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Lancaster
University



Final Report

Disrupting the Routes between Care and Custody for Girls and Women

Claire Fitzpatrick, Katie Hunter, Julie Shaw & Jo Staines

May 2022



The Nuffield Foundation is an independent charitable trust with a mission to advance social well-being. It funds research that informs social policy, primarily in Education, Welfare, and Justice. It also funds student programmes that provide opportunities for young people to develop skills in quantitative and scientific methods. The Nuffield Foundation is the founder and co-funder of the Nuffield Council on Bioethics, the Ada Lovelace Institute and the Nuffield Family Justice Observatory. The Foundation has funded this project, but the views expressed are those of the authors and not necessarily the Foundation.

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Dedication

We dedicate this report to the memory of our friend and project advisory board member, Darren Coyne (1972 – 2021).

A fearless activist and passionate campaigner for the rights of all care leavers in the criminal justice system.

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Our greatest thanks are to the care-experienced women and girls who have entrusted us with their powerful stories. Without their generosity and courage, this research would simply not have been possible. We would also like to thank all the professionals who gave up their valuable time to take part in interviews and share their insights. Furthermore, we appreciate the input of individuals who accompanied some of the girls and young women during interview, most of whom participated via telephone/video meeting during the Covid-19 pandemic. We were glad they could be physically present when we could not.

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Abbreviations

CCE	Child Criminal Exploitation
CPS	Crown Prosecution Service
CSE	Child Sexual Exploitation
DfE	Department for Education
HMPPS	Her Majesty's Prison and Probation Service
MBU	Mother and Baby Unit
MoJ	Ministry of Justice
YOT	Youth Offending Team
YJB	Youth Justice Board

Executive Summary

Introduction

This report explores the over-representation of care-experienced girls and women in the youth and criminal justice system. The majority of children in care do not come into conflict with the law (Prison Reform Trust (PRT), 2016), but a minority continue to do so, and risk being abandoned when they do (Coyne, 2015). The Laming Review highlighted the lack of research on the experiences of girls in care within the criminal justice system and recommended a particular focus on their needs (PRT, 2016; Staines, 2016). Furthermore, the Lammy Review (2017) subsequently showed how ethnic identity adds an additional layer of disadvantage for some, highlighting the need to also focus on Black and minoritised women.

The research underpinning this project aims to explore how to reduce the number of girls and women who move between the care system and prison custody. It focuses on the experiences of imprisoned women from care, as well as those of care-experienced girls and young women in the community who have had youth justice system contact. Because official views overwhelmingly focus on the deficits of individuals and their families (Fitzpatrick & Williams, 2017), there is a vital need to amplify the voices of those with lived experience of care and criminal justice to provide more nuanced and balanced understanding. Our research includes interviews with professionals who work with care-experienced women and girls, with expertise stemming from across a range of professional spheres.

Methodology

Guided by insights from feminist criminology, including reflexivity within the research process, a commitment to social change and a focus on lived experience (Burman & Gelsthorpe, 2017), this project began with a targeted, international literature review that explored messages from research and identified knowledge gaps. The topic of care-experienced girls and/or women who have justice system contact has been neglected, with only 12 empirical studies identified that had specifically explored this issue, none of which were completed in the UK. The literature review can be found [here](#), and the accompanying summary [here](#).

The literature review identified various knowledge gaps in the quantitative evidence base. This paved the way for a short data scoping exercise that further explored the limits of existing data sets, whilst making recommendations on how to improve data collection in the future, with a focus on emerging opportunities for data linkage. Our project was approved by Lancaster University's Ethics Committee, Her Majesty's Prison and Probation Service's National Research Committee and the Judicial Office. We were acutely aware of ethical practice during our work, particularly given the very sensitive nature of the topic, and sought to maintain a flexible, respectful, and non-judgemental approach throughout.

Interviews were undertaken with 37 care-experienced women from across three prisons in England between October 2019 and February 2020. Between January 2020 and March 2021, interviews were carried out with 17 care-experienced girls and young women across England who had also had youth justice involvement. Interviews were also undertaken with 40 professionals between February 2020 and February 2021, including front-line practitioners and senior policy leads from children's services, police, youth justice, probation, prisons, and the judiciary.

Documentary analysis of 36 local authority protocols aimed at preventing the unnecessary criminalisation of children in care and/or supporting looked after children in the youth justice system complemented our interview strategy. All interviews were transcribed, anonymised and inputted into NVivo 12 as were the 36 local authority protocols. The protocols and all 94 interviews were subsequently coded, in preparation for more in-depth analysis (Woolf & Silver, 2018).

Data Scoping Exercise

Our Data Scoping Exercise began with our review of international literature on the pathways between care and custody for girls and women. This identified key contextual information that is and is not available on this topic, including the numbers, demographics and histories of care-experienced girls and women in the justice system. The challenges of data collection and information sharing were also discussed with specific professional organisations. Consequently, various recommendations are set out for improving the quantitative evidence base and developing a future research agenda.

Data Recommendations

- Further exploration of how gender, ethnicity and care status interact with criminal justice involvement is required and the new MoJ/DfE data-share would enable this.
- A critical examination of police data collection on the victimisation-criminalisation overlap could help to prevent unnecessary criminalisation in care.
- Local authorities and the police must improve data collection and usage on girls' exploitation and county lines involvement.
- Transitions for care-experienced girls and women must be better understood, with government data published on transitions from the youth to adult criminal justice system.
- To improve identification of those in prison with care-experience, HMPPS should ask an 'opt out' question rather than an 'opt in' one which may be less stigmatising.
- The lack of knowledge on what happens to the children of care-experienced women who are sent to prison needs to be addressed, but with great sensitivity.
- Future data linkage could improve understanding of care-experience and system contact across the life course but must be underpinned by a strong commitment to ethical practice.

