about how such a complex cultural shift might be achieved were deeply reflective and meaningful, and involved the following potential changes to policy and practice:

- Development of joint protocols and training programmes in crisis management for child protection staff, residential care managers and workers and police drawing upon evidence-based Therapeutic Crisis Intervention to support fewer traumatising responses to children in distress (Nunno and Leidy, 2003).
- Stability as a core priority for placing children in OOHC, by ensuring placements are as proximate to kith and kin, and the community with which all children, and First Nations children specifically, identify.
- Statutory requirements should be developed and enforced to ensure children under charge be appropriately supported, represented, and advocated for at court.¹⁴
- Statutory requirements should be enhanced to ensure incarceration is confined to situations of extreme risk rather than using OOHC as a ‘placement of choice’ or a response to lack of resources.
- Secure options for OOHC children and care leavers, when unavoidable, should always occur in developmentally appropriate, trauma responsive and culturally safe settings. Secure short to medium term

¹⁴ Individualised best practice responses are likely to be most effective when time and space is allowed for welfare, mental health and legal professionals to be fully appraised of the trauma history of the young person and to fully inform the court about how this may have contributed to any offending behaviour. The presence of the child welfare professional or case manager in court should be legislatively mandated.

small residential assessment and trauma response units managed by highly skilled multidisciplinary therapeutic teams might be developed as cross-sectoral initiatives between child protection, child welfare and youth justice.¹⁵

- Better informed decision-making may be achieved through statutorily managed judicial conferencing that includes court officers, the child, their family and key stakeholders invested in their wellbeing and responsible for ongoing case management.

9. Conclusions

The findings from this study point to entrenched nature of the criminalising processes within the child protection and OOH systems. Despite previous research highlighting similar themes to those discussed in this paper, little seems to have changed. Our findings are also consistent with longstanding evidence of a child welfare and protection culture that is insufficiently focused on healing trauma and preventing criminalisation. These deficits are exacerbated by residential care systems characterised by unstable and unsafe placements. This research affirms ongoing over-reliance on increasingly punitive police responses that lack awareness of childhood trauma and its impacts, and an inappropriate use of custody as a criminalising 'alternative' placement. Trauma awareness in the youth justice and child welfare sectors remains to be translated into consistently applied trauma responsiveness. While understanding trauma and its impacts and showing a desire to ensure children in OOH are given additional supports, judicial decision-making remains constrained by restrictive legislative requirements and the inability to compel statutory systems, including child protection, to better support children in their care. Participants in this study recognised these shortcomings and advocated moving away from an entrenched causation narrative that holds traumatised children in OOH responsible for criminality, to one that recognises their exposure to longstanding systemic and structural failures that generates complex understandings requiring intensive therapeutic interventions rather than punitive responses. Participants offered innovative suggestions about how such a cultural shift might be achieved that should be explored in further large-scale comparative research given the widespread cross-sectoral appetite for a more compassionate and constructive approach to child protection, youth justice and sentencing of children growing up in care in England and Wales and Australia. As one participant suggested: 'if only they slowed down and realised that this child's been a victim'.

Declaration of competing interest

The authors declare the following financial interests/personal relationships which may be considered as potential competing interests: The authors report that financial support was provided by University of Northampton to support the research.

Data availability

The data that support the findings of this study are not publicly available due to restrictions outlined in consent agreements with

¹⁵ Care experienced children and young people presenting with extreme trauma and serious criminality require more intensive programmatic responses. Short-medium term residential facilities might be designed to break cycles of high-risk behaviour, placement breakdown, serious offending, recidivism and incarceration through effectively assessing and addressing complex trauma. Secure therapeutic placements would aim to facilitate stabilisation, therapeutic interventions and in-depth psycho-social assessments of a small number of children and young people in OOH with multiple needs who face major criminal charges. This, in turn, could inform judicial and child protection decision-making and case planning.

participants and the identifying nature of the data.

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Criminalising processes at the intersection of policing and residential care

Tatiana Corrales^{1,2} , Claire Paterson-Young³ , Ian Warren⁴ ,
Emma Ryan⁴  and Patricia McNamara⁵

Abstract

Over-reliance on police by Out-Of-Home Care (OOHC) service providers is a key contributor to the criminalisation of children in care. Drawing on interviews across judicial, legal, youth justice and children’s advocacy sectors in New South Wales, Victoria, and England and Wales, we propose a conceptual model which explains the criminalisation of trauma via policing and residential care policies that emphasise risk mitigation, and which are currently devoid of therapeutic practice. Criminalisation of trauma is contingent on surveillant assemblages positioning vulnerable children as risks to themselves, others, and property. This approach justifies criminalising responses with deleterious impacts on children and staff within both systems. We discuss the need for systemic reform that shifts from perceptions of children in residential care as “risks” that need to be managed via carceral logics. We argue the case for a system that instead emphasises the importance of therapeutic responses for vulnerable children and families involved in child protection and OOHC systems.

Keywords

Policing, out-of-home care, dual-system impacted children, criminalisation of children

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¹Jumbunna Institute for Indigenous Education and Research, Law and Justice Hub, University of Technology Sydney, Ultimo, NSW, Australia

²Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, Melbourne, Victoria, Australia

³Institute for Social Innovation and Impact, University of Northampton, Northampton, England

⁴School of Humanities and Social Sciences, Deakin University, Burwood, Victoria, Australia

⁵Department of Social Work, University of Melbourne, Melbourne, Australia

Monash University is where the research was originally undertaken. Tatiana Corrales is no longer employed at this institution.

Corresponding Author:

Tatiana Corrales, Jumbunna Institute for Indigenous Education and Research, Law and Justice Hub, University of Technology Sydney, Ultimo, NSW, 2007; 007, Australia.

Email: tatiana.corrales@uts.edu.au

Introduction

Children in residential care, which is also referred to as congregate or group care, represent one of the most vulnerable cohorts in the Out-Of-Home Care (OOHC) system. Many have experienced significant trauma due to maltreatment, abuse and/or neglect in the home, and often mistreatment and abuse while in care, including multiple “failed” foster care placements (Gerard et al., 2023). Residential care is often viewed as the option of “last resort” (Holmes et al., 2018) and in Australia, continues to represent the smallest component of the OOHC system. In 2022–2023 there were 4,310 children in residential care placements across Australia, accounting for 9.5% of the total OOHC population (Australian Institute of Health and Welfare [AIHW], 2024a). In contrast, there were 15,127 (33.4%) children in foster care and 24,556 (54.2%) children in kinship care placements during the same period.¹ Despite ongoing concerns about its traumagenic and criminogenic impacts (Gerard et al., 2023; Paterson-Young et al., 2024) the residential care population across Australia has almost doubled in the past 10 years (AIHW, 2014, 2024a). First Nations² children are grossly over-represented at all stages of the child protection process and in all forms of OOHC across every state and territory. As with non-Indigenous children, the population of First Nations children in residential care across Australia increased by 90% from 2017–2018 to 2021–2022 (AIHW, 2024b).

A similar pattern is observed in England and Wales, in which approximately 91,040 children were categorised as “looked after”³ (NSPCC, 2024). Placement types vary for children in England and Wales, with foster placements being the primary source placement, which includes kinship care (68% England; 69% Wales). However, residential accommodation⁴ (19% England; 7% Wales) remains high, with the number of children experiencing residential placements in England and Wales doubling since 2011 (Larkham, 2024).

While residential care models vary, most Australian states and territories adopt a four-bed model staffed by paid carers on a 24/7 roster system (Ainsworth & Bath, 2023). In England, models vary depending on the level of care required, with small “home-style” environments using specialised staff to provide 24-hr care and support (Holmes et al., 2022). The number of children in residential care homes in England can also vary depending on the environment, with 44% of homes registered in 2019 accommodating three or four children, while less than 3% accommodated over 10 children (Holmes et al., 2022). These structures mean that groups of highly traumatised children and teenagers are placed together in an environment that deviates from the normative expectations of a functioning home (Colvin et al., 2018; McFarlane, 2018). This results in sustained criticism that residential care directly contributes to poor psychosocial, health and wellbeing outcomes across the life course (see, e.g., Sacker et al., 2021).

Research shows that children in residential care are at increased risk of police and youth justice involvement *by virtue of being in care* (Paterson-Young et al., 2024; Shaw & Greenhow, 2021). While several factors contribute to the criminalisation of children in care, the nexus between residential care service provision and policing generates the most salient form of criminalisation. Understanding the intersecting mechanisms and processes contributing to such criminalisation may enable more targeted and effective strategies to assist these vulnerable children. While a growing body of literature focusses on factors that predict involvement with the criminal legal system, the characteristics of dual system⁵ impacted children and their unique vulnerabilities (Baidawi & Piquero, 2020; Herz et al., 2019; Malvaso et al., 2019), limited research explores the intersection of specific processes across multiple systems that contribute to the criminalisation of children

in care. This article seeks to address this gap by examining the processes of criminalisation at the intersection of policing and residential care.

The article begins with an overview of extant literature on care criminalisation, while focussing on the under-studied issue of surveillance. We then present the results of a qualitative study that resulted in the development of a conceptual model to articulate the way policing and residential care services draw on similar carceral logics that ultimately result in the criminalisation of trauma. We conclude with a discussion of the implications of our model for policing and residential care service provision by focussing on the importance of developing therapeutic *systems* that emphasise diversion.

Background and theoretical contexts

“Care-criminalisation” (McFarlane, 2018) refers to ways children’s behaviour *in residential care* is managed through criminal justice interventions. This includes an over-reliance on police assistance by residential care providers, and formal responses that focus on crime prevention and control rather than de-escalation (McFarlane, 2018; Paterson-Young et al., 2024). Extensive research shows that children in residential care are disproportionately represented as dual-system clients (Baidawi & Ball, 2023a; Herz et al., 2019; Prison Reform Trust, 2016; Sentencing Advisory Council, 2020; Staines, 2017). Relative to non-care-experienced peers, children in residential care are more likely to have police contact, enter the youth justice system at younger ages, be charged with more serious crimes, and be sentenced to lengthy periods of detention (Malvaso et al., 2019; Sentencing Advisory Council, 2019). Particularly vulnerable sub-groups, such as First Nations children in Australia (AIHW, 2024a, 2024c), Black and other minority youth in England and Wales (Prison Reform Trust, 2016), and children who are neurodivergent and/or who have intellectual disabilities (Baidawi & Piquero, 2020) are disproportionately represented among dual system impacted groups.

The criminalisation of children in residential care occurs within inherently anti-therapeutic systems that lack trauma awareness (Paterson-Young et al., 2024). To mitigate some of these systemic challenges, various jurisdictions have introduced formal protocols between police, child protection and residential care services to reduce the criminalisation of children, by minimising the over-criminalisation of non-violent behaviour. New South Wales (NSW) and Victoria have developed joint protocols (Department of Communities and Justice, 2019; Department of Health and Human Services, 2020) that emphasise the importance of trauma-informed responses to children in care, and the need for greater flexibility and proportionality by police and residential care providers when responding to children’s behaviour. The Victorian protocol emphasises the importance of safety for children and staff when encountering incidents in residential care homes and promotes the development of “decision-making guidelines” for the residential care sector to reduce the reliance on police to resolve minor incidents (Department of Health and Human Services, 2020). The NSW protocol places a much greater emphasis on interagency data sharing to enable police to exercise greater discretion to divert children in residential care from more formal criminal justice responses (Department of Communities and Justice, 2019). To date, however, the NSW protocol has not been formally evaluated, while the Victorian protocol has yet to be implemented.

