

Routledge Studies in Crime and Society

CHILDREN, CARE AND CRIME

TRAUMA AND TRANSFORMATION

Alison Gerard, Andrew McGrath,
Emma Colvin and Annette Gainsford



Children, Care and Crime

The historical context of colonisation situates the analysis in *Children, Care and Crime* of the involvement of children with care experience in the criminal justice system in an Australian jurisdiction (New South Wales), focusing on residential care, policing, the provision of legal services and interactions in the Children's Court.

While the majority of children in care do not have contact with the criminal justice system, this book explores why those with care experience, and Indigenous children, are over-represented in this system. Drawing on findings from an innovative, mixed-method study – court observations, file reviews and qualitative interviews – the book investigates historical and contemporary processes of colonisation and criminalisation. The book outlines the impact of trauma and responses to trauma, including inter-generational trauma caused by policies of colonisation and criminalisation. It then follows a child's journey through the continuum of care to the criminal justice system, examining data at each stage including the residential care environment, interactions with police, the provision of legal services and experiences at the Children's Court. Drawing together an analysis of the gendered and racialised treatment of women and girls with care experience in the criminal justice system, the book particularly focuses on legacies of forced removal and apprenticeship which targeted Aboriginal and Torres Strait Islander women and girls. Through analysing what practices from England and Wales might offer the NSW context, our findings are enriched by further reflection on how decriminalisation pathways might be imagined. While there have been many policy initiatives developed to address criminalisation, in all parts of the study little evidence was found of implementation and impact. To conclude, the book examines the way that 'hope tropes' are regularly deployed in child protection and criminal justice to dangle the prospect of reform, and even to produce pockets of success, only to be whittled away by well-worn pathways to routine criminalisation. The conclusion also considers what a transformative agenda would look like and how monitoring and accountability mechanisms are key to new ways of operating. Finally, the book explores strengths-based approaches and how they might take shape in the child protection and criminal justice systems.

Children, Care and Crime is aimed at researchers, lawyers and criminal justice practitioners, police, Judges and Magistrates, policy-makers and those working in child protection, the criminal justice system or delivering services to children or adults with care experience. The research is multi-disciplinary and therefore will be of broad appeal to the criminology, law, psychology, sociology and social work disciplines. The book is most suitable for undergraduate courses focusing on youth justice and policing, and post-graduates researching in this field.

Alison Gerard is the Head of the Canberra Law School, University of Canberra, Ngunnawal Country. Her research program focuses on social justice and has been published in leading international and Australian journals. She is currently a CI on an ARC Discovery Project examining 'Crimmigration' in Australia. Alison has co-published on the incorporation of Indigenous perspectives in university curriculum.

Andrew McGrath is an Associate Professor of Psychology at Charles Sturt University. His PhD research, in which he interviewed 200 young people after they appeared before the NSW Children's Court, was published as a journal article that won the Allen Austin Bartholomew Award for best article published in the Australian and New Zealand Journal of Criminology in 2009. Since then, he has published a number of articles in both Australian and International journals on topics ranging from the impact of custodial penalties on re-offending, the sentencing of young Indigenous offenders, serious and violent offending careers and juvenile risk assessment.

Emma Colvin is a Senior Lecturer in law and criminology at Charles Sturt University in NSW Australia, Wiradyuri/Wiradjuri Country. Her research explores the criminalisation of groups of people, such as children with experience of the out-of-home care system. Her research also examines bail and the impact of risk determinations on people perceived as risky because of their vulnerability or disadvantage, such as homelessness or substance use. Emma's work has been published by high-quality publishers and high-impact journals, and she has attracted government and charitable funding to support her research interests.

Annette Gainsford is a Wiradyuri woman from Bathurst NSW and is the Associate Dean Indigenous Teaching and Learning in the Office of the Pro Vice-Chancellor Indigenous Leadership and Engagement at the University of Technology, Sydney. Annette has extensive experience in Indigenous curriculum development that embeds Indigenous graduate attributes across higher education curriculum. Her experience specifically covers the disciplines of law, criminal justice, business and education. She is a recognised leader and expert in the field of Indigenous pedagogy, andragogy and Indigenous research methodologies.



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

Routledge Studies in Crime and Society

Oppressed by Debt

Government and the Justice System as a Creditor of the Poor

Edited by Saul Schwartz

A Criminological Biography of an Arms Dealer

Yarin Eski

The Rise of Politically Motivated Cyber Attacks

Actors, Attacks and Cybersecurity

Tine Munk

Violence

Situation, Speciality, Politics and Storytelling

David Wästerfors

Motherhood, Respectability & Baby-Farming in Victorian & Edwardian London

Joshua G. Stuart-Bennett

The Intersections of Family Violence and Sexual Offending

Gemma Hamilton and Patrick Tidmarsh

Children, Care and Crime

Trauma and Transformation

Alison Gerard, Andrew McGrath, Emma Colvin and Annette Gainsford

For more information about this series, please visit www.routledge.com/Routledge-Studies-in-Crime-and-Society/book-series/RSCS

Children, Care and Crime

Trauma and Transformation

**Alison Gerard, Andrew McGrath,
Emma Colvin and Annette Gainsford**

First published 2023
by Routledge
4 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge
605 Third Avenue, New York, NY 10158

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2023 Alison Gerard, Andrew McGrath, Emma Colvin and
Annette Gainsford

The right of Alison Gerard, Andrew McGrath, Emma Colvin and
Annette Gainsford to be identified as authors of this work has been
asserted in accordance with sections 77 and 78 of the Copyright,
Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or
reproduced or utilised in any form or by any electronic, mechanical,
or other means, now known or hereafter invented, including
photocopying and recording, or in any information storage or
retrieval system, without permission in writing from the publishers.

Trademark notice: Product or corporate names may be trademarks
or registered trademarks, and are used only for identification and
explanation without intent to infringe.

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloging-in-Publication Data

Names: Gerard, Alison, author. | McGrath, Andrew, author. | Colvin,
Emma, author. | Gainsford, Annette, author.

Title: Children, care and crime : trauma and transformation / Alison
Gerard, Andrew McGrath, Emma Colvin and Annette Gainsford.

Description: Milton Park, Abingdon, Oxon ; New York, NY :
Routledge, 2021. |

Series: Routledge studies in crime and society | Includes bibliographical
references and index.

Identifiers: LCCN 2022020378 (print) | LCCN 2022020379 (ebook) | ISBN
9780367554033 (hardback) | ISBN 9780367554057 (paperback) | ISBN
9781003093367 (ebook)

Subjects: LCSH: Child welfare—New South Wales. | Children—
Institutional care—New South Wales. | Juvenile courts—New South Wales.

Classification: LCC HV802.Z8 N4944 2021 (print) | LCC HV802.Z8
(ebook) | DDC 362.709944—dc23/eng/20220512

LC record available at <https://lccn.loc.gov/2022020378>

LC ebook record available at <https://lccn.loc.gov/2022020379>

ISBN: 978-0-367-55403-3 (hbk)

ISBN: 978-0-367-55405-7 (pbk)

ISBN: 978-1-003-09336-7 (ebk)

DOI: 10.4324/9781003093367

Typeset in Times New Roman
by codeMantra

Contents

<i>Acknowledgements</i>	ix
<i>List of acronyms</i>	xi
Introduction	2
1 Historical and contemporary contexts of out-of-home care	25
2 Care-experience, trauma, abuse and the criminal justice system	47
3 The residential care environment	67
4 Policing children with care experience	87
5 Lawyers, cultural competence and advising children with care experience	106
6 Care-experienced children in the NSW Children's Court	124
7 Gender and criminalisation	147
8 Reducing criminalisation: innovations from England and Wales	172
Conclusion: 'hope tropes' and routine criminalisation	199
<i>Index</i>	213



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

Acknowledgements

We would like to thank the respondents and agencies with whom we worked to collect and analyse data that appears in this manuscript. We were guided in our research design and analysis by our Advisory Board who, through their thoughtful and engaged advice, greatly enriched our work. We were also supported in the early stages of this project by the research assistance provided by Dr Natasha Sugden and Maureen Bates-McKay. We also thank our universities, Charles Sturt University, the University of Canberra and the University of Technology Sydney, for providing various practical elements necessary to support and realise quality research. Having an environment of sharp colleagues to bounce ideas off has sharpened the writing that appears on these pages. We particularly thank Professor Leanne Weber. We are also grateful to our copy editor Julia Farrell.

Our pilot study was funded by Charles Sturt University, and the subsequent data collection was funded through a Criminology Research Grant by the Australian Institute of Criminology. We are thankful as this funding enabled the research to take place.

Ultimately, this research was founded upon a commitment to meet research needs identified by community stakeholders. We hope it contributes to a fundamental shift in policy, practices and processes.

We have thoroughly enjoyed working together as an interdisciplinary research team – law, criminology, psychology and Indigenous education. Our diversity in areas other than our academic qualifications has been a significant component in the strength of our teamwork, analysis and contribution to research. Each of the team has this to say to their support crews:

Alison – I'd like to thank Sophie, Sebastien and Zadie for making room for this research and for making family life loving, fun and flexible. I've learned an immense amount from these thoughtful co-authors on this journey and those around us for various parts of it. I have a stronger connection to Country and am stronger as a result.

Andrew – Many thanks to my co-authors. It has been a rewarding experience working in this multi-disciplinary team. Thanks also to the people who agreed to participate in our research, I hope we have done justice to

everything you told us. And finally, thanks to my family, Juanita, Maya and Maxine who are always supportive of my work.

Emma – I'd like to thank my family and friends for their support during the course of writing this book. A particular shout out to my co-authors, a great team to work with and thanks for everything. It's been a joy to work with you and I am a better scholar for it.

Annette – I would like to acknowledge my co-authors Alison, Andrew and Emma; it has been a pleasure to work with you and to learn from you throughout this writing journey, thank you for being allies in this work and representing Indigenous voice in such an authentic and integrated way. I would also like to acknowledge Brett, Jessica and Joel and my extended family, you are always at the centre of what I do, thank you for your unwavering love and support across my many research projects, you make me strive to create a better future for our current and future generations.

Acknowledgement of artwork

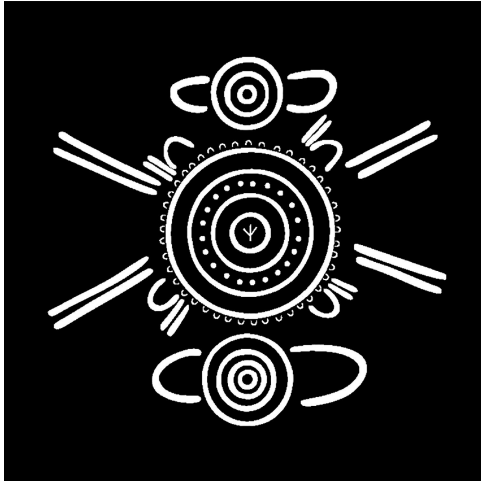
We would like to acknowledge the Boys to the Bush program; the mission of the program is centred on providing an environment for boys to be surrounded by positive influences and provide opportunities for success through encouraging mateship, resilience and a sense of belonging. The program recognises that there are 50,000 Australian children that are currently living in out-of-home-care arrangements and that four out of five young people in the juvenile system are males. To highlight and support the program, the authors approached Kurt Hancock, the Bathurst Program Manager for Boys to the Bush, to see if the boys from the program would like to create an artwork about their experience for inclusion in the book. Through assistance from Kurt Hancock, Kate Welsh and Brendan Boney, two Wiradjuri boys Joshua Dargin-Carr and Clayton Tarrant created the inspirational artwork Yawarra Dhulubang 'Take Care of Spirit' that appears on the first page of this book. The artwork symbolises the boys' experience through the following story. The emu footprint in the middle is a symbol of a young person moving forward not going back; the circles are support circles with a lot of support from different people on the outside. The dots symbolise a layer of protection. The lines pushing out symbolise a healing place, with four man symbols, to show strong men. The meeting place up top and bottom are two people having one-on-one mentoring. We the authors recognise the significance of this program and the guidance it provides to build strength-based approaches for boys.

Acronyms

ACCP	Aboriginal and Torres Strait Islander Child Placement Principles
ACE	Adverse Childhood Experience
ACWA	Association of Child Welfare Agencies
ADHD	Attention Deficit Hyperactivity Disorder
ADVO	Apprehended Domestic Violence Order
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AIHW	Australian Institute of Health and Welfare
ALRC	Australian Law Reform Commission
APPG	All Party Parliamentary Group
ARC	Attachment, Regulation, Competency (model)
ASD	Aboriginal Strategic Direction
AVL	Audio Visual Link
AVO	Apprehended Violence Order
BAME	Black, Asian and Minority Ethnic
CAN	Court Attendance Notice
DCJ	Department of Communities and Justice
DOCS	Department of Community Services
DSM	Diagnostic and Statistical Manual of Mental Disorders
DOE	Department of Education (UK)
FACS	Family and Community Services
FASD	Foetal Alcohol Spectrum Disorder
HREOC	Human Rights and Equal Opportunity Commission
ISP	Intensive Supervision Program
JJ	Juvenile Justice
LAC	Local Area Command
MOJ	Ministry of Justice (UK)
ODD	Oppositional defiant disorder
OOHC	Out-of-Home Care
PINOP	Person in need of protection
PRT	Prison Reform Trust

xii *Acronyms*

PTSD	Post traumatic stress disorder
QAF	Quality Assurance Framework
MASH	Multi-Agency Safeguarding Hubs
NAO	National Audit Office (UK)
NSW	New South Wales
SNAICC	Secretariat of National Aboriginal and Islander Child Care
TAFE	Technical and Further Education
TCF	Therapeutic Care Framework
UK	United Kingdom
YJB	Youth Justice Board (UK)
YP	Young person



Yawarra Dhulubang

‘Take Care of Spirit’

Joshua Dargin-Carr (Wiradjuri) and Clayton Tarrant (Wiradjuri)

The emu footprint in the middle is a symbol of a young person moving forward not going back, the circles are support circles with a lot of support from different people on the outside. The dots symbolise a layer of protection. The lines pushing out symbolise a healing place, with four man symbols, to show strong men. The meeting place up top and bottom are two people having one on one mentoring.

Introduction

Introduction

Australia's child protection and criminal justice systems reflect legacies of colonisation, imperialism and globalisation. Contemporary social realities in Australia that see disproportionately large numbers of Aboriginal and Torres Strait Islander people and those with care experience involved with the criminal justice system are indicative of this legacy. We recognise and reflect upon our privilege as part of the academy and as members of key disciplines – criminology, law, psychology and education – that have historically and contemporaneously inhibited engagement with Indigeneity and contributed to these realities (see Porter, 2019).

This book examines the involvement of those with care experience in the criminal justice system in an Australian jurisdiction. The majority of children in care do not come into contact with the youth justice system (Cashmore, 2011). However, among children involved in the youth justice system, those with care experience are over-represented (see Gerard et al., 2019). We focus on the processes of colonisation and criminalisation, rather than crime (see Aliverti et al., 2021). Our research took place in New South Wales (NSW), the most populous state located on Australia's East Coast. Child welfare is the responsibility of individual states and territories, but there are many similarities across jurisdictions. NSW was the site of the first encounters, both peaceful and violent, between Aboriginal and non-Aboriginal people. It was the site of the first colonial 'settlement', although the settlement could be more accurately described as an invasion. The Frontier Wars occurred in Sydney and its surrounds and marked the beginning of a brutal period for Aboriginal and Torres Strait Islander people. The landmark report into the forced removal of Aboriginal and Torres Strait Islander peoples from their families and communities, the Human Rights and Equal Opportunity Commission's *Bringing Them Home* Report found that Indigenous children have been removed from their families since the first few days of European occupation (HREOC, 1997, p. 22). Moreover, Indigenous people's sophisticated practices and social rules around child rearing and family relationships have been, up until the present, poorly understood by

the community, and in particular by case workers, judges and decision-makers in child protection (Behrendt, 2019; Davis, 2019).

The historical context of child protection and colonisation is used to situate the contemporary practices that we observed in our mixed-methods study of care experience and involvement in the criminal justice system in NSW. As a research team, we have backgrounds in law, psychology, criminology and Indigenous education. We draw on theoretical frameworks from critical criminology, psychology and Indigenous standpoint theory to conduct this interdisciplinary study and better understand legacies of colonisation and pathways to transformation. In what follows, we introduce our theoretical approach to the research. We outline our terminology and definitions used and our research design, and we preview the content of each chapter.

Out-of-home care (OOHC)

Across Australia, there are 46,000 children in OOHC (Australian Institute of Health and Welfare [AIHW], 2021). A nationally consistent definition of OOHC was arrived at in 2018–2019, which includes legal and voluntary placements for children who are unable to live with their families due to child safety concerns (AIHW, 2021, pp. 47–48). A legal placement in NSW involves the Department of Communities and Justice successfully applying for a care and protection order to remove a child into the care of the department or a nominated carer. It is meant to be an option of last resort. There are four different types of OOHC: relative/kinship care, foster care, residential care and other forms of home-based care. Just over half of the children in OOHC are in relative or kinship care, with 37% in foster care, 7% in residential care and the remaining 1% in other forms of home-based care. Our research focuses primarily on residential care, which is understood as one of the main sites for the criminalisation of children with care experience and an environment that is potentially unsafe for children and staff, and in particular, culturally unsafe for Aboriginal and Torres Strait Islander children (Cunneen & Libesman, 2000; Davis, 2019; Gerard et al., 2019). Our research was undertaken before and after the commencement of the 2016 NSW Government's *Joint Protocol to Reduce the Contact of Young People in Residential Care with the Criminal Justice System* (the Joint Protocol), prepared by the NSW Ombudsman in conjunction with stakeholders.

Aboriginal and Torres Strait Islander children are over-represented in the Australian child welfare system at a rate of about 11 times that for non-Indigenous children (AIHW, 2021). The over-representation of Aboriginal and Torres Strait Islander children in OOHC is a result of multiple factors explored in this book, including continuing practices of colonisation, intergenerational and transgenerational trauma, bias and systemic racism. Distinguished Professor Larissa Behrendt AO (Behrendt, 2019, p. 192), a Eualeyai/Kamillaroï woman who runs a legal practice in this area,

4 Introduction

has observed an ‘exponential growth in the number of cases of wrongful removal, or of cases where grandparents were deemed unsuitable as carers for children, coming through our doors’. The primary causes of overrepresentation also include the inaction of successive governments in addressing systemic faults in the child protection and criminal justice systems.

