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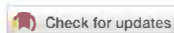


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Abstract

This article considers the trajectory of children from state care to imprisonment in relation to 105 New Zealanders who spent time in residential care between the 1950s and 1990s. Following previous research, the article demonstrates how children in state care are far more likely to progress into prisons as a result of maltreatment, multiple care placements, damaging residential cultures, social disadvantages and psychological harms, as well as differential treatment in the criminal justice system. This New Zealand research also shows how the interconnected and long-standing processes of victimization and criminalization increase the likelihood of a child transitioning from care to custody.

Keywords

children, criminalization, imprisonment, offending, state care, victimization

Introduction

Significant public attention has recently focussed on the historical experiences of children¹ moved from their families into residential care. Numerous commissions and inquiries have detailed the long-term damaging consequences of childhoods within abusive or damaging institutions. They have also recorded the impacts of marginalization and stigma that persistently encompass care leavers' lives. One long-term repercussion relates to how many care leavers go on to face convictions and imprisonment. As Tutt (1974) remarked over 40 years ago, 'the paradoxical situation has arisen that the more residential treatment a child gets because [they are] deprived or delinquent, the more deprived or delinquent [they are] likely to become' (p. 48).

Drawing upon extensive research with 105 individuals who spent time in residential care in New Zealand, this article explores the transition of children from care to custody.

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In line with previous research, it demonstrates how children in state care are far more likely to progress into custody as a result of maltreatment, multiple care placements, damaging institutional cultures, social disadvantages and psychological harms, as well as differential treatment in the criminal justice system. This New Zealand research also shows how two interconnected and sustaining processes – of victimization and criminalization – increase the likelihood of a child transitioning from care to custody.

Care Leavers and Custody

Most children leaving care do not have any involvement with criminal justice agencies. Under intense official scrutiny, many care leavers lead law-abiding lives. Yet, studies repeatedly show a strong connection between youth/adult incarceration and histories of state care (Children, Schools and Families Committee, 2009; McAra and McVie, 2010; Taylor, 2006). In the United States, the longitudinal study by Collins et al. (2001) found that about a quarter of 1550 boys had been sentenced to adult corrections within 7.5 years of release from residential care. They also reported no difference in outcomes between boys who had been admitted to residences for care and protection and those placed for offending reasons. In the United Kingdom, 27 per cent of 1052 males and 56 per cent of 40 females held in British young offender institutions during 2011 were recorded to have previously spent time in local authority care (Summerfield, 2011). In Australia, Mendes and Baidawi (2012) estimated that one-third to a half of ‘youth prisoners’ had been in care. Another study, in New South Wales, reported that 28 per cent males and 39 per cent females in detention had ‘a history of out-of-home care’ (McFarlane, 2010: 345).

In a New Zealand context, the Ministry of Social Development has recently followed the lives of the 58,091 people born in 1989 (MSD, 2010: 9). This retrospective study identified that, by the age of 20 years, 1.2 per cent (672) of the 1989 cohort had been imprisoned, and a high share of those imprisoned (83%/558) had a previous ‘Child, Youth and Family’ (CYF) record. Of this 558, 13 per cent (n=84) had been a care and protection ‘client’, 21 per cent (n=141) youth justice ‘client’ and 50 per cent (n=333) had previously crossed over care and protection and youth justice services. The latter group fared badly: compared to ‘those ... without a CYF record’, they were ‘15 times more likely to get a Corrections’ record by the age of 19/20, and 107 times more likely to be imprisoned under 20’ (MSD, 2010: 12).

Explanations

Studies from the United Kingdom, United States and Australia have provided multiple explanations for these transitions into criminal justice processing and subsequent custody. Foremost among them is that children caught up in the criminal justice system are more likely to have histories of maltreatment, as those moved into state care often do (Stewart et al., 2002). Certain factors associated with maltreatment appear influential. In New South Wales, Indig et al. (2011) noted that girls in criminal justice custody were more likely to have backgrounds of abuse or neglect than boys. Furthermore, in Queensland, Stewart et al. (2008) demonstrated that children who endured ‘chronic’ victimization were

more likely to offend than other children, and that children whose maltreatment ‘started in or continued into adolescence were more likely to offend as a juvenile than children whose maltreatment trajectories were confined to early childhood’ (p. 61). Unlike their younger counterparts, maltreated adolescents are more likely to ‘act out’ in ways that raise ‘the attention of police’ (Cashmore, 2011: 34).