A similar protocol was introduced in England and Wales following the Lammy Review into the over-representation of children in care in the youth justice system (Hunter et al., 2024). As with the protocols in NSW and Victoria, the aim of this review was to address some of the

factors that contributed to the over-policing and criminalisation of children in residential care. Unlike Australian protocols which are jurisdiction-specific, the U.K. protocol reflects a national approach. However, Hunter et al. (2024) found significant inconsistency in the way the protocol was operationalised across local government areas, leading to variations in police responses to children in residential care. Of greatest concern was the increased reliance on police surveillance of children in residential care as “*baked into agreements*” (Hunter et al., 2024, p. 64, emphasis in original) by formalising the use of local police teams to conduct “regular visits ... for the purpose of gathering intelligence, identifying risk of offending and information sharing, including disclosure of non-serious incidents within placements” (Hunter et al., 2024, p. 62).

While an expansive body of literature highlights the centrality of surveillance as a key element in contemporary policing and security provision (Dafnos et al., 2016; Ferguson, 2017; Schuilenburg, 2015), including its role in the operation of interagency control assemblages (Haggerty & Ericson, 2000), its use in OOHC is under-explored. One rare exception is Hardy’s (2014) work that drew on a Foucauldian framework to argue that surveillance is embedded within residential care shift work structures. Specifically, shift records document a power/knowledge assemblage that focuses on how risks to staff and residential care organisations are to be mitigated, rather than emphasising how children should be kept safe. In other words, these formal documents provide records of surveillance in residential care settings that represent a child as an object of risk to staff, rather than as an individual within a more complex relational dynamic of care (Hardy, 2014). Along with the purposive or adapted architecture of an OOHC community-based residence, which is often conceived in the spirit of the panopticon to optimise the surveillance of and power over children, administrative records examined by Hardy (2014) suggest a more nuanced or subtle mode of surveillance through selective forms of accountability reporting (Molnar & Warren, 2020) that add to other demographic information contained in legal case records or related official government reporting sources (see Dafnos et al., 2016, pp. 322–323). More recently, Edwards et al. (2023) utilised anti-carceral theory to highlight how Black children in the Canadian OOHC system are subjected to discriminatory and restrictive forms of therapeutic “care” enacted through carceral and surveillance logics that necessitate a formal criminal justice response (Edwards et al., 2023). In this sense, surveillance acts much in the same way as it does through conventional policing and securitisation processes that disproportionately target disadvantaged or minority populations as crime suspects (Ferguson, 2017) to magnify their status “as risks to be watched and policed” (Dafnos et al., 2016, p. 323).

Relating surveillance to the criminalisation of children in residential care reflects broader societal shifts grounded in a neoliberal logic that promotes responsabilisation, privatisation, commodification and the emphasis on the identification, prevention and management of identifiable risks, or an “ontological insecurity” that promotes risk aversion via increasingly bureaucratised processes (Cunneen, 2015/2016, p. 34; see also Arrigo & Sellers, 2021; Shaw & Greenhow, 2021; Taylor, 2018). Just as governing through crime validates intrusive forms of surveillance (Simon, 2007) to simultaneously identify and protect against real and *potential* risks (Taylor, 2018), we contend that children in residential care are exposed to an equivalent “adjacency” (Morgan, 2022) when experiencing the assemblage of control relationships involving child protection authorities, OOHC and youth justice systems. In this sense, physical and bureaucratic surveillance processes become embedded within this assemblage to secure the OOHC system and its staff through an understanding of risk situated *within* children

themselves and the environments they inhabit (McCausland & Dowse, 2022). We contend that children in residential care are at increased exposure to enhanced surveillance by both care and policing systems as objects of risk and thus objects of criminalisation, *by virtue of* the impacts of significant trauma on their emotional and behavioural regulation (Liebenberg et al., 2015; Victorian Legal Aid, 2024).

Rationale

Care-criminalisation appears firmly grounded in residential care policies and practices that rely on police intervention to manage disruptive behaviour (McFarlane, 2018). This is magnified by the absence of suitably qualified or trained staff who function within a broader context that lacks coherent and enforceable policies to reduce exposure to police contact. Children also report on the carceral nature of residential care arrangements that curtail their autonomy through constant surveillance (Day et al., 2023a; Edwards et al., 2023). However, the process of criminalisation is multifaceted and draws on diverse sources of knowledge (Foucault, 2008; Haggerty & Ericson, 2000) at the nexus of child protection, OOHC and policing systems. Understanding how specific policies and practices mutually embed criminalisation within these systems is an important but under-theorised area of research. This study aims to address this gap by proposing a conceptual model that makes sense of how the criminalisation of trauma emerges from surveillance in both policing and residential care systems.

Methodology

Participants

Thirty-one judicial officers, legal professionals, youth justice professionals and independent children's advocates took part in either individual or group-based interviews. Fourteen interviews were undertaken in England and Wales, while 17 were conducted in NSW and Victoria. Table 1 provides a breakdown of the participants in each jurisdiction.

Data collection

Using convenience sampling,⁶ a member of the research team individually approached each participant. Organisations and/or individuals with extensive experience in the family and the criminal divisions of the Children's Court and those supporting and/or advocating for dual system-impacted children were originally approached based on the authors' pre-existing networks. Additional agencies were then approached based on recommendations from participants who had been interviewed. In NSW and Victoria, permission to interview judicial decision-makers was sought directly from the President of the Children's Courts in each state. In England and Wales, permission was sought from the judicial office. Eligibility criteria were limited to whether participants had experience working with dual system-impacted children. All participants were provided with an explanatory statement and consent form prior to each interview.

The larger study from which these data were derived explored how multiple stakeholders within the criminal legal system understand the impacts of trauma on the sentencing of dual system-impacted children. Semi-structured interviews explored participants' views on how the criminal legal system addresses the trauma-related needs of specific cohorts of children

Table 1. Participants by jurisdiction and role/profession.

Participant	Jurisdiction	Position
UKP02	England	Youth justice
UKP03	England	Legal professional
UKP04	England	Youth justice and academia
UKP05	England	Youth justice
UKP08	England	Legal professional
UKP09	England	Youth justice and children's services
UKP10	England	Legal professional
UPK11	England	Legal rights organisation
UKP29	England	Magistrate
UKP30	England	Magistrate
UKP31	England	Magistrate
UKP01	Wales	Youth justice
UKP06	Wales	Legal professional
UKP07	Wales	Legal professional
VICP12	Victoria	Senior legal professional (youth crime)
VICP13	Victoria	Senior legal professional (youth crime)
VICP14	Victoria	Legal advocate (youth crime)
VICP15	Victoria	Senior legal professional (youth crime)
VICP16	Victoria	Legal professional (youth crime)
VICP17	Victoria	Magistrate
VICP19	Victoria	Independent children's advocate
VICP22	Victoria	Judge
VICP25	Victoria	Senior legal professional (child protection)
VICP26	Victoria	Senior legal professional (child protection)
VICP27	Victoria	Senior legal professional (child protection)
VICP28	Victoria	Senior legal professional (child protection)
NSWP18	NSW	Magistrate
NSWP20	NSW	Judge
NSWP21	NSW	Judge
NSWP23	NSW	Magistrate
NSWP24	NSW	Senior legal professional (youth crime)

in OOHC, including First Nations children, children from culturally diverse backgrounds and children with disabilities, their experiences of sentencing, representing or working with dual system-impacted children, and the impact of regional and local contexts on the relationship between OOHC and juvenile justice. Interviews were structured around the same questions, but each participant was encouraged to raise additional issues pertinent to their experiences. Interviews were undertaken virtually and in-person between March and December 2023, ranged from 23 to 78 min in length, were recorded with participant consent, transcribed verbatim and de-identified prior to analysis. The project received ethics approval from the institutional review boards at Monash University and the University of Northampton.

Data analysis

Analysis was guided by Braun and Clarke's (2022) reflexive thematic analysis and grounded in critical criminological and social work perspectives. Transcribed interviews were uploaded to

QSR NVivo Version 14 which assisted with employing a mixed deductive-inductive analytical approach. The first round of deductive coding was guided by a data extraction template initially developed by the first author that included seven relevant areas based on existing literature, and the issues the research team identified during data collection. These areas were discussed at length during monthly research team meetings throughout the life of the project. The original data extraction template was pilot-tested by the first author using a random sample of seven interviews using a random number generator for each data set. Once the seven randomly generated interviews had been coded, the first and second authors met to discuss each code and their corresponding definitions. Changes were made as needed, then the second author coded the same seven interviews to ensure consistency with any additional codes developed via consensus. All authors reviewed the data extraction template and preliminary coding. Three members of the research team were then each randomly allocated five interviews ($n = 15$) to code and met regularly throughout this stage to ensure consistency. The remaining interviews ($n = 13$) were randomly allocated to members of the research team for coding, with regular team meetings to discuss emergent themes.

Analysis proceeded over multiple steps, involving both inductive and deductive coding (refer to Paterson-Young et al., 2024 for a more detailed description of the methodology). The combination of deductive and inductive coding resulted in the identification of several core themes that highlight the way children in care are routinely and systematically criminalised. These are: *the criminalisation of trauma* as a function of reinforcing surveillance processes (*surveillance of children in residential care and policing practices*) which operate in the *absence of trauma-informed and therapeutic systemic responses*. This broader ecology frames the development of *protocols to reduce the criminalisation of children in residential care*. We highlight the way these processes interact via the criminalisation of trauma through the conflation of risk and victimisation when children are subjected to sexual exploitation and the way children are criminalised when they are missing from care.

Findings

The process of criminalisation is embedded within a broader ecology of policies and practices within the child protection, OOHC and policing sectors that are viewed as lacking in therapeutic models. This results in a perception that residential care providers and police have "... very little understanding of the behavioural presentation of young people who have significant trauma in their lives, who people in positions of authority have failed repeatedly" (UKP09). In the absence of therapeutic systems and responses, the criminalisation of trauma is viewed as almost inevitable.

... It's very clearly related to the distress of young people in care. For example, I had a case of a child (who) had hoped that he would spend time with his grandmother at Christmas, and that wasn't able to happen, and it was a huge disappointment ... and resulted in him breaking some Christmas decorations at the (residential care) unit and being charged with criminal damage and remanded in custody. (VICP12)

The introduction of protocols to reduce the criminalisation of children in residential care needs to be understood within this broader non-therapeutic ecology. These protocols require active partnerships between police, residential care providers and child protection departments,

yet participants noted that “we’re often saying to police or to the department⁷ have you heard about the framework? And it’s the first time they’ve ever heard about it” (VICP26).

The apparent lack of knowledge or commitment to the protocols by police and the child protection system was reflected in the absence of “policies for discretion in laying charges for incidents that happen in residential care units” (VICP14), the need for cross-sector “... training and upskilling” (VICP19), and the negative impacts of a residential care workforce that is perceived to be “... somebody who is on minimum wage, having just to monitor a property ... These people are the ones that are reporting the incidents and are pushing for prosecution” (UKP08). Participants reflected that existing protocols are “probably not doing enough yet in terms of persuading police. I mean, it’s difficult [because] once the police have been called, they feel compelled to take action” (VICP14). The challenges associated with implementing joint protocols was further reflected in the way “evidence” of good practice was “... limited to individual children, rather than [applying] across the board” (VICP17), or involved decisions made by specific residential care teams within local government areas who were supported to “... only ever call the police if it was an absolute last, last resort” (UKP11).