Participant Overview

The following overview sets the scene for the findings arising from the qualitative interviews which are the main focus of this project. Interviews took place with 54 care-experienced girls and women aged between 16 and 58. Nearly a third of care-experienced participants (n=17) identified their ethnicity as Black, Mixed or Other, and 37 identified as White. Placement movement in care was very common, with 32 participants experiencing three or more placements, nine of whom had experienced ten or more.

The ages of the 40 professionals in the study spanned 26 and 69. These participants came from a range of different organisations and services across England. Most identified as being White (n=37). In total, the study draws on insights from 94 interviews, including 42 interviews with those with lived experience of both care and custody.

Contextualising Overlapping Care and Justice Pathways

In contextualising overlapping care and justice pathways, trauma emerged as a key theme which was evident in pre-care experiences but could also be traced across experiences of care and criminal justice institutions.

Many participants described backgrounds of abuse, serious violence and trauma, and had multiple experiences of victimisation throughout their lives. Violence and abuse at home was the most common reason reported for entering the care system. Twenty-nine participants reported being sexually abused as a child. Of these, 12 discussed being abused whilst in care and nine discussed abuse whilst in care but outside of their care placements.

Over a third of care-experienced participants (n=19) reported their first justice system contact occurred whilst in care. Of these, 11 were in children's homes at the time of this contact, and over-criminalisation for minor offences in children's homes was a common theme. An escalation in offence seriousness was a feature of many women's lives. For some, offending behaviour worsened after the 'cliff edge' of leaving care.

Disrupted education was common; 34 participants reporting leaving mainstream school early, although five were studying at college or university at the time of interview. It was clear that movement and instability in care could have an impact in different ways, affecting girls and women across the life course.

The Challenges Facing Care-Experienced Girls and Women in the Youth and Criminal Justice Systems

Numerous challenges face care-experienced girls and women in conflict with the law, with participants often disadvantaged by negative gendered judgements. These could combine with racial discrimination and be reinforced by an over-reliance by professionals on official files.

Despite progress made in recent years in increasing awareness of unnecessary criminalisation in care, participants across all groups were clear that it often continued. Reducing police involvement in care settings requires a greater understanding of the challenges facing care staff and the need to improve staff training and support and raise the status of the sector.

The link between unmet mental health needs in care and subsequent criminalisation was stark, and there is a need to dramatically improve mental health support in the community to prevent prison continuing to be the default option in the future. The prevalence of self-harm and suicide attempts among participants testifies to the importance of getting this right.

In addition to the above issues, participants described some shocking accounts of victimisation or exploitation being ignored in care, and the impact of abuse experienced within care was long-lasting.

Preventing Criminalisation, Promoting Diversion and Desistance

Thirty-six local protocols from across England and Wales were obtained for analysis. These protocols were aimed at preventing unnecessary criminalisation of children in care and/or supporting those already in contact with the justice system. If such protocols are followed they clearly have the potential to divert children away from formal youth justice contact. However, many protocols took a 'one size fits all' approach; only six mentioned gender, with just two of these recognising that girls in care are at particular risk of criminalisation. There was also a concerning absence of information about ethnicity. Moreover, both the normalisation of police involvement in some care settings and the emphasis on record-keeping can have unintended consequences. The lack of training and resources to embed protocols into practice is especially problematic.

Interviews with professionals highlighted a commitment to diverting children from the youth justice system, and a recognition that this needed to involve far more than just avoiding prosecution. Furthermore, there is overwhelming evidence that care-experienced girls and women should be diverted from custodial sentences wherever possible.

There also needs to be far greater recognition of the profound impact of imprisonment across the generations, particularly on care-experienced mothers. However, the importance of supporting those with care experience already in custody must not be neglected. Developing the role of prison leads with special responsibilities for girls and women with care experience could be a key way to improve support, but there are various barriers to making progress.

Care-experienced girls and women reported that trusted relationships were key for providing and receiving support. Promoting such relationships requires going beyond the basics of providing accommodation, to being trauma responsive, supporting staff and raising aspirations.

Conclusion and Recommendations

Overall, this study clearly reveals that care-experienced girls and women in trouble may be subject to damaging cycles of excessive surveillance and inadequate support at different points across the life course – the former occurring in relation to criminalisation and the latter in relation to victimisation, leaving care support and imprisonment. Furthermore, the experiences of those who became mothers highlights how excessive scrutiny may begin again when care-experienced girls and women become parents themselves.

Addressing these damaging cycles could help to disrupt the routes between care and custody. However, we also need to recognise the wider social context in which these cycles take place.

The decimation of early help under a succession of austerity-focused governments (Block et al., 2020), and the devastating impact of this on child poverty and inequality are making life increasingly difficult for many families. At the same time, our systems of welfare and support are severely under-resourced, and vulnerable children may be removed from so-called 'struggling families' into a struggling care system that cannot adequately address welfare needs and, in the worst cases, may perpetuate further harm. Moving forwards within this context is not easy but change needs to happen.

Recommendations

Listening to care-experienced girls and women

Listening to the voices of those with lived experience must be a key focus for change for all carers, care staff and other front-line practitioners working directly with care-experienced girls and women. We need to move beyond tokenistic consultation. Girls and women in our study wanted to be listened to without judgement, treated with care and respect, have their views taken seriously and to be believed. This recommendation is a pre-requisite that should underpin all the recommendations that follow.

Building a trauma-responsive care system that does not perpetuate further harm

The Department for Education (DfE) must create a care system that not only recognises, but can also adequately respond to, pre-care trauma, whether that be loss, grief, victimisation and/or experiences of violence. Building a care system that can address past trauma, and crucially does not perpetuate further harm, should be an absolute priority given the reasons for individuals entering care in the first place.