Advocacy by a group of Aboriginal grandmothers in NSW, known as Grandmothers Against Removal, led to a far-reaching inquiry into Aboriginal and Torres Strait Islander children and young people in OOHC. In 2016, the NSW Government commissioned senior law academic and Cobble Cobble woman of the Barrungam nation, Professor Megan Davis, to identify the reasons behind the high and increasing rates of Aboriginal children in OOHC in NSW and strategies to reduce this trend. The review made 125 recommendations, ultimately concluding that ‘it is time for the NSW Government to formally acknowledge to Aboriginal communities, as well as the broader Australian community that, as an ostensible “parent”, it can and does cause harm to children for whom it has parental responsibility’ (Davis, 2020, p. XXXV). None of the recommendations have been responded to by the NSW Government.

Deficiencies in data collection further complicate the picture of child protection and the criminal justice system in NSW, particularly in relation to children in OOHC who cross over into the criminal justice system. Many of the key recommendations by Professor Davis were a commitment to data collection and research so that the picture of child protection can be properly understood and an Aboriginal quality assurance initiative introduced to ensure an appropriate standard of care and protection. Davis also recommended a roundtable with the Aboriginal community and stakeholders to determine how data sovereignty can be realised in the process of designing and collecting data for analysis.

Criminalisation of care experience: gender, trauma, colonisation and individual structural drivers

Characterisations of the main drivers of the criminalisation of those with care experience have typically fallen into explanations that centre either adverse childhood experiences (ACEs) or the residential care environment. We avoid this unhelpful framing and instead focus on the interaction of multiple and complex factors that contribute to criminalisation, including the ongoing impact of colonisation. Our approach is informed by Scraton’s (2007) concept of ‘speaking truth to power’ and ‘pursuing alternative accounts’ in critical social research. In our study, we focus on ‘how’ certain acts are labelled and who has the power to label them (Scraton & Chadwick, 1991, p. 172). Key to this approach is considering the role power plays in creating an official discourse and privileging institutional knowledge (Burton & Carlen, 1979). In our research, we critically analyse what behaviours are valorised and what responses are prioritised – in other words, where agencies

place their emphasis and resources in the complex interplay between individuals and stakeholder organisations. In doing so, this book contributes our perspective on the relationship between colonisation and punishment. We agree with Aliverti et al.'s (2021) contention that for too long criminological inquiry has neglected these dimensions.

Structural approaches in critical social research

Scruton and Chadwick (1991) provide a critical analysis framework for understanding the process of criminalisation, particularly through critiquing the role of power in the decision-making of professionals working within the system. They argue that:

undoubtedly professionals, be they employed in the caring agencies, the military, the criminal justice system or private industry, operate on the basis of professional training and work experience enjoying discretionary powers in accordance with their rank and status. Yet whatever the quality and implications of decisions formulated and administered at the interpersonal level of 'agency', their recognition and legitimacy are rooted in the determining contexts of 'structure', and in their manifestation in the professional ideologies of control and political management.
(p. 167)

Further, sometimes criminalisation can occur through repetitious, minor decision-making that at first glance may not appear controversial – as Giddens (1987, p. 9) argues, 'power is at its most intense and durable when running through the repetition of institutionalised practices'. Additionally, Scruton and Chadwick (1991) argue that the focus should be on the action and reaction contexts, not the causation elements as this is reductionist.

Scruton's (2007) work expands on criminalisation through the analysis of routine processes. He draws on C. Wright Mills's critique that policy and practice interventions are prioritised over care and advocacy and that classification and regulation are the driving principles in the training of professionals (p. 6). Gatekeeping information is used to protect official discourse. Key to Scruton's framework is being mindful of the consequences of interviewing 'up' the power structure. He asserts that:

interviews with senior officials and established professionals, particularly in circumstances where institutions are under scrutiny, usually are prepared and rehearsed by participants. Their purpose is to deflect criticism, negotiate or even reconstruct events. While the 'conditions' of the interview should always be honoured – anonymity, confidentiality, 'off the record' comments and so on – officials undertake interviews to represent and protect the interests of corporate bodies or state institutions.
(p. 16)

6 Introduction

We are mindful that in our research we interviewed up. Our qualitative interviews in this project thus represent an institutional view. This is a limitation of our research design, as explored in the next section.

The challenge for those in dominant law disciplines, often plagued by assumptions of value neutrality (Foucault, 1980, p. 131), is the ability to access in-depth knowledge in context and seek out the ‘view from below’. ‘Knowing’, presented by Scraton (2007) as an antidote to ‘the suppression of truth and the denial of responsibility’, comes about in three ways: personal exploration, context and interpretation and understanding. These three factors are underpinned by witnessing and recording by the researcher. Scraton and Chadwick (1991) and Scraton (2007) provide a useful framework for critical analysis of the underlying structural factors that result in criminalisation, in particular, through the critical analysis of official discourse and of the propensity for routine institutional decisions to criminalise the less powerful in the system.

Historically, academic research has reproduced structural inequality, and in many cases, it has reinforced mechanisms of surveillance, control and marginalisation (Scraton, 2007, p. 6). This is particularly true of criminological research in Australia, which ‘continues to operate without an acknowledgement of colonialism and its effects’ (Porter, 2019; see also Cunneen & Tauri, 2016). Porter argues that:

criminologists must ask some unsettling questions: has criminology as a discipline failed Indigenous Peoples? And, if so, how can we do things differently? To what degree has criminology been complicit in the rising rates of Indigenous incarceration internationally? And what, if anything, does criminology have to offer these crises in criminal justice experienced by Indigenous Peoples around the globe?

(p. 123)

Cunneen and Tauri (2016, 2017) call for an Indigenous criminology that privileges Indigenous voices and experiences, speaks truth to power and meaningfully engages with Indigenous peoples and communities.

Keeping both individual and structural factors in focus

While this analytical emphasis on structure contributed to the analytical framework used in this book, we also felt that it was important to look at individual differences. We believe that structural approaches often leave out the individual. Cook et al. (2005, p. 390) assert that ‘children exposed to complex trauma often experience lifelong problems that place them at risk of additional trauma exposure and cumulative impairment’. In line with this, we felt that a focus on the impact of trauma on behaviour was vital in unpacking lived experiences of criminalisation and victimisation.

Cook et al. (2005) describe the impact of exposure to complex trauma and identify seven domains of impairment. They point out that traditional diagnoses such as post-traumatic stress disorder (PTSD) do not capture the full impact of exposure to complex trauma. Disrupted attachment, particularly disorganised attachment, is likely to result from exposure to trauma. This attachment style results in certain ‘themes’ of behaviour – specifically, helplessness and coercive control. Disrupted attachment can cause a lifetime of disease and psychosocial dysfunction through increased susceptibility to stress, problems in regulating emotion and altered help-seeking behaviour. Complex trauma has profound neurological impacts, particularly around self-regulation and other executive functions in adolescence. Further, Cook et al. note profound difficulties in identifying, expressing and controlling emotions, disassociation as a coping mechanism, difficulty regulating behaviour, cognitive developmental problems and poor self-concepts. Given that trauma is a common element in the lives of children with care experience, understanding the nature of trauma-informed behaviour is vital to both understanding criminalisation and developing effective responses to such behaviour. Critically, Cook et al. (2005, p. 392) state that ‘when the primary caregiver is too preoccupied, distant, unpredictable, punitive, or distressed to be reliably responsive, children become distressed easily and do not learn to collaborate with others when their own internal resources are inadequate’. We are interested in how this manifests when the primary caregiver is a shift worker in a residential care setting.

Harris and Fallot (2001, p. 3) highlight the impact a systemic lack of trauma-informed services has on survivors: ‘systems serve survivors of childhood trauma without treating them for the consequences of that trauma’ or even without an awareness that clients have experienced childhood trauma. These authors provide guidelines on trauma-informed care practice based on understanding the impact of trauma and incorporating this into every aspect of service delivery. This approach seeks to understand the history of the person being cared for and not just their behaviour. We use this approach to analyse and unpack responses to children’s behaviour and how criminalisation can occur through inappropriate responses by OOH service providers, law enforcement, lawyers and Magistrates. Notably, Harris and Fallot (2001) also discuss how important it is to be aware of power dynamics when implementing a trauma-informed approach within an organisation. This links to our previous discussion on power dynamics, colonisation and official discourse, enabling a more complex, in-depth analysis of trauma-informed responses that we draw on as we unpack our data in the following chapters.

While understanding trauma is an important aspect of our theoretical framework, we felt that there was an absence of cultural understandings of trauma that we saw as pivotal to analysing our data. Comas-Díaz, Hall and Neville (2019) unpack racial trauma, which is imperative to apply to the Australian context in respect of intergenerational trauma among Aboriginal

and Torres Strait Islander peoples and the ongoing legacy of colonial and neo-colonial child welfare policies. Racial trauma:

refers to the events of danger related to real or perceived experiences of racial discrimination. These include threats of harm and injury, humiliating and shaming events, and witnessing harm to other POCI (People of Colour and Indigenous People) due to real or perceived racism.

(Comas-Diaz et al., 2019, p. 1)

Comas-Diaz et al. talk of ‘soul wounds’ as an illustrative means of understanding the transfer of pain across generations. They also talk of resilience crossing generations alongside trauma. We wanted to unpack this further in our findings as it contrasts with a deficit model of understanding racial trauma and provides a means to adopt a strengths-based approach to addressing issues of criminalisation and victimisation. While Comas-Diaz et al. call for culturally appropriate interventions and recognition of intergenerational trauma is important, we also felt the need to incorporate culturally competent analysis through the lens of Australian Indigenous epistemologies.

We first consider seminal work that explores and unpacks the nature of trauma through an Indigenous/First Nations lens. Much of the literature that theorises in this space have been generated from Canada and Aotearoa New Zealand. We examine these theoretical frameworks generally and then explore how they can be applied to the Australian context. Blackstock et al. (2020) investigate how international law, particularly the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), has the potential to provide a path forward to promote Indigenous voices, and children’s agency, in future initiatives aimed at decolonisation. Our discussion also considers international treaties and agreements. Australia is a signatory to some of these (such as the *UN Convention on the Rights of the Child*), but there is a growing body of international jurisprudence around First Nations rights and this is something we tie into our analysis. However, Blackstock et al. argue that human rights paradigms tend to valorise individual rights over collective rights. They also posit that there are key ontological differences between Indigenous and non-Indigenous conceptualisations of ‘care’. Blackstock et al. argue that although there are many different languages, cultural practices and contexts among different Indigenous peoples globally, they all share a common understanding of concepts such as time, land and relationships, and this Indigenous ontological perspective can provide a valuable approach to understanding trauma and how to respond to it. Critically, these authors note that ‘Western thinking is deterministic, segmented, privileges new knowledge, and gives primacy to individual rights and current reality’ (p. 2). In Blackstock et al.’s characterisation of Western thinking, the value of property is given primacy, and children are seen as chattels. Further, Blackstock et al. argue that understandings of child

neglect tend to focus on the individual faults of parents and family rather than on underlying structural elements that lead to poverty and neglect. And, this approach has a disproportionately negative impact upon First Nations families. Blackstock et al.'s argument that problem solving in this space needs to account for Indigenous ontologies and incorporate principles of self-determination has had a significant influence on our analysis and findings. These authors affirm that:

unless our respective child welfare systems fully embrace self-determination and self-management and embed human rights within child welfare legislation the position of First Nations and Aboriginal and Torres Strait Islander children in child welfare will remain one of over representation and disconnection from family and Nation.

(p. 9)

Blackstock et al.'s research includes a comparison between Canada and Australia, which was useful for providing context to our analysis and offering a basis for international comparison.

Pihama et al.'s (2017) Aotearoa New Zealand-based research on Māori Trauma Informed Care Principles develops a specific set of principles derived from Kaupapa Māori, which is a collective set of ontological principles held by Māori people. These authors highlight the need for therapy to occur within cultural contexts. Dominant framings of trauma and trauma-informed care are grounded in Western definitions and understandings (see, for example, Emmerson & Hopper, 2011), which means that the diverse experiences of trauma among different groups are not fully understood or addressed in current practice (see also Wirihana & Smith, 2014). By applying the Māori Trauma Informed Care Principles, culturally safe and effective practices can be developed for Māori communities. In this regard, it is also noteworthy that current practices do not acknowledge that 'massive group trauma experiences impact on collectives of people and manifest in conditions and behaviour that are often reconstructed within dominant pathologising view[s] as common traits belonging to Indigenous Peoples' (Pihama et al., 2017, p. 23). We were particularly interested in using these principles to inform our analysis. Pihama et al.'s framework is endeavouring to move beyond Western psychological notions of trauma as a one-off event and instead conceptualise trauma as something cumulative. We think critically about this in our analysis of whether and how such a program might be implemented in an Australian context.

Key to our analysis is a thorough understanding of intergenerational and transgenerational trauma. As noted above with reference to Pihama et al. (2017), group trauma, intergenerational trauma and transgenerational trauma are not routinely recognised within or incorporated into Western framings of trauma, nor developed into practice. Atkinson et al.'s (2010) work unpacks transgenerational trauma and group experiences of trauma

in the Australian First Nations context, noting in particular that the definition of trauma is not settled. Definitions vary, from those that argue that trauma arises from a single event or events or from an environment to the characterisation of trauma according to an ‘extreme/not extreme dichotomy’, which, Atkinson et al. (2010) claim, shapes how people process and experience traumatic events as the same event. Yet, scholars have criticised the ‘effectiveness of mainstream psychology for Indigenous People’ (Atkinson et al., 2010, p. 136). The extent to which concepts like PTSD are able to accurately describe the impact of chronic stressors that pervade the lives of Aboriginal and Torres Strait Islander people has been widely criticised (Atkinson, 2008, 1990, 2002; Cameron, 1998; Milroy, 2005; O’Shane, 1993). Atkinson et al. (2010) characterise these stressors as ‘multiple, repeated, and of great severity’, and as reinforced by three elements: ‘the inability to identify and overcome a single source of stress’, ‘cumulative stressors’ and the fact that those perpetrating the harms are ‘well known to the victims’. More specifically, there is a distinction between situational trauma, which occurs as a result of a discrete event such as a car accident, a murder or being taken away, and cumulative trauma, which is more subtle and characterised by feelings that build over time, as occurs in response to racism, for example.

A disproportionately high number of children in OOHC are Indigenous. Therefore, the above observations about the nature of trauma experienced by Aboriginal and Torres Strait Islander peoples and the inadequacy of psychological diagnosis and treatment apply. This may also extend to non-Indigenous children in OOHC, whom we know from the characteristics of those with care experience are likely to experience similar stressors compounded by the three elements referred to above, albeit without the additional layer of the unique trauma facing Indigenous peoples. Atkinson et al.’s examination of how trauma can influence future behaviours, particularly offending behaviours, is useful for our analysis. They critique the DSM-IV-TR definition of trauma, the prevailing diagnostic framework at the time, noting, as do Pihama et al. (2017), that Western definitions and practice are not culturally informed. Their review of the literature on intergenerational trauma provided us with a framework to apply to our analysis of intergenerational trauma. A common theme in the articles referenced in this section was the need for community-led change and culturally safe service provision.

Intersectionality in analysing legacies of colonisation and criminalisation processes

We recognise the need for an intersectional approach to analyse the historical and contemporary realities of colonisation and the specific criminalisation processes examined in this study. Criminology as a discipline has taken a long time to acknowledge and apply concepts of intersectionality (Porter, 2019). The term intersectionality was first coined by law scholar Kimberlé Crenshaw (1989, 1991). Crenshaw’s conceptualisation, primarily

focused on ‘women of colour’, takes in ‘structural intersectionality’, reflecting the structural factors that locate women of colour on the lower rungs of social strata, which, in turn, makes them more vulnerable to violence; ‘political intersectionality’, relating to discourses in family violence frameworks that silence or erase the experience and voice of women of colour; and ‘representational intersectionality’, in reference to cultural discourses that marginalise women of colour.

Intersectional theorists argue that by analysing these structural realities in terms of either race or gender, much is lost or erased, in particular the experiences of women of colour (Crenshaw, 1991). In an Australian context, this view is also reflected in Marchetti’s (2008, 2013) analysis of the 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC), which, by focusing on deaths in police and prison custody, ignored the experiences of Aboriginal women who had been the victims of family violence. Marchetti argues that when politics of race were privileged, and gender was set aside during the Royal Commission, ‘a guiding assumption emerged from the investigations into the deaths and from the sociological, anthropological and criminological research: that young Indigenous males were more disadvantaged than Indigenous females’ (p. 163). Marchetti’s article highlights some confronting and difficult questions with which scholars need to grapple.

An ‘additive’ approach to intersectionality is not transformative (Porter, 2019). Paik (2016) draws attention to the theoretical tensions between intersectionality and criminology, particularly insofar as quantitative analysis has a tendency to rely on fixed categories. Yuval Davis (2006) stresses that researchers cannot assume that all individuals belonging to a race or gender are the same and that race, gender and class are not the only divisions. Yuval Davis critiques ‘additive’ approaches to using intersectionality, arguing that they can become essentialist and construct a ‘right way’ to be a member of a particular group, thereby making certain experiences ‘invisible’. Tauri (2017, p.15, in Porter, 2019, p.127) has criticised Australian criminology for seeking to ‘add a bit of colour’ by incorporating selective Indigenous elements instead of committing to the ‘significant overhaul’ required to rid the discipline of its ‘bias and obstructive prejudice that currently pervades Australian criminology’. British criminology has diluted the focus on race by using the term ‘ethnicity’ in its place (Parmar, 2017). Parmar suggests that this has been co-constitutive in that ‘British criminology’s unwillingness to engage with race has resulted in the reticence towards an intersectional approach and vice versa’ (p. 35). Parmar argues that a more sophisticated intersectional analysis is required. Yuval Davis (2006) recommends assuming a social divisions approach to intersectionality. In doing so, Parmar argues, ‘the point is to analyse the differential ways in which different social divisions are concretely enmeshed and constructed by each other and how they relate to political and subjective constructions of identities’ (2017, p. 205).