Attempts to minimise the criminalisation of children in care have so far focussed primarily on limiting criminal charges in cases involving property damage and altercations that occur within residential care homes (McFarlane, 2018). Participants highlighted that these attempts have not been well integrated into residential care or police practice in part because they fail to account for the underlying factors that lead to a carceral response to these manifestations of childhood trauma.

Our data revealed the criminalisation of trauma occurred via three interrelated mechanisms: policies that emphasise risk management in the provision of care, the surveillance of bodies and behaviours, and the over-reliance on formal policing to respond to incidents in residential care settings. We use the examples of children missing from care and the increased risk of exploitation for these children to highlight how the *process* of criminalising trauma operates through this interagency assemblage.

Policies to mitigate risk

A common theme across all interviews was the view that risk caused by children in care is managed through criminalisation. For example, “... a lot of the behaviour that [children are] engaging in is criminalised, as opposed to residential care causing the criminalisation of some young people” (VICP14). Examples of this included children being “... charged with burglary for going into a room of the house that’s off limits” (VICP14) and being “loaded up with offences inappropriately ... [for smashing] a few Christmas decorations and swearing and carrying on for a few minutes ...” (VICP12). This emphasis is consistent across all jurisdictions examined in this study.

There are many issues experienced by young people ... the most common ones, from my experience, are that young people in care often come with a list of previous convictions resulting from issues experienced in care placements ... all minor things that would not have been reported if they had been at home with their parents. (UKP07)

Risk management in residential care also reflects apparently conflicting priorities of supporting children with complex needs while ensuring the psychosocial, emotional, and physical safety of staff.

It's a pretty complicated and complex situation that we're asking workers to try to manage, and the fact that they're not well-supported ... impacts them in terms of occupational violence. But it impacts children in terms of the involvement of police and criminalisation. (VICP19)

Another inherent tension within these systems is that service providers carry all the risk and responsibility for ensuring children's safety, without the statutory authority to effectively manage children's behaviour. As one participant noted "... in residential care we don't have any levers to motivate good behaviour" (NSWP21). The need to mitigate risks in the absence of the necessary statutory tools and supports means that in many situations "... service providers would have felt that [calling the police is] what they had to do" (VICP19). In this context, risk mitigation within residential care settings relies on a ubiquitous form of surveillance by both residential care staff and police that directly contributes to the criminalisation of children's trauma.

Surveillance of children in residential care

Participants pointed to the way that "... residential [care] homes are not creating a home environment ... when you've got multiple staff coming in and out, watching everything [the children] do" (UKP09). This level of surveillance follows directly from the perceived need to mitigate risks posed by and to young people in OOHHC, while creating an environment where being constantly monitored becomes a normative part of being "cared for".

But if you imagine you've got a young person who's brought up in the care system ... Every little bit of behaviour is policed; there are disciplinary policies and behaviour policies in place that are different between different homes, delivered inconsistently by staff. (UKP09)

For some participants, the surveillance of children in residential care was considered an explicit example of the way children's trauma becomes criminalised.

They don't have long-term relationships with their carers. And I think one of the main things is that it's such a disruptive attachment scenario because the people who are supposed to be caring for them can also be policing them, prosecuting them, and calling law enforcement on them. (VICP26)

Participants also noted the expansion of "dataveillance" assemblages (Ferguson, 2017; Lupton & Williamson, 2017) at the intersections of child protection, residential care, and policing. As one participant noted, these assemblages rely on the collection of data about every aspect of a child's life in residential care, because "everything is recorded about a young person" (UKP09). The type and quantity of data has direct implications for the process of care-criminalisation.

A brief will say that (the child has) absconded 226 times from their unit. But if they'd been in family care and they'd run off every day, the police don't have that data. (VICP26)

While data collected by residential care providers may not be specifically intended to criminalise, it exists within a broader context of risk mitigation that has criminal consequences when police are called into a residential care setting. This results in information about children in care

being used by police for prosecution, because it is considered evidence: “police keep horrible records of everything a young person has done from the age of 11 up until they’ve left the (child protection) system” (VICP14). These impacts of physical surveillance and dataveillance on the criminalisation of children are magnified by the entrenched nature of the residential care system’s reliance on police to respond to incidents where safety within the OOH facility appears to be compromised, and the perceived lack of trauma-aware responses when children are dysregulated.

We don’t see a trauma-informed engagement from police when they’re approaching (resi)⁸ kids. We’ll advocate for VicPol (Victoria Police) to have flags in their LEAP⁹ system which directs them to approach the young person in a trauma-informed way, or where possible to have a female (police officer) approach the young person But they’re much more focussed on risk. Often the response will be, “no we’re actually going to have a higher risk of an assault from the young person (because) that’s what the LEAP flag says.” So, you’re just sort of setting the situation up to be one of conflict rather than de-escalation of the issues. (VICP12)

These data show that the criminalisation of trauma occurs due to multiple intersecting processes within systems that are not designed to be therapeutic. Children in residential care are therefore subjected to various policies and practices implemented by care staff and police that transform vulnerability and victimisation into risks to be monitored and controlled. Once police are called to an incident, the available responses are limited by virtue of their function as law enforcers.

Criminalising trauma: Children who are missing or absent from placement

In Victoria, children missing from care can be “apprehended” under a safe custody warrant that is sought by the state as the child’s legal guardian, which is issued by the Children’s Court and enforced by police. As the following quote indicates, the mechanisms relied upon by child protection and the courts to ensure children’s safety are inherently criminalising.

There’s a young woman who has had a lot of time absent or missing from resi, and a lot of experience of sexual violence when she’s been absent or missing from resi. Because of her experience of sexual abuse and assault, whenever she’s apprehended by multiple police officers, predominantly men, her reaction is pretty violent because she’s so incredibly traumatised. And seeing then what would happen for her in terms of charges being laid, a whole raft of charges, and then the pathway into youth justice. (VICP19)

The criminalising processes associated with “apprehending” children missing from their residential placements are similar in England and Wales.

A big issue for me is the whole business of the police being called for missing incidents, which can be as simple as the child being 15 min late ... the police are there waiting for them ... But we don’t do that for our kids. We don’t phone the police when they are an hour late, the police would laugh at us. (UKP02)

The blurring of “risk” and “safety” was a key concern for participants, who emphasised that relying on carceral systems to limit harm to children in care undermines the very principles of therapeutic care service providers may be trying to implement. The similarities of the findings in different jurisdictions examined in this research are striking.

There was one girl in the home that I was working with and she hadn't come home. We knew where she was, she was at her mum's and we knew that she was safe. But because of her risk assessment plan and policy, after 15 min of not hearing from her I had to call the police and then the police have to go out and look for her. She's had the police involved, it's embarrassing for her; it's going to ruin the relationship between her and us because that trust, to her, it's going to seem that it's not there. (UKP11)

And the police have this certain view of her. They don't take into account the protocol (to reduce criminalisation), there's nothing put in place to manage her trauma and how that manifests itself. And she keeps getting charged because she assaults police when they come to (apprehend her on safe custody warrants). (VICP26)

As the next section illustrates, similar processes were identified when children are criminalised while being victims of criminal and sexual exploitation.

Conflating risk and victimisation

Children in residential care are known to be particularly vulnerable to criminal and sexual exploitation (Gatwiri et al., 2020; Shaw & Greenhow, 2020) where notions of risk, vulnerability and protection appear most pronounced. Interview participants noted these factors remain significant risks across these two systems:

... the whole issue of sexual and criminal exploitation is just a horrendous one for children in the care system. I've been aware of care homes where pimps and dealers have waited outside and that's still happening, that hasn't changed. (UKP02)

A key concern for participants was that “from experience with these children, they are just criminalised all the time. We're not looking at them as children, as victims” (UKP11). Many participants noted the conflation of criminality and victimisation was most apparent when children were recruited by others to undertake criminal activities. In these situations, there is often a failure to recognise that “if a child's been exploited they are a victim. If they have been caught and they have drugs on them, they are not willingly carrying those drugs, they have been exploited into doing that” (UKP11).

The vulnerability of children in residential care to such exploitation and related forms of victimisation was linked to a perceived lack of safety within residential care settings.

... there's this dynamic of children leaving resi because it doesn't feel safe, because it doesn't feel like home, because they really have no connection there. Some of them are leaving because they have no sense of agency or control, so at least if they're going to hang out with older men and engage in what we call sexual exploitation, they call swapping sex for drugs or money, at least they're in control. (VICP19)

The criminalising process, therefore, occurs not just through police responses to victims of exploitation as if they are perpetrators, but also through the ways that the child protection and OOHC systems fail to respond to these challenges therapeutically to promote a child's sense of safety.

Even where you've got kids who are subjected to sexual exploitation, and at really significant risk, they're often just being placed back at the mainstream resi even though everybody working with them realises that the young person won't stay there. They're taken back on a safe custody warrant, and they almost immediately abscond. You know, it's just a disaster really. (VICP12)

Discussion

Our data reveal that the process of criminalisation stems from a profound absence of therapeutic responses to trauma within and across residential care and policing systems. This contributes to an over-emphasis on risk that is managed through surveillance embedded into policing and residential care structures. While the care-criminalisation phenomenon is well-established, this study extends existing research (Baidawi & Ball, 2023b; Gerard et al., 2023; McFarlane, 2018; Paterson-Young et al., 2024; Shaw & Greenhow, 2021) by positing a conceptual model on the criminalisation of trauma as part of a process that draws on established policies and practices within both the residential care and policing sectors. This is because the surveillance of children in residential care gives rise to children's behaviour deteriorating and their becoming objectified as "risky subjects" to justify further surveillance through the criminal legal system. These processes exist within established control systems that rely on surveillant assemblages imbued by carceral and controlling logics (Deleuze, 1992). Despite being framed around the notion of care, the combined effects of these processes overlap to often exacerbate children's trauma (Shaw, 2017). The conflicting priorities of policing and care, combined with a lack of trauma awareness and the absence of therapeutically informed systems, results in children in residential care being criminalised by virtue of their status as *looked after children* (Morgan, 2022; Shaw & Greenhow, 2021). This is further exacerbated by a perceived lack of communication across sectors that results in systemically traumatic responses to the needs of dual system-impacted children (Kaip et al., 2023). Figure 1 provides a conceptual model of these processes.

Our model identifies that the criminalisation of trauma is grounded in three interdependent and self-reinforcing themes: policies within residential care that attempt to balance risk mitigation with the provision of care, heightened surveillance and an over-reliance on the police to control behaviour. These processes culminate in the criminalisation of trauma, which is exemplified by two common scenarios emerging from our data: the overt criminalisation of children who are missing from their placements, and the conflation of risk and victimisation in the context of child exploitation.