Providing meaningful and timely mental health support

The Department of Health and Social Care (DHSC) and the DfE must work in partnership to ensure local authorities have timely access to sufficient specific specialist provision for girls in care with acute mental health needs. Moreover, prisons should work closely with community mental health teams to ensure that women in prison have access to timely professional support that continues when they leave the prison gates. The prevalence of self-harm and suicide attempts among care-experienced interviewees demonstrates that for some this is a matter of life and death.

Addressing the link between stigma and violence against care-experienced women and girls

The government's strategy on Violence against Women and Girls should recognise care-experienced girls and women as a distinct group in need of support, not least because of the overwhelming evidence that their victimisation may be minimised or ignored. In particular, those who come into conflict with the law may experience negative gendered and racialised judgements and not fit neatly with societal views of the 'ideal victim'.

Developing protocols aimed at preventing criminalisation in care

We call on local authorities, including Directors of Children's Services and Chief Constables, to renew their commitment to local protocols aimed at preventing unnecessary criminalisation of children in care. These should be accompanied by ongoing training for staff in care settings and police with a particular focus on: intersectional approaches which recognise the distinct needs of girls and those from minoritised backgrounds; the frequent blurring of the boundaries between victimisation and criminalisation; and the potentially life-long impacts of criminal records.

Where such protocols do not yet exist, local authorities must commit to them as a matter of priority. In this regard, the DfE, Home Office and Ministry of Justice should lead the way by placing a statutory duty on local authorities to prevent unnecessary criminalisation of children in care.

Recognising the limits of official files and moving beyond them

The requirement to record information within care settings could lead to a thick file of ‘incidents’ for a child that would simply not be recorded for those in non-care settings. Care-experienced girls and women felt strongly that carers and social workers should avoid over-reliance on their official files and take time to get to know and understand them. This is vital if we are to avoid the problem of challenging behaviour being decontextualised.

Promoting trusted and consistent relationships

Promoting trusted, caring and consistent relationships for those with care experience in trouble is vitally important. The government needs to improve support for those who support others and ensure sufficient workload space for professionals to get to know girls and women. Accessible and appropriately resourced support services need to be available in the community. Girls should not have to be involved with the youth justice system to benefit from support and women should not have to enter prison to feel safe.

Joining up disjointed court systems

The challenges of having cross-jurisdictional conversations and sharing information across court systems may be a particular issue in cases involving care-experienced girls and women and may mean that crucial contextual information is missing in criminal cases in particular. Joining up our disjointed court systems by enhancing communication and information-sharing across courts, including developing joint training through the Judicial College, could begin to improve this. However, we further support recent calls for consideration of a more fundamental restructuring of the courts in the long-term.

Diverting girls and women from custody wherever possible

Our findings strongly reinforce messages from wider research that women must be diverted from custody into community alternatives wherever possible. The immense harm that can come from imprisonment is starkly highlighted by the prevalence of self-harm and suicide amongst women in prison. Prison must cease to be used as a default option when the lack of support in care and the community essentially helps to reproduce the well-trodden routes between care and custody.

Improving support for those already in custody

A commitment to diversion from custody is not incompatible with a commitment to improving support for care-experienced girls and women already in prison. The development of an HMPPS agenda to support care-experienced people in custody offers some hope, but to make this work count, care-experienced leads in prison must be provided with the resources and workload space required to make a difference. Committing resources to a workstream that explores the specific support needs of care-experienced women in prison should be a key part of this endeavour.

Confronting the intergenerational harms caused by imprisoning care-experienced mothers

The government needs to confront the intergenerational harms of imprisonment and particularly, how maternal incarceration can lead some children into care. Sentencers must take account of the potential impact on children of imprisoning mothers. The impact of custodial sentences is particularly important to consider for care-experienced mothers who may not have wider networks of family support upon which they and their children can depend. There also must be recognition of the understandable fear that some imprisoned mothers may have of revealing information about their own children if they themselves have had a very poor care experience. These issues must be addressed with the utmost care and sensitivity.

Challenging stigma and raising aspirations

Both care-experienced and professional participants wanted a care system that went beyond the basics. 'Care' needs to be so much more than just providing accommodation, and we must raise aspirations of both our systems and the individuals within them. Raising the status of the sector requires investment in staff and appropriate placements, including ongoing training and support for carers and other professionals. Raising aspirations of systems and individuals is also about challenging the stigma attached to care experience, moving beyond negative gendered and racialised judgements, and questioning any assumed inevitability of the link between care and justice system involvement.

Imagining alternative systems

Finally, at least some of the challenges raised in this report could be addressed by more radical change that involves imagining alternative systems of care and justice. Raising the minimum age of criminal responsibility in England and Wales so that it is no longer one of the lowest ages in Western Europe would prevent younger children being unnecessarily criminalised in care. Furthermore, extending the age at which meaningful leaving care support is available could help to ease the compressed and accelerated transitions to independence faced by too many, and reduce the numbers currently caught up in the criminal justice system who are abandoned by their local authorities.

In conclusion, systemic failings in the wider society help to reproduce the routes between care and custody over time. Yet there are many different ways of doing 'care' and 'justice'. Change is possible – if we care enough to make it happen.

1 Introduction

Background

This report explores the over-representation of care-experienced girls and women in the youth and criminal justice system¹. The majority of children in care do not come into conflict with the law (Prison Reform Trust (PRT), 2016), but a minority continue to do so, and risk being abandoned when they do (Coyne, 2015). The Laming Review highlighted the lack of research on the experiences of girls in care within the criminal justice system and recommended a particular focus on their needs (PRT, 2016; Staines, 2016). Furthermore, the Lammy Review (2017) subsequently showed how ethnic identity add an additional layer of disadvantage for some, highlighting the need to also focus on Black and minoritised women (see also Hunter, 2019).