A second explanation is that children in care endure frequent shifts in their placements, often on administrative grounds, that are intensely disorienting. Placement instability is associated with later offending, as it diminishes a child’s attachments to family, friends or former carers and increases their insecurities. Transfers also disrupt a child’s education and social activities, which subsequently damages their long-term opportunities (Cashmore, 2011; Shaw, 2014; Taylor, 2006). Decisions to shift and relocate children, often many times, increase their likelihood of turning to crime.

Furthermore, and third, it is evident that children placed in residential facilities are at increased risk of offending. From their extensive research in Los Angeles, Ryan et al. (2008) concluded that, compared to foster home placements, ‘group home placements are associated with a significantly higher risk of delinquency’, particularly with regards to violence and threats (p. 1095). Researchers have highlighted two aspects of residential care that exacerbate offending trajectories: those placed in residences are far more likely to be subject to peer pressure and more likely to be criminalized by authorities (Ryan et al., 2008).

Residential homes often contain a mix of children, of different ages, and with diverse experiences. Some children will have previously offended. Within these circumstances, delinquencies or offending behaviours can develop between children. After all, with few other opportunities for interaction, ‘institutionalised adolescents are probably more socialised by their peers than any other group in society’ (Taylor, 2006: 88). Getting into trouble can subsequently become enticing: it can provide new friends, self-esteem, respite from a boring day or a brief feeling of empowerment (Carlen, 1987; Darker et al., 2008; Mendes et al., 2014; Shaw, 2014; Taylor, 2006).

State authorities place children into environments that foster cultures of ‘trouble’. At the same time, children’s activities are subject to enhanced criminalization. Institutional workers escalated minor incidents (such as property damage) that would go unnoticed if a child was in a private home (National Association for the Care and Resettlement of Offenders (NACRO), 2012; Ryan et al., 2008; Shaw, 2014; Taylor, 2006). In New South Wales, McFarlane’s (2010) work on young women in care found that half were facing the Children’s Court for property damage offences committed in state care. Police had been called for incidents such as ‘putting several small holes in the wall’ (McFarlane, 2010: 348). Similarly, in the United Kingdom, police arrested an institutionalized girl for throwing a cup down the stairs (Shaw, 2014). In short, children are placed into criminogenic residential environments (McAra and McVie, 2015) and are then subject to enhanced surveillance and controls that confirm their ‘offender’ status.

A fourth explanation for the transition into criminal justice relates to the limited supports available to those leaving care. Those who have spent time in care overwhelmingly suffer developmental and attachment problems – they struggle to form relationships and can vent anger, frustration and self-blame at their circumstances (Johnson et al., 2006;

Shaw, 2014; Taylor, 2006). Care leavers often report that they lack direction, belonging or a sense of attachment to family or friends, and they feel alone, anxious and stigmatized (McAra and McVie, 2010; McFarlane, 2010; Mendes and Baidawi, 2012). At the same time, on release from institutions, children will lack many necessary things: education, stable housing, employment, healthy incomes, connections to community or cultural networks, good mental health and the financial or emotional ‘know how’ to live independently (Carlen, 1987; Children, Schools and Families Committee, 2009; Mendes et al., 2014; Taylor, 2006). Many children feel abandoned in this ‘accelerated transition’ to independent adulthood (Mendes and Baidawi, 2012: 10); they have few safety nets. Such disadvantages are intensified for indigenous or ethnic minority children who experience further layers of marginalization (Indig et al., 2011).

Inevitably, these structural and social exclusions make children increasingly vulnerable to ‘trouble’. With not much to lose, crime can be a reasonable alternative to poverty and isolation, it can offer care leavers ‘a better standard of living, an outlet for their energies and talents, and a network of non-judgemental friends’ (Carlen, 1987: 159; Shaw, 2014). Criminal activities, including substance abuse, can also emerge as an escape, a cry for help or a coping strategy (Mendes and Baidawi, 2012). This may be especially so when children are discharged from care at younger ages, such as 16 or 17 years (Taylor, 2006).

Fifth, it is also clear that children with experience of state care are also differentially treated once any offending comes before the courts. Ryan et al. (2007) found that those who progress to ‘juvenile justice from the child welfare system’ are ‘less likely to receive probation as a first time offender’ and ‘more likely’ to be sentenced to custody (p. 1046). Escalation occurs for various reasons. These children will often appear with a catalogue of negative reports about their individual or family lives. They rarely have official representatives to advocate on their behalf or explain the ramifications of their care history. Without a supportive family, they are regarded as unregulated and thereby more risky to society. Conversely, without a familial safety net, magistrates can assume that they are safer in custody, so detention occurs on welfare grounds (Carlen, 1987; Cashmore, 2011; McFarlane, 2010; Marien, 2012). These factors are worsened for certain children – studies show that girls and ethnic minority children are more likely to be placed into detention in these circumstances (Carlen, 1987; Ryan et al., 2007).