This model pinpoints a multi-faceted surveillant assemblage embedded within the otherwise distinct OOHC and policing structures. Within the structural and discursive frameworks that promote care criminalisation, attempts to develop protocols to reduce criminalisation confront the reality of different notions of risk that children are exposed to in OOHC. These differential notions move from the risk to the child that necessitates placement in OOHC to the risks caused by the child within the OOHC system. Protocols to reduce criminalisation prioritise the latter, because they are driven by the demands from OOHC staff when they feel inadequately

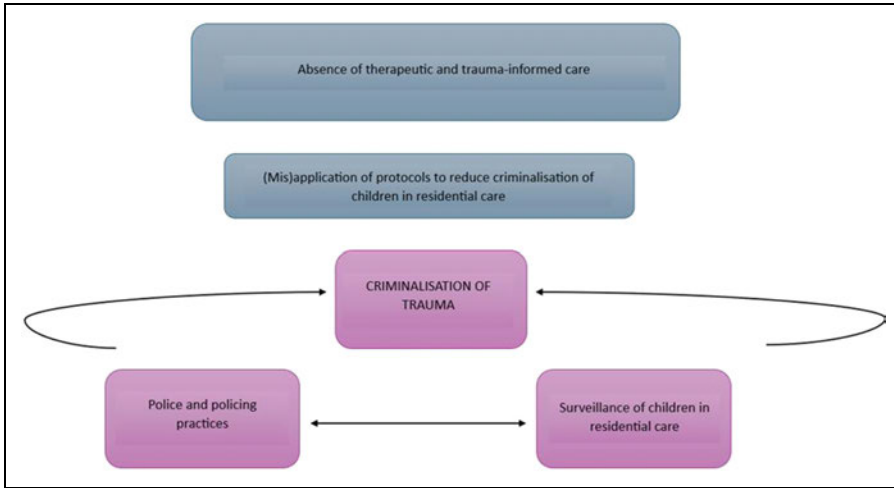


Figure 1. Conceptual model of systemic criminalisation of trauma at the intersection of residential care and policing.

supported to quell a potential risk without police assistance. In this context, police have limited recourse to non-criminal forms of containment or control, which by necessity limit the application of “trauma-informed” principles. Once this process commences, child protection, OOHC and policing responses instead promote notions of individual responsibility to behave, and all the attendant difficulties this presents for a child who is forcibly placed into OOHC.

The shift towards trauma-informed youth justice systems has gained increased attention given the mounting body of evidence of the prevalence of adverse and traumatic experiences among justice-involved children and adults (see, e.g., Chard, 2021; Glendinning et al., 2021; Liddle et al., 2016; Paterson-Young, 2021). There remain concerns, however, regarding the operationalisation of “trauma-informed practice”, including inconsistent definitions, and a misidentification of trauma-focussed programmes (i.e., those that target the sequelae of trauma, including post-traumatic stress disorder and mental health challenges), over a more holistic approach committed to limiting re-traumatisation through policies and practices that prioritise safety, trust, transparency, collaboration and empowerment (Day et al., 2023b; McLachlan, 2024). These processes are mirrored in child protection and OOHC systems which claim to be trauma-informed but lack a coherent definition or approach to the application of trauma-informed principles either at systemic or programmatic levels.

The intersecting structures of controlling risk through surveillance serve to expose young people in OOHC to care criminalisation. Our model indicates how these discursive, jurisdictional and policy frames become self-reinforcing and insulated from policy approaches that seek to reduce the reliance on criminalisation to deal with behaviour by children deemed to be risky in these environments. Indeed, McFarlane et al. (2019) in Australia, and Hunter et al. (2024) in England highlight the enormous challenges associated with translating policy intentions into actionable change, particularly when multiple systems with differing priorities are expected to work collaboratively to reduce care criminalisation. This is reinforced by our data, which indicates that currently there is no systematic approach to the implementation of

these protocols, resulting in their application being left to the discretion of individual residential care staff and/or police officers. The potential benefits of these protocols are therefore not likely to be realised for all children in residential care, which further contributes to a cycle of criminalisation. This results in the care criminalisation process becoming triggered, with an ensuing spiral of further surveillance and control starting with routine reporting by residential care staff, and a formal record of a call out or a reportable offence made by police (see Molnar & Warren, 2020).

A key element of our model pertains to the way risk mitigation strategies often rely on carceral logics to identify, categorise, segregate and manage “risky bodies” (Evans, 2017; Shaw & Greenhow, 2021). The conflation of risk and victimisation among children in residential care is a defining characteristic of the criminalisation of trauma that feeds into entrenched perceptions of risk in residential care settings and, by extension, the children who reside in them (McCausland & Dowse, 2022). This finding accords with research by Shaw and Greenhow (2021, p. 482) which found that the over-reliance on police to manage children’s behaviour in residential care is “primarily driven by defensive, risk-averse fears of being accused of failure and neglect at some future point, rather than having the confidence to assess and objectively respond to the presenting situation”. Similarly, our research builds on a large body of research identifying the role of surveillant assemblages (Haggerty & Ericson, 2000) as elements in the criminalisation process, even though there are evident tensions between police and residential care providers or strained relationships between these two sectors that might impact the criminal justice trajectories of these children (Gerard et al., 2019; Hunter et al., 2024; Kaip et al., 2023; McFarlane, 2018). In other words, any interrelationships between risk, safety and vulnerability may be spurred by more sweeping processes of “transmutation” (McCausland & Dowse, 2022), whereby children who are “at risk” and in need of protection transform into children who are “a risk”, and therefore a legitimate object of surveillance within OOH and policing contexts. This occurs via language, policies and practices that reinforce pathologising narratives transforming children from “vulnerable” to “challenging” and “complex”. Over time, this transmutes into the language of criminality. As McCausland and Dowse (2022, p. 8) argue:

... there is a perverse irony in children and young people being in need of protection from families after being identified in police records as at risk, when police subsequently become the frontline of criminalising those young people once they are in care settings.

Limitations

This study includes some limitations. In the Australian context, none of the participants identified as Aboriginal or Torres Strait Islander. Therefore, our findings do not speak to the experiences of First Nations professionals, children or families impacted by these systems (cf. Cunneen, 2015/2016). Our findings also do not include the voices of dual system-impacted children or young people. This is a significant gap given the urgent need to identify how the criminalisation of trauma is experienced by children and young people and research identifying that residential care is experienced as unsafe and punitive by some children (Day et al., 2023a; Edwards et al., 2023). Finally, despite extensive efforts we were unable to have parity in interviews with judges and magistrates in NSW, Victoria, and England and Wales. Further, the views of judicial officers in this study reflect the specific social, legal, and historical factors that have contributed to the criminalisation of children in NSW and Victoria only and therefore

may not be generalisable to other Australian states and territories. Despite these limitations, our findings align with existing research by reinforcing the pervasiveness of criminalising processes when children are in care.

Implications

Our findings have implications for policy, practice and future research at the intersection of OOHC and policing. At a policy level, our model highlights how the development of joint protocols to reduce the criminalisation of children in residential care is a necessary but insufficient response given the embedded nature of the care-criminalisation process. This could be mitigated, at least in part, through cross-sector trauma-informed training so police and residential care staff have a better understanding of the pervasive impacts of trauma on children's emotions and behaviour, and the relationship between childhood trauma and the risk of criminalisation. This would necessitate ongoing and collaborative training grounded in neuropsychology and other relevant trauma theories. Further, to promote greater congruence of responses, trust and collegiality, police and residential care staff should be jointly trained at a local level in evidence-based crisis intervention techniques that can help to de-escalate rather than punish trauma-based responses. This could include training in therapeutic crisis intervention or the Children and Residential Care Experiences model (see, e.g., Izzo et al., 2016; Nunno et al., 2003) to potentially mitigate against some of the challenges associated with the different foci of policing and residential care provision. Specifically, while it is important to recognise that the primary function of policing is not the provision of care, as first responders police play a significant role in limiting re-traumatisation or causing further harm to vulnerable children. Our model posits that the current emphasis on risk management through surveillance and control is not just anti-therapeutic but actively contributes to the criminalisation of trauma.


Our model also highlights the significant role that surveillance plays in the criminalisation of trauma, and consequently, the need for a more concerted approach by police and child protection to co-design individual plans for dual system-impacted children that explicitly acknowledge their experiences of trauma. This would necessitate a greater commitment at systemic and policy levels to prioritising viewing children in care as needing *greater* protective surveillance, rather than surveillance that produces more control. Such plans would prioritise the provision of therapeutic care and diversion away from the criminal legal system. Further, there is a need for more research into the role of surveillance within the child protection and residential care systems as a key determinant of the criminalisation of trauma.


At a systemic level, it is imperative to reimagine the *function* of child protection, OOHC and policing systems. Such a shift would also support the implementation of genuinely trauma-informed practises across the youth justice and OOHC sectors that can provide children with the safety required to begin healing from the impacts of trauma. This, however, will necessitate systemic reforms that shift away from child removal, control, and punishment to an emphasis on the provision of care to children *and* their families. This requires a complete shift in philosophy, where the emphasis on child protection and OOHC would move away from *risks* and back towards the welfare of children and their families. Without sweeping systemic changes to the ideological underpinnings of child protection, OOHC, policing and youth justice processes, the addition of trauma-informed practices will at best be minimally effective, and at worst, contribute to the further criminalisation of trauma.

Conclusion


Dual-system children are often subject to compounded vulnerabilities as they experience both the systemic shortcomings of the child protection and OOHC systems in conjunction with punitive approaches to juvenile justice. This dual exposure is exacerbated by siloed systems of support that treat children as “hot potatoes”, which perpetuates a cycle of trauma and instability. Addressing the unique experiences of these children requires moving beyond punitive approaches and toward co-designed solutions that recognise the impacts of this complex ecosystem for each child. Ultimately, effective support for dual-system youth hinges on a holistic ecosystem that prioritises support, prevention, and socio-emotional development over criminalisation to break the damaging cycle of surveillance and control for children and families involved in these systems.

ORCID iDs

Tatiana Corrales  <https://orcid.org/0000-0001-7436-645X>

Claire Paterson-Young  <https://orcid.org/0000-0001-7927-7878>

Ian Warren  <https://orcid.org/0000-0001-8355-118X>

Emma Ryan  <https://orcid.org/0000-0002-0072-1575>

Ethical Considerations

The project on which this article is based received the following ethics approvals: Monash University (Project ID: 37044), the University of Northampton and the Judicial Review Board (U.K.).

Informed Consent

All participants involved in this project provided written informed consent.

Author Contributions

Author 1: conceptualisation, methodology, formal analysis, investigation, and writing—original draft; Author 2: conceptualisation, methodology, formal analysis, investigation, writing—review and editing, and funding acquisition; Author 3: conceptualisation, methodology, validation, and writing—review and editing; Author 4: writing—review and editing; Author 5: conceptualisation, methodology, validation, and writing—review and editing.

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Declaration of Conflicting Interests

The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Data Availability Statement

Data for this project cannot be made publicly available due to the potential that participants will be identified.

Notes

1. Each state and territory in Australia has individual jurisdiction over child protection and youth justice. As such, there is significant variability in the size and composition of the OOHC system across Australia.
2. We use the term First Nations in this article to refer to all Aboriginal and Torres Strait Islander peoples throughout the continent of Australia.
3. The term “looked after” refers to children who are defined under the Children Act 1989 as receiving local authority care for more than 24 hrs.
4. Including secure units, children’s homes, semi-independent and residential settings.
5. Dual system impacted children are typically defined as those who have had contact with child protection, OOHC and youth justice systems either concurrently or at different points in their lives (Baidawi, 2021).
6. Convenience sampling is a non-probabilistic sampling technique that relies on researchers’ “ready access” (Golzar et al., 2022, p. 73) to a target population. Unlike probabilistic sampling techniques (i.e., random sampling), convenience samples are typically made up of a narrower pool of participants specifically targeted for their knowledge.
7. The “Department” is used to refer to government agencies that are responsible for statutory child protection services in each Australian state and territory.
8. ‘Resi’ is a colloquial term used throughout Australia to refer to residential care.
9. Law Enforcement Assistance Program is an online database that stores information including family incidents and missing persons.