Despite popular perceptions continuing to link being in care with being in trouble, a mere 1% of children are in care specifically because of their own behaviour, with some 65% in care principally due to abuse and/or neglect (DfE, 2020). Yet whilst only 1% of the total under-18 population are currently in care (Department for Education (DfE), 2020), recent research found 52% of children in custody were care-experienced (Her Majesty's Inspectorate of Prisons, 2021).

There has undoubtedly been an increase in awareness of the problem of unnecessary criminalisation in care in recent years and ongoing efforts to prevent this (PRT, 2016, Howard League, 2017). Recent data obtained by the Howard League for Penal Reform indicate a welcome reduction in the number of children in residential care being criminalised (Howard League, 2021), from 15% in the year ending March 2014 to 5% in the year ending March 2020, although this data is based only on those in care continuously for 12 months or more so does not capture the whole care population.

Moreover, the trends described have occurred at a time of increased concern over the likelihood of criminalisation external to the care environment via involvement in Child Criminal Exploitation (CCE)² and Child Sexual Exploitation (CSE)³, and the continued propensity of authorities to view children in care as offenders rather than victims in need of safeguarding and support (Shaw & Greenhow, 2020). It is also important to note the wider social context in which this increased awareness has taken place, characterised by a retrenchment of welfare provision in a climate of austerity and increasing concerns about child poverty, inequality and a care crisis (Bywaters et al., 2016; Family Rights Group, 2018).

In the year ending March 2020, there was an average of just over 780 children in custody at any one time in the year, with ethnic minority children accounting for a disproportionate 51% of the youth custody population (Youth Justice Board (YJB) & Ministry of Justice (MoJ), 2021). Just 4% of those in custody were girls (YJB & MoJ, 2021), with most girls who were convicted receiving non-custodial disposals – as is also the case for women.

¹We define 'in care' as any child with a looked after status, including those in foster, kinship or residential care who are looked after under the Children Act 1989; for example, under a court-imposed care order or a section 20 voluntary agreement. We use the term 'care-experienced' to refer to anyone with experience of being in care at some point in their lives. Furthermore, we distinguish between the youth and criminal justice system as only those aged between 10 and 17 are involved in the former, whilst those aged 18 and over will be processed through the adult criminal justice system.

²The Home Office (2018: 3) defines CCE as when 'an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18. The victim may have been criminally exploited even if the activity appears consensual. Child Criminal Exploitation does not always involve physical contact; it can also occur through the use of technology.'

³HM Government (2016: 3) defines CSE as 'a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.'

However, the relatively small number of girls locked up compared to boys increases both the likelihood of their distinct needs being deprioritised and overlooked (Goodfellow, 2019), and that they will be held a long way from their home area due to a lack of specific provision. Yet there are serious concerns about the safety of girls locked up, including their mental health needs and the prevalence of self-harm (Khan et al, 2021). Similar concerns are very evident for imprisoned women (Chamberlen, 2018).

In the year to June 2020, 6,090 women entered prison during the year, either on remand or to serve a sentence (PRT, 2021). Women make up 4% of the prison population, and there are twice as many women in prison today as there were 27 years ago. However, 77% of those sentenced to custody were convicted of a non-violent offence (PRT, 2021), which raises serious questions about the use of imprisonment for these women. Estimates suggest that 31% of women in custody spent time in care as children (compared to 24% of men) (MoJ, 2012), although this is quite possibly an underestimate due to the challenges of identifying a prior care status amongst those locked up (Fitzpatrick, 2020). There is also no national data collection on what happens to the children of these women who are imprisoned, including how many go into care themselves.

Aims and Objectives

The overall aim of this project is to explore how to reduce the number of girls and women who move between the care system and prison custody. This report focuses specifically on the experiences of imprisoned women from care, as well as those of care-experienced girls and young women in the community who have had youth justice system involvement. Because official views overwhelmingly focus on the deficits of individuals and their families (Fitzpatrick & Williams, 2017), there is a vital need to amplify the voices of those with first-hand experience of care and criminal justice to provide a more nuanced and balanced understanding.

Our research has also involved interviews with professionals who work with care-experienced women and girls, with expertise stemming from across a range of professional spheres. There are six key research questions.

1. What are the key features of girls' and women's overlapping care and criminal careers?
2. From their perspectives, what are the challenges facing care-experienced girls and women in the youth and criminal justice system, and the professionals who work with them?
3. What aspects of the care experience might contribute to the involvement of girls and women in the youth and criminal justice system, and how can these issues be overcome?
4. What aspects of the care experience might prevent the involvement of girls and women in the justice system, and what more can be done to promote diversion and desistance?
5. How can policy and practice be improved to address the issues identified above, and reduce the numbers of females moving between care and custody?
6. How can data collection be improved in order to enhance our understanding of this topic, and the wider evidence base in the future?

Our project has been underpinned by mixed-methods to explore these questions including a literature review, data scoping exercise, documentary analysis and in-depth interviews. Whilst considering how to improve our quantitative knowledge base, this report is based on a predominantly qualitative research strategy.

Drawing particularly on the voices of those with lived experience and on professional perspectives, it seeks to challenge the policy discourse that alludes to the inevitability of those with care experience being over-represented in criminal justice settings – because there is nothing inevitable about this.

