

The faulty child welfare system is the real issue behind our youth justice crisis

Written by Katherine McFarlane, Senior Lecturer, Centre for Law & Justice, Charles Sturt University

Somewhere along the way, many vulnerable children in state care turn to crime. How this happens and what can be done about it are two of the most important crime-prevention questions facing society. Evidence indicates that, if the care-to-crime pathway is [not acknowledged and addressed](#), today's vulnerable kids will become tomorrow's criminals.

There have recently been a [series of riots](#), escapes and assaults in youth detention centres across the country, most notably in Victoria. Victims of such assaults, as well as commentators, immediately called for [tougher sentencing](#) and harsher treatment of detainees.

Critics have cast a wide net of blame for Victoria's woes. [Paul McDonald](#), the CEO of Anglicare Victoria, the state's largest provider of out-of-home care services, blamed the changing demographics of young offenders – their age, ethnic origin and circumstance. He said the youth justice system had failed because the state's justice program had “for too long ... been the poor cousin to child protection issues”.

McDonald is a former government official responsible for both Victoria's juvenile justice and child protection systems. Yet in all his criticism, he has been silent about one fact: children in our juvenile jails were failed by child protection systems like the one he used to run. He is not alone in ignoring this link.

Policymakers are reluctant to acknowledge the care system is producing criminals. This is despite abundant research showing children [become involved](#) in crime through the processes of the care environment itself.

Residential care

Last year, ABC's [Four Corners](#) highlighted the brutality in the Northern Territory's Don Dale youth detention facility. Footage of Aboriginal boys teargassed, taunted and abused by guards led the prime minister to institute a [royal commission](#) into how the NT treats juvenile offenders.

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A few weeks later, [Four Corners](#) focused on the Australian child welfare sector's failure to protect children placed in state care. One form of care in particular, residential care – where children live with paid workers in small group-based facilities – has been linked to [sexual exploitation](#) of children by adults, [recruitment into prostitution](#), [violence and crime](#).

State governments have tried to address some of the issues. The Tasmanian government recently [closed one of its residential facilities](#) after allegations of neglect. The NSW government [began an overhaul](#) of its residential care system, while the Victorian government [announced the imminent transfer](#) of hundreds of so-called “resi kids” to other, purportedly safer forms of care.

At the same time, agencies such as UnitingCare, whose staff were recently embroiled in the [alleged sexual assault](#) and death of NSW resi-care teen “Girl X”, announced it [would no longer provide](#) residential care services. The agency also [launched a “rebrand”](#) of its tarnished image.

Towards criminality

Few are talking about how children in residential care and those in juvenile jail are essentially the same people. Yet the evidence is everywhere.

Several of the Don Dale kids had come through the NT's out-of-home care system. Half of all children in Victoria's youth detention centres [have come from](#) the child protection system. And last week, [Victoria Legal Aid](#) [announced](#) children in residential care were much more likely to be charged with a criminal offence than those who stay with their families.

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Studies from the [United States](#) , [Canada](#) , the [United Kingdom](#) and [Victoria](#) have shown few of these children engaged in criminal behaviour before coming into care.

In other words, we are making criminals. Residential care in particular is criminogenic. Badly trained and poorly supported staff, inadequate matching of children of different ages, experiences and background (offenders and victims of abuse are often placed together), and a readiness to call police to manage children's behaviour are all [factors](#) contributing to [children being turned](#) from child-in-need to child offender.

My [research shows](#) that children in care make up less than 1% of the NSW child population but comprise half of all cases before the NSW Children's Court. I found children in care are arrested earlier, more often and more quickly than other children.

This is important [because we know](#) that the earlier a child comes into contact with the justice system, the more deeply he or she is enmeshed, and the more protracted their exposure to crime is likely to be. Yet my research also found an [Austrian policy vacuum](#) when it comes to recognising the link between out-of-home care and crime.

We need to make the links

There is [compelling evidence](#) children in care are more likely to re-offend than other children, and that prisoners who have grown up in care are more likely to commit multiple offences and return to jail

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Yet there are still no Australian government policies, programs, training or care-specific statistics to help us understand how to respond to children in care who get caught up in the justice system.

For a start, our child welfare agencies do not publish information on the number of children who go to jail while in care. Police don't include care status on their official forms. Children's courts don't record it either. Neither does the NSW Bureau of Crime Statistics and Research. Or the

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Victorian Sentencing Council. Or the departments that run our jails.

Other countries have adopted a decidedly different approach. While the UK has a far-from-perfect record in responding to the needs of children in care, its government has [channeled millions of dollars](#) into reducing the disparity between the arrest rates of children in care and other children. Theirs isn't a complete solution, but at least the UK has made the link and is having the conversation about how to fix it.

Recently, a New Zealand service, established by the government to assist people who had been abused in state care, estimated 40% of the country's prisoners had been in care. The service blamed [its child welfare system](#) for creating the criminal gangs that now fill its jails.

Australia's silence on this issue is costing us. In addition to the devastating impact for the individual children involved, creating criminals through the child welfare system [costs society billions of dollars](#) in the long term. That's more money for police and courts, more money for youth detention centres and more jails.

Governments, and the agencies they work with, must be transparent and honestly inform the public the child welfare system is creating criminals. Only then can we start to solve the real issues behind our youth justice crisis.

Katherine McFarlane was part of a CSU research team which was awarded a Criminology Research Council grant in 2016. She has been contracted to conduct a review for the NSW Children's Guardian (2017) and was previously the Chief Investigator in a government tender to review juvenile bail (2010). She was formerly a Chief of Staff in the NSW Government (2011-2015).

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