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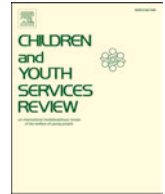
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“They just want people in their lives that will be there forever”: A conceptual model of permanency for children and young people in therapeutic residential care[☆]

Tatiana Corrales^{a,b,*}, Patricia McNamara^c, Brett Smith^d, Howard Bath^d, Ellysha Clark^d, Kelly-Lee Goodchild^d, Sarah Grabda^d, Mark Harrison^d, Barry McGrady^d

^a Jumbunna Institute for Indigenous Education and Research, Law and Justice Hub, University of Technology Sydney, Australia

^b Health and Social Care Unit, School of Public Health and Preventative Medicine, Monash University, 553 St Kilda Road, Melbourne, VIC 3004, Australia

^c Department of Social Work, University of Melbourne, Australia

^d Allambi Care Address: 28 Fraser Parade, Charlestown, NSW, 2290, Australia

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ABSTRACT

In Australian child protection systems, permanency outcomes are primarily equated with stability in a child's living and caring arrangements. For some children this will mean restoration to family, but for many others it will involve long-term Out-of-Home Care (OOHC), including with extended family. When viewed through the lens of living and caring arrangements, permanency policies by necessity exclude children and young people in residential care, for whom their caring arrangement is intended to be time-limited – that is – impermanent. However, for some children and young people, residential care is the only ‘permanent’ placement option that is available. Understanding whether and how permanency is considered and operationalised within residential care contexts is therefore an important, but largely absent area of research and policy. This paper describes a conceptual model of permanency for children and young people in therapeutic residential care programs in four Australian states. In-depth interviews and focus groups were conducted with 21 participants from therapeutic residential care providers in New South Wales, Victoria, Queensland and South Australia. Using Reflexive Thematic Analysis, we propose a conceptual model that places a child and young person's sense of connection and belonging at the centre of permanency. This necessitates creating safe, stable environments that foster safe and enduring relationships with unpaid carers and other key people who are meaningful to the child. We discuss the implications of embedding a relational understanding of permanency within therapeutic residential care programs to improve the wellbeing of children and their families.

1. Introduction

All Australian states and territories have emphasised the centrality of permanency when a child enters Out-of-Home Care (OOHC). Most children (81 %) who come into contact with child protection systems in Australia do not enter OOHC. Permanency for them is usually achieved by supporting families to keep their child/ren at home (Australian Institute of Health and Welfare (AIHW), 2023). When a child is placed in

OOHC, 20 % achieve reunification, and an additional 2 % exit OOHC into alternative permanent care arrangements (AIHW, 2023). For approximately 78 % of children in care therefore, ‘permanency’ means long-term OOHC, including residential care.

Residential care in Australia is the least preferred form of OOHC, with family-based approaches being given priority. Across all Australian states and territories in 2023, 33.4 % of children in care were in a foster care placement, while 54.2 % were in a relative/kinship care

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* Corresponding author at: Jumbunna Institute for Indigenous Education and Research, Law and Justice Hub, University of Technology Sydney, Australia.

E-mail addresses: tatiana.corrales@uts.edu.au (T. Corrales), brett.smith@allambicare.org.au (B. Smith), howard.bath@allambicare.org.au (H. Bath), Ellysha.Clark@allambicare.org.au (Ellysha Clark), Kelly-Lee.Goodchild@allambicare.org.au (K.-L. Goodchild), sarah.grabda@allambicare.org.au (S. Grabda), mark.harrison@allambicare.org.au (M. Harrison), Barry.McGrady@allambicare.org.au (B. McGrady).

arrangement (AIHW, 2024). This contrasts to only 8.5 % of children living in residential care placements across Australia¹, reflecting the contested nature of this model of care within the OOHC continuum (Ainsworth & Hansen, 2018). Despite accounting for the smallest component of the OOHC population, children in residential care exhibit the most complex needs (McNamara & Wall, 2023). Drawing on longitudinal data from 4,126 children who entered care for the first time in NSW between May 2010 and October 2011, Lau and Hopkins (2023) found that 56 % of children in residential care in 2020 were 10 years old or older at their first entry into care and close to 30 % were First Nations² children. Further, 62 % of children had been diagnosed with a developmental delay, and 80 % showed borderline or clinically significant challenges in their socio-emotional wellbeing as measured through the Child Behaviour Checklist. Contact with the youth justice system was also quite prevalent, with 23 % of children having been arrested and/or attended court for a criminal matter. A smaller, but not insignificant proportion (17 %) had spent time in a juvenile detention centre (Lau & Hopkins, 2023).

The positioning of residential care as the ‘option of last resort’ is in part supported by numerous independent inquiries highlighting significant problems with the way residential care operates (see Commission for Children and Young People, 2019 for a Victorian example). The main issues identified through these inquiries relate to the absence of genuinely therapeutic models of care, an on-going reliance on a contracted, casualised and poorly trained/qualified workforce, an over-reliance on police to manage challenging behaviours, and a lack of safety within residential care environments (Commission for Children and Young People, 2019; McFarlane, 2018; Paterson-Young et al., 2024). National and international research further reinforces the view that residential care is considered traumagenic and criminogenic, resulting in the worst outcomes for children in the OOHC continuum (Águila-Otero et al., 2020). This has resulted in OOHC policies in various Australian jurisdictions specifically *excluding* children in residential care from permanency considerations. While this is consistent with a policy focus that views residential care as a time-limited and ideally intensive intervention to assist children to ‘step-down’ to less restrictive and more stable placement options (see for example, Departments of Communities and Justice (DCJ), 2024), it also reflects a narrow conceptualisation of what permanency can mean, and how it can be achieved when restoration, living with extended family, long-term foster care, or adoption are not viable options.

There is a substantial body of literature identifying that permanency is a multifaceted concept, comprised of at least three primary elements – legal, physical/ placement, and relational permanency (see for example, Burge, 2020; Moran et al., 2020). In Australian child protection policy, there is also growing recognition of the centrality of cultural permanency (Conley-Wright et al., 2022) particularly for First Nations children. This is in recognition of the ongoing impacts of colonisation that have resulted in the over-policing and consequently over-representation of First Nations people, including children, in Australian carceral systems that include child protection and OOHC (Krakouer, 2023a).

Despite an explicit recognition that permanency for children in OOHC must extend beyond having a permanent and safe place to live (Moran et al., 2020; Walsh, 2015), there remains a reluctance to extend the goal of permanency to children living in residential care settings. This paper extends on existing literature by proposing a conceptual model of permanency that is fundamentally relational and grounded in therapeutic models of care that emphasise holistic, individualised, child

and family centred practice, and that can therefore address the permanency needs of children in residential care.

2. Background

The relevance of alternative conceptualisations of ‘permanency’ in residential care remains under-theorised. This is partly due to the way that permanency is equated with long-term care arrangements that can provide children with safe, stable and nurturing environments (Conley-Wright et al., 2022), which runs counter to an understanding of residential care as a time-limited intervention of last resort (Giraldi et al., 2022; Holmes et al., 2018). This can be seen in the way that child protection policies in most Australian jurisdictions prioritise stability of care arrangements, while simultaneously noting the importance of a multidimensional understanding of permanency. For example, in both NSW and Victoria, official permanency policies focus on achieving a “*permanent, safe and loving home*” (Permanency Support Program Learning Hub, 2022), and on “*enduring care arrangements*” (Commission for Children and Young People, 2019, p. 42), equating permanency with the primary goal of a permanent home. The desirability of other aspects of permanency, including cultural and relational are recognised in such policies, but not given primacy. Child protection and OOHC policy therefore reflects the assumption that relational and cultural elements of permanency are either secondary to, or follow logically from, having a safe, stable, and ‘permanent’ place to live. This view is reinforced by research with caregivers and professionals within the child protection system, who tend to place greater importance on the certainty provided by legal and physical permanency, viewing relational permanency through the narrow prism of contact with a child’s family (Freundlich et al., 2006), or the development of cultural support plans for First Nations children (Cripps & Laurens, 2015).

The exclusion of residential care from permanency policies is inconsistent with research showing that for a substantial number of children, residential care is the only viable permanent placement option. For example, Schofield et al’s (2007) research on the permanency trajectories of ‘long-stay’ children in various UK OOHC placements (including residential care) found that close to 30 % of the children in the residential care group had been in the same residential care placement for two or more years, with five of these children having been in the same placement for six years or more (Schofield et al., 2007). As Schofield et al., (2007, p. 637) state,

The picture of practice emerging from the detailed case histories...is not so much inactivity and drift, but of much activity and plans for permanence which did not work out, largely because of the combinations of disabilities and emotional and behavioural difficulties which made these children both ‘hard to place’ and ‘hard to parent’.

Notwithstanding the self-evident cross-national differences between the UK and Australian contexts, these findings indicate that for some children residential care represents the most stable and long-term care option, and therefore would appear, at a *prima facie* level at least, to equate with a form of permanency. Those dimensions alone, however, do not account for other ways that permanency can be conceptualised and applied within residential care settings. For example, research on children’s experiences of permanency in OOHC reflect themes associated with identity, belonging, connections/ relationships, and physical and psychological safety (Biehal, 2014; Moran et al., 2020). Permanency, therefore, can be viewed as a deeply psychological construct associated with not just representations of family but also ‘home’.

Furthermore, current conceptualisations of permanency fail to account for the way this construct is understood by First Nations Peoples. In Australia, First Nations communities have consistently argued that permanency must be viewed through the lenses of self-determination and the right of First Nations Peoples to care for and raise their children in community (Hermeston, 2023; SNAICC, 2016). In this context, permanency is inextricably linked with a child’s continuity of culture, something that cannot be achieved within colonial child protection and

¹ Australia has six states and two territories, each with individual jurisdiction for child protection an OOHC. As such, there is significant variation across states and territories in the size of the OOHC population.

² We use the term First Nations here to refer to the Aboriginal and Torres Strait Islander traditional custodians of the lands of the continent known as Australia.

OOHC systems (Krakouer, 2023b).

Despite efforts to broaden definitions of permanency to include relational and cultural elements, there is little evidence that child protection policy or practice across Australia places sufficient emphasis on these elements. This can be seen in permanency data collected by the Australian Institute of Health and Welfare (AIHW, 2023) which focusses exclusively on legal (i.e., the number of children placed on third-party parental responsibility orders) and physical elements of permanency (i.e., the number of children who have been reunified, and stability of care arrangements). In current data collection frameworks, relational elements of permanency are only measured indirectly and only for First Nations via a focus on whether First Nations children in OOHC are living with relatives or kin (AIHW, 2023). Moreover, despite a growing emphasis on the importance of child protection systems ensuring First Nations children remain culturally connected, there is evidence that this form of permanency is also not being prioritised. As the most recent data shows, less than half (47.6 %) of First Nations children in care in NSW in 2021 were living with First Nations relatives or kin, or with other First Nations carers. In Victoria, the proportion was even lower at only 40.9 % (AIHW, 2023). These data show that a policy commitment to broadening the conceptualisation of permanency to include relationships and cultural connection is not sufficient to bring about meaningful change in the way permanency is defined. This has significant implications for children in residential care, who are excluded from permanency considerations simply by virtue of being in residential care.