In summary, research demonstrates that the trajectory of children from care into custody is deeply connected to the following: (1) a child’s past victimization, (2) multiple placements shifts, (3) the detention of children within criminogenic residential environments, (4) a criminalizing emphasis within care, (5) the lack of emotional, financial or socio-cultural supports to those leaving care and (6) adverse treatment within the courts.

Method

Mindful of the above data, this article explores the factors that have propelled New Zealand care leavers into imprisonment. It emerges from a broader project on the legacies of institutional violence and attempts by victims to claim redress. Between the 1950s and late 1980s, over 100,000 children passed through state residences scattered across New

Zealand. More than 1000 care-leavers have subsequently progressed legal claims with regards to their victimization by state authorities.

In total, 105 legal claimants (8 women, 97 men²) agreed to participate in the main project. Just under half (47) identified as Māori, 2 as Pasifika and 1 as Asian. The remainder identified as Pākehā/European New Zealanders.³ All respondents were born between 1940 and 1990: 103 were born after the Second World War, 78 between 1955 and 1974 and the youngest 10 were born in the 1980s. With an average age of 10 years on first placement, most spent years ricocheting through the care system. It is not presumed that their experiences mirror those of all who spent time in care however, as shown below, they are a group that can tell us much about the routes from care to custody.

This article draws upon data gathered through legal statements and documentation, accessed from legal representatives, with the consent of the 105 respondents. These documents included many thousands of pages of Child Welfare accounts, health records, psychiatric reports, counselling notes, bank statements, corrections records and court reports. It concentrates, however, on the testimonies from a subset of 45 respondents who agreed to 'life-story' interviews with the author, following a request in a legal newsletter. These interviewees included 4 women and 41 men, who identified as Māori (23), Pasifika (1) and Pākehā/European (21). Of these interviewees, 35 were born from the 1940s to the 1960s, 8 in the early 1970s and the remaining 2 were born in 1981. Interviews, lasting from a few hours to whole days, started with discussion about childhood and finished with reflections on present circumstances. They encompassed family life, state care, the nature and legacies of abuse and recent attempts to secure redress. The resulting data (notes and interview transcripts) were clustered into emerging categories and analysed, with the use of Nvivo. On their request, their names in this article are a mix of 'real' names and pseudonyms.

Interviewees illustrated differences in generation, ethnicity, gender and experiences of victimization or offending. Furthermore, they did not all progress through the same systems of social welfare or juvenile justice provisions. New Zealand's legislation has changed significantly over time, especially with the implementation of the Children, Young Persons and Their Families Act 1989. Among other things, this Act (s208) established principles that criminal proceedings should be avoided in favour of alternative measures that might strengthen a child's family, whānau and wider kin, offending children 'should be kept in the community so far as that is practicable', sanctions should 'take the least restrictive form that is appropriate' and measures should 'address the causes' that underlie offending behaviours. The legislation also established the Youth Court as a separate entity reserved for the most serious offences.⁴ From this point, family group conferences, restorative approaches and an emphasis on deinstitutionalization took over, and authorities more clearly recognized Māori values and 'child-centred' models. These shifts were significant and would account for the reduced number of respondents born from the mid-1970s onwards. The youngest two interviewees, each with long care histories, progressed through this system. They encountered multiple community placements and residential 'wilderness' camps rather than institutions. Yet, despite this, they shared common experiences and similar views about the trajectories into prison as the older interviewees in this study.

Findings

By the age of 21 years, five respondents had left residential care and lived in the community. These individuals were supported by adult carers and partners, alongside whom they could develop self-esteem, trust and love. Three benefited from being employed, while community engagement in arts and politics nurtured two others. Alongside these five, half (four) of female respondents had faced detention in a mental health facility. For the remaining 96, secure youth detention or prison ensued before their 21st birthday. There was a very clear progression from state care into the correctional system for the vast majority of male respondents. While many have since grown out of crime, offending and custody have dominated for some as they have had lengthy sentences for serious violence or experienced the ‘revolving door’ of imprisonment for less serious offences. At the time of interview, 19 (of 45) interviewees were in prison.