An intersectional lens allowed us to identify the siloed approach that is prevalent across the board in treatment and support services. When

people with multiple intersecting vulnerabilities, such as many of the care-experienced children in our study, come before the courts or are responded to in institutional settings, this siloed approach often results in inadequate responses. Delgado and Stefancic (2012) see intersectionality as a means to engage in ‘legal storytelling’ and thus to voice and make visible lived experiences of people ordinarily excluded or marginalised. This is particularly important for Indigenous women in the criminal justice system (Marchetti, 2008, p. 156). We thus draw on intersectionality to unpack the deep colonising practices and their impact which we observed in the courts during our research.

In conjunction with an Indigenous ontological approach, intersectionality also offers a framework with which to examine the role of resistance to colonisation and criminalisation processes. Looking at the role of resistance provides a pathway to a strengths-based approach, a relatively novel approach in criminology: ‘Criminological studies that illuminate forms of resistance among racialized communities are scarce as are perspectives that interpret ethnic identity as a resource’ (Parmar, 2017, p. 36). As Marchetti (2008) discusses, the non-reporting of family violence as a means of protecting children from removal is a good example of resistance from within the community. Our data also revealed instances of resistance by children and we explore this in the context of the systemic view of children as ‘misbehaving’ or ‘troublesome’. The aim of our intersectional approach is not just to understand intersectional dynamics but to transform them (Parmar, 2017).

This chapter has outlined the four theoretical approaches that inform our analytical framework. We draw on structural determinants from Scraton’s work, psychological theories of trauma, Indigenous ontologies and intersectionality to enrich our analysis. Our approach combines an individual and a structural lens. The challenge for our book is to meet the requirements set out here – ‘intersectionality allows us to avoid overly deterministic structural analyses while also not assuming individuals operate independently of that structural context’ (Paik, 2017, p. 9). Psychological models of stress and trauma, while useful in the case of adverse childhood events, do not capture the impact of intergenerational and historical trauma. There is a growing realisation of this, particularly as our understanding of epigenetics increases, and any trauma-informed care program that does not encapsulate this understanding will likely fail, especially in the case of First Nations people. Further, intersectionality offers a way to recognise and explore the diversity of experiences of care. This knowledge is applicable to quantitative research also, as more researchers examine interactions and mediating factors, recognising the complexity of human behaviour.

To explore these issues in the NSW context, we undertook a mixed-methods study consisting of qualitative interviews with key agencies involved in OOH service provision and the criminal justice system. We also conducted court observation of Children’s Court matters and carried out individual file reviews. We now provide an overview of our research design.

Research design

This project was initiated in response to a need identified by a community partner who felt that the involvement of children in residential care in the criminal justice system is both unnecessary and disproportionate. They also expressed concern that it is non-government agencies, charged with looking after children in care, who are calling the police and reporting the behaviour. We, therefore, set out to design a research project to investigate the criminalisation of children in care.

Ethical approval for this study was obtained from the Charles Sturt University Human Research Ethics Committee, protocol H17141. We also obtained approval from the Children's Court of NSW to conduct our court observations. This research is informed by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Guidelines for Ethical Research in Australian Indigenous Studies. It was also informed by the experiences of one of the authors (Annette Gainsford), who is a Wiradyuri woman with care experience and experience as a carer.

Our research aimed to identify:

- the perceptions of frontline criminal justice professionals of the criminalisation processes that impact children in residential OOHC placements;
- the systems or processes that contribute to the criminalisation of children in OOHC;
- the differential impacts of demographic characteristics such as age, gender, ethnicity and Aboriginality;
- the disparities in representation rates of children in OOHC across regional/metropolitan areas; and
- international decriminalisation practice.

In this book, we explore the processes through which children with care experience come into contact with the criminal justice system, starting with histories of trauma and concluding with contact with the court system. Data supporting this were drawn from three sources: qualitative interviews with key stakeholders, court observations and file reviews. Given this, we do not describe results from each part of the study in turn; rather, we interweave these data into the overall findings presented in the book as they relate to each step in the process. The method pertaining to each part of the study is now described.

Qualitative interviews

Our book draws on qualitative research undertaken with criminal justice and social welfare professionals working on the frontline of the care–criminalisation nexus. These stakeholders are OOHC service providers

($n = 17$), NSW Police Force representatives ($n = 10$), Juvenile Justice officers (Department of Justice employees supervising children on community-based sanctions) ($n = 19$), Department of Family and Community Services employees ($n = 5$), defence lawyers, community legal centre lawyers and lawyers working in the care jurisdiction of the NSW Children's Court ($n = 14$) and Children's Court magistrates ($n = 10$). In the UK case study, interviews were conducted with 10 key stakeholders. Interviews were semi-structured, involving a core set of questions that were followed up by open-ended prompts where necessary. We started by asking about the participant's general experience in the criminal justice system before moving to specific questions relating to care-experienced children.

Our analyses followed the six phases described by Braun and Clarke (2006) but were also informed by these authors' later conceptualisation of 'reflexive' thematic analysis, which sees themes as 'creative and interpretive stories about the data, produced at the intersection of the researcher's theoretical assumptions, their analytic resources and skill, and the data themselves' (Braun & Clarke, 2019, p. 594). We took a semantic approach, identifying themes based on the explicit, rather than latent, meaning of the data. All of the researchers read the interview transcripts, thereby becoming familiar with the data and developing initial ideas to guide subsequent analyses. These were then discussed collaboratively, and codes were developed based on these discussions. The interview data were then entered into NVivo by individual researchers based on separate coding of each interview transcript undertaken independently by each researcher. Where obvious disagreements were observed, these were discussed and resolved by the research team to ensure consistency in coding across the dataset. A further meeting was then held at which the codes were collated into themes using a thematic map. We understood a theme to represent a repeated pattern of meaning across the dataset, substantiated by relevant extracts. Rather than report these themes individually, we contextualise them in reference to certain aspects of the interface between the care and criminal justice systems.

We were not able to interview people directly impacted by the criminalisation of those with care experience in NSW and this is a limitation of our research. Indigenous stories provide a challenge to stereotypes and promote healing and counter-narratives of strength (Anthony et al., 2021; Behrendt, 2019). Behrendt (2019) and Anthony et al.'s articles illustrate the richness created by enabling the conditions for First Nations women to speak directly about experiences of child removal and interactions with the criminal justice system. This scholarship makes us pause, reflect upon and acknowledge the limitations of our own research design. We chose not to interview people in custody or the care system. We decided that we could not effectively surmount the institutional barriers to gaining access to people in custody or under other forms of community supervision. Instead, we

spoke to professionals in these organisations charged with responsibility for children in care or with care experience. Our pilot study and our subsequent study started and finished with frontline professionals as interview respondents. We involved those with care experience and Indigenous people in the analysis of the material in an advisory capacity. Our UK case study did interview one person with care experience. Three of the stakeholders we interviewed were Aboriginal and Torres Strait Islander ($n = 3$). We sought to address these limitations in our sample by establishing an Advisory Board that included Aboriginal representation and people with lived experience of the care system. We also informally consulted Aboriginal lawyers and carers as well as local Elders. In this regard, of immense benefit to our research has been the lived experience of Wiradyuri woman Annette Gainsford (co-author of this book), who was a member of our initial Advisory Board and has experience of the care system as both a care leaver and a carer.

Court files

We reviewed a number of Children's Court files as part of our analysis. We accessed these files through the court registry and later entered relevant details into a database. We reviewed 107 files relating to 92 individuals – 65 males (70%) and 27 females (30%). For 22 (23%) of the files, there was evidence of Indigenous status – 16 males (73%) and 6 females (27%). We also found evidence on file of a care background for 22 (23%) of the children whose matters we reviewed. Other variables coded were whether there were reports on file, such as a Juvenile Justice pre-sentence report (28%), evidence of a mental health condition (30%), homelessness (26%), abuse and neglect (20%), educational problems (33%) and a criminal history (32%). It is likely that these figures are underestimates as only minimal information was provided in a number of files. Figure 1 shows these findings in more detail, highlighting the differences between the children with and without care experience. It is clear from these findings that the care-experienced children whose court files we reviewed were more likely to have a mental health condition, have had educational problems, have been in custody previously, have evidence of abuse and neglect on file and have a history of homelessness.

In addition to these quantitative analyses, we chose a number of files to analyse in greater detail. Specifically, given our interest in intersectionality, we selected four files relating to Indigenous males, four relating to Indigenous females, four relating to non-Indigenous males and four relating to non-Indigenous females. Two of the research team (AM and EC) read each file carefully and made notes. These two researchers then discussed each file in detail and created a file note describing each and highlighting pertinent themes. We refer to these file analyses throughout the book where appropriate.

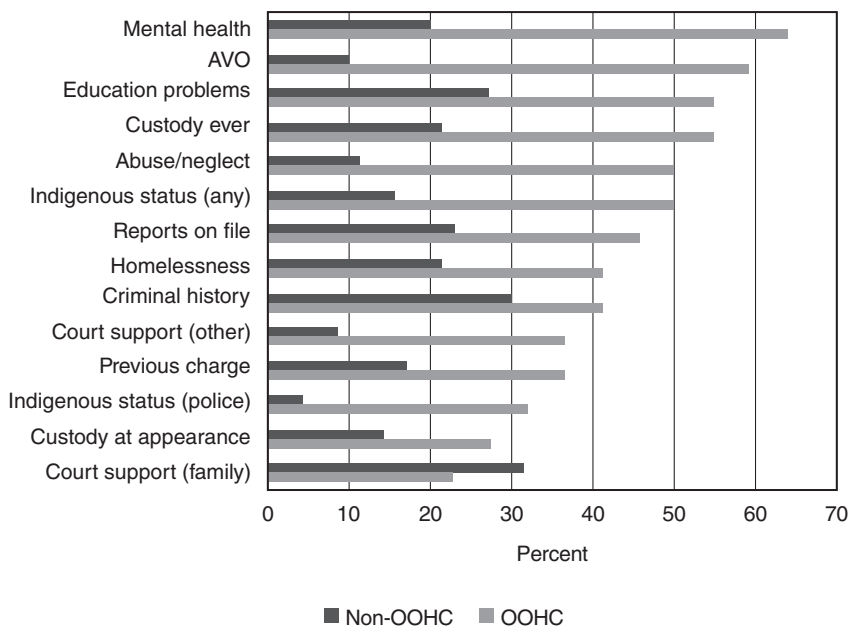


Figure 1 Differences between children with and without care experience (court files).

Court observations

We observed a total of 150 hours of court proceedings spread across three major outer metropolitan Children's Courts. These related to 134 separate matters, involving 83 males (62%), 41 females (31%) and 10 (7%) where the gender could not be determined, as there was no personal appearance by the young person. For 22 (16.4%) of these matters, there was clear evidence of Aboriginal status, determined either by the defendant's Aboriginal status being made known in court or representation by the Aboriginal Legal Service. Our approach was guided by previous court observation studies (Booth, 2012; Hannah-Moffat & Maurutto, 2012; Tait, 2001). Court observation not only allows researchers to collect data on how processes and procedures play out in the court setting but also provides a deeper view of the power structures at play (Garapon, 1997) and the subtle influences on decision-making, such as the physical appearance of children and the presence of family member support in the courtroom (Booth, 2012; Danziger et al., 2011; Tait, 2001).

At least two researchers were present in court for each observation. Each took notes, concentrating on the type of matter being observed but also on other relevant factors such as the demeanour of the child and magistrate, and the presence or absence of support people in court. These notes

were collated into a single document, developed by all the researchers. From this document, we developed a series of vignettes that were mapped on to the broader themes relating to the cycle of care and criminalisation. Some quantitative information was also extracted and entered into a database. In particular, we coded for whether the child was supported in court. There was evidence in court of a care background for only six (4.5%) of the young people whose cases we observed. A total of 23 (17%) matters were for sentence, 70 (52%) were bail determinations or extensions and the remaining 41 were Apprehended Violence Order (AVO) matters. As there were only six cases where we could find evidence of care experience, we were unable to make comparisons based on this variable as we did with the file review data.

Table 1 presents the descriptive statistics from the court observations. Approximately 60% of the matters we observed were at one major outer metropolitan court in Sydney; 13% were at a second court and 28% were at a third. There was evidence of Indigenous status in 16.4% ($n = 22$) of the cases. Of these, nine (41%) were female and 12 (59%) were male. Nearly, a quarter of the children (23.9%) coming before court were in custody at the time, with a number of these appearing by video link. Just under 30% of the children were accompanied by family members, and 12% were accompanied by a carer or some other non-family support person. There were significant gender differences in this regard, with males more likely to be supported by family members (38.6% compared to 19.5%, $p = 0.033$) and females more likely to have some other form of support (22% compared to 8.4%, $p = 0.035$).

As with the file reviews, we developed more detailed accounts of the matters we found to be of particular interest or significance and, similarly, make no claim as to how generalisable these are.

Terminology

Care-experienced: We use the term ‘care-experienced’ to encompass children who have at some stage been in the care system. We understand that children cycle in and out of care and our research includes children who have been in care but may not have been in care at the time of their court appearance.

Cultural competency: For the purposes of this research, ‘cultural competency’ refers to knowledge of Indigenous peoples and cultures, the ability to communicate effectively and work proficiently with Indigenous peoples and communities and the acknowledgement of cultural difference and associated differing worldviews in the process (Universities Australia, 2011).

Cultural safety: For the purposes of this research, ‘cultural safety’ relates to creating and providing an environment where Indigenous peoples feel culturally, socially and emotionally safe, and where there is no challenge to a person’s Indigenous identity (Williams, 1999).

Indigenous: For the purposes of this research, the terms ‘Indigenous’, ‘Aboriginal and Torres Strait Islander’ and ‘First Nations’ are used

Table 1 Descriptive statistics from court observations broken down by gender

	<i>All^a</i>	<i>Male^b</i>	<i>Female</i>	<i>p</i>
Court				
Court 1	58.9	69.9	30.1	<i>p</i> = 0.301
Court 2	12.9	50	50	<i>p</i> = 0.301
Court 3	28.2	68.6	31.4	<i>p</i> = 0.301
Gender	61.9			
Indigenous status	16.4	14.5	22	<i>p</i> = 0.295
Court support (family)	29.9	38.6	19.5	<i>p</i> = 0.033
Court support (carer)	11.9	8.4	22	<i>p</i> = 0.035
OOHC	4.5	3.6	7.3	<i>p</i> = 0.366
Custody at appearance	23.9	19.3	29.3	<i>p</i> = 0.211
Sentencing matter	17.2	19.3	17.1	<i>p</i> = 0.766
Bail determination/extension	52.2	51.8	56.1	<i>p</i> = 0.652
AVO	29.9	30.1	24.4	<i>p</i> = 0.505
S28	8.2	7.2	9.8	<i>p</i> = 0.627
S32	4.5	3.6	7.3	<i>p</i> = 0.366
FTA	9.7	7.2	12.2	<i>p</i> = 0.360

Note: a – N = 134, 7.5% (N = 10) gender unknown; b – N = 124, 10 cases where gender was unknown removed from analyses; c – Court 3 had significantly more Indigenous young people than Court 1 (*p* < .05); d – Court 3 had significantly fewer s.28 applications than the other two courts (*p* < .05).

interchangeably throughout, depending on context. The use of Indigenous refers to peoples who are the first inhabitants across Australia, Canada, Aotearoa New Zealand and other colonised countries, depending on context.

Kinship: ‘Kinship’ refers to Aboriginal social organisation that relates to family relationships and responsibilities.

Self-determination: For the purposes of this research, Indigenous ‘self-determination’ is defined as Indigenous peoples having autonomy over the cultural, social, economic and political agendas that govern their lives.

FACS/DOCS/Department of Communities and Justice: During the course of the research, the names of relevant NSW government departments changed. When referring to the government department responsible for child protection and child welfare, we generally use the term FACS (Family and Community Services) as this was the department’s name at the time of data collection. Previously, this department was known as DOCS (Department of Community Services), so some research participants still referred to this older terminology and some quotes therefore use DOCS. FACS is now a division of the Department of Communities and Justice (DCJ).

Youth Justice/Juvenile Justice: At the time the research was conducted, the relevant department for children in the youth justice system was called Juvenile Justice. We use this term as it is the one used by our research participants. The department is now known as Youth Justice, a division of DCJ.

Understanding the criminalisation of those with care experience

This book begins with an overview of the historical and contemporary context of OOHC in Australia. Chapter 1 outlines the available statistical profile on the characteristics of children in OOHC in Australia and how the current system operates according to official accounts. It then establishes the historical context of the criminalisation of care-experienced children in Australia by examining two key developments. The first is the practices of forced removal that targeted cultural difference and brought about the Stolen Generations, but we focus on more than the Stolen Generations. We illustrate how the frontier wars arrived at our hometown of Bathurst and led to the declaration of martial law and the deaths of many hundreds of Aboriginal people and some 13 Europeans. We chart the various overlapping periods of protection, segregation and assimilation that led to the Stolen Generations and analyse the resistance to, and the impact of, these destructive policies historically and today. Second, we analyse the reception of English approaches to penal welfare that significantly impacted Aboriginal and Torres Strait Islander people and communities, and also ensnared particular non-Indigenous communities. This approach enshrined the focus on ‘delinquent’ children identified for ‘saving’ and led to the additive approach of affixing welfare to ‘the administration of juvenile justice’ (Carrington & Pereira, 2009, p. 26). The final part of Chapter 1 evaluates the research on the impact of ‘care experience’ on children and adults, and the overlap of children with care experience also engaging with the criminal justice system. It pays particular attention to the research from other colonial countries such as Aotearoa New Zealand and Canada.