Structure of the Report

- **Chapter 2** outlines the methodology for the project including the literature review, data scoping exercise, approaches to qualitative interviews and documentary analysis.
- **Chapter 3** presents findings from a short data scoping exercise which explores the limits of existing quantitative data sets, whilst making recommendations on how to improve data collection in the future, with a particular focus on emerging opportunities for data linkage.
- **Chapter 4** sets the scene for findings from our qualitative interviews by providing a brief overview of participants and highlighting the problem of movement and placement instability in care.
- **Chapter 5** uses the theme of trauma to contextualise overlapping care and justice pathways and shows how trauma can be traced across experiences of state care and criminal justice institutions.
- **Chapter 6** focuses specifically on the challenges facing care-experienced girls and women in the youth and adult criminal justice systems, including negative gendered judgements which may be compounded for those from Black and minoritised backgrounds.
- **Chapter 7** discusses ongoing efforts to prevent unnecessary criminalisation in care and promote diversion and desistance. Included here are findings from our analysis of local authority protocols aimed at preventing criminalisation.
- **Chapter 8** concludes this report by summarising our key findings and outlining a range of recommendations for policy and practice.

2 Methodology

Our methodology was guided by insights from Feminist Criminology, particularly with regard to reflexivity within the research process, a commitment to social change, a focus on lived experience and a concern with amplifying the voices of those so often unheard (Burman & Gelsthorpe, 2017). Whilst we undertook a mixed methods approach, this project was predominantly qualitative in design. The research design consisted of a number of inter-related methods that enabled us to explore our research questions in some depth, and these are set out below.

Literature Review

A targeted, international literature review was completed in October 2019, which specifically explored messages from research and knowledge gaps. This targeted review, based on firm inclusion/exclusion criteria, enabled us to bridge insights from three distinct disciplinary domains in particular – Criminology, Social Work and Law – where research findings often remain separate despite echoing similar themes. It also established the relative neglect of research on care-experienced girls and/or women who had had justice system contact with only 12 empirical studies identified that had specifically explored this issue, none of which were completed in the UK (see Appendix A). The literature review can be found [here](#), and the accompanying summary [here](#).

Data Scoping Exercise

The literature review identified various knowledge gaps in the quantitative evidence base. This paved the way for a short data scoping exercise which further explored the limits of existing data sets, whilst making recommendations on how to improve data collection in the future, with a particular focus on emerging opportunities for data linkage.

Ethics

Our project was approved by the Lancaster University Ethics Committee and was conducted in line with relevant professional ethical guidelines. As the British Society of Criminology's Statement of Ethics (2015:5) states, researchers must "strive to protect the rights of those they study, their interests, sensitivities and privacy". We were acutely aware of this during our work, particularly given the very sensitive nature of the topic, and sought to maintain a flexible, respectful, and non-judgemental approach throughout. In addition, participant information sheets (see Appendix B) and consent forms (see Appendix C) were distributed to potential interviewees in advance to ensure they were as informed about the interview process as possible, including their right to withdraw from the research within two weeks of the interview.

We also tailored our interview questions to suit the needs of individuals, including some participants who disclosed they had learning difficulties, and utilised a separate, age appropriate, interview schedule for girls aged 16 to 17. Furthermore, all care-experienced participants were offered a voucher to thank them for their time⁴. Interviews with professionals included questions designed to suit their particular areas of work. In line with our ongoing commitment to data security and privacy, interviews have been securely stored in encrypted files on password-protected computers. Furthermore, all interviews have been anonymised with participants assigned a pseudonym. Location details have also been changed.

⁴ Women interviewed in prison had their voucher held on file until their release.

Interviews with Imprisoned Women

Interviews were undertaken with 37 care-experienced women from across three prisons in England between October 2019 and February 2020. Approval was obtained from HMPPS's National Research Committee for this work. Women were invited to participate in the study by prison staff who were made aware of the research or by visiting members of the research team. Interviews began with an unstructured opening question asking participants to describe their care experience in their own words, giving as much or as little detail as they would like.

In some cases, this enabled participants to cover several of our own issues of interest from the outset, such as age on entry to care and types of care placement for example. However, where such issues were not addressed, we followed up with specific questions, using our semi-structured interview schedule to guide the discussion (see Appendix D).

While recognising the potential limitations of retrospective interviews (e.g. inaccurate recall), and that participants were reflecting on their experience of systems that might have changed, these interviews yielded important insights which informed our interviews with girls/young women and allowed us to explore important continuities and discontinuities in intergenerational experiences.

Interviews with Girls and Young Women

Between January 2020 and March 2021, interviews were undertaken with 17 girls and young women across England who had been in care and had also had youth justice system involvement. Originally our intention was to focus on two local authority areas for this aspect of the project, but due to challenges in recruitment and relatively low numbers of individuals who met our specific criteria, we opted for a national focus. The final sample of participants were recruited from across the country via Youth Offending Teams (YOTs), social workers, social media, and professional contacts.

Interviews with Professionals

Interviews were also undertaken with 40 professionals across England between February 2020 and February 2021, including front-line practitioners and senior policy leads from children's services, police, youth justice, probation, prisons, and the judiciary. Specific approval to conduct research with the latter group, and use of a specific interview schedule, was gained from the Judicial Office. Our professional interviews provide a direct point of comparison to the voices of care-experienced girls and women, helping to avoid any bias that arises from focusing on one group alone.

Covid-19 and the Move from Face to Face to Virtual Methods

The Covid-19 pandemic created numerous challenges for the progression and completion of this project. Fortunately, most planned interviews in prisons were completed before the pandemic struck and prevented further fieldwork in locked institutions. However, interviews with girls/young women and professionals were still in the early stages and therefore an amendment to our ethics application was submitted, with approval sought and gained to move planned face to face interviews to the virtual environment.

Of 94 interviews in total, 46 were face to face, and 47 were either online (mainly over MS Teams) or over the telephone, depending on participant preference and access. At the request of one young woman, one interview took place over email.