The official views, on the trajectory from care into custody, overwhelmingly focus on the deficits of individual children and the families that had spoiled them. For example, social welfare workers frequently gave meticulous accounts of the harms done to children in family environments, and they sometimes considered how this might lead children to act in negative ways. However, they also continually represented children as personally difficult and incorrigible. Very little is noted about children’s positive attributes or potential in social welfare files; rather, unruly behaviours were magnified and interpreted as symptoms of a child’s dysfunctional character. In many ways, these recordings fitted with and confirmed the criminalizing stereotypes of what children in care were ‘like’ and they provided a rationale for the continued expansion of institutions. The statements also became authoritative – that is, as children progressed from one institutional network to another, the ‘truths’ of troubled characters were replicated, from Child Welfare files to probation reports to psychological assessments to correctional records and so on. In sum, professionals repeated representations and judgements that prioritized children’s psychological difficulties and delinquencies as reasons for their progression from care to custody (for further examination of these issues, see Stanley, 2016).

Research with respondents, however, demonstrates wider reasons for this trajectory. Reflecting previous research, five broad explanations for the advancement from state care to imprisonment emerged: (1) histories of maltreatment, (2) damaging community placements, (3) harmful cultures and conditions within residential institutions, (4) social disadvantages that exacerbated psychological harms on release and (5) differential criminal justice practices. This New Zealand research shows, however, that each explanation is also intrinsically connected to state-led victimization and criminalization processes. That is, children’s routes to custody were determined and enhanced by the response they received from state institutions and workers.

Histories of maltreatment

Family maltreatment led respondents to difficult behaviours, but it also increased official scrutiny of their actions. The vast majority (n=91) of respondents had troubled, early lives. Child welfare officers noted that some had been subject to sexual abuse by family members, whānau or friends. They charted burns, cuts, scars, claw marks, long-term

bruising, cigarette butt imprints and bone breakages. They found children, with intensely high pain thresholds, hiding in ‘holes’ or chained up like dogs. Some were ‘grossly neglected’, sparsely clad and ill-fed. They lived in ‘dirty’, ‘cold’, ‘bare’ and ‘unappealing’ homes.⁵ Their neglect was often linked to parental breakdowns or struggles with poverty, mental health or alcohol or drug abuse.

Respondents remembered distinct, traumatizing events yet many acknowledged the relentless normality of violence and neglect. Several described their upbringing as uncertain and terrifying among drunken adults or violence:

... they [parents] were too busy drinking alcohol and having parties and that ... we had to fend for ourselves really, at a very young age. (Auks)

Children tried their best to maintain routines and keep out of trouble, but it was a ‘hard ask’ (Auks). For almost half (n=47), these stressful experiences resulted in problem behaviours. Falling behind at school, they started to truant. They stole money left out for the milk man, as well as fizzy pop and bread from local shops. Occasionally, they broke into houses. Some ran away, eking out an uncertain, dangerous existence on the streets, while a few started to use violence to protect themselves or gain some power. For example, after suffering years of violence, Ed had become ‘uncontrollable’:

I would put my hand through windows, beat up the other kids in my class. If they looked at me a certain way and I felt intimidated then I’d go and give them the bash. Then I’d end up in the principal’s office. I got the strap ... the only thing was I was so used to it I used to laugh at him. (Ed)

Ed could easily give and receive violence. For him, and a few others, physical attacks had become a pre-emptive means of survival.

Of 105 claimants, 47 had been involved in delinquent or criminal acts before being taken into state care. Respondents explained that these behaviours derived from victimization. Stealing, gaining dominance or acting out were all attempts to cope with very difficult circumstances. These behaviours also emerged from feelings of rejection, anger, depression, self-blame and isolation. Besides, some just saw harms and violence as ‘normal’ (Ed).

All respondents viewed that if state workers attended to their victimization, rather than their offending, their lives would have been dramatically improved. Yet, during the (1950s–1970s) moral panic about youth delinquents in New Zealand, this did not happen. Welfare workers, police and politicians prioritized a criminalizing approach. Once a child got ‘into trouble’, their identity as a victim of family violence or neglect diminished. Instead, state workers quickly identified delinquents and escalated them through the courts (Stanley, 2016). This processing was exacerbated for Māori children whose criminalization dovetailed with systemic discrimination (Mihaere, 2015; Webb, 2011). Soon after urbanization, in the late 1960s, Māori children appeared in Court at rates ‘three or four times’ that of Pākehā children. By the mid-1980s, one in three Māori boys appeared in court before the age of 17 years; by the early 1990s, half of children caught up in the justice system were Māori (Dalley, 1998).

In sum, maltreatment increased the likelihood of respondents' delinquencies. This maltreatment did not result in significant actions from authorities (in 1973, social workers spent an average of 10 minutes with each child under supervision); however, delinquencies triggered swift responses of investigation, court processing and institutionalization (Stanley, 2016). In this respect, the trajectory into custody depended upon state practices that prioritized criminalization over meeting the needs of maltreated children.