Chapter 2 examines the impact of trauma. This chapter overviews the impact of ACEs on physical and mental health, and its relationship with the criminal justice system. We focus particularly on the impact of intergenerational trauma caused by policies of colonisation such as criminalisation and forced removal from families and communities. This chapter then explores the evidence linking trauma to offending and highlights trauma-informed care approaches that decentre immediate behaviour to refocus on the traumatic histories of children in care.

The setting for conflict between behaviour and support services for those with care experience is often the residential care environment, a form of group-based care that is explored in Chapter 3. Residential care in NSW is outsourced to the private sector. Previous research has identified that inadequate responses to challenging behaviour are driving unnecessary criminalisation of children in residential care (Shaw, 2016; Staines, 2016). Based on our data, Chapter 3 examines how OOHC service providers engage with children and other agencies associated with residential care such as law enforcement, Juvenile Justice and the Children’s Court. It also reviews the regulatory environment of residential care in NSW. The importance of

ensuring cultural safety for Aboriginal and Torres Strait Islander children, effectively a legislative requirement in NSW, is discussed.

The policing of children with care experience forms the focus of Chapter 4. The chapter analyses the relationships between care experience, OOH service providers, police and involvement in the criminal justice system. In the Australian context, the relationship between police and those with care experience, particularly Aboriginal and Torres Strait Islander people, has a long history (HREOC, 1997). Since European occupation of Australia, police have regularly been on the frontline of the administration of policies of colonisation such as forced removal and forced relocation (Cunneen, 2001).

Chapter 5 analyses the significant role that lawyers play in advising and representing children with care experience who come into contact with the criminal justice system. This chapter explores the interview, file review and court observation data to understand how lawyers interact with children in care. It highlights new research on trauma-informed lawyering that would readily benefit children in care. Chapter 5 concludes with an examination of cultural competence and legal services for children in care.

Chapter 6 examines the relationship between care-experienced young people and the NSW Children's Court, one of the oldest specialist Children's Courts in the world. This chapter reviews Australian and international research on the extent of care-experienced children's contact with the criminal justice system and explores our data against these findings. The court experience itself is examined, before turning to focus on two specific aspects of appearing in court that have serious ramifications for care-experienced children – bail and mental health.

Chapter 7 engages 'legal storytelling' (Bedford, 2019) to draw together a gendered analysis of our data focusing on the differential experience of girls and women with the care system. We unpack gendered understandings of historical approaches to care that included specific institutions for girls and women and use an intersectional framing to centre Aboriginal and Torres Strait Islander children and adults. The global literature on the overrepresentation of women and girls in care is examined before moving to an analysis of the three key themes that emerged in our research. The first is the narrative that girls are more 'difficult', which pushes girls' propensity for increased trauma to the periphery and instead centres their problematic behaviour. The second relates to how self-harm and responses to it accelerate criminalisation. The third concerns how resistance may result in further criminalisation.

Chapter 8 explores international approaches to care experience by reviewing the results of our case study from England and Wales. In our NSW pilot study, several of our respondents discussed innovations in England and Wales that were leading to a decrease in criminalisation. As a result, we built into our study qualitative interviews with key informants from relevant criminal justice and social welfare agencies in the United Kingdom,

including care leavers. The chapter provides an overview of the considerable momentum in the United Kingdom around addressing the criminalisation of children with care experience. This chapter details the changes in policing and the administration of OOHC and the resultant impact on the involvement of those in care in the criminal justice system. While not uniform, these changes reflect what is possible. Chapter 8 draws together what the UK case study can offer the NSW context and, in doing so, the chapter enriches the NSW research by promoting further reflection on how decriminalisation pathways might be imagined.

In our conclusion, we examine the way that ‘hope tropes’ are regularly deployed in child protection and criminal justice to dangle the prospect of reform, and even to produce pockets of success, only to be whittled away by well-worn pathways to routine criminalisation. We highlight how this serves as a mechanism for the system to breathe: enabling it to attain some level of legitimacy and demonstrate a capacity for reform, only to retract and contract in maintaining the normalisation of criminalisation, in particular of those with care experience and Aboriginal and Torres Strait Islander people. We examine what a transformative agenda would look like and how monitoring and accountability mechanisms are key to new ways of operating. Finally, we explore strengths-based approaches and how they might take shape in the child protection and criminal justice systems.

References

- Aliverti, A., Carvalho, H., Chamberlen, A., & Sozzo, M. (2021). Decolonizing the criminal question. *Punishment & Society*, 23(3), 297–316.
- Anthony, T., Sentence, G., & Behrendt, L. (2021). ‘We’re not being treated like mothers’: Listening to the stories of First Nations mothers in prison. *Laws*, 10(3), 74.
- Australian Institute of Health and Welfare. (2021). *Child protection Australia 2019–20* (Vol. 78).
- Atkinson, J. (1990). Violence in Aboriginal Australia: Colonisation and gender. *Aboriginal and Islander Health Worker Journal*, 14(1) (part 1) and (3) (part 2), 5–21.
- Atkinson, J. (2002). *Trauma trails, recreating song lines: The transgenerational effects of trauma in Indigenous Australia*. Spinifex Press.
- Atkinson, C. (2008). *The violence continuum: Australian Aboriginal male violence and generational post-traumatic stress* [Unpublished doctoral dissertation]. Charles Darwin University.
- Atkinson, J., Nelson, J., & Atkinson, C. (2010). Trauma, transgenerational transfer and effects on community wellbeing. *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice*, 135–144.
- Bedford, N. (2019). Storytelling in our legal system: Healing for the stolen generations. *Australian Feminist Law Journal*, 45(2), 321–331.
- Behrendt, Larissa. (2019). Stories and words, advocacy and social justice: Finding voice for Aboriginal women in Australia. *Australian Feminist Law Journal*, 45(2), 191–205.

- Blackstock, C., Bamblett, M., & Black, C. (2020). Indigenous ontology, international law and the application of the Convention to the over-representation of Indigenous children in out of home care in Canada and Australia. *Child Abuse and Neglect*, 110(1). <https://doi.org/10.1016/j.chiabu.2020.104587>
- Booth, T. (2012). 'Cooling out' victims of crime: Managing victim participation in the sentencing process in a superior sentencing court. *Australian and New Zealand Journal of Criminology*, 45(2), 214–230.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.
- Braun, V., & Clarke, V. (2019). Reflecting on reflexive thematic analysis. *Qualitative Research in Sport, Exercise and Health*, 11(4), 589–597. doi: 10.1080/2159676X.2019.1628806
- Burton, F., & Carlen, P. (1979). *Official discourse: On discourse analysis, government publications, ideology and the state*. Routledge.
- Cameron, S. (1998). *Aboriginal experiences of psychological trauma: Personal, intergenerational and transgenerational* [Unpublished master's thesis]. Victoria University.
- Carrington, K. (1993). *Offending girls: Sex, youth and justice*. Allen and Unwin.
- Carrington, K., & Pereira, M. (2009). *Offending youth: Sex, crime and justice*. Federation Press.
- Comas-Díaz, Hall G., & Neville, H. (2019). Racial trauma: Theory, research, and healing: Introduction to the special issue. *American Psychologist*, 74(1), 1–5.
- Cook, A., Spinazzola, J., Ford, J., Lanktree, C., Blaustein, M., Cloitre, M., & Van der Kolk, B. (2005). Complex trauma. *Psychiatric Annals*, 35(5), 390–398.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1(8), 139–167.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299.
- Cunneen, C. (2001). *Conflict, politics and crime: Aboriginal communities and the police*. Routledge.
- Cunneen, C., & Libesman, T. (2000). Postcolonial trauma: The contemporary removal of Indigenous children and young people from their families in Australia. *Australian Journal of Social Issues*, 35(2), 99–115. <https://doi.org/10.1002/j.1839-4655.2000.tb01088.x>
- Cunneen, C., & Tauri, J. (2016). *Indigenous criminology*. Policy Press.
- Danziger, S., Levav, J., & Avniam-Pesso, L. (2011). Extraneous factors in judicial decisions. *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, 108(17), 6889–6892.
- Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOHC.
- Delgado, R., & Stefancic, J. (2017). *Critical race theory*. New York University Press.
- Emerson, D., & Hopper, E. (2011). *Overcoming trauma through yoga*. North Atlantic Books.
- Figley, C. (1985). *Trauma and its wake: The study and treatment of post-traumatic stress disorder*. Brunner/Mazel.
- Foucault, M. (1980). *Power/knowledge: Selected interviews and other writings 1972–1977* (C. Gordon Ed.). Harvester Wheatsheaf.

Introduction

- Aliverti, A. , Carvalho, H. , Chamberlen, A. , & Sozzo, M. (2021). Decolonizing the criminal question. *Punishment & Society*, 23(3), 297–316.
- Anthony, T. , Sentence, G. , & Behrendt, L. (2021). 'We're not being treated like mothers': Listening to the stories of First Nations mothers in prison. *Laws*, 10(3), 74.
- Australian Institute of Health and Welfare . (2021). *Child protection Australia 2019–20* (Vol. 78).
- Atkinson, J. (1990). Violence in Aboriginal Australia: Colonisation and gender. *Aboriginal and Islander Health Worker Journal*, 14(1) (part 1) and (3) (part 2), 5–21.
- Atkinson, J. (2002). *Trauma trails, recreating song lines: The transgenerational effects of trauma in Indigenous Australia*. Spinifex Press.
- Atkinson, C. (2008). *The violence continuum: Australian Aboriginal male violence and generational post-traumatic stress* [Unpublished doctoral dissertation]. Charles Darwin University.
- Atkinson, J. , Nelson, J. , & Atkinson, C. (2010). Trauma, transgenerational transfer and effects on community wellbeing. *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice*, 135–144.
- Bedford, N. (2019). Storytelling in our legal system: Healing for the stolen generations. *Australian Feminist Law Journal*, 45(2), 321–331.
- Behrendt, Larissa . (2019). Stories and words, advocacy and social justice: Finding voice for Aboriginal women in Australia. *Australian Feminist Law Journal*, 45(2), 191–205.
- Blackstock, C. , Bamblett, M. , & Black, C. (2020). Indigenous ontology, international law and the application of the Convention to the over-representation of Indigenous children in out of home care in Canada and Australia. *Child Abuse and Neglect*, 110(1).
<https://doi.org/10.1016/j.chiabu.2020.104587>
- Booth, T. (2012). 'Cooling out' victims of crime: Managing victim participation in the sentencing process in a superior sentencing court. *Australian and New Zealand Journal of Criminology*, 45(2), 214–230.
- Braun, V. , & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.
- Braun, V. , & Clarke, V. (2019). Reflecting on reflexive thematic analysis. *Qualitative Research in Sport, Exercise and Health*, 11(4), 589–597. doi: 10.1080/2159676X.2019.1628806
- Burton, F. , & Carlen, P. (1979). *Official discourse: On discourse analysis, government publications, ideology and the state*. Routledge.
- Cameron, S. (1998). *Aboriginal experiences of psychological trauma: Personal, intergenerational and transgenerational* [Unpublished master's thesis]. Victoria University.
- Carrington, K. (1993). *Offending girls: Sex, youth and justice*. Allen and Unwin.
- Carrington, K. , & Pereira, M. (2009). *Offending youth: Sex, crime and justice*. Federation Press.
- Comas-Díaz, Hall G. , & Neville, H. (2019). Racial trauma: Theory, research, and healing: Introduction to the special issue. *American Psychologist*, 74(1), 1–5.
- Cook, A. , Spinazzola, J. , Ford, J. , Lanktree, C. , Blaustein, M. , Cloitre, M. , & Van der Kolk, B. (2005). Complex trauma. *Psychiatric Annals*, 35(5), 390–398.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1(8), 139–167.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299.
- Cunneen, C. (2001). *Conflict, politics and crime: Aboriginal communities and the police*. Routledge.
- Cunneen, C. , & Libesman, T. (2000). Postcolonial trauma: The contemporary removal of Indigenous children and young people from their families in Australia. *Australian Journal of Social Issues*, 35(2), 99–115. <https://doi.org/10.1002/j.1839-4655.2000.tb01088.x>
- Cunneen, C. , & Tauri, J. (2016). *Indigenous criminology*. Policy Press.
- Danziger, S. , Levav, J. , & Avniam-Pesso, L. (2011). Extraneous factors in judicial decisions. *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, 108(17), 6889–6892.
- Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOHC.

Delgado, R. , & Stefancic, J. (2017). *Critical race theory*. New York University Press.

Emerson, D. , & Hopper, E. (2011). *Overcoming trauma through yoga*. North Atlantic Books.

Figley, C. (1985). *Trauma and its wake: The study and treatment of post-traumatic stress disorder*. Brunner/Mazel.

Foucault, M. (1980). *Power/knowledge: Selected interviews and other writings 1972–1977* (C. Gordon Ed.). Harvester Wheatsheaf.

Garapon, A. (1997). *Bien Juger: Essai sur le Rituel Judiciaire*. Editions Odile Jacob.

Giddens, A. (1987) *The nation state and violence*. Polity Press.

Hannah-Moffat, K. , & Maurutto, P. (2012). Shifting and targeting forms of penal governance: Bail, punishment and specialised courts. *Theoretical Criminology*, 16(2), 201–219.

Harris, M. , & Fallot, R. (2001). Envisioning a trauma-informed service system: A vital paradigm shift. *New Direction for Mental Health Services*, 89, 3–22.

Human Rights and Equal Opportunity Commission . (1997). *Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*. Commonwealth of Australia.

Marchetti, E. (2008). Intersectional race and gender analyses: Why legal processes just don't get it. *Social and Legal Studies*, 17(2), 155–174.

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

Milroy, H. (2005). Preface. In S. R. Zubrick , S. R. Silburn , D. M. Lawrence et al., *The Western Australian Aboriginal Child Health Survey: The social and emotional wellbeing of Aboriginal children and young people* (pp. xiii–xxvii). Curtin University of Technology and Telethon Institute for Child Health Research.

O'Shane, P. (1993). Assimilation or acculturation problems of Aboriginal families. *Australian and New Zealand Journal of Family Therapy*, 14(4), 196–198.

Paik, L. (2009). Maybe he's depressed: Mental illness as a mitigating factor for drug offender accountability. *Law and Social Inquiry*, 34(3), 569–602.

Paik, L. (2017). Critical perspectives on intersectionality and criminology: Introduction. *Theoretical Criminology*, 21(1), 4–10.

Parmar, A. (2017). Intersectionality, British criminology and race: Are we there yet? *Theoretical Criminology*, 21(1), 35–45. <https://doi.org/10.1177/1362480616677496>

Pihama, L. , Smith, L. T. , Evans-Campbell, T. , Kohu-Morgan, H. , Cameron, N. , Mataki, T. , Te Nana, R., Skipper, H. , & Southey, K. (2017). Investigating Māori approaches to trauma informed care. *Journal of Indigenous Wellbeing*, 2(3), 18–31.

Porter, A. (2019). Aboriginal sovereignty, 'crime' and criminology. *Current Issues in Criminal Justice*, 31(1), 122–142.

Ryan, J. P. , & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27(3), 227–249. <http://dx.doi.org/10.1016/j.childyouth.2004.05.007>

Scruton, P. (2007). Chapter 1: Challenging academic orthodoxy, recognising and proclaiming 'values' in critical social research. In *Power, conflict and criminalisation* (pp. 1–18). Routledge.

Scruton, P. , & Chadwick, K. (1991). The theoretical and political priorities of critical criminology. In K. Stenson , & D. Cowell (Eds.) *The politics of crime control* (pp. 161–185). SAGE.

Shaw, J. (2016). Policy, practice and perceptions: Exploring the criminalisation of children's home residents in England. *Youth Justice*, 16(2), 147–161. <https://doi.org/10.1177/1473225415617858>

Staines, J. (2016). *Risk, adverse influence and criminalisation: Understanding the over-representation of looked after children in the youth justice system*. Prison Reform Trust.

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. *Youth Justice*, 17(1), 57–72. <https://doi.org/10.1177/1473225416669145>

Tait, D. (2001). Popular sovereignty and the justice process: Towards a comparative methodology for observing courtroom rituals. *Contemporary Justice Review*, 4(2), 201–218.

Taylor, C. (2006). *Young people in care and criminal behaviour*. Jessica Kingsley Publishers.

Wirihana, R. , & Smith, C. (2014). Historical trauma, healing and well-being in Māori communities. *MAI Journal*, 3(3), 198–210.

Yuval Davis, N. (2006). Intersectionality and feminist politics. *European Journal of Women's Studies*, 13(3), 193–209.

Historical and contemporary contexts of out-of-home care

Aborigines Protection Act 1909 (NSW) .

http://www.austlii.edu.au/au/legis/nsw/num_act/apa1909n25262.pdf

Aborigines Protection Amending Act 1915 (NSW) .

http://www.austlii.edu.au/au/legis/nsw/num_act/apaa1915n2321.pdf

Ainsworth, M. D. S. , Blehar, M. C. , Waters, E. , & Wall, S. N. (2015). *Patterns of attachment: A psychological study of the strange situation*. Psychology Press.

Australian Institute of Aboriginal and Torres Strait Islander Studies [AIATSIS] . (2022, 27 January). *The stolen generations*. <https://aiatsis.gov.au/explore/stolen-generations>

Australian Institute of Health and Welfare [AIHW] . (2020). *Young people in child protection and under youth justice supervision 2018–19*.

Australian Institute of Health and Welfare [AIHW] . (2021). *Child Protection Australia 2019–2020* (Vol. 78).

Australian Law Reform Commission . (2017). *Pathways to justice: An inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*.

Baidawi, S. , & Piquero, A. R. (2021). Neurodisability among children at the nexus of the child welfare and youth justice system. *Journal of Youth and Adolescence*, 50(4), 803–819.

<https://doi.org/10.1007/s10964-020-01234-w>

Bedford, N. (2019). *Storytelling in our legal system: Healing for the stolen generations*.

Australian Feminist Law Journal, 45(2), 321–331.

Bowlby, J. (2005). *A secure base: Clinical applications of attachment theory* (Vol. 393). Taylor & Francis.

Buti, A. (2004). *The removal of indigenous children from their families: US and Australia compared*. *University of Western Sydney Law Review*, 8, 125.