Despite the significant challenges associated with residential care systems, it is important to acknowledge that considerable heterogeneity exists in the way it operates in practice (Holmes et al., 2018). In the Australian context, the distinction between ‘standard’ and therapeutic models of residential care is a notable contributor to this heterogeneity³. In most states and territories, therapeutic models are the exception, with only a limited number of placements available for the most vulnerable children in the system (National Therapeutic Residential Care Alliance, 2023). Further, the core distinctions between standard and therapeutic models of residential care tend to be limited to the latter being supported by increased funding for a part-time therapeutic specialist, and higher staff to client ratios. As such, therapeutic models in the Australian residential care system often lack a coherent or clearly articulated conceptual framework to guide the development, implementation, or delivery of therapeutic residential care (Ainsworth & Bath, 2023).

However, there is an emerging body of literature highlighting that under the right conditions and with the appropriate funding, therapeutic residential care has the potential to improve children’s outcomes (Kor & McNamara, 2020). For children and young people experiencing long stays in residential care, that placement must take on the role of a ‘home’ in their lives. This necessitates the development of therapeutic environments that promote safety, stability and the development of healthy and enduring relationships through provision of targeted, specialist services that are based on in-depth individualised assessments of children’s need. It also requires an explicit commitment to holistic and family-inclusive practices, in recognition that families also carry significant trauma and that children’s wellbeing is often inextricably linked with the wellbeing of their family (Geurts et al., 2012; Whittaker et al., 2016). Therapeutic residential care, therefore, represents a model that can support alternative conceptualisations of permanency grounded in relationality.

³ This is further complicated by the blurring of concepts associated with therapeutic residential care. In NSW for example, the entire residential care program is referred to as *Intensive Therapeutic Care* with little publicly available information about how different organisations are interpreting the core elements of therapeutic residential care. A comparable situation is unfolding in Victoria, where the government has committed to ensuring that all residential care is classified as therapeutic.

2.1. Rationale

Ensuring that children and young people in OOHC are provided with stable, consistent, safe, and nurturing caring environments is fundamentally important. In Australian child protection policy and practice, this has resulted in permanency becoming one of the paramount considerations when determining children’s best interests (see for example, the Section 10.3 of the Children, Youth and Families Act, 2005 [Vic]). However, for children in residential care permanency cannot be equated with stability or continuity of care arrangements and therefore alternative conceptualisations of permanency should be explored.

A conceptualisation of permanency that draws specifically on the principles of therapeutic residential care appears most likely to achieve the best outcomes for this highly traumatised group of OOHC children and young people. The core tenets of therapeutic residential care would appear to provide the necessary scaffolding for developing a conceptualisation of permanency that prioritises the development of enduring connections, family inclusivity and children’s sense of belonging.

The potential for capitalising on the therapeutic residential care milieu as a context well placed to promote permanency has for too long been under-acknowledged and under-investigated. It seemed critical then, that permanency as a concept and the achievement of positive permanency outcomes for vulnerable children in residential care, be explored with experienced practitioners. It was anticipated by the research team and their industry partners that such an investigation had the potential to platform the development of an evidence-based conceptual model of permanency, specifically tailored for children growing up in therapeutic residential care.

2.2. Aim

The aim of this project was to explore how practitioners managing and working within therapeutic residential care programs understand the concept of permanency, and the factors that they consider need to be addressed to support permanency for children in residential care.

3. Method and analysis

3.1. Participants

Twenty-one participants across three service providers operating in four Australian states (Victoria, NSW, Queensland, and South Australia)

Table 1
Participant characteristics.

Participant code	Role and jurisdiction
Participant #1	Director – NSW
Participant #2	Director – NSW
Participant #3	Director – Victoria
Participant #4	External researcher – Victoria
Participant #5	Researcher – NSW
Participant #6	Disability specialist – NSW
Participant #7	Therapeutic specialist – NSW
Participant #8	House manager – NSW
Participant #9	Family search and engagement – NSW and Victoria
Participant #10	Family search and engagement – NSW and Victoria
Participant #11	Therapeutic specialist – NSW
Participant #12	Therapeutic specialist – Victoria
Participant #13	Psychologist – NSW
Participant #14	Senior Manager – Victoria
Participant #15	Director – Queensland and South Australia
Participant #16	Senior Manager – South Australia
Participant #17	Senior Manager – national
Participant #18	Director – NSW
Participant #19	Therapeutic Specialist – NSW
Participant #20	Cultural Therapeutic Specialist – NSW
Participant #21	Therapeutic Specialist – NSW

took part in this study (see Table 1). Participants self-selected into the study based on their experience and knowledge of the provision of therapeutic residential care across Australian jurisdictions. Most participants were involved in service delivery, and represented different levels of seniority, from executive managers to house coordinators. Two participants were experienced researchers in child and family welfare. Both participants also have significant practice experience.

3.2. Procedure/ data collection

The agency which initiated the project provided relevant staff with a Plain Language Statement and a Release of Information form that included the first author's contact details. Staff who wished to participate in the project were invited to contact the first author directly. The three other agencies which participated in this study were individually approached by the first author who introduced the study and invited a senior representative from each agency to contact the researcher if they were interested in participating. Each participant was provided with a Plain Language Statement and Consent Form prior to their interview.

Participants were given the option of individual or group interviews. In total, five focus groups and four individual interviews were undertaken. Interviews followed a semi-structured format and explored: 1) stakeholders' understanding of the concept of permanency, including what permanency means in the context of residential care and how it can be achieved or demonstrated and 2) *how* staff work towards permanency for children in residential care. Interviews were kept flexible to enable staff to explore definitions and conceptualisations of permanency, and to link those conceptualisations to their practice.

All interviews were conducted online via Microsoft Teams or Zoom and were recorded for transcription with participants' consent. Interviews lasted between 23 and 90 min. Audio recordings were imported to a secure, online transcription system (Otter.ai) and reviewed for accuracy. Interview transcripts were then imported to QSR NVivo (Release 1.6.1). All interview transcripts were de-identified prior to analysis. The project received ethics approval from the Monash University Human Research Ethics Committee (Project ID 31083).

3.3. Analysis

Data was inductively analysed using Braun and Clarke's (2022) Reflexive Thematic Analysis, which included a deep reading of all transcripts prior to coding. Coding proceeded over multiple, iterative steps, to identify the latent constructs that define permanency for children in residential care according to agency and program staff. To ensure that the latent constructs were an accurate reflection of participants' experiences, themes were checked against interview transcripts. As the analysis progressed towards greater abstraction of themes, the first author – who was also the lead researcher – relied on memos to ensure that a) latent themes accurately reflected the data, and b) biases, and assumptions were made explicit and that data contradicting or countering these biases was included in the analysis. Preliminary themes were shared with the project Reference Group for feedback. The analysis resulted in the development of a conceptual model of permanency in residential care, that is comprised of four main elements: *A place to grow, individualised responses, promoting connections and belonging through relationships, and supporting children's agency, self-worth and empowerment.*

3.4. Findings

The findings described in this section do not address *how* practitioners implement strategies or processes to improve permanency for children in residential care – rather, the focus is on the way that permanency is conceptualised within a context where permanency is not considered a viable outcome. Our findings are organised around the elements that program and agency staff use to define permanency for children in therapeutic residential care programs.

3.4.1. 'A place to grow'

For a child or young person to have 'a place to grow' they need safety and stability. Participants spoke of stability as multifaceted and influenced by a range of factors often outside of their control. Lack of consistency in staffing combined with multiple placement breakdowns were seen to erode staff and young people's capacity to effectively work towards permanency. As one participant noted "*every placement is trauma. Every placement is grief and loss*" (Participant #3).

Despite these constraints, participants identified that stability in children's placements and relationships is a foundational component of permanency. It is through stability that children can develop a sense of safety, predictability and where the development of healthy relationships can be promoted.

I think in the context of resi... safety is first and foremost, because they're only in the system because there are some safety aspects [sic] I presume in most cases.... Then beyond safety, there's stability, and having a stable base that you can manage, and that helps with education, relationships, and finance going into adulthood. And then beyond that, it's about wellbeing and being able to be a fully functioning member of society who is able to engage and connect at that level as they exit into independence or adulthood (Participant #17)

For many participants, emotional and relational safety were considered crucial to an understanding of permanency.

Given a lot of the young people's backgrounds and history, I think nurturing their emotional safety [is important] too. Ensuring that they feel comfortable and safe enough to be able to express their emotions. I think that's probably the second most important [thing] to provide them with; an environment where they feel safe to let out their emotions (Participant #19)

Stability was also perceived by participants as a pre-requisite condition to enable "*higher growth needs to be addressed in their lives*" (Participant #5).

By any definition, our kids in residential care are less stable for a whole number of reasons... So, I think that's absolutely one of the key barriers. No one knows how long they're going to be there. Where are they going to go? Are they going to go from placement to placement, from worker to worker, all this is not allowing the higher growth needs to be addressed in their lives like belonging for instance (Participant #5).

Ensuring that children in residential care can feel safe and have at least a degree of certainty about their lives and their futures would appear to require a commitment to understanding the individualised needs of each child/young person. Participants in this study argued that it also requires a commitment to providing individualised and flexible responses. As discussed in the next section such responses must be able to adapt to children/ young people's needs as they change over the time.

3.4.2. Individual responses to individual children

Participants noted that 'permanency' in residential care must be grounded in flexibility and an understanding of children's unique needs. As such, they argued that a conceptualisation of permanency that can be applied within residential care programs must be able to:

- Accommodate different developmental needs.
- Reflect a strong understanding of the impacts of trauma and its developmental disruptions.
- Be defined by the child or young person, consistent with their life histories, trajectories, needs and desires.
- Reject rigid definitions, focusing instead on the multiple, individualised pathways that can lead to a sense of permanency as defined by a child or young person.

The flexible conceptualisation of permanency suggested incorporates

an understanding that permanency is not only context dependent, but also shifts over time, as highlighted in the following quote:

A sense of permanency is quite an abstract thing. What helps me have a sense of permanency might change over time and might also differ from everyone in this room. And if I were to extrapolate from my own experiences, when I've been in states of transience, or difficulty, relational permanence has got me through, closely followed by that sense of physical permanence. But then that physical permanence is also graded as well in how permanent it is. But even if it's a bit permanent, it's better than what it might have been before (Participant #13).

Participants emphasised that a truly individualised understanding of permanency must be grounded in what matters to young people – what they perceive contributes to a genuine and meaningful sense of permanency *for them*. From the perspective of service providers, children in residential care ultimately define what permanency means to them. The onus is then on the service provider to ensure that the child is adequately equipped to navigate and manage their own version of permanency.

I think what we need to take into consideration when children become adolescents is their sense of agency and sense of self determination, and that we simply can't apply the same approach to permanency as we might apply with a younger child. And bringing their voice into what that looks like for them. And I think we should really be allowing young people to define what that looks like for them and hearing their voice in that conversation. And also, the voices of significant people in their life. (Participant #16)

For participants in this study, the foundations of permanency for children in residential care were safety and stability, but these foundations needed to be adapted to suit the individualised needs of each child. Permanency, therefore, was viewed as something fluid, rather than the more static approach inherent in much policy discussions of permanency outcomes. However, at the centre of practitioners' conceptualisation of permanency was the importance of relationships, connections and a child's sense of belonging.