Damaging placements

Once in state care, respondents also experienced the damaging practice of placement instability. Over two-thirds (n=71) spent time in community placements (such as foster parents or family homes) and most experienced several transfers.⁶ Paul had more than 20 placements in a 9-year period, while, by the age of 10 years, Rangi had experienced 11 foster homes. Respondents also revolved through the institutional network – 42 experienced three or more different institutions. For example, Shane was admitted to 'Stanmore Road' more than eight times and also spent time in 'Holdsworth', 'Hokio' and 'Kohitere'.

Administrative needs, budgetary considerations and logistics regularly took precedence over a child's behaviour or interests in placement changes. Children often did not know what was happening:

We were just uprooted ... up the country, down the country, it didn't matter. One month you could be in Auckland and the next you could be living in Palmerston North [over 500km away], you just didn't know where you were going to end up. (Raewyn)

Respondents reported on their growing insecurity, isolation, alienation, vulnerability and dislocation from this state neglect. Many reflected on how state-approved placements also led to further violent victimization, as they suffered further mistreatment – 16 were sexually assaulted within placements and more acknowledged physical abuse by community carers.

Invariably, systemic and violent victimization in state-approved community care led children to become increasingly vulnerable to troublesome behaviour. And, sometimes, carers directly involved children in offending. For example, removed from family neglect, Maka became a state ward at 7 years. By 14 years, he had progressed through more than 40 foster and family home placements. Authorities then placed him with a patched gang member, who held a long history of violent and sexual offending. In this placement, he did not attend school and slept in a car with two dogs. One night, he and his state-sanctioned carer raped a young woman. His constant shifts led him to lose all respect for others, and for himself.⁷

Institutional cultures and conditions

In line with previous literature, respondents highlighted that criminalization processes and peer pressure in residential care increased their likelihood of offending. However, they also emphasized that attempts to protect themselves from further state victimization led them to crime.

First, all respondents stated that they were treated as criminals by staff members, even though most (n = 58) had not previously been in any official trouble. Their criminalization was apparent in numerous practices, for example, new arrivals were placed in secure cells and staff members verbally abused children. Denigration had a profound impact as respondents began to believe their criminal label:

You felt like a piece of dirt that's how some of them made you feel. You had no future, you had nothing, you were never going to be anything. You know, this is your life, accept it. (Raewyn)

Criminalization also meant that the institutions escalated minor incidents to further official attention and punishments.

Second, all respondents saw that new arrivals began to 'learn the ropes' of crime by being with residents who had already begun to offend. Illustrating the state's criminalization of children, all children were placed together in residences, regardless of their history of abuse or crime. It did not take long for younger, 'greener' children to pick behaviours up:

I knew nothing about crime before the age of ten, but by the time I was twelve years old, I knew most of what it took to live on one's wits. (Paul)⁸

[In 'Wesleydale'], you had fellows standing over you [to help them in a burglary]. We had to go with them because we were the smallest ones in there. And, you'd get to a house and ... they'd throw you through [the window], to go and unlock the door. So that's where it [offending] all started from. (Roger)

Criminal activity allowed respondents to fit in with more dominant peers, and it provided a new world of survival opportunities.

Together with these established explanations, respondents also recorded that their institutional victimization led them to try to secure protection through confrontational or criminal means. Most (n=91) suffered physical violence from residential or camp staff members, 48 had been sexually assaulted by another child, while 57 were sexually victimized by an adult worker. All children faced cruel punishments. Four children received electro-convulsive therapy as punishment for 'acting up' or running away. At a wilderness camp, one younger respondent was banished to an isolated island and had to fend for himself without provisions or shelter. Over four-fifths (n=86) endured isolated secure cells for more than 3 days. These adolescents were treated as lesser beings, and this invariably impacted on how they began to act.

Almost all respondents 'hardened up' and became confrontational. This process would happen quickly. For example, social workers described Elliott as 'pleasant', 'polite' and 'charming' before his removal from home⁹ but institutional victimization subsequently led him to violence and destruction:

I started hating screws and people that were locking me up all the time and I just started being a c*** to them. Yeah, an asshole. It was just the way I was being brought up, how they treated us like that. So I used to treat them all like that. (Elliott)

Several respondents made a conscious decision to build themselves up as fighters to ensure that they would never again be a victim:

I had no choice ... So by the time I hit fourteen I was capable of enough violence to keep most of the violent people away from me ... Unless you build yourself a defence you don't survive. (Peter)