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

Carrington, K. (1993). *Offending girls: Sex, youth and justice*. Allen and Unwin.

Carrington, K. , & Pereira, M. (2009). *Offending youth: Sex, crime and justice*. Federation Press.

Cesaroni, C. , Grol, C. , & Fredericks K. (2018). Overrepresentation of Indigenous youth in Canada's criminal justice system: Perspectives of Indigenous young people. *Australian & New Zealand Journal of Criminology*. 52(1), 111–128. <https://doi.org/10.1177/0004865818778746>

Children (Care and Protection) Act 1987 (NSW) .

<https://legislation.nsw.gov.au/view/whole/html/inforce/2001-07-02/act-1987-054>

Children (Criminal Proceedings) Act 1987 .

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1987-055>

Corrado, R. R. , Kuehn, S. , & Margaritescu, I. (2014). Policy issues regarding the overrepresentation of incarcerated aboriginal young offenders in a Canadian context. *Youth Justice*, 14(1), 40–62. <https://doi.org/10.1177/1473225413520361>

Courtney, M. E. , & Dworsky, A. (2006). Early outcomes for young adults transitioning from out-of-home care in the USA. *Child & Family Social Work*, 11(3), 209–219.

<https://doi.org/10.1111/j.1365-2206.2006.00433.x>

Courtney, M. E. , Piliavin, I. , Grogan-Kaylor, A. , & Nesmith, A. (2001). *Foster youth transitions to adulthood: A longitudinal view of youth leaving care*. *Child Welfare*, 80(6), 685–717.

Cunneen, C. , & McDonald, D (1997). *Keeping Aboriginal and Torres Strait Islander people out of custody, a evaluation of the implementation of the recommendations of the royal commission into aboriginal deaths in custody*, ATSIC, Canberra.

Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOHC.

Dortins, E. (2018). *The lives of stories*. Canberra: ANU Press.

Evans, J. , & Fluence, T. (2013). *Securing the settler polity: Martial law and the aboriginal peoples of Van Diemen's Land*. *Journal of Australian Colonial History*, 15, 1–22.

Felitti, V. J. , Anda, R. F. , Nordenberg, D. , Williamson, D. F. , Spitz, A. M. , Edwards, V. et al. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The adverse childhood experiences (ACE) study. *American Journal of Preventive Medicine*, 14(4), 245–258. [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8)

Fernandez, E. (2019). *Working towards better education for children in care: Longitudinal analysis of the educational outcomes of a cohort of children in care in Australia*. *Oxford Review of Education*, 45(4), 481–501.

Fogarty, W. , Lovell, M. , Langenberg, J. , & Heron, M-J. (2018). Deficit discourse and strengths-based approaches: Changing the narrative of Aboriginal and Torres Strait Islander health and wellbeing. The Lowitja Institute.

Gapps, S. (2021). Gudyarra: The first Wiradyuri war of resistance—The Bathurst War, 1822–1824. New South Publishing.

Geia, L. , Hayes, B. , & Usher, K. (2011). Editorial: A strengths based approach to Australian Aboriginal childrearing practices is the answer to better outcomes in Aboriginal family and child health. *Collegian*, 18(3), 99–100.

Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76–93. <https://doi.org/10.1177/0004865818778739>.

Goodall, H. (1990). 'Saving the children': Gender and the colonisation of aboriginal children in NSW, 1788 to 1990. *Aboriginal Law Bulletin*, 2(44), 6–9.

Grassby, A. J. , & Hill, M. (1988). Six Australian battlefields: The black resistance to invasion and the white struggle against colonial oppression (pp. 160–161). Angus & Robertson Publishers.

Gypen, L. , Vanderfaeillie, J. , De Maeyer, S. , Belenger, L. , & Van Holen, F. (2017). Outcomes of children who grew up in foster care: Systematic review. *Children and Youth Services Review*, 76, 74–83. <https://doi.org/10.1016/j.childyouth.2017.02.035>

Hirschi, T. (1969). *Causes of delinquency*. University of California Press.

Howard League . (2017). Ending the criminalisation of children in residential care. Howard League.

Human Rights and Equal Opportunity Commission [HREOC] . (1997). *Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families*. Commonwealth of Australia.

Jacobs, M. (2009). *White mother to a dark race: Settler colonialism, maternalism, and the removal of children in the American West and Australia 1880–1940*. University of Nebraska Press.

Johnson, R. , Browne, K. , & Hamilton-Giachritsis, C. (2006). Young children in care at risk of institutional harm. *Trauma, Violence & Abuse*, 7(1), 34–60. <https://doi.org/10.1177/1524838005283696>

Kenny, D. T. , Nelson, P. K. , Schreiner, I. , Lennings, C. J. , & Butler, T. (2007). *Young offenders on community orders: Health, welfare and criminogenic needs*. Sydney University Press.

Kociumbas, J. (1997). *Australian childhood: A history*. Allen & Unwin.

Kostal, A. (2005). *Jurisprudence of power: Victorian empire and the rule of law*. Oxford: Oxford University Press.

Laming, H. (2016). *In care, out of trouble: How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system*. Prison Reform Trust.

Lonne, B. , Flemington, T. , Lock, M. , Hartz, D. , Ramanathan, S. , & Fraser, J. (2021). The power of authenticity and cultural safety at the intersection of healthcare and child protection. *International Journal on Child Maltreatment: Research, Policy and Practice*, 3(4), 393–408. <https://doi.org/10.1007/s42448-020-00053-7>

Luke, G. , & Cunneen, C. (1995). *Aboriginal over-representation and discretionary decisions in the NSW juvenile justice system*. Juvenile Justice Advisory Council.

Malvaso, C. G. , & Delfabbro, P. (2015). Offending behaviour among young people with complex needs in the Australian out-of-home care system. *Journal of Child and Family Studies*, 24(12), 3561–3569. <https://doi.org/10.1007/s10826-015-0157-z>

Malvaso, C. G. , Delfabbro, P. H. , Day, A. , & Nobes, G. (2018). The maltreatment–violence link: Exploring the role of maltreatment experiences and other individual and social risk factors among young people who offend. *Journal of Criminal Justice*, 55, 35–45. <https://doi.org/10.1016/j.jcrimjus.2018.01.006>

Mann, T. (2017) *Australian Legal Dictionary*. Oxford: Oxford University Press.

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

McFarlane, K. (2017). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian & New Zealand Journal of*

Criminology, 51(3), 412–433. <https://doi.org/10.1177/0004865817723954>

McGrath, A. (2016). Intersections of Indigenous status, sex and age in sentencing decisions in the New South Wales Children's Court. *Australian & New Zealand Journal of Criminology*, 49(1), 90–112. <https://doi.org/10.1177/0004865814551614>

Moore, C. (2017). *Crown and Sword*. Canberra.

Neglected Children and Juvenile Offenders Act 1905 (NSW) .
http://www5.austlii.edu.au/au/legis/nsw/num_act/ncajoa1905n16368.pdf

O'Higgins, A. , Sebba, J. , & Gardner, F. (2017). What are the factors associated with educational achievement for children in kinship or foster care: A systematic review. *Children and Youth Services Review*, 79, 198–220. <https://doi.org/10.1016/j.childyouth.2017.06.004>

Pihama, L. , Smith, L. T. , Evans-Campbell, T. , Kohu-Morgan, H. , Cameron, N. , Mataki, T. et al. (2017). Investigating Māori approaches to trauma informed care. *Journal of Indigenous Wellbeing*, 2(3), 18–31.

Platt, A. M. (1977). *The child savers: The invention of delinquency*. University of Chicago Press.

Priest, N. , Mackean, T. , Davis, E. , Briggs, L. , & Waters, E. (2012). Aboriginal perspectives of child health and wellbeing in an urban setting: Developing a conceptual framework. *Health Sociology Review*, 21(2), 180–195.

Read, P. (1981). *The stolen generations: The removal of Aboriginal children in New South Wales 1883 to 1969*. New South Wales Department of Aboriginal Affairs.

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

Roberts, D. (1995). Bells falls massacre and Bathurst's history of violence: Local tradition and Australian historiography. *Australian Historical Studies*, 26(105), 615–633.

Rutter, M. (1998). Developmental catch-up, and deficit, following adoption after severe global early privation. *Journal of Child Psychology and Psychiatry*, 39(4), 465–476.

Rutter, M. , Giller, H. , & Hagell, A. (1998). *Antisocial behavior by young people*. Cambridge University Press.

Rutter, M. , & Sonuga-Barke, E. J. (2010). Conclusions: Overview of findings from the ERA study, inferences, and research implications. *Monographs of the Society for Research in Child Development*, 75(1), 212–229.

Ryan, J. P. , & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27(3), 227–249. <http://dx.doi.org/10.1016/j.childyouth.2004.05.007>

Salisbury, T. , & Gresser, P. J. (1971). *Windradyn of the Wiradjuri: Martial law at Bathurst in 1824* (No. 4). Wentworth Books.

Sampson, R. J. , & Laub, J. H. (1993). *Crime in the making: Pathways and turning points through life*. Harvard University Press.

Sampson, R. J. , & Laub, J. H. (2003). Life-course desisters? Trajectories of crime among delinquent boys followed to age 70. *Criminology*, 41(3), 555–592.

Shaw, J. , & Greenhow, S. (2021). *The criminalisation and exploitation of children in care: Multi-agency perspectives*. Routledge.

Smith, L. T. (1999). *Decolonising methodologies*. Zed Books.

Staines, J. (2016). *Risk, adverse influence and criminalisation: Understanding the over-representation of looked after children in the youth justice system*. Prison Reform Trust.

Stanley, E. (2016). *The road to hell: State violence against children in postwar New Zealand*. Auckland University Press.

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. *Youth Justice*, 17(1), 57–72. <https://doi.org/10.1177/1473225416669145>

Tarren-Sweeney, M. , & Goemans, A. (2019). A narrative review of stability and change in the mental health of children who grow up in family-based out-of-home care. *Developmental Child Welfare*, 1(3), 273–294.

Taylor, C. (2006). *Young people in care and criminal behaviour*. Jessica Kingsley Publishers.

Taylor, C. (2016). *Review of the youth justice system in England and Wales*. Ministry of Justice.

van Krieken, R. (1991). *Children and the State: Social control and the formation of Australian child welfare*. Sydney: Allen and Unwin.

Vinnerljung, B. , & Sallnäs, M. (2008). Into adulthood: A follow-up study of 718 young people who were placed in out-of-home care during their teens. *Child & Family Social Work*, 13(2),

144–155. <https://doi.org/10.1111/j.1365-2206.2007.00527.x>

Warner, B. , Spivak, B. , Ashford, L. , Fix, R. , Ogloff, J. , & Shepherd, S. (2021). The impact of offender–victim cultural backgrounds on the likelihood of receiving diversion. *Criminal Justice Policy Review*. <https://doi.org/10.1177/08874034211046313>

Weatherburn, D. , Cush, R. , & Saunders, P. (2007). Screening juvenile offenders for further assessment and intervention. *Crime and Justice Bulletin*, 109. Sydney: NSW Bureau of Crime Statistics and Research.

Wood, J. (2008). Report of the Special Commission of Inquiry into child protection services in NSW (Vols. 1 and 2). Department of Premier and Cabinet (NSW).

Woodhouse, S. , Miah, A. , & Rutter, M. (2018). A new look at the supposed risks of early institutional rearing. *Psychological Medicine*, 48(1), 1–10.

Wootten, H. (1989). Report of the inquiry into the death of Malcolm Smith, Royal Commission into aboriginal deaths in custody. AGPS, Sydney.

Care-experience, trauma, abuse and the criminal justice system

American Psychiatric Publishing . (2013). *Diagnostic and statistical manual of mental disorders: DSM-5* (5th ed.).

American Psychological Association . (2019). *APA dictionary of psychology*.

Anda, R. F. , Felitti, V. J. , Bremner, J. D. , Walker, J. D. , Whitfield, C. , Perry, B. D. et al. (2006). The enduring effects of abuse and related adverse experiences in childhood. *European Archives of Psychiatry and Clinical Neuroscience*, 256(3), 174–186. <https://doi.org/10.1007/s00406-005-0624-4>

Atkinson, J. , Nelson, J. , & Atkinson, C. (2010). Trauma, transgenerational transfer and effects on community wellbeing. In P. Dudgeon , M. Wright , Y. Paradies , D. Garvey , & I. Walker (Eds.) *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice* (pp. 135–144). Australian Institute of Health and Welfare.

Australian Institute of Health and Welfare . (2016). *Youth detention population in Australia 2016*.

Baglivio, M. T. , Epps, N. , Swartz, K. , Huq, M. S. , Sheer, A. , & Hardt, N. S. (2014). The prevalence of adverse childhood experiences (ACE) in the lives of juvenile offenders. *The Journal for Juvenile Justice*, 3(2), 1.

Baglivio, M. T. , Wolff, K. T. , Piquero, A. R. , & Epps, N. (2015). The relationship between adverse childhood experiences (ACE) and juvenile offending trajectories in a juvenile offender sample. *Journal of Criminal Justice*, 43(3), 229–241. <https://doi.org/10.1016/j.jcrimjus.2015.04.012>

Blagg, H. , Tulich, T. , & May, S. (2019). Aboriginal youth with foetal alcohol spectrum disorder and enmeshment in the Australian justice system: Can an intercultural form of restorative justice make a difference? *Contemporary Justice Review*, 22(2), 105–121.

Braga, T. , Gonçalves, L. C. , Basto-Pereira, M. , & Maia, Â. (2016). Unraveling the link between maltreatment and juvenile antisocial behavior: A meta-analysis of prospective longitudinal studies. *Aggression and Violent Behavior*, 33, 37–50. <https://doi.org/10.1016/j.avb.2017.01.006>

Comas-Díaz, L. , Hall, G. N. , & Neville, H. A. (2019). Racial trauma: Theory, research, and healing – Introduction to the special issue. *American Psychologist*, 74(1), 1.

Cook, A. , Spinazzola, J. , Ford, J. , Lanktree, C. , Blaustein, M. , Cloitre, M. et al. (2005). Complex trauma in children and adolescents. *Psychiatric Annals*, 35(5), 390–398.

Copeland, W. E. , Keeler, G. , Angold, A. , & Costello, E. J. (2007). Traumatic events and posttraumatic stress in childhood. *Archives of General Psychiatry*, 64(5), 577–584. <https://doi.org/10.1001/archpsyc.64.5.577>

Craig, J. M. , Piquero, A. R. , Farrington, D. P. , & Ttofi, M. M. (2017). A little early risk goes a long bad way: Adverse childhood experiences and life-course offending in the Cambridge study. *Journal of Criminal Justice*, 53, 34–45. <https://doi.org/10.1016/j.jcrimjus.2017.09.005>

Crosby, S. D. , Day, A. , Baroni, B. A. , & Somers, C. (2019). Examining trauma- informed teaching and the trauma symptomatology of court-involved girls. *The Urban Review*, 51(4), 582–598. <https://doi.org/10.1007/s11256-019-00533-2>

Daly, K. (1992). Women's pathways to felony court: Feminist theories of law breaking and problems of representation. *Southern California Review of Law and Women's Studies*. 2(1),

- Davis, M. (2019). Family is Culture: Review report. Independent Review of Aboriginal Children in OOHC.
- Douglas, H. (2010). The sentencing response to defendants with foetal alcohol spectrum disorder. *Criminal Law Journal*, 34(4), 221–239.
- Dudgeon, P. , Calma, T. , & Holland, C. (2017). The context and causes of the suicide of Indigenous people in Australia. *Journal of Indigenous Wellbeing*, 2(2), 5–15.
- Felitti, V. J. , Anda, R. F. , Nordenberg, D. , Williamson, D. F. , Spitz, A. M. , Edwards, V. , Koss, M. , & Marks, J. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults: The adverse childhood experiences (ACE) study. *American Journal of Preventive Medicine*, 14(4), 245–258. [https://doi.org/10.1016/S0749-3797\(98\)00017-8](https://doi.org/10.1016/S0749-3797(98)00017-8)
- Fernandez, E. (2019). Working towards better education for children in care: Longitudinal analysis of the educational outcomes of a cohort of children in care in Australia. *Oxford Review of Education*, 45(4), 481–501.
- Fitzpatrick, C. , Hunter, K. , Staines, J. , & Shaw, J. (2019). Exploring the pathways between care and custody for girls and women: A literature review. Nuffield Foundation.
- Friedman, M. J. , Resick, P. A. , Bryant, R. A. , & Brewin, C. R. (2011). Considering PTSD for DSM-5. *Depression and Anxiety*, 28(9), 750–769.
- Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76–93. <https://doi.org/10.1177/0004865818778739>
- Gone, J. P. , Hartmann, W. E. , Pomerville, A. , Wendt, D. C. , Klem, S. H. , & Burrage, R. L. (2019). The impact of historical trauma on health outcomes for indigenous populations in the USA and Canada: A systematic review. *American Psychologist*, 74(1), 20–35. <https://doi.org/10.1037/amp0000338>
- Hampton, R. , & Toombs, M. (2013). Culture, identity and Indigenous Australian people. In R. Hampton , & M. Toombs (Eds.) *Indigenous Australians and health: The wombat in the room* (pp. 3–23). South Melbourne: Oxford University Press.
- Hannah-Moffat, K. (2009). Gridlock or mutability: Reconsidering gender and risk assessment. *Criminology & Public Policy*, 8, 209.
- Harris, M. , & Fallot, R. D. (2001a). Envisioning a trauma-informed service system: A vital paradigm shift. *New Directions for Mental Health Services*, 89, 3–22. <https://doi.org/10.1002/ym.23320018903>
- Harris, M. , & Fallot, R. D. (2001b). Using trauma theory to design service systems. Jossey-Bass.
- Holtfreter, K. , & Cupp, R. (2007). Gender and risk assessment. *Journal of Contemporary Criminal Justice*, 23(4), 363–382. <https://doi.org/10.1177/1043986207309436>
- Horwitz, A. V. (2018). PTSD: A short history. Johns Hopkins University Press.
- Ireland, T. O. , Smith, C. , & Thornberry, T. P. (2002). Developmental issues in the impact of child maltreatment on later delinquency and drug use. *Criminology*, 40(2), 359–400. <https://doi.org/10.1111/j.1745-9125.2002.tb00960.x>
- Kinniburgh, K. J. , Blaustein, M. , Spinazzola, J. , & Van der Kolk, B. A. (2005). Attachment, self-regulation, and competency. *Psychiatric Annals*, 35(5), 424–430.
- Legislative Assembly, Parliament of Western Australia . (2016). Learnings from the message stick. The report of the Inquiry into Aboriginal Youth Suicide in Remote Areas, Legislative Assembly. Committees. Education and Health Standing Committee [Report 11]. Parliament of Western Australia.
- Malvaso, C. G. , Cale, J. , Whitten, T. , Day, A. , Singh, S. , Hackett, L. , Delfabbro, P. H. , & Ross, S. (2021). Associations between adverse childhood experiences and trauma among young people who offend: A systematic literature review. *Trauma, Violence, & Abuse*, 0(0). <https://doi.org/10.1177/15248380211013132>
- Malvaso, C. G. , Delfabbro, P. H. , & Day, A. (2019). Adverse childhood experiences in a South Australian sample of young people in detention. *Australian & New Zealand Journal of Criminology*, 52(3), 411–431. <https://doi.org/10.1177/0004865818810069>
- McAra, L. , & McVie, S. (2010). Youth crime and justice: Key messages from the Edinburgh study of youth transitions and Crime. *Criminology and Criminal Justice*, 10(2), 179–209. <https://doi.org/10.1177/1748895809360971>

McGrath, A. , Gerard, A. , & Colvin, E. (2020). Care-experienced children and the criminal justice system. *Trends and Issues in Crime and Criminal Justice* No. 600. Australian Institute of Criminology.