Documentary Analysis of Protocols

Documentary analysis of 36 local authority protocols aimed at preventing the unnecessary criminalisation of children in care and/or supporting looked after children in the youth justice system complemented our interview strategy. Protocols were obtained through internet searches and/or making contact via email and/or telephone with Youth Offending Services across England and Wales.

Data Analysis

All interviews were fully transcribed in order to aid analysis, and anonymised transcripts inputted into NVivo 12. Short summaries of each interview were also created and placed in NVivo, as were the 36 local authority protocols. Separate analytic frameworks were created for the protocols and the three categories of interview group (see Appendix E). Guided by our analytic frameworks, the protocols and all 94 interviews were subsequently coded, in preparation for more in-depth analysis, and to enable a comparison across data sources (Woolf & Silver, 2018). In addition to exploring the nodes, memos, coded references and annotations created in NVivo, a process of reading and re-reading transcripts enabled us to remain close to the data and the stories of our participants.

3 Data Scoping Exercise

Strategy

Our Data Scoping Exercise began with our targeted review of international literature on the pathways between care and custody for girls and women. This identified the key contextual information that is and is not available on this topic, including the numbers, demographics and histories of care-experienced girls and women involved in the justice system. The challenges of data collection and information sharing were also discussed with specific professional organisations. Discussions with the police considered the possibilities and limitations of current police data collection and usage. Discussions with the prison service included the challenges of identifying current or prior care status amongst those in locked institutions, and the knock-on effect on the types of support then offered.

Furthermore, attendance at several events hosted by the MoJ and Nuffield Family Justice Observatory enabled us to explore the new opportunities for data linkage that now exist. Throughout, our interest has been on how more effective data collection and analysis might ultimately improve support for care-experienced girls and women in conflict with the law.

Identifying Knowledge Gaps

Our work has highlighted significant knowledge gaps at numerous points in girls' and women's journeys across the care and criminal justice systems, which are detailed below. This is followed by our recommendations for improving the quantitative evidence base in the future. Although some of the points below are equally relevant to boys and men, given the focus of our project, these are discussed specifically in relation to girls and women.

- Rates of criminalisation for all children in care in England⁵ that includes those looked after for less than 12 months, are unknown.
- There is very limited understanding of the intersection of gender, ethnicity and care status for care-experienced girls and women in the youth justice and adult criminal justice system.
- We have only a partial picture of the overlap between experiences of criminalisation and victimisation for care-experienced girls and women.
- More specifically, there is a lack of consistent data collection on care-experienced girls and women victimised and criminalised through exploitation (CSE/CCE) and involvement in county lines activity.
- Incomplete information on transitions, including from care to independence and from custody to the community, exists for care-experienced girls and young women.
- There are ongoing challenges in accurately identifying the number of care-experienced women in prison.
- We have very limited knowledge of where the children of care-experienced women in prison go, including who they live with and whether they go into care themselves.
- At a wider system level, there is a lack of information on how girls and women may move through, or have contact with, different state systems of care and control across their life course, and how this might vary by ethnicity.

⁵ Data-collection on this issue in Wales is slightly different and includes, for example, those 'looked after' who had an open case with a local authority on the 31 March that had been open for the three months from 1 January to 31 March.

Data Recommendations

Further exploration of how gender, ethnicity and care status interact with criminal justice involvement is required and the new MoJ/DfE data-share would enable this.

Our literature review highlighted the dearth of research exploring how gender, ethnicity and care status interact with criminal justice involvement. However, recent data linkage developments led by the MoJ through their Data-First project and ADR-UK mean that a focus on this issue is now a real possibility through the analysis of administrative data sets. Drawing on the MoJ/DfE data-share, and specifically the Children Looked After Data, the Police National Computer data and education census data, we recommend a specific exploration of the onset and frequency of care-experienced children's interactions with the criminal justice system.

In its current form, the data-share does not enable an exploration of onset since it only includes information on the most recent episode in care. However, there is a pressing need to explore whether criminal justice contact first takes place prior to entry to care, whilst in care, and/or after leaving the care system, and how far this varies by gender and ethnic group. The DfE should ensure that future iterations of the data-share include information on all episodes in care to address this issue.

Importantly, the current data-share would enable an exploration of the frequency of criminal justice contact by gender and ethnicity. This could be followed up by an investigation into offence seriousness. Crucially, the data-share also enables an exploration of criminalisation rates for all children in care, not just those looked after continuously for 12 months or more as is the case currently in the DfE's annual SSSA903 data collection.

We note also the possibility of using the data-share to consider any impact on rates of criminalisation since the publication of the national protocol to prevent unnecessary criminalisation of children in care and care leavers (DfE, HO, MoJ, 2018). The protocol itself highlights that its implementation should be linked to the strong interrogation and use of data at the local level (DfE, HO, MoJ, 2018).

A critical examination of police data collection on the victimisation-criminalisation overlap is required and could help to prevent unnecessary criminalisation in care

There is a stark overlap between experiences of victimisation and criminalisation for care-experienced girls and women, and this requires further exploration. Although beyond the current scope of the MoJ/DfE data-share, which cannot explore experiences of victimisation, we recommend that police forces undertake a critical examination of police data collection and usage relating to children in care as a starting point for addressing this issue. This links with recent work by the Howard League (2019), which identified good practice in working with police data amongst some forces but argued that "police forces need to review and improve current recording and reporting systems to enable them to understand and address unnecessary criminalisation and safeguarding in their areas" (2019:1).

In addition, the Howard League (2019) urged forces to interrogate the data they do have to improve understanding of the types of offences children are being criminalised for when they go missing from children's homes and how they could be better protected from the risks they face, a recommendation that we echo.