Another way of building 'a defence' was to run away (see Sub-Committee on Young Offenders, 1983). This 'absconding' garnered much official attention, especially as there was an offending risk (Dalley, 1998). And, indeed, children stole food, clothes, milk money, bikes and cars as they made their escape. For most, these survival activities were the first time they had ever offended. For example, when Lee ran away with his friend, they stole food and lived under his pal's 'auntie's house eating her ice-cream for a week'. He continued,

Now, that's when I really deserved to be locked up ... because I'd done things by then. And we were just stealing to survive sort of thing ... if I ever deserved to be in Owairaka then that was it. It sort of justified me being in a place like that. (Lee)

At this point, Lee's delinquency was confirmed, to himself and to the authorities. Runaways, often captured by police, were returned to state care where they faced the withdrawal of 'privileges', secure confinement or mental health interventions. They became further entrenched as 'offenders' in need of control, punishments and even imprisonment. Victimized cultures and conditions exacerbated the likelihood of a child's criminal activity as well as their criminal justice progression.

Social disadvantages and psychological harms

On leaving care, respondents encountered social exclusion and endemic disadvantages that increased their susceptibility to further offending. At an age when most had not completed secondary education, respondents had to look after themselves and also cope with past victimization in very difficult circumstances. They had little preparation for independence and often had no idea on how to budget, cook, shop or pay bills. They frequently found themselves in hostels or boarding houses where they encountered adults with significant problems. They felt abandoned and they feared the future.

All respondents subsequently faced multiple long-term disadvantages, including limited educational qualifications, poor employment conditions, welfare dependency, homelessness, poor housing, mental health problems and poverty. These intensified for Māori respondents who also outlined how residential care led to significant cultural losses such as a lack of connection to their iwi and marae, the inability to speak the Māori language or being made to feel that a Māori identity was something to shun. Their disconnection from language, culture and role models was institutionalized.

Inevitably, structural and social victimization made children increasingly vulnerable to further trouble. Some respondents offended to cover their basic needs for food, shelter or human connection, making a 'conscious decision' (Rangi) to engage in stealing, burglary, robberies or drug sales. These activities provided status and 'stimulation' in 'the rush' and 'the chase' (Grant); however, they might also lead to very healthy incomes. A few had no

want for a ‘respectable’ life (Peter). Besides, as Tyrone noted, society had ‘written [them] off’ so how could they ever conform to society? Their exclusion and systemic disadvantage set the ground for an engagement with crime.

These social disadvantages coalesced with psychological harms that made good lives ever more difficult to attain. Respondents had left institutional care with long-term problems of poor sleep, claustrophobia, intimacy problems, abandonment issues, emotional detachment, hyper-vigilance, flashbacks, nightmares, anxieties, obsessiveness, low confidence and depression. Their childhood treatment contributed to feelings of loss, despair, grief, shame, guilt, fear and anger (Stanley, 2016). Many thought that they had been dramatically ill-prepared for life:

If the authorities had prepared us psychologically, educated us properly without putting us in an environment which was so violent, I think I would have turned out a lot better ... When I came out ... everyday, things arose that I wasn’t able to deal with, so I just resorted to drugs and alcohol and violence. And, yeah the old story, join a gang. (Monty)

Substance use helped to block bad memories. Drugs or alcohol allowed respondents ‘to stay in another world, drown things out’ (Garry). They provided a temporary cover, a solace, for feelings of shame, fear and victimization:

I’ve been self medicating to a degree, to try and cope with all those nightmares in there ... Being down, clean, didn’t feel comfortable. I think it was not being able to handle reality. (Grant)

Illegal drugs, prescription drugs and alcohol could dominate in such a way that respondents weakened their abilities to connect with positive social situations, education, work or training. Their lives became increasingly chaotic. They also found themselves surveilled and targeted by officials as a result.

Thus, in line with the literature, care leavers turned to crime as a means to cope with psychological harms and entrenched socio-cultural disadvantage. However, beyond this, respondents also saw that offending could enhance their protection from further violent victimizations. This was especially apparent with the 33 respondents who became actively involved in gangs on release.