National Children's Commissioner . (2014). *Children's rights report 2014*. Australian Human Rights Commission.

Pihama, L. , Smith, L. T. , Evans-Campbell, T. , Kohu-Morgan, H. , Cameron, N. , Mataki, T. , Te Nana , R. , Skipper, H. , & Southey, K. (2017). Investigating Māori approaches to trauma informed care. *Journal of Indigenous Wellbeing*, 2(3), 18–31.

Purdie, N. , Dudgeon, P. , & Walker, R. (2010). *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice*. Commonwealth of Australia.

Salceda, M. , Vidu, A. , Aubert, A. , & Roca, E. (2020). Dialogic feminist gatherings: Impact of the preventive socialization of gender-based violence on adolescent girls in out-of-home care. *Social Sciences*, 9(8), 138.

Smith, C. , & Thornberry, T. P. (1995). The relationship between childhood maltreatment and adolescent involvement in delinquency. *Criminology*, 33(4), 451–481.
<https://doi.org/10.1111/j.1745-9125.1995.tb01186.x>

Taylor, C. (2006). *Young people in care and criminal behaviour*. Jessica Kingsley Publishers.

Widom, C. S. (1989). Child abuse, neglect, and violent criminal behavior. *Criminology*, 27(2), 251. <https://doi.org/10.1111/j.1745-9125.1989.tb01032.x>

Wirihana, R. , & Smith, C. (2019). Historical trauma, healing and well-being in Māori communities. *MAI Journal*, 3(3), 197–210.

Yehuda, R. , Daskalakis, N. P. , Bierer, L. M. , Bader, H. N. , Klengel, T. , Holsboer, F. , Holsboer, F. , & Binder, E. (2016). Holocaust exposure induced intergenerational effects on *FKBP5* methylation. *Biological Psychiatry*, 80(5), 372–380.
<https://doi.org/10.1016/j.biopsych.2015.08.005>

Yellow Horse Brave Heart, M. (2003). The historical trauma response among natives and its relationship with substance abuse: A Lakota illustration. *Journal of Psychoactive Drugs*, 35(1), 7–13. <https://doi.org/10.1080/02791072.2003.10399988>

The residential care environment

Audit Office of New South Wales . (2019). *Contracting non-government organisations*. NSW Auditor-General.

Australian Institute of Health and Welfare . (2021). *Child protection Australia 2019–20* (Vol. 78).

Baidawi, S. , & Sheehan, R. (2019). 'Crossover kids': Offending by child protection-involved youth. *Trends and Issues in Crime and Criminal Justice*, 582, 1–23.

Ball, R. , & Baidawi, S. (2021). Aboriginal crossover children's characteristics, service needs and service responses: The views of Australian key stakeholders. *Children and Youth Services Review*, 129, 106176. <https://doi.org/10.1016/j.childyouth.2021.106176>

Bartels, L. , Bolitho, J. , & Richards, K. (2015). Indigenous young people and the NSW children's court: Magistrates' perceptions of the court's criminal jurisdiction. *Australian Indigenous Law Review*, 19(2), 34–44. <https://doi.org/10.3316/informit.574136187604513>

Blackstock, C. , Bamblett, M. , & Black, C. (2020). Indigenous ontology, international law and the application of the Convention to the over-representation of Indigenous children in out of home care in Canada and Australia. *Child Abuse & Neglect*, 110, 104587.
<https://doi.org/10.1016/j.chiabu.2020.104587>

Carey, M. (2019). Some ethical limitations of privatising and marketizing social care and social work provision in England for children and young people. *Ethics and Social Welfare*, 13(3), 272–287.

Children and Young Persons (Care and Protection) Act NSW . (1998).
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>

Children and Young Persons (Care and Protection) Regulation NSW . (2012).
<https://legislation.nsw.gov.au/view/html/inforce/current/sl-2012-0425>

Commission for Children and Young People . (2021). *Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care*.

Davis, M. (2019). Family is Culture: Review report. Independent Review of Aboriginal Children in OOH.

Day, A. (2017). Hearing the voice of looked after children: Challenging current assumptions and knowledge about pathways into offending. *Safer Communities*, 16(3), 122–133.

Death, J. , Moore, T. , McArthur, M. , Roche, S. , & Tilbury, C. (2021). Young people's perceptions of sexual assault in residential care: 'It does happen a lot'. *Journal of Child Sexual Abuse*, 30(1), 4–20. <https://doi.org/10.1080/10538712.2020.1715521>

Dunn, D. M. , Culhane, S. E. , & Taussig, H. N. (2010). Children's appraisals of their experiences in out-of-home care. *Children and Youth Services Review*, 32(10), 1324–1330. <https://doi.org/10.1016/j.childyouth.2010.05.001>

Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76–93. <https://doi.org/10.1177/0004865818778739>

Krakouer, J. , Wise, S. , & Connolly, M. (2018). 'We live and breathe through culture': Conceptualising cultural connection for Indigenous Australian children in out-of-home care. *Australian Social Work*, 71(3), 265–276. <https://doi.org/10.1080/0312407X.2018.1454485>

Laming, H. (2016). In care, out of trouble: How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system. Prison Reform Trust.

Lohoar, S. , Butera, N. , & Kennedy, E. (2014). Strengths of Australian aboriginal cultural practices in family life and child rearing. Child Family Community Australia.

McFarlane, K. (2018). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian & New Zealand Journal of Criminology*, 51(3), 412–433. <https://doi.org/10.1177/0004865817723954>

McFarlane, K. , Colvin, E. , McGrath, A. , & Gerard, A. (2019). 'Just another policy document?' Can a protocol end the criminalisation of kids in care? *Alternative Law Journal*, 44(1), 37–42. <https://doi.org/10.1177/1037969x18795498>

Mendes, P. , Saunders, B. , & Baidawi, S. (2019). The experiences of Indigenous young people transitioning from out-of-home care in Victoria, Australia. In V. Mann-Feder , & M. Goyette (Eds.) *Leaving care and the transition to adulthood: international contributions to theory, research, and practice* (pp. 149–171). Oxford University Press.

Mental Health (Forensic Provisions) Act NSW . (1990). <https://legislation.nsw.gov.au/view/html/repealed/current/act-1990-010>

Narey, M. (2016). Residential care in England: report of Sir Martin Narey's independent review of children's residential care. Department of Education.

New South Wales Legislative Council General Purpose Standing Committee . (2017). General Purpose Standing Committee No. 2. Report.

New South Wales Ombudsman . (2019). Joint protocol to reduce the contact of young people in residential out of home care with the criminal justice system. NSW Ombudsman.

Office of the Children's Guardian . (2015). Child safe standards.

Office of the Children's Guardian . (2020). Child safe standards.

Productivity Commission . (2022). Report on government services. Australian Government.

Raman, S. , Ruston, S. , Irwin, S. , Tran, P. , Hotton, P. , & Thorne, S. (2017). Taking culture seriously: Can we improve the developmental health and well-being of Australian Aboriginal children in out-of-home care? *Child: Care, Health and Development*, 43(6), 899–905. <https://doi.org/10.1111/cch.12488>

Ramsden, I. (2002). Cultural safety and nursing education in Aotearoa and Te Waipounamu (Doctoral dissertation, Victoria University of Wellington).

Queensland Family and Child Commission . (2016). When a child is missing: Remembering Tiahleigh – A report into Queensland's children missing from out-of-home care.

Shaw, J. (2016). Policy, practice and perceptions: Exploring the criminalisation of children's home residents in England. *Youth Justice*, 16(2), 147–161. <https://doi.org/10.1177/1473225415617858>

Shaw, J. , & Greenhow, S. (2020). Children in care: Exploitation, offending and the denial of victimhood in a prosecution-led culture of practice. *The British Journal of Social Work*, 50(5), 1551–1569. <https://doi.org/10.1093/bjsw/bcz137>

Shaw, J. , & Greenhow, S. (2021). The criminalisation and exploitation of children in care: Multi-agency perspectives. Routledge.

SNAICC . (2021). <https://www.snaicc.org.au/policy-and-research/child-safety-and-wellbeing/keeping-our-kids-safe/>

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. *Youth Justice*, 17(1), 57–72. <https://doi.org/10.1177/1473225416669145>

TAFE NSW . (2021). What qualification do I need? <https://www.tafensw.edu.au/article/-/blogs/what-qualification-do-i-need->

Taylor, C. (2006). *Young people in care and criminal behaviour*. Jessica Kingsley Publishers.

Tilbury, C. , Burton, J. , Sydenham, E. , Boss, R. , & Louw, T. (2013). *Aboriginal and Torres Strait Islander child placement principle: Aims and core elements*. Secretariat of National Aboriginal and Islander Child Care.

Tregeagle, S. , Moggach, L. , Trivedi, H. , & Ward, H. (2019). Previous life experiences and the vulnerability of children adopted from out-of-home care: The impact of Adverse Childhood Experiences and child welfare decision making. *Children and Youth Services Review*, 96, 55–63. <https://doi.org/10.1016/j.childyouth.2018.11.028>

Williams, R. (2008). Cultural safety; what does it mean for our work practice? *Australian and New Zealand Journal of Public Health*, 23(2), 213–214.

Wood, J. (2008). Report of the Special Commission of Inquiry into child protection services in NSW (Vols. 1 and 2). Department of Premier and Cabinet (NSW).

Policing children with care experience

Atkinson, J. , Nelson, J. , Brooks, R. , Atkinson, C. , & Ryan, K. (2014). Addressing individual and community transgenerational trauma. In P. Dudgeon , H. Milroy , & R. Walker (Eds.) *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice* (pp. 289–306). Commonwealth of Australia.

Australian Government . (2017). *Royal Commission into the detention and protection of children in the northern territory: Final report*. <https://www.royalcommission.gov.au/royal-commission-detention-and-protection-children-northern-territory>

Australian Law Reform Commission . (2018). *Pathways to justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*. ALRC Report 133, 2018.

Bail Act 2013 (NSW). <https://legislation.nsw.gov.au/view/html/inforce/current/act-2013-026>

Bateson, K. , McManus, M. , & Johnson, G. (2020). Understanding the use, and misuse, of adverse childhood experiences (ACEs) in trauma-informed policing. *The Police Journal*, 93(2), 131–145. <https://doi.org/10.1177/0032258X19841409>

Colvin, E. , Gerard, A. , & McGrath, A. (2020). Children in out-of-home care and the criminal justice system: A mixed-method study. *Australian Institute of Criminology*.

Colvin, E. , McFarlane, K. , Gerard, A. , & McGrath, A. (2018). ‘We don’t do measure and quotes’: How agency responses criminalise and endanger the safety of children missing in care in New South Wales, Australia. *The Howard Journal of Crime and Justice*, 57(2), 231–249.

Commission for Children and Young People, Victoria . (2021). *Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care*. State Government of Victoria.

Convention on the Rights of the Child. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

Cunneen, C. (2001). *Conflict, politics and crime: Aboriginal communities and the police*. Allen and Unwin.

Cunneen, C. (2006). Racism, discrimination and the over-representation of Indigenous people in the criminal justice system: Some conceptual and explanatory issues. *Current Issues in Criminal Justice*, 17(3), 329–346.

Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOHCC.

Deuchar, R. , Miller, J. , & Barrow, M. (2015). Breaking down barriers with the usual suspects: Findings from a research-informed intervention with police, young people and residents in the west of Scotland. *Youth Justice*, 15(1), 57–75. <https://doi.org/10.1177/1473225414530538>

Finnane, M. (1994). *Police and government: Histories of policing in Australia*. Oxford University Press.

Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian and New Zealand Journal of Criminology*, 52(1), 76–93 <http://journals.sagepub.com/doi/full/10.1177/0004865818778739>

Gillespie-Smith, K. , Brodie, Z. , Collins, K. , Deacon, K. , & Goodall, K. (2020). Moving towards trauma-informed policing: An exploration of police officers' attitudes and perceptions towards Adverse Childhood Experiences (ACEs). Scottish Institute for Policing Research.

Gillfeather-Spetere, S. (2019). From pursuit to progress: Critical reflections on concepts of young people and crime in Australia. *Current Issues in Criminal Justice*, 31(1), 111–121.

Greig, H. , McGrath, A. , & McFarlane, K. (2019). 'Taking the wheels off': Young people with cognitive impairment in out-of-home care. *Psychiatry, Psychology and Law*, 26(6), 920–937. <https://doi.org/10.1080/13218719.2019.1644249>

Howard League . (2017). Criminalisation of children in residential care should be 'a national concern'.

Human Rights and Equal Opportunity Commission . (1997). Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. Commonwealth of Australia.

Hunter, K. (2022). 'Out of place': The criminalisation of black and minority ethnic looked after children in England and Wales. *Prison Service Journal*, 258, 13–18.

Jay, A. (2014). Independent inquiry into child sexual exploitation in Rotherham 1997–2013. Rotherham Metropolitan Borough Council.

Johnston, E. (1991). Royal commission into aboriginal deaths in custody: National report, volume 1. Australian Government Publishing Service.

Ko, S. J. , Ford, J. D. , Kassam-Adams, N. , Berkowitz, S. J. , Wilson, C. , Wong, M. , Brymer, M. J. , & Layne, C. M. (2008). Creating trauma-informed systems: Child welfare, education, first responders, health care, juvenile justice. *Professional Psychology: Research and Practice*, 39(4), 396–404. <https://doi.org/10.1037/0735-7028.39.4.396>

Laming, H. (2016). In care, out of trouble: How the life chances of children in care can be transformed by protecting them from unnecessary involvement in the criminal justice system. Prison Reform Trust.

Luke, G. , & Cunneen, C. (1995). Aboriginal over-representation and discretionary decisions in the NSW juvenile justice system. Juvenile Justice Advisory Council of NSW.

McFarlane, K. (2021). Children and youth reported missing from out-of-home-care in Australia: A review of the literature and analysis of Australian police data. Report for Australian Federal Police.

Mendes, P. , Michell, D. , & Wilson, J. (2014). Young people transitioning from out-of-home care and access to higher education: A critical review of the literature. *Children Australia*, 39(4), 243–252. <https://doi.org/10.1017/cha.2014.25>

Moore, T. , McArthur, M. , Death, J. , Tilbury, C. , & Roche, S. (2017). Young people's views on safety and preventing abuse and harm in residential care: 'It's got to be better than home'. *Children and Youth Services Review*, 81, 212–219.

New South Wales Government & NSW Police Force . (2018). Aboriginal strategic direction 2018–2023. https://www.police.nsw.gov.au/safety_and_prevention/your_community/aboriginal_persons_and_communities/aboriginal_issues/aboriginal_strategic_direction

New South Wales Parliament . (2014). Family response to the murders in Bowraville. Legislative Council Standing Committee on Law and Justice.

Queensland Family and Child Commission . (2016). When a child is missing: Remembering Tiahleigh.

Richards, K. , Cross, C. , & Dwyer, A. (2019) Police perceptions of young people: A qualitative analysis. *Police Practice and Research*, 20(4), 360–375. <https://doi.org/10.1080/15614263.2018.1428899>

Shaw, J. , & Greenhow, S. (2021). Professional perceptions of the care-crime connection: Risk, marketisation and a failing system. *Criminology & Criminal Justice*, 21(4), 472–488. <https://doi.org/10.1177/1748895819877441>

Sturma, M. (1987). Policing the criminal frontier in mid-nineteenth-century Australia, Britain and America. In M. Finnane (Ed.) *Policing in Australia: Historical perspectives* (pp. 15–34). New South Wales University Press.

Tillack, K. , Raineri, T. , Cahill, A. , & McDowell, J. (2018). Youth justice report: Consultation with young people in out-of-home care about their experiences with police, courts and detention. CREATE Foundation.

Warner, B. , Spivak, B. , Ashford, L. , Fix, R. , Ogloff, J. , & Shepherd S. (2022). The impact of offender–victim cultural backgrounds on the likelihood of receiving diversion. *Criminal Justice Policy Review*, 33(3), 298–316. <https://doi.org/10.1177/08874034211046313>

Willis, M. (2011). Non-disclosure of violence in Australian Indigenous communities. *Trends and issues in crime and criminal justice*, 405(January 2011), 4–10. Australian Institute of Criminology.