Local authorities and the police must improve data collection and usage on girls' exploitation and county lines involvement

Furthermore, we recommend that local authorities and the police explore the specific involvement of girls in CSE, CCE and county lines activity. Calouri et al (2020: 6) note there exists something of a "data desert" around county lines as most police forces and local authorities do not routinely collect data relating to this. They further observe how children in care are disproportionately represented in county lines networks but are not systematically identified by police or local authorities. In particular, inconsistent use of county lines and CCE flags to identify heightened risk leads to "a gap between data and operational understanding" (Calouri et al, 2020:7).

Exploring the victim-offender overlap for those with care experience is beyond the scope of many police forces, but an overhaul of systems of data collection and usage could potentially make a significant difference here, including exploring when repeat criminalisation and repeat victimisation collide. Ultimately, this could lead to more efficient and effective use of the police and wider criminal justice resources in supporting care-experienced girls and women. It could also inform the implementation of local protocols aimed at preventing unnecessary criminal justice contact.

Transitions for care-experienced girls and women need to be better understood, with data published on those transitioning from the youth to adult criminal justice system

There is also a pressing need to increase understanding of transitions for care-experienced girls and women, including considering how the move from being in care to leaving care may overlap with transitioning from the youth justice system to the adult criminal justice system for some individuals. We currently have an incomplete picture of transitions for girls and young women, with Agenda and the Alliance for Youth Justice (2021) highlighting how:

"a lack of gender-specific data, reporting and monitoring of outcomes in criminal justice and statutory agencies means that the needs of girls transitioning into adult services, both in custody and the community, have not been comprehensively mapped and understood, limiting the development of effective responses to this group". (Agenda & AYJ, 2021: 8)

We would reiterate Agenda and AYJ's call for the MoJ, HMPPS and the YJB to "publish data annually about young adults transitioning from the youth to adult justice system, disaggregated across all protected characteristics, including age, gender and ethnicity" (2021:31), but would further argue that care experience should also be included here too.

To improve identification of those in prison with care-experience, HMPPS should ask an 'opt out' question rather than an 'opt in' one which may be less stigmatizing

Despite ongoing efforts by the prison service to accurately identify numbers of care-experienced women (and men) in prison, serious challenges remain in obtaining accurate numbers. One reason is because individuals may not want to disclose this on entry to prison when the 'care question' is asked as part of the Basic Custody Screening Tool amongst a deluge of other questions. Whilst prison staff are being encouraged to repeat the question throughout someone's time in prison, and as relationships with staff develop, it is unclear how much of a difference this will make.

In order to improve data collection and ensure that all those entitled to local authority support are actually offered it, we recommend that HMPPS turns the overarching question on its head. Indeed, an 'opt out' question rather than an 'opt in' one might well be a better way forward. Therefore, rather than enquiring 'who has spent time in the care system as a child?', the question would be re-framed as 'who has not?' (Fitzpatrick, 2020). This would potentially be less stigmatising and would start from the defensible assumption that care experience is likely to be found amongst prison populations. It would also help to embed support for those with care-experience far more consistently in prison service practice (Fitzpatrick, 2020), including ensuring that the new care leaver lead roles in each prison are appropriately resourced, sustainable and receive adequate workload space for their role.

The lack of knowledge on what happens to the children of care-experienced women who are sent to prison needs to be addressed, but with great sensitivity

Our knowledge of who is looking after the children of care-experienced women in prison is very limited. It is shocking that there is no national data collection on the location of children whose mothers have gone into prison and this needs to be addressed.

We recommend that the government commit to collecting this data as an urgent priority, with a specific focus on collecting data on the children of care-experienced mothers in prison. However, this must be managed by HMPPS with great sensitivity given that some imprisoned women may be understandably reluctant to disclose a care status amid fears for what might happen to their own children.

However, a greater understanding of the arrangements made for imprisoned women's children could increase understanding of care-experienced women's fears and anxieties during their imprisonment and the related support that they need from staff, including in maintaining family contact.

Furthermore, it would aid understanding of women's domestic situation for the purposes of resettlement planning, helping to ensure that the provision of appropriate accommodation (with sufficient space) on release can be planned for at the earliest possible stage. In addition, where informal arrangements are made within families to care for children whose mothers are in prison, these families may benefit from the provision of formal support through the local authority as kinship carers.

More broadly, a greater understanding of what happens to the children of care-experienced women in prison, and the disruption caused to them, could help to inform the decision-making of sentencers (Minson, 2020), and lend further support for the need to divert women away from custodial institutions wherever possible and particularly avoid the use of damaging short sentences.

Future data linkage could improve understanding of care-experience and system contact across the life course but must be underpinned by a strong commitment to ethical practice

Our final recommendation concerns a longer-term aim of harnessing the potential of data linkage to explore possible involvement in a range of different systems across the life course. This could illuminate understanding of the pathways taken between the care system, education system, mental health system, youth justice system, courts, and prison system. There are various questions that could be considered here. For example, how might multiple sources of disadvantage combine and reinforce over time? What impact might contact with different systems have at different points across the life course, and how far does this vary by gender and ethnicity? As more linkage between datasets occurs, answering some of these pressing questions becomes more of a future possibility. However, in focusing on system contact across the life course, all data-users must ensure that there is a commitment to the highest standards of ethical practice.

To conclude, the above recommendations pave the way for a future research agenda in this important area. Nevertheless, questions of ethics must remain paramount in taking this agenda forward, particularly ensuring that the interests of those in receipt of justice services are not delegitimised in policy debates (Broadhurst et al., 2021: 249). Just because something can be done with data does not necessarily mean that it should be done, and a commitment to good ethical practice must be at the heart of the choices made in the research community, but also the policy and practitioner community, about the sorts of data that are linked, analysed and explored.