Residential institutions were places in which gang connections began, and this deepened on release. For some children, this was ‘almost inevitable’ (Peterboi) given their family histories but, for others, gangs offered a new form of protection or power in the wake of victimization (Carr and Tam, 2013; Taonui and Newbold, 2011). Gang membership allowed respondents to ‘have that feeling of belonging, to be a part of something and to feel wanted’ (Shane). They offered refuge for those who were ‘chasing acceptance’ (Taiti). Furthermore, because gangs were ‘fearless and people were afraid of them’ (Peterboi), they operated as a protective force. For example, Jason found a place in a skin-head gang on his release from institutions, a route he directly attributed to his need for acceptance:

I couldn’t believe how tight these guys were. They’d never lied to each other, they never ever stole from each other, they never shit on each other ... It was somewhere where I could go and be me and be safe ... I felt generally loved and appreciated ... I just fitted in. (Jason)

By the age of 15 years, Jason had built ‘very extreme views’ and was ‘flying the skin-head flag in South Auckland’. Part of the attraction for him, and others, was that gangs offered an antidote to victimization. Respondents saw that gangs offered a chance to build status as someone who confronted ‘mainstream’ New Zealand. Being criminally active gave protection, but it also offered a new identity as someone with a reputation:

Been a drug dealer, an armed robber, burglar and a thief ... I just thrived on that lifestyle. I didn't care if I ended up in gaol, it was no big deal. Nobody would stop me or deter me ... I wanted to be the baddest biker in town I tried to live up to that. That's the person I became, it's not the person I'm comfortable with now. When I look back ... I know why I did it, it's just because of what happened to me, you know. I just thought 'No one's ever going to do that to me again ... don't you fucking dare. Don't even think about it I'll kill you'. I became that person. (James)

The victimizing pains of childhood, and the internalization of exclusion, ensured that dozens went on to be loyal gang members. They soon found themselves subject to increased criminal justice attention.

Differential treatment and imprisonability

Finally, the progression of respondents into custody linked to differential criminal justice responses. Respondents saw that their progression into prisons largely developed from the fact that they had already been removed from society or institutionalized. They became ‘imprisonable’ on account of their care history. Some felt especially tainted: female respondents saw that magistrates presumed that girls would generally be fostered and that only the ‘worst of the worst’ would be held in residences, while Māori respondents sensed that they were more likely to be convicted and institutionalized even when their case histories or offences were no different from Pākehā children.

Moreover, when children came before the courts, their appearance connected to negative child welfare reports that recorded their personal deficits and social difficulties, sometimes stretching across years. With their problems magnified, they could be given custodial sentences for their ‘welfare’, to give them a break from homelessness or heavy substance use. Alternatively, their lack of family connections or their failure to meet practical bail and parole conditions on accommodation meant that they were seen as too ‘risky’ to be in the community without close supervision. Their institutional history made them fit for further detention.

Such experiences mirror those in previous studies yet respondents also discussed how their past victimization and institutionalization made them feel well-equipped for youth detention or prisons. They knew what it entailed, their ‘friends’ were there and they could ‘do the time’:

When I was younger and I was going to gaol, yeah it didn't really bother me because ... I was actually inside with all my mates and so, you know, I adjusted very quickly. (Auks)

Some respondents regarded imprisonment as ‘a bit of a breeze’ (Ray). They already knew how to ‘survive’ in prison. Given that most had already spent years within

institutions, they could live in a situation of ‘isolation’, ‘lockdown’ and ‘boredom’ that most people ‘would not survive’ (Kevin). These feelings intensified for those who felt that the very core of their personality, and their behaviours, had been substantially changed through institutionalization:

I’ve got the classic institutional make-up, the walls are up all the time, hyper vigilant ... Coming here [prison] is coming home. It’s going out there that is the prison. (Rangi)

Furthermore, once children progressed to custody, the state formally dropped its parental role. Once more, the state prioritized criminalization over its obligations towards vulnerable, victimized children. At the point of penal capture, the state absolved itself of guardianship duties. In such circumstances, respondents found it incredibly difficult to advance, and sometimes even picture, a ‘good life’ for themselves. Within a punitive New Zealand climate, they are not allowed to imagine this world either as the ‘prisoner’ label dominates their social identity:

Once they [care-leavers] do gaol time that’s it, forget about it, they’re stuffed for the rest of their lives because society is such that it’ll never forgive them. So they’re trapped in a way, they’re never ever going to be free, ever to be ‘normal’ people. (Bill)

While correctional therapists sometimes acknowledge harm against offenders, they tend to ‘prioritize ... offender treatment’ (Ward and Moreton, 2008: 306). Under this approach, past lives of family violence, institutional abuse, endemic disadvantage or long-term trauma are seen as attempts by offenders to avoid responsibility. Respondents argued that their identity of ‘prisoner’ effectively silences debate about their past victimization. Instead, their criminalization and ‘imprisonability’ are consolidated over decades.