Lawyers, cultural competence and advising children with care experience

Aboriginal Legal Service . (2021). Aboriginal legal service: Our history. <https://www.alsnswact.org.au/about>

American Bar Association . (2014). ABA policy on trauma-informed advocacy for children & youth. February 10. http://www.americanbar.org/content/dam/aba/administrative/child_law/ABA%20Policy%20on%20Trauma-Informed%20Advocacy.authcheckdam.pdf

Atkinson, J. , Nelson, J. , & Atkinson, C. (2010). Trauma, transgenerational transfer and effects on community wellbeing. In P. Dudgeon , M. Wright , Y. Paradies , D. Garvey , & I. Walker (Eds.) *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing principles and practice* (pp. 135–144). Australian Institute of Health and Welfare.

Australian Law Reform Commission . (2017). Incarceration rates of Aboriginal and Torres Strait Islander peoples.

Baidawi, S. , & Sheehan, R. (2019). 'Crossover kids': Offending by child protection–involved youth. *Trends and Issues in Crime and Criminal Justice* [Electronic Resource], 582, 1–23.

Baldry, E. , McCausland, R. , Dowse, L. , & McEntyre, E. (2015). A predictable and preventable path: Aboriginal people with mental and cognitive disabilities in the criminal justice system. University of New South Wales.

Bugmy Bar Book Committee . (2019). Out-of-home care. Bugmy bar book. nsw.gov.au/www/publicdefenders.nsw.gov.au/Pages/public_defenders_research/bar-book.aspx

Callander, N. , Cashmore, J. , Foley, S. , & Kennard, D. (2020). Care and protection: Working with children, a guide to best practice for legal representatives. NSW Legal Aid. *Working-with-Children-A-guide-to-best-practice-for-Childrens-Legal-Representatives.pdf* (nsw.gov.au)

Davis, M. (2019). Family is Culture: Review report. Independent Review of Aboriginal Children in OOHc.

Devlin, R. , Jairam, R. , Asghari, M. , & Eapen, V. (2022). Does assertive mental health care make a difference to children in out-of-home care? A pilot study. *Developmental Child Welfare*, 4(1), 73–93.

Fogden, B.C. , Thomas, S.D. , Daffern, M. , & Ogloff, J.R. (2016). Crime and victimisation in people with intellectual disability: A case linkage study. *BMC Psychiatry*, 16(1), 170.

Gainsford, A. , Gerard, A. , & Bailey, K. (2020). Yindyamarra in action: indigenous cultural competence as core business within legal education and law schools. In B. Hill , J. Harris & R. Bacchus (Eds.) *Teaching aboriginal cultural competence* (pp. 61–74). Springer.

Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76–93.

Gough, E. (2011). The drift from care to crime: A Legal Aid NSW issues paper. NSW Legal Aid Commission.

Green, J. (2020). The impacts of control, racism, and colonialism on contemporary Aboriginal–police relations. *NEW: Emerging Scholars in Australian Indigenous Studies*, 5(1), 1–10.

Greig, H. , McGrath, A. , & McFarlane, K. (2019). 'Taking the wheels off': Young people with cognitive impairment in out-of-home care. *Psychiatry, Psychology and Law*, 26(6), 920–937.

Hannah-Moffat, K. , & Maurutto, P. (2010). Re-contextualizing pre-sentence reports: Risk and race. *Punishment & Society*, 12(3), 262–286.

Howard League for Penal Reform . (2019). Representing looked-after children at the police station: A step-by-step guide for lawyers. <https://howardleague.org/publications/representing-looked-after-children-at-the-police-station/>

Human Rights and Equal Opportunity Commission . (1997). Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families.

James, C. (2020). Towards trauma-informed legal practice: A review. *Psychiatry, Psychology and Law*, 27(2), 275–299.

Johnston, E. F. (1991). Royal Commission into Aboriginal deaths in custody: National report, overview and recommendations. Australian Government Publishing Service.

Katz, S. (2019). Trauma informed practice: The future of child welfare. *Widener Commonwealth Law Review*, 28, 51–83.

Katz, S. , & Haldar, D. (2016). The pedagogy of trauma informed lawyering. *Clinical Law Review*, 22, 359–393.

New South Wales Legal Aid . (2019a). Children's legal service. <https://www.legalaid.nsw.gov.au/what-we-do/criminal-law/children-and-young-people>

New South Wales Legal Aid . (2019b). Aboriginal client services strategy 2019–23. <https://www.legalaid.nsw.gov.au/for-lawyers/news/news-for-lawyers/legal-aid-nsw-launches-aboriginal-client-services-strategy-20192023>

New South Wales Legislative Council Standing Committee on Law and Justice . (2014). The family response to the Murders in Bowraville.

Patten, E. , & Kraemer, T. (2013). Practice recommendations for trauma-informed legal services. July. http://www.americanbar.org/content/dam/aba/administrative/child_law/5C_Patten%20Kraemer_Practice%20Recommendations%20for%20Trauma%20Informed%20Legal%20Services.authcheckdam.pdf

Peña, C. (2019). Trauma abounds: A case for trauma informed lawyering. *UCLA Women's Law Journal*, 26, 7–16.

Ranzijn, R. O. B. , McConnochie, K. , Day, A. , Nolan, W. , & Wharton, M. (2008). Towards cultural competence: Australian Indigenous content in undergraduate psychology. *Australian Psychologist*, 43(2), 132–139.

Ryan, J. P. , & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27(3), 227–249.

Victorian Aboriginal Legal Service . (2022). Aboriginal community justice reports. Aboriginal Community Justice Reports – Victorian Aboriginal Legal Service (vals.org.au).

Williams, M. , & Ragg, M. (2019). Evaluation of legal aid NSW civil law service for aboriginal communities. University of Technology Sydney.

Care-experienced children in the NSW Children's Court

Anthony, T. , & Grant, E. (2016). Courthouse design principles to dignify spaces for Indigenous users: Preliminary observations. *International Journal for Court Administration*, 8(1), 43.

Borowski, A. (2013). Whither Australia's Children's Courts? Findings of the National Assessment of Australia's Children's Courts. *Australian & New Zealand Journal of Criminology*, 46(2), 268–288. <https://doi.org/10.1177/0004865812470382>

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

Colvin, E. , McFarlane, K. , Gerard, A. , & McGrath, A. (2018). 'We don't do measure and quotes': How agency responses criminalise and endanger the safety of children missing in care in New South Wales, Australia. *The Howard Journal of Crime and Justice*. <https://doi.org/10.1111/hojo.12253>

Davis, M. (2019). Family is Culture: Review report. Independent Review of Aboriginal Children in OOHC.

Deuchar, R. , & Sapouna, M. (2016). 'It's harder to go to court yourself because you don't really know what to expect': Reducing the negative effects of court exposure on young people – Findings from an Evaluation in Scotland. *Youth Justice*, 16(2), 130–146. <https://doi.org/10.1177/1473225415606815>

Fernandez, E. , Bolitho, J. , Hansen, P.A. , Hudson, M. , & Kendall, S. (2014). A study of the children's court of New South Wales. Part of a National Assessment of Australia's Children's Courts. Sydney: University of NSW.

Gotsis, T. , & Donnelly, H. (2008). Diverting mentally disordered offenders in the NSW Local Court. Judicial Commission of New South Wales.

Hall, M. (2021). Changes in New South Wales criminal justice since 2010. *Current Issues in Criminal Justice*, 33(2), 264–276. <https://doi.org/10.1080/10345329.2020.1813388>

Johnstone, P. (2016). Children's Court Update 2016. District Court Annual Conference 2016, Wollongong, 29 March 2016 .

Judicial Commission of NSW . (2013). Children's Court of NSW resource handbook.

Klauzner, I. , & Yeong, S. (2021). What factors influence police and court bail decisions? (Vol. 236). NSW Bureau of Crime Statistics and Research.

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

Marien, M. (2012). 'Cross-over kids': Childhood and adolescent abuse and neglect and juvenile offending. *Judicial Review*, 11(1), 97–126.

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

McFarlane, K. (2018). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian & New Zealand Journal of Criminology*, 51(3), 412–433. <https://doi.org/10.1177/0004865817723954>

McGrath, A. (2009). Offenders' perceptions of the sentencing process: A study of deterrence and stigmatisation in the NSW Children's Court. *Australian & New Zealand Journal of Criminology*, 42(1), 24–46. <https://doi.org/10.1375/acri.42.1.24>

McGrath, A. (2014). The subjective impact of contact with the criminal justice system: The role of gender and stigmatization. *Crime & Delinquency*, 60(6), 884–908. <https://doi.org/10.1177/0011128710389589>

McGrath, A. (2016). Intersections of Indigenous status, sex and age in sentencing decisions in the New South Wales Children's Court. *Australian & New Zealand Journal of Criminology*, 49(1), 90–112. <https://doi.org/10.1177/0004865814551614>

McGrath, A. , Gerard, A. , & Colvin, E. (2020). Care-experienced children and the criminal justice system. *Trends and Issues in Crime and Criminal Justice* No. 600. Canberra: Australian Institute of Criminology.

New South Wales Bureau of Crime Statistics and Research . (2021). New South Wales Criminal Court Statistics 2020.

Poynton, S. , & Menéndez, P. (2015). The impact of the NSW Intensive Supervision Program on recidivism. *NSW Crime and Justice Bulletins*, 186, 16.

Richards, K. , & Renshaw, L. (2013). Bail and remand for young people in Australia: A national research project. Australian Institute of Criminology.

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

Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory. <https://www.royalcommission.gov.au/sites/default/files/2019-01/rcnt-royal-commission-nt-final-report-volume-1.pdf>

Ryan, J. P. , Hernandez, P. M. , & Herz, D. (2007). Developmental trajectories of offending for male adolescents leaving foster care. *Social Work Research*, 31(2), 83–93.

Ryan, J. P. , & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27(3), 227–249. <http://dx.doi.org/10.1016/j.childyouth.2004.05.007>

Saunders, B. J. , Lansdell, G. , & Frederick, J. (2020). Understanding Children's Court processes and decisions: Perceptions of children and their families. *Youth Justice*, 20(3), 272–292. <https://doi.org/10.1177/1473225419890691>

Seymour, J. A. (1988). *Dealing with young offenders*. Law Book Company.

Sheehan, R. , & Borowski, A. (2013). *Australia's children's courts today and tomorrow*. Springer.

Stewart, F. (2019). 'Crossover Kids': Vulnerable children in the youth justice system. Report 1: Children who are known to child protection among sentenced and diverted children in the Victorian Children's Court. Sentencing Advisory Council.

Stubbs, J. (2010). Re-examining bail and remand for young people in NSW. *Australian & New Zealand Journal of Criminology*, 43(3), 485–505. <https://doi.org/10.1375/acri.43.3.485>

Tilbury, C. (2019). Obtaining expert evidence in child protection court proceedings. *Australian Social Work*, 72(4), 392–403.

Yeong, S. , & Moore, E. (2020). Circle sentencing, incarceration and recidivism. *NSW Crime and Justice Bulletins*, 226, 22.

Gender and criminalisation

Aboriginal Affairs . (2018). *Unfinished business, progress report to parliament*. NSW Government. http://cootagirls.mediajam.com.au/wp-content/uploads/2021/03/unfinishedbusiness_report_2018.pdf

Anthony, T. , Sentance, G. , & Bartels, L. (2020). Transcending colonial legacies: From criminal justice to Indigenous women's healing. In L. George , A. N. Norris , A. Deckert , & J. Tauri (Eds.) *Neo-colonial injustice and the mass imprisonment of indigenous women* (pp. 103–132). Palgrave Macmillan.

Anthony, T. , Sentance, G. , & Behrendt, L. (2021). 'We're not being treated like mothers': Listening to the stories of First Nations mothers in prison. *Laws*, 10(3), 74.

Australian Bureau of Statistics . (2021). *Corrective services*. <https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/sep-quarter-2021>

Australian Human Rights Commission . (2020). *Wiyi Yani U Thangani (Women's Voices): securing our rights, securing our future—report*.

Baldry, E. (2010). Women in transition: From prison to... *Current Issues in Criminal Justice*, 22(2), 253–267.

Bartels, L. (2012a). Painting the picture of Indigenous women in custody in Australia. *Queensland University of Technology Law and Justice Journal*, 12(2), 1–17.

Bartels, L. (2012b). Twenty years on: Indigenous deaths in custody and lessons from the frontline. In I. Bartkowiak-Thron & N. L. Asquith (Eds.) *Policing vulnerability* (pp. 181–197). The Federation Press.

Bartels, L. , Spiranovic, C. , Clare, J. , Bartels, L. , Clare, M. , & Clare, B. (2015). Aboriginal young people in the Children's Court of Western Australia: Findings from the National Assessment of Australian Children's Courts. *University of Western Australia Law Review*, 38(2), 86–116.

Bedford, N. (2019). Storytelling in our legal system: Healing for the stolen generations. *Australian Feminist Law Journal*, 45(2), 321–331.

Behrendt, L. (2019). Stories and words, advocacy and social justice: Finding voice for Aboriginal women in Australia. *Australian Feminist Law Journal*, 45(2), 191–205.

Bentley, K. (2021). Inquest into the death of Tiahleigh Alyssa-Rose Palmer. Coroners Court of QLD. https://www.courts.qld.gov.au/__data/assets/pdf_file/0008/687131/cif-palmer-ta-20210618.pdf

Berelowitz, S. , Firmin, C. , Edwards, G. , & Gulyurtlu, S. (2012). 'I thought I was the only one. The only one in the world': The Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups – Interim Report. Office of the Children's Commissioner.

Blagg, H. (2009). *Youth justice in Western Australia*. Report prepared for the Commissioner for Children and Young People WA.

Blagg, H. , Morgan, N. , Cunneen, C. , & Ferrante, A. (2005) *Systemic racism as a factor in the over-representation of Aboriginal people in the Victorian criminal justice system*. <https://tr.uow.edu.au/uow/file/64419d5f-d183-49c2-90d9-d81c8dc44f17/1/2005-blagg-1-210.pdf>

Boney, B. (2016). Faster response needed to help teenager who died of overdose in state care, inquest hears. ABC News. <https://www.abc.net.au/news/2016-09-12/teen-who-overdosed-in-sydney-needed-faster-response/7835890>

Carrington, K. (1993). *Offending girls: Sex, youth and justice*. Allen and Unwin.

Carrington, K. , & Pereira, M. (2009). *Offending youth: Sex, crime and justice*. Federation Press.

Chesney-Lind, M. (1999). Challenging girls' invisibility in juvenile court. *The Annals of the American Academy of Political and Social Science*, 564(1), 185–202.

Colvin, E. , McFarlane, K. , Gerard, A. , & McGrath, A. (2018). 'We don't do measure and quotes': How agency responses criminalise and endanger the safety of children missing in care in New South Wales, Australia. *The Howard Journal of Crime and Justice*, 57, 231–249. <https://doi.org/10.1111/hojo.12253>

Commission for Children and Young People . (2021). *Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care*.

CREATE Foundation . (2018). *Youth justice*. <https://create.org.au/wp-content/uploads/2021/07/CREATEs-Youth-Justice-Report-Young-Persons-Version-2018.pdf>

Crimes Act 1900 (NSW). <https://legislation.nsw.gov.au/view/html/inforce/current/act-1900-040>

Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOH.

Death, J. , Moore, T. , McArthur, M. , Roche, S. , & Tilbury, C. (2021). Young people's perceptions of sexual assault in residential care: 'It does happen a lot'. *Journal of Child Sexual Abuse*, 30(1), 4–20.

Delgado, R. , & Stefancic, J. (1993). *Critical race theory: An annotated bibliography*. Virginia Law Review, 79, 461.

Department for Education . (2019). *Outcomes for children looked after by local authorities in England*, 31 March 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794535/Main_Text_Outcomes_for_CLA_by_LAS_2018.pdf

Dixon, A. , Howie, P. , & Starling, J. (2005). Trauma exposure, posttraumatic stress, and psychiatric comorbidity in female juvenile offenders. *Journal of the American Academy of Child & Adolescent Psychiatry*, 44(8), 798–806.

Djuric, B. (2007). 14 years of hell. *Women about Hay*.

Ellis, K.H. (2018). Contested vulnerability: A case study of girls in secure care. *Children and Youth Services Review*, 88, 156–163.

Farruggia, S. P. , & Geramo, G. R. (2015). Problem behavior among older youth in foster care: Examining gender. *Children and Youth Services Review*, 48, 20–30.

Fitzpatrick, C. (2017). What do we know about girls in the care and criminal justice systems? *Safer Communities*, 16(3), 134–143.

Fitzpatrick, C. (2022). Challenging perceptions of care-experienced girls and women. *Prison Service Journal*, 258, 19.

Fitzpatrick, C. , Hunter, K. , Staines, J. , & Shaw, J. (2019). *Exploring the pathways between care and custody for girls and women: A literature review*. <https://eprints.lancs.ac.uk/id/eprint/142892/1/CareCustodyLiteratureReview.pdf>

Hampton, R. , & Toombs, M. (2013). *Indigenous Australians and health: The wombat in the room*. Oxford University Press.

Haskins, V. (2001). On the doorstep: Aboriginal domestic service as a 'contact zone'. *Australian Feminist Studies*, 16(34), 13–25.

Haskins, V. (2004). 'A better chance'? Sexual abuse and the apprenticeship of Aboriginal girls under the NSW Aborigines Protection Board. *Aboriginal History*, 28, 33–58.

Hibberd, L. , & Djuric, B. (2019). *Parragirls*. New South Publishing.

Human Rights Act 2019 (QLD). <https://www.legislation.qld.gov.au/view/html/asmade/act-2019-005>.

Human Rights and Equal Opportunity Commission . (1997). *Bringing Them Home: National inquiry into the separation of Aboriginal and Torres Strait Islander children from their Families. Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*.

Hunter, K. (2022). 'Out of place': The criminalisation of black and minority ethnic looked after children in England and Wales. *Prison Service Journal*, 258, 13–18.

Indig, D. , McEntyre, E. , Page, J. , & Ross, B. (2010). 2009 NSW inmate health survey: Aboriginal health report. NSW Justice Health.

Jay, A. (2014). Independent inquiry into child sexual exploitation in Rotherham 1997–2013. Rotherham Metropolitan Borough Council.