3.4.3. 'If you belong, you grow': The intrinsic value of relationships and connections for permanency

A child's sense of belonging is generally considered to be the defining feature of permanency in the context of therapeutic residential care. Practitioners conceptualised belonging as entailing two interrelated elements: feeling cared for and valued, and feeling a sense of fit with family, community and/or peers. The importance of a sense of belonging for children in residential care was powerfully articulated by multiple participants, as exemplified in the following:

If you look at the Circle of Courage⁴ [and those universal needs] – belonging, mastery, independence, and generosity, it all starts with belonging. You don't start with mastery. But if you belong, you grow. And if you don't belong, you can't grow. (Participant #1)

Given that children in residential care often report feeling rejected and abandoned by family and within the system (Biehal, 2014; Edwards et al., 2023; Woodall et al., 2023), supporting these children to feel that they belong somewhere and are consistently supported by strong, enduring relationships with 'significant others' was viewed by participants as central to assisting them in building a sense of permanency.

I think the other part of permanency for me is that which fundamentally every child needs, regardless of whether (they are) in care or not, is at least one single person who's generally an adult or a person who has sort of reached close to adult age who gives a shit about them unconditionally, unrelentingly and is there for them when the world collapses. (Participant #17)

Closely related to a child's sense of being cared for and valued was a perception that a child's understanding of where they 'fit' was an important component of belonging. In this context, 'fitting' was directly linked to an understanding of a child's history, and their place within their family, community, and cultures.

Children don't just pop out of the sky and jump into care. They've had a whole life and a whole network and a whole family of people around them prior to us being here. So, when we think about permanency, it needs to be from the people who can provide that long term. And that's not us, as paid service providers. (Participant #10)

It also reflected awareness of the developmental imperatives that influence the way belonging is experienced at different life points:

[Adolescents will] talk about connections. They'd talk about identity. Maybe they won't talk so much about identity, but I think they'd feel 'who are my peers? Who do I feel the same as? Who accepts me as I am?' (Participant #5)

Relationships, connections and connectedness were viewed as not only central for children's adjustment to and outcomes from residential care, but importantly for this project, as key mechanisms that facilitate belonging as the core element of permanency. For many participants, non-contingent, healthy and long-term relations, or 'free and forever' connections were particularly important:

It's such a valuable thing for those young people to feel like someone actually wants them. Coming back to that term, for free and forever, it's not a paid worker, it's actually someone who says, 'No. I want to do this. I care about you. And maybe you can't live with me, but I want to stay involved'. (Participant #18)

The presence of genuine, trusting, and healthy relationships with people who will be in the child's life for 'free and forever' requires that a child be supported to develop meaningful *connections*. The idea of 'free and forever' connections is grounded in Kevin Campbell's Family Finding Model (Campbell & Borgeson, 2016) and becomes a powerful framework from which to ground an understanding of permanency. Connections should occur across multiple domains that are significant to a child/young person, including family, community, and culture. It is through these connections that children can be supported to develop enduring relationships, which in turn, increase their sense of belonging. A connection to family, community and culture therefore necessitates an understanding that a child in care has a history – an identity – that existed before their entry to care. Even for very young children, their family represents who they are and where they have come from, and therefore permanency is about "*understanding that that child or young person does have a family and it's who they are. It defines them as a person as well*" (Participant #2). As one participant noted:

Our young people, they're taken from mum or dad or whatever environment it might be where they've been so unsafe, but that connection and that love that they feel for them... [The children] love them regardless... no matter what they've been through, they still have that connection. (Participant #19)

However, connections also need to extend beyond the immediate family to a broader community of people that love, value and care for the child or young person (Bruner & O'Neill, 2009). This is particularly important for First Nations children, where Indigenous epistemologies define family through complex kinship systems that are not easily understood within western knowledge systems (Beaufils, 2023). As a First

⁴ The Circle of Courage is a theoretical and conceptual framework for healthy development in adolescence (Brendtro & Mitchell, 2015). It is grounded in Native American conceptualisations of children rearing practices, child development and healthy communities, with a focus on strengthening the capacity of adults (and communities) to create nurturing environments where children and young people can achieve the fundamental needs of belonging, independence, mastery, and generosity.

Nations participant indicated, permanency for First Nations children is about knowing, feeling, and having connection and belonging to family, First Nations ancestry and to Country.

They're always in the middle of (their family) and the people around them...but around that circle is their family, brothers, sisters, mum, and dad, then outside that, next circle is extended family, cousins, grandparents, community members. Then outside that outer circle, is [sic] the sports, community, the schools. That's the permanency visualised for me.

Despite a broad consensus of the importance of 'free and forever' connections there was also a recognition that for some young people in residential care, having a sense of belonging to a service provider/organisation, and feeling cared for and valued by workers, was also important. While acknowledging that family is always the preferred option in building a child's understanding of their identity, history and sense of belonging, for some children in residential care having *someone* whom they believe cares about them, even if that connection is impermanent (such as that with a worker), can be extremely important.

Overarching there is a feeling within the placements that they are wanted, that they are cared for that... there is something. For me, knowing some of these kids' history, sometimes that is permanency, that they feel connected to something..., that they feel that we care about them. (Participant #14)

According to workers and agency staff, permanency for children in residential care is fundamentally relational, reflecting the importance of supporting children to build enduring 'free and forever' connections that will form the basis of meaningful relationships to promote a sense of belonging. The belonging that can be found within networks of people that can provide a child with a sense of identity, and a feeling of being valued and cared for, may in turn promote children's sense of agency, self-worth and empowerment.

3.4.4. Promoting children's agency, self-worth, and empowerment

In conceptualising what permanency means for children and young people in residential care, participants spoke of permanency as being able to provide a basis for children and young people to develop the capacity to manage their relationships and to navigate the world post-care.

I think a measurement of that is the young person's presentation, you know? Do they have self-worth? Are they confident? Do they show that they're able to lean on those connections in times of difficulties or [in times of] significant events for them or times of happiness or things like that. (Participant #19)

As conceptualised by participants in this study, children's sense of empowerment, self-worth and agency are supported *through* the relationships and connections a child has formed that increases their sense of belonging. A child's sense of agency and self-worth are likely to shift over time, depending on where they derive their strongest sense of belonging. This was articulated by one participant, speaking specifically about a First Nations young person whose sense of belonging was grounded in their Country, but also in their peers who were off-Country⁵⁵.

He's made his choices, and he knows who's safe and who's not safe. And he's developed that over going back to Country. And he knows dad's still on the [drugs]. But he knows he's got a safe place at his auntie's house and there's all 20 cousins and whatnot, that he goes

and connects with them. That's his belonging. So, he has that network up there but [he also has] a network down here where he feels safe and heard. (Participant #20).

4. Discussion

The ideal of ensuring that children are provided with safe, nurturing, and stable caring environments in a timely manner is uncontroversial, particularly when families are adequately supported to care for their children. However, Australian child protection policies continue to prioritise permanency through *placements*, which effectively excludes children in residential care which is, by definition, a time-limited and intensive intervention to assist children to 'step-down' into less intensive (and presumably more permanent) placement options (Ainsworth & Bath, 2023; Conley-Wright et al., 2022). The conceptual Model proposed here (see Fig. 1), proposes an alternative conceptualisation of permanency that is fundamentally relational. This is distinct from a *broadening* of permanency to accommodate relational elements. Instead, our model proposes that for permanency – as an aim of child protection policy and practice – to be genuinely inclusive of all children in care, necessitates a fundamental reconceptualization that shifts the focus from placements to relationships. This would enable the concept of permanency to be extended to children in residential care.

While there is a large body of literature identifying the importance of relational permanency (see for example, Boel-Studt & Landsman, 2017; Pérez, 2017), this Model departs from extant literature in arguing that *permanency* itself should be understood as a relational concept. That is, rather than viewing relational permanency as one component of a multidimensional construct, findings from this study suggest that the basis of permanency is in relationships that promote children's sense of belonging, and their connection to the people, places and cultures that further enhance their sense of belonging. The current focus on long-term, stable 'permanent homes' and care arrangements once reunification is no longer a viable option is clearly important. However, this does not adequately capture the centrality of children's relationships with family and significant others. The latter is consistent with research showing that for children in long-term care, ongoing relationships with their family and other significant people in their lives remains a key element of their understanding and lived experience of permanency (Biehal, 2014; Cushing et al., 2014; McNamara, 2020; McNamara & Hurley, 2020; Moran et al., 2020). Further, enduring relationships with birth family and/or a parenting figure have been found to be protective for young adults with a history of OOHC (Cushing et al., 2014). Conversely, the absence of these relationships has been linked to increased risk of substance use, poor mental health, and a higher level of engagement with the criminal legal system. The protective nature of enduring relationships with family and/or parenting figures is seen in young adults' sense of belonging and their perceptions of care and support from family and/or parenting figures. It is these relationships, more so than legal permanency, which appears to support improved post-care outcomes (Cushings et al., 2014).

Reconceptualising permanency as a fundamentally relational construct is also consistent with meta-theories of human need, particularly Self-Determination Theory (Deci & Ryan, 2000) and the sub-theory of Basic Psychological Needs (BPNT, Ryan & Deci, 2000). Under the BPNT, relatedness is one of three fundamental human needs that when met, predict a person's overall sense of wellbeing, but when thwarted or frustrated, can lead to a range of negative well-being indicators, including mental health challenges and externalising behaviours (Ryan & Deci, 2000). Under the BPNT, relatedness "denotes the experience of warmth, bonding, and care, and is satisfied by connecting to and feeling significant to others. Relatedness frustration comes with a sense of social alienation, exclusion and loneliness" (Vansteenkiste et al., 2020, pg. 3). Relatedness and belonging are inextricably linked, reflecting "strong needs that are basic, nonderivative and, growth promoting" (Ryan &

⁵⁵ First Nations people in Australia belong to various Nations that are defined by unique languages, cultures, law and lore, and kinship networks that are fundamentally grounded in the land to which a Nation belongs (Salmon et al., 2019).