Concluding Remarks

This New Zealand research records the perceptions and experiences of just a small percentage of the thousands of children who passed through state residences between 1950 and 1990. More extensive work, to record a broader range of experiences in this area, would be very welcome. Nonetheless, these research findings indicate that the routes from care to custody are embedded in the interconnected, and often life-long, processes of victimization and criminalization. Respondents identified that these processes intersected, reinforced and cycled through their lives in ways that made imprisonment all the more likely.¹⁰

In line with previous studies, respondents confirmed that family maltreatment, multiple placements, peer pressure and criminalization within residential care, limited positive supports on release and differential treatment within the criminal justice system all played a part in facilitating the transition from care to custody. However, they also provided further explanations. First, state workers operationalized criminalization processes before and after their residential care that increased the chances of custody. This was particularly exacerbated for Māori children. Second, their victimization within families, community placements and state institutions was frequently silenced or diminished by state workers.

This meant that victimized children did not receive the protection or supports (such as counselling, advocacy or resources) they required from state authorities. Third, on account of this limited protection, children also began to engage in confrontations and offending as a form of self-protection. This strategy developed in residential institutions and consolidated on release. And, fourth, given their victimization and institutionalization, children also began to internalize their imprisonability. They viewed custody as an inevitable, 'normal' feature of life. Together, these explanations demonstrate that the trajectories from care to custody need to be considered in light of state responses that criminalize and further victimize children.

From an early age, respondents suffered multiple victimizations; however, state authorities criminalized them, even when they had not actually been in any real trouble. The official approach accorded victimized children and their developmental, social or human needs with little value. In turn, respondents experienced care conditions (from unsuitable community carers to monocultural or violent institutions to poor throughcare on release) that were victimizing and criminogenic. Trauma and entrenched stigmatization increased the likelihood of getting into trouble. Respondents subsequently progressed to lives involving substance use, gang membership or offending. Officially, this trajectory was attributed to children's own personal failings, bad choices or criminal propensities (rather than being considered as the effects of state-led victimization). Some have internalized their criminal status and found ways to cope or thrive in prison – their criminalization is entrenched. Ultimately, for many, victimization, criminalization and imprisonability have meshed and coalesced over lifetimes, bringing countless negative repercussions.

Reflecting the work of McAra and McVie (2010), this research points to the value of avoiding criminalizing risk-based paradigms that stigmatize, label and harm children. It demonstrates the 'criminogenic nature' of institutions that bring 'damaging consequences', including the aggravation of 'offending pathways' (McAra and McVie, 2015: 120). Above all, it provides evidence of the need to sustain systematic approaches that meet children's welfare, social and developmental requirements and to prioritize diversion from institutions.

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Notes

1. In line with the UN Convention on the Rights of the Child, this article uses the term 'children' to refer to those under the age of 18 years.
2. This does not indicate that institutions for girls were non-violatory; rather, women have not tended to come forward as legal claimants.
3. Māori are the indigenous people of New Zealand, Pasifika are individuals of Pacific Island descent and Pākehā relates to those of European descent.
4. For much of the 20th century, authorities operated under the 1925 Child Welfare Act. This legislation introduced the Children's Court that took a formal emphasis on protective, rather than punitive, interventions. Despite this intention, magistrates often reflected social anxieties about juvenile delinquency and largely prioritized a 'control' approach (Stanley, 2016). In 1974, the Children and Young Persons Act was introduced. Among other things, this law reformed the Children's Court and enhanced welfare-focussed

responses to children. However, criticisms about youth justice continued – not least in concerns about the development of net-widening in the system. The police were reticent to use diversion, the courts engaged in ‘intrusive interventions ... in the name of rehabilitation’ and authorities frequently overlooked the cultural needs of Māori and Pasifika children (Lynch, 2016; Watt, 2003: 14).

5. Information sheet on Rangi, 20 February 1966; Child Welfare Officer note on Toni, 18 April 1970; Note for file on Wayne, 14 May 1980; Note for file on Tim, 19 July 1993; Note for file on Maurice, 11 October 1963; Memo on Lisa, 1 April 1977; Constable report form on Kevin, 3 March 1973; Note on Kevin, 24 May 1973; Notes for file on Alfred, 26 May 1972, 22 July 1976. To ensure privacy, the names of all document authors (social workers, teachers, police officers) are omitted.
6. Younger respondents to this study experienced, on average, a greater number of transfers than their older counterparts. From the 1990s, authorities had the logistical issue of dealing with increased numbers of non-institutionalized children.
7. Maka, statement of claim, 1 May 2007.
8. Paul, affidavit, 7 February 2008.
9. Eliot, statement of claim, 6 April 2006.
10. The blurred boundaries between victimization and criminalization have also been a dominant theme in feminist analyses of female lawbreakers (see Daly and Maher, 1998).

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