Kenny, D.T. , Nelson, P.K. , Schreiner, I. , Lennings, C.J. , & Butler, T. (2008). Young offenders on community orders: Health, welfare and criminogenic needs. Sydney University Press.

Lee, D. (2016) Inquest into the Death of M. NSW Coroners Court.
<https://coroners.nsw.gov.au/documents/findings/2016/m-finding.pdf>

Leeson, S. , Rynne, J. , & Smith, C. (2015). Incarcerating Aboriginal and Torres Strait Islander women in Australia: Finding a balance in defining the 'just prison'. *Australian Indigenous Law Review*, 19(2), 76–96.

Lindquist, M. J. , & Santavirta, T. (2014). Does placing children in foster care increase their adult criminality? *Labour Economics*, 31, 72–83.

Lipscombe, J. (2006). Care or control? Foster care for young people on remand. BAAF.

Luke, G. , & Cunneen, C. (1995). Aboriginal over-representation and discretionary decisions in the NSW juvenile justice system. Juvenile Justice Advisory Council of NSW.

Malvaso, C.G. , Delfabbro, P.H. , & Day, A. (2017). Child maltreatment and criminal convictions in youth: The role of gender, ethnicity and placement experiences in an Australian population. *Children and Youth Services Review*, 73, 57–65.

McAra, L. , & McVie, S. (2010). Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime. *Criminology & Criminal Justice*, 10(2), 179–209.

McFarlane, K. (2010). From care to custody: Young women in out-of-home care in the criminal justice system. *Current Issues in Criminal Justice*, 22(2), 345–353.

McFarlane, K. (2021). Children and youth reported missing from out-of-home care in Australia. Australian Federal Police.

McGrath, A. (2014). The subjective impact of contact with the criminal justice system: The role of gender and stigmatization. *Crime and Delinquency*, 60(6), 884–908.

McGrath, A. (2016). Intersections of Indigenous status, sex and age in sentencing decisions in the New South Wales Children's Court. *Australian and New Zealand Journal of Criminology*, 49(1), 90–112.

McGrath, A. , & Weatherburn, D. (2012). The effect of custodial penalties on juvenile reoffending. *Australian and New Zealand Journal of Criminology*, 45(1), 26–44.
<https://doi.org/10.1177/0004865811432585>

New South Wales Upper House Standing Committee on Social Issues . (1992). Juvenile Justice in NSW. New South Wales Government Printer.

O'Neill, T. (2001). Children in secure accommodation: A gendered exploration of locked institutional care for children in trouble. Jessica Kingsley.

Paik, L. (2017). Critical perspectives on intersectionality and criminology: Introduction. *Theoretical Criminology*, 21(1), 4–10.

Postlethwait, A.W. , Barth, R.P. , & Guo, S. (2010). Gender variation in delinquent behavior changes of child welfare-involved youth. *Children and Youth Services Review*, 32(3), 318–324.

Radke, A. , & Douglas, H. , (2020). Indigenous Australians, specialist courts, and the intergenerational impacts of child removal in the criminal justice system. *The International Journal of Children's Rights*, 28(2), 378–400.

Rhoades, K. A. , Leve, L. D. , Eddy, J. M. , & Chamberlain, P. (2016). Predicting the transition from juvenile delinquency to adult criminality: Gender-specific influences in two high-risk samples. *Criminal Behaviour & Mental Health*, 26(5), 336–351.

Rose, N. (1989). *Governing the soul*. Routledge.

Royal Commission into Institutional Responses to Child Sexual Abuse . (2017). Final report.

Salter, M. (2016). Real men do hit women: The violence at the heart of masculinity. *Meanjin*, 75, 97–104.

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

Senate Community Affairs References Committee . (2004). *Forgotten Australians*.
<https://apo.org.au/node/190271>

Senate Community Affairs References Committee . (2005). *Protecting vulnerable children: A national challenge*. <https://apo.org.au/node/1787>

Shrifter, C. N. (2012). Child welfare and delinquency: Examining differences in first-time referrals of crossover youth within the juvenile justice system. Portland State University.

Smallwood, R. , Woods, C. , Power, T. , & Usher, K. (2020). Understanding the impact of historical trauma due to colonization on the health and well-being of indigenous young peoples: A systematic scoping review. *Journal of Transcultural Nursing*, 32(1), 59–68.

Sprott, J. B. , & Doob, A. N. (2009). *Justice for girls?* University of Chicago Press.

Staines, J. (2016). Risk, adverse influence and criminalisation: Understanding the over-representation of looked after children in the youth justice system. Prison Reform Trust.

Sullivan, C. (2017). Aboriginal inmate experiences of Parramatta girls home. *Australian Aboriginal Studies*, 2, 84–97.

Tam, C.C. , Abrams, L.S. , Freisthler, B. , & Ryan, J.P. (2016) Juvenile justice sentencing: Do gender and child welfare involvement matter? *Children and Youth Services Review*, 64, 60–65.

Taylor, C. (2006). *Young people in care and criminal behaviour*. Jessica Kingsley.

Tubex, H. , & Cox, D. (2020). Aboriginal and Torres Strait Islander women in Australian prisons. In *Neo-colonial injustice and the mass imprisonment of indigenous women* (pp. 133–154). Palgrave Macmillan.

White, M. , & Gooda, M. (2017). Royal Commission into the protection and detention of children in the Northern Territory. NT Final Report. Commonwealth of Australia.

Williams, M. S. (2021). Judgement: *Bugmy v R* [2013] HCA 3. In *Indigenous legal judgments: Bringing Indigenous voices into judicial decision-making* (pp. 77–91). Routledge.

Reducing criminalisation

Australian Institute of Health and Welfare . (2021, May 18). Rate of children in out-of-home care remains stable. <https://www.aihw.gov.au/news-media/media-releases/2021-1/may/rate-of-children-in-out-of-home-care-remains-stabl>

Bateman, T. (2012). Who pulled the plug? Towards an explanation of the fall in child imprisonment in England and Wales. *Youth Justice*, 12(1), 36–52.

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

Commission for Children and Young People . (2021). Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care.

Commission on Race and Ethnic Disparities . (2021, March 2021). The report. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974507/20210331_-_CRED_Report_-_FINAL_-_Web_Accessible.pdf

Cunneen, C. , Goldson, B. , & Russell, S. (2018). Human rights and youth justice reform in England and Wales: A systemic analysis. *Criminology & Criminal Justice*, 18(4), 405–430.

Cunneen, C. , Russell, S. , & Schwartz, M. (2021). Principles in diversion of Aboriginal and Torres Strait Islander young people from the criminal jurisdiction. *Current Issues in Criminal Justice*, 33(2), 170–190.

Davis, M. (2019). *Family is Culture: Review report*. Independent Review of Aboriginal Children in OOHC.

Day, A. (2017). Hearing the voice of looked after children: Challenging current assumptions and knowledge about pathways into offending. *Safer Communities*, 16(3), 122–133.

Department for Education . (2013, October). *Care leaver strategy: A cross-departmental strategy for young people leaving care*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/266484/Care_Leaver_Strategy.pdf

Department for Education . (2016, September 29). *Children looked after in England (including adoption) year ending 31 March 2016*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/556331/SFR41_2016_Text.pdf

Department for Education . (2018, November). *The national protocol on reducing unnecessary criminalisation of looked-after children and care leavers*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765082/The_national_protocol_on_reducing_unnecessary_criminalisation_of_looked-

after_children_and_care_.pdf

Fitzpatrick, C. (2009). Looked after children and the criminal justice system. In K. Broadhurst , C. Grover , & J. Jamieson (Eds.) *Critical perspectives on safeguarding children* (pp. 211–228). John Wiley & Sons.

Fitzpatrick, C. , Hunter, K. , Staines, J. , & Shaw, J. (2019). Exploring the pathways between care and custody for girls and women: A literature review.

<https://eprints.lancs.ac.uk/id/eprint/142892/1/CareCustodyLiteratureReview.pdf>

Fitzpatrick, C. , & Williams, P. (2017). The neglected needs of care leavers in the criminal justice system: Practitioners' perspectives and the persistence of problem (corporate) parenting. *Criminology & Criminal Justice*, 17(2), 175–191.

Gerard, A. , McGrath, A. , Colvin, E. , & McFarlane, K. (2019). 'I'm not getting out of bed!': The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76–93.

Gooch, K. , Masson, I. , Waddington, E. , & Owens, A. (2022). After care, after thought?: The invisibility of care experienced men and women in prison. *Prison Service Journal*, 258, 4–12.

Greater London Authority . (2021, March). Reducing criminalisation of looked-after children and care leavers: A protocol for London.

https://www.london.gov.uk/sites/default/files/reducing_criminalisation_of_looked_after_children_and_care_leavers-_a_protocol_for_london.pdf

Hayden, C. (2010). Offending behaviour in care: Is children's residential care a 'criminogenic' environment? *Child and Family Social Work*, 154, 461–472.

Howard League for Penal Reform . (2016). Criminal care: Children's homes and criminalising children. <https://howardleague.org/wp-content/uploads/2016/02/Criminal-Care.pdf>

Howard League for Penal Reform . (2017). Ending the criminalisation of children in residential care: Briefing two – Best practice in policing. <https://howardleague.org/wp-content/uploads/2017/12/Ending-the-criminalisation-of-children-in-residential-care-Briefingtwo.pdf>

Howard League for Penal Reform . (2019). Representing looked-after children at the police station: A step-by-step guide for lawyers. <https://howardleague.org/publications/representing-looked-after-children-at-the-police-station/>

Howard League for Penal Reform . (2020). Victims not criminals: Protection children living in residential care from criminal exploitation. <https://howardleague.org/publications/victims-not-criminals-protecting-children-living-in-residential-care-from-criminal-exploitation/>

Hunter, K. (2022). 'Out of place': The criminalisation of black and minority ethnic looked after children in England and Wales. *Prison Service Journal*, 258, 13–18.

Jay, A. (2014). Independent inquiry into child sexual exploitation in Rotherham 1997–2013. Rotherham Metropolitan Borough Council.

Khunti, K. , Routen, A. , Pareek, M. , Treweek, S. , & Platt, L. (2020). The language of ethnicity. *BMJ*, 371, 1–2.

Lammy, D. (2017). An independent review into the treatment of, and outcomes for, black, Asian and minority ethnic individuals in the criminal justice system.

<https://www.gov.uk/government/publications/lammy-review-final-report>

McFarlane, K. (2017). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian and New Zealand Journal of Criminology*, 51(3), 412–433.

McFarlane, K. , Colvin, E. , McGrath, A. , & Gerard, A. (2019). Just another policy document? Can a protocol end the criminalisation of kids in care? *Alternative Law Journal*, 44(1), 37–42.

Michell, D. (2015). Foster care, stigma and the sturdy, unkillable children of the very poor. *Continuum: Journal of Media & Cultural Studies*, 29, 663–676.

Ministry of Justice . (2018, January 25). Youth justice statistics 2016/2017, England and Wales. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/676072/youth_justice_statistics_2016-17.pdf

Narey, M. (2016). Residential care in England: Report of Sir Martin Narey's independent review of children's residential care. Department for Education.

National Audit Office . (2018). Pressures on children's social care. <https://www.nao.org.uk/wp-content/uploads/2019/01/Pressures-on-Childrens-Social-Care.pdf>

National Police Chief's Council . (2015, April). National strategy for the policing of children and young people.

<https://www.npcc.police.uk/documents/edhr/2015/CYP%20Strategy%202015%202017%20August%202015.pdf>

Neilson, A. , & Sands, C. (2021). Criminal care? Closing reflections.
<https://howardleague.org/blog/closing-reflections/>

Prison Reform Trust . (2016). In care, out of trouble: An independent review chaired by Lord Lamington.

Shaw, J. (2014). Residential children's homes and the youth justice system: Identity, power and perceptions. Palgrave Macmillan.

Shaw, J. (2016). Policy, practice and perceptions: Exploring the criminalisation of children's home residents in England. Youth Justice, 16(2), 147–161.

Shaw, J. , & Greenhow, S. (2021). The criminalisation and exploitation of children in care: Multi agency perspectives. Routledge.

Smith, N. , & Weatherburn, D. (2012). Youth justice conferences versus children's court: A comparison of re-offending. Crime and Justice Bulletin, 160, 1–24.

Staines, J. (2016). Risk, adverse influence and criminalisation: Understanding the over-representation of looked after children in the youth justice system. Prison Reform Trust.

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. Youth Justice, 17(1), 57–72. <https://doi.org/10.1177/1473225416669145>

Taylor, C. (2006). Young people in care and criminal behaviour. Jessica Kingsley.

Taylor, C. (2016). Review of the youth justice system in England and Wales. Ministry of Justice.

Utting, W. (1997). People like us: The report of the safeguards for children living away from home. Department of Health.

Warner, N. (1992). Choosing with care. HMSO.

Wong, K. , Bailey, B. , & Kenny, D. T. (2009). Bail me out: New South Wales young offenders and bail. Youth Justice Coalition.

Youth Justice Board . (2020). Assessing the needs of sentenced children in the Youth Justice System 2018/2019 England and Wales.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887644/assessing-needs-of-sentenced-children-youth-justice-system.pdf

Youth Justice Board . (2021). Ethnic disproportionality in remand and sentencing in the youth justice system: Analysis of administrative data.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952483/Ethnic_disproportionality_in_remand_and_sentencing_in_the_youth_justice_system.pdf

Conclusion

Aliverti, A. , Carvalho, H. , Chamberlen, A. , & Sozzo, M. (2021). Decolonizing the criminal question. Punishment & Society, 23(3), 297–316.

Allam, L. (2022, 30 March). Federal budget continues 'unconscionable' failure to close the gap in Indigenous health. The Guardian. <https://www.theguardian.com/australia-news/2022/mar/30/federal-budget-continues-unconscionable-failure-to-close-the-gap-in-indigenous-health>

Anthony, T. , Sentence, G. , & Behrendt, L. (2021). 'We're not being treated like mothers': Listening to the stories of First Nations mothers in prison. Laws, 10(3), 74.

Australian Human Rights Commission . (2020). Wiyi Yani U Thangani (Women's Voices): Securing our rights, securing our future report. Aboriginal and Torres Strait Islander Commissioner.

Australian Law Reform Commission . (2018). Pathways to justice report.
<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>

Bail Act . (2013) NSW. <https://legislation.nsw.gov.au/view/html/inforce/current/act-2013-026>.

Behrendt, L. (2012). Review of higher education access and outcomes for Aboriginal and Torres Strait Islander People Final Report. Australian Government.

Behrendt, L. (2019). Stories and words, advocacy and social justice: Finding voice for Aboriginal women in Australia. *Australian Feminist Law Journal*, 45(2), 191–205.

Blackstock, C. , Bamblett, M. , & Black, C. (2020). Indigenous ontology, international law and the application of the Convention to the over-representation of Indigenous children in out of home care in Canada and Australia. *Child Abuse & Neglect*, 110, 104587.

Bugmy vs Queen . (2013) 249 CLR 571.

Children and Young Persons (Care and Protection) Act 1998 (NSW) .
<https://legislation.nsw.gov.au/view/html/inforce/current/act-1998-157>.

Commission for Children and Young People . (2021). Out of sight: Systemic inquiry into children and young people who are absent or missing from residential care.

Cubillo, E. (2021). 30th anniversary of the RCIADIC and the 'white noise' of the justice system is loud and clear. *Alternative Law Journal*, 46(3), 185–192.

Cunneen, C. (2001). Conflict, politics and crime: Aboriginal communities and the police. Routledge.

Davis, M. (2019). Family is Culture: Review report. Independent Review of Aboriginal Children in OOHC.

Davis, M. (2021, November 8). Still they take the children away while our report gathers dust. *Sydney Morning Herald*. <https://www.smh.com.au/national/nsw/still-they-take-the-children-away-while-20211107-p5960y.html>

Gainsford, A. (2018). Connection to Country: Place-based learning initiatives embedded in the Charles Sturt University Bachelor of Law. *Legal Education Review*, 28(2), 1–14.

Gainsford, A. (2021). Embedding Indigenous knowledges in the design of higher education curriculum: An international study in law education. Charles Sturt University.

Gerard, A. (2019). Crimmigration and the Australian legal lexicon: Reflecting on border control, theory and the lived experience. In P. Billings (Ed.) *Crimmigration in Australia: Law, politics, and society* (pp. 89–115). Springer.

Gerard, A. , & Weber, L. (2019). 'Humanitarian borderwork': Identifying tensions between humanitarianism and securitization for government contracted NGOs working with adult and unaccompanied minor asylum seekers in Australia. *Theoretical Criminology: An International Journal*, 23(2), 266–285.

Human Rights and Equal Opportunity Commission . (1997). Bringing Them Home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families.

Jay, A. (2014). Independent inquiry into child sexual exploitation in Rotherham 1997–2013. Rotherham Metropolitan Borough Council.

Johnston, E. F. (1991). Royal Commission into Aboriginal deaths in custody: National report, overview and recommendations. Australian Government Publishing Service.

Porter, A. (2019). Aboriginal sovereignty, 'crime' and criminology. *Current Issues in Criminal Justice*, 31(1), 122–142.

QDVJ and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration) . (2021). AATA 1841 (1 June 2021).

Scruton, P. (2007). Power, conflict and criminalisation. Routledge.

Shaw, J. , & Greenhow, S. (2021). The criminalisation and exploitation of children in care: Multi-agency perspectives. Routledge.

Spiers Williams, M. (2021). Judgement: Bugmy v R [2013] HCA 3. In N. Watson & H. Douglas (Eds.) *Indigenous legal judgments: Bringing Indigenous voices into judicial decision-making* (pp. 77–91). Routledge.

Universities Australia . (2011a). National best practice framework for Indigenous cultural competency in Australian universities.

Universities Australia . (2011b). Guiding principles for developing Indigenous cultural competency in Australian universities.

Universities Australia . (2017). Universities Australia Indigenous Strategy 2017–2020.

White, M. , & Gooda, M , (2017). Royal commission into the protection and detention of children in the northern territory: Final Report. Australian Government.

Williams, M. & Ragg, M. (2019). Evaluation of legal aid NSW civil law service for aboriginal communities. UTS.