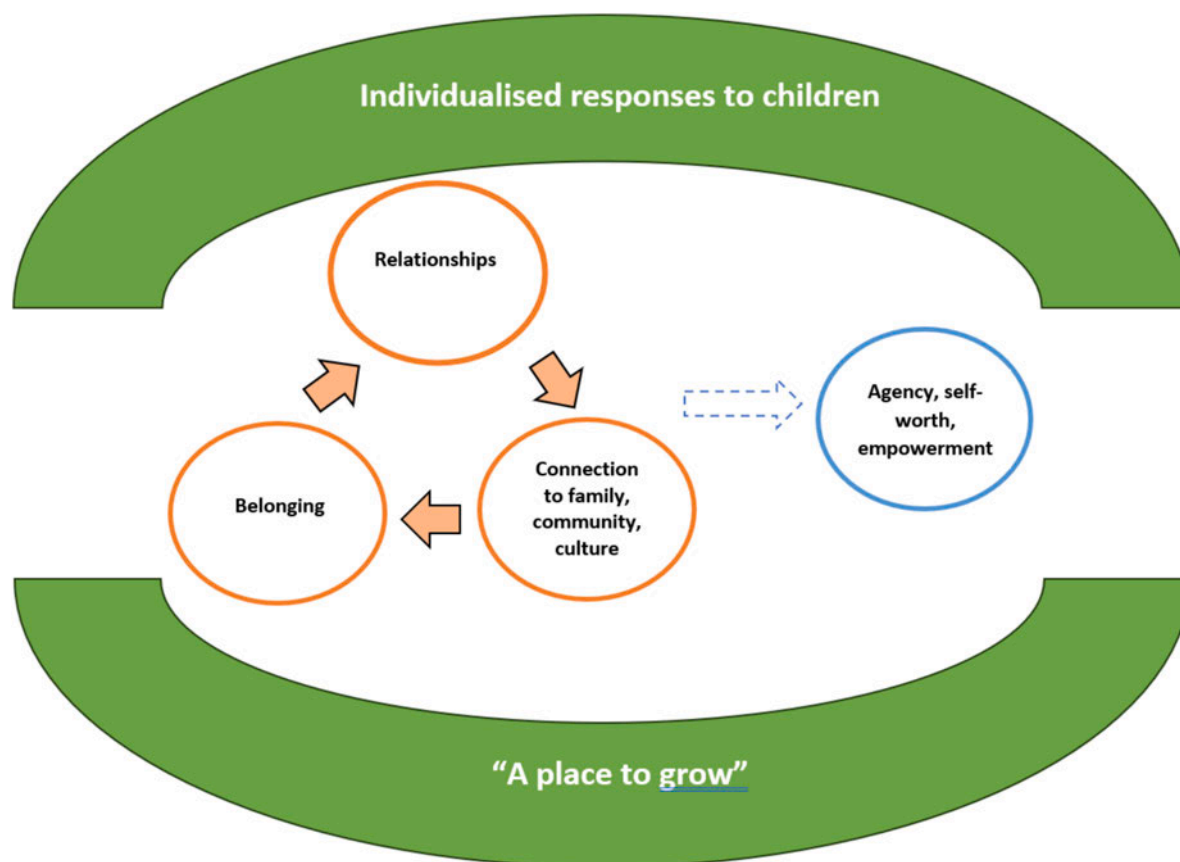


Fig. 1. Conceptual model of permanency in residential care.

Deci, 2000, pg. 322). A person's sense of belonging can be compromised in needs-thwarting contexts, including interpersonal relationships and/or environments characterised by high levels of control, neglect and chaos (Ryan & Deci, 2000; Vansteenkiste et al., 2020). In this context, properly resourced and consistently applied models of therapeutic residential care become central to a reconceptualization of permanency.

Defining permanency as an inherently relational construct may help to address children's experiences of loneliness, isolation, and lack of autonomy (Côté & Clément, 2022; Edwards et al., 2023). Our permanency model is centred on the mutually reinforcing role of belonging, relationships, and connection (see Fig. 1). Belonging is recognised as a fundamental human need with deep evolutionary foundations (Allen et al., 2022; Baumeister & Leary, 1995). The need to belong is implicated in human behaviour, affect, cognition, mental and physical well-being, learning, communication, and the continuation of knowledge through culture (see for example, Allen et al., 2022). There is now a large body of literature showing that a thwarted sense of belonging is associated with a range of negative outcomes across multiple life domains (see for example, Allen et al., 2021). In the context of OOH, children's sense of belonging has been found to mediate wellbeing and psychological distress in emerging adulthood (Corrales et al., 2016), but to also embody complex tensions and contradictions associated with disenfranchised grief, ambiguous loss, and loyalty conflict (Biehal, 2014). For example, Biehal (2014) found that children's sense of belonging in long-term foster care was linked to their feeling valued and loved within a family environment. For some children belonging was qualified or provisional, where they did not perceive that they had a long-term 'family' with their foster carers but also felt abandoned and rejected by their biological family. Relationships and relatedness were therefore inextricably linked with these children's understanding of belonging (Biehal, 2014).

Recently, Côté and Clément (2022) argued that children in

residential care could be differentiated based on their level of affective and physical anchorage, reflecting their connection to a key worker and a connection to their residential placement. Examining the way that children understand the concept of love and being loved, particularly in relationships with key workers, Côté and Clément (2022) found that 85% of the 22 children in their study had no affective anchorage, meaning that they could not identify an adult who they perceived could provide them with love, support and nurturance. For some of these children, love was equated with betrayal and pain (Côté & Clément, 2022). In contrast, children who were high on both physical and affective anchorage had experienced stability and consistency in their placement and key worker, had ongoing contact with their family, felt safe and secure in their physical environment, and felt that their key workers cared for and valued them. This is consistent with our model of permanency, which emphasises the conditions that are needed for both physical and affective 'anchorage' – namely, safe and stable living arrangements with consistent workers who value and care for a child or young person, and who work to promote ongoing and meaningful relationships between the child and their family.

Understanding permanency as a relational construct that prioritises strengthening children's sense of belonging through enduring relationships is particularly important in the Australian context, where First Nations children continue to be removed from family, community, and culture at alarming rates (SNAICC, 2024). For these children, permanency is inextricably linked to their connection to culture, which can only occur when they are with family (Krakouer et al., 2018). Current child protection policies and practices often emphasise cultural support plans as a central pillar of permanency practices. However, too frequently the development of cultural support plans is under-resourced, resulting in static documents that are inadequate, inaccurate, or not implemented. As Australian First Nations scholars have argued, tokenistic adherence to the Aboriginal and Torres Strait Islander Child

Placement Principles (Beaufils, 2023; Hermeston, 2023) fail to adequately address the inherent *disconnection* that is built into removal policies and practices (Krakouer, 2023b). Emphasising the relationality inherent in permanency is more consistent with First Nations' epistemologies that focus on connections, relationality, reciprocity, and cultural responsibilities (see for example Davis, 2019).

As shown in Fig. 1, our conceptualisation of permanency as a relational construct is premised on children feeling safe and having a sense of stability. Safety in our model includes physical, emotional, cultural, and spiritual safety, and stability extends to having stable relationships *within* and beyond the care environment. Under the model proposed here, permanency is also supported through an individualised assessment of children's needs that incorporates an understanding of developmental imperatives. These assessments can include psychological and behavioural indices, but should also include assessments to support family finding, engagement and connection.

This approach to permanency is consistent with the broadly accepted principles of *therapeutic* residential care (Whittaker et al., 2016). These principles not only emphasise the importance of children's experiences of safety – physical, emotional, and psychological – but also the importance of supporting children *and their families* through restorative practices and programs that can support healing. Respecting the role of a child's family and supporting the development and/or maintenance of strong, enduring relationships between a child and their family is a central element of high quality, therapeutic models of care that can contribute to improved outcomes (McIlwaine et al., 2020). Research on family finding, engagement and connection programs for example, supports the contention that the foundations of permanency are inherently relational. Boel-Studt and Landsman's (2017) evaluation of an intensive family finding program with children in residential care found that the likelihood of achieving relational permanency outcomes was the same for children in residential care who had participated in the family finding program as OOH children who had never been in residential care, regardless of whether they received family finding support. The opposite was true for physical permanency, whereby having a history of residential care significantly decreased the odds of achieving physical permanency outcomes, regardless of whether intensive family finding had occurred (Boel-Studt & Landsman, 2017). A review of children's case files highlighted the importance of understanding permanency as *relational* over prioritising 'permanent' places. As Boel-Studt and Landsman (2017, pg. 206) state.

[...] our results... compel us to question traditional conceptualizations of permanency based on legal status or physical placement rather than emotional connectedness or a holistic view of child well-being... In some situations children with severe and pervasive mental health challenges may best be served with a foundational focus on strengthening emotional connections with family and natural supports, followed by thoughtful and comprehensive planning for physical permanency that avoids traumatic and repeated cycles of placement.

4.1. Limitations

There are some limitations to this study. Firstly, our project was based on a convenience sample of service providers in four Australian states (Victoria, New South Wales, South Australia, and Queensland). All participants had extensive experience in managing, delivering, and implementing therapeutic residential care programs and services. This is significant in the Australian context given the absence of a coherent or consistent approach to the provision of therapeutic residential care (Ainsworth & Bath, 2023). However, as there is substantial jurisdictional variability in the OOH sector across Australian states and territories, and given that that our sample is relatively small, we make no claims that our findings are representative of all residential care service providers in these states.

Secondly, while significant attempts were made to gain care-experienced young people's perspectives of permanency in residential care, only four young people agreed to participate. Given the very small sample size, and concerns about the young people's privacy, the decision was made to exclude their data from the development of this model. The young people's perspectives were, however, included in a large report that was made available to funders of the project. This means that the model presented here has been developed exclusively from the perspectives and experiences of service providers and does not represent the views of care-experienced young people. Similarly, the model does not account for First Nations knowledges and belief systems. While First Nations people participated in interviews, the project was not Indigenous-led nor did it attempt to understand permanency from a First Nations perspective.

Finally, this paper presents a *conceptual* model of permanency, rather than *how* practitioners implement the different elements of the model. While this may be viewed as a limitation, it was not the aim of this study to explore the practice that underpins permanency work in therapeutic residential care across Australian states and territories. Rather, the aim was to understand how the concept of permanency can be applied to a cohort of children who are currently excluded from permanency policies and practices.

4.2. Implications

There are three key implications from this project. First, as a concept, permanency is important for all children in care, regardless of their legal status or long-term care arrangements. The priority for all child protection systems should be on supporting families to care for their children. Where this is genuinely not possible, permanency needs to be understood as more than a long-term home or a permanent care arrangement. Understanding permanency as a relational construct emphasises that *relationships* should be centred in all child protection and OOH practice, with a specific focus on those 'free and forever' relationships that will support children regardless of their physical and/or legal permanency outcome. This is important for all children in care, as it places a child's sense of belonging and their understanding of 'home' and 'family' at the centre of permanency policies and practices.

Second, while the push for permanency is understandable, in some Australian jurisdictions it also comes with the risk that children's connection with their families will be significantly curtailed to 'prepare' them for the transition to their 'permanent' home (Conley-Wright et al., 2022). This reflects a narrow view of permanency that positions relationships as by-products of stable care arrangements. It also underacknowledges the reality that 'permanent' placements can breakdown, particularly as children enter adolescence (see for example, Schofield et al., 2017). Reconceptualising permanency as a relational concept where a child's relationships with and connection to their natural supports are prioritised, may result in improved wellbeing for children, families, and carers, thereby contributing to an improved sense of belonging for children, and a decreased sense of grief and loss.

Finally, implementing a relational conceptualisation of permanency necessitates significant shifts in practice, both within child protection and the OOH sector. Therapeutic models of residential care are aligned with the view that permanency is fundamentally relational, as these models emphasise the importance of providing safe environments to build and maintain networks of healthy relationships to support children in and post-care (Whittaker et al., 2022). While there remain significant challenges to the implementation of therapeutic residential care as the *standard* model for all children, these models hold the greatest potential for increasing children's sense of safety, stability and ultimately, permanence.

5. Conclusions

Children in residential care have typically experienced multiple

relational losses throughout their life which can influence how they understand and internalise ‘permanency’ within a context that is often far removed from a ‘family-like’ environment. As practitioners and service providers noted in this study, permanency can and should be applied to children in residential care, but this can only be done when permanency is reconceptualised as an inherently relational construct that is grounded in connections and belonging. When viewed in this way, ‘permanency’ within the OOH sector can meaningfully apply to children in residential care. This necessitates a commitment to therapeutic models of residential care that can support safety and stability as the foundations from which permanency – as a relational construct – can be facilitated.

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Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

The data that has been used is confidential.

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Legislation

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