Arguably the latter groups face a bigger ethical dilemma between using the data operationally to ensure the best service is offered to the right individual at the right time versus the over-surveillance of a group who already have a disproportionate amount of state intervention in their lives. Given the potential of the linked datasets now available, there must be debate about how data can and should be used in the widest sense, including for and beyond the purposes of research. In this regard, listening to and centering the voices of those with lived experience is a vital starting point.

4 Participant Overview

Key Points

- Fifty-four care-experienced girls and women from across England were included in this study, with participants aged between 16 and 58.
- Nearly a third of care-experienced participants (n=17) identified their ethnicity as Black, Mixed or Other, and 37 identified as White.
- Placement movement in care was very common, with 32 participants experiencing three or more placements, nine of whom had experienced 10 or more.
- Interviews were also undertaken with 40 professionals, aged between 26 and 69, from a range of different organisations and services across England.
- Most professionals identified their ethnicity as White (n=37).
- In total, the study draws on insights from 94 interviews, including 42 interviews with those with lived experience of both care and custody.

Care-Experienced Participants

In this section we set the scene by introducing some initial details of the participants in our study in order to provide some context for the chapters that follow.

We began our interviews with care-experienced women in prison, from three different prisons across England. We obtained a good geographic spread of participants across the country with 13 women interviewed in site one, 11 women interviewed in site two and 13 women interviewed in site three. Individuals were also interviewed from a wide range of age groups to allow us to explore experiences across the generations. Interviewees in prison were aged between 18 and 58, with most participants (n=25) aged over 30. The mean and median ages were 35 and 34 respectively. This provides an important contrast to the tendency in qualitative research to only focus on care experience up to age 21 or 25 – perhaps a reflection of policy that assumes support is only required up to these ages.

Themes arising in interviews with imprisoned women helped to inform subsequent interviews with girls and young women in the community who had experienced both the care system and had youth justice system involvement. In total, we interviewed 17 girls and young women within this category.

Of these, six participants were still in care (including semi-independent accommodation), three were receiving support as care leavers and seven had left care altogether. The ages of girls and young women in the community ranged from 16 to 26. Six were aged either 16 or 17, and 11 were aged 18 and over. The mean and median ages were both 20. Table 1 below presents the age ranges of all 54 care-experienced participants in our study.

Table 1: Age Range of Care-Experienced Participants

Age Range	Participants
16 to 17	6
18 to 19	4
20 to 21	3
22 to 25	11
26 to 29	4
30 to 35	9
36 to 39	5
40 to 45	8
46 and over	4
Total	54

As shown in Table 2, nearly a third of participants (n=17) identified their ethnicity as Black, Mixed or Other, and 37 identified as White. Although we are mindful of the ongoing debates about the value of often overly broad categories to reflect ethnicity (Bywaters et al., 2014), our categories in the table below are deliberately broad to protect the identities of participants in this study.

Table 2: Ethnicity of Care-Experienced Participants

Ethnicity	Participants
White	37
Black	7
Mixed/Other	10
Total	54

Table 3 provides details of the ages that girls and women reported first entering the care system. The majority of participants (n=35) entered care aged 10 or older when they were above the minimum age of criminal responsibility in England and Wales and so able to be prosecuted under the law. Amongst women in prison, nearly all had entered care before the age of 14. However, amongst girls and young women in the community, four participants entered care aged 15 to 17.

Table 3: Care Entry Age of Care-Experienced Girls and Women

Age Range	Participants
0 to 5	7
6 to 9	12
10 to 12	17
13 to 14	13
15 to 17	5
Total	54

Table 4 provides details of the number of care placements that girls and women reported experiencing. Whilst 10 participants described having one or two placements, 32 had experienced three or more placements, with a further nine having experienced 10 or more. Several of those reporting 10 or more placements described experiencing over 20 placements.

However, information on placement number was unknown for 12 participants and not all participants could recall specific details within the context of often very disrupted care histories. Five of the 12 participants for whom details were unknown commented that this was due to the sheer number of placements they had had with descriptions including “too many” or “loads”. Amongst those from Black or minoritised backgrounds, seven reported having had five or more placements and a further three described lots of placements without specifying an exact number.

Table 4: Number of Care Placements Experienced

Placements	Participants
1 to 2	10
3 to 4	9
5 to 6	11
7 to 9	3
10+	9
Unknown	12
Total	54

Despite being recruited in the community, it is noteworthy that five of the girls and young women reported also spending time in youth custody or an adult prison. When combined with the 37 women in prison, this means that 42 care-experienced participants had been in custody.

Interviews with Professionals

Interviews with care-experienced participants helped to inform subsequent interviews with professionals. We completed 40 interviews with professionals who had experience of working with care-experienced girls and women in care and/or justice settings. Twenty-seven professional participants identified as female and 13 identified as male. Professional participants were employed in a wide range of different roles and included front-line practitioners as well as senior policy and practice leads. Participants worked for a range of different organisations and services as shown in Table 5.

Table 5: Number of Professionals Working in Different Professional Settings

Area	Professionals
Children's Services	6
Judiciary	11
Police	4
Prison	7
Probation	4
YOT	8
Total	40

Professional interviewees were aged between 26 and 69, with 25 aged 50 or over (see Table 6). The subsequent table (Table 7) on ethnicity highlights that 37 professionals identified as White and three identified as Black or Mixed ethnicity.

Table 6: Age Range of Professionals

Area	Professionals
20 to 29	3
30 to 39	6
40 to 49	6
50 to 59	14
60+	11
Total	40

Table 7: Ethnicity of Professionals

Ethnicity	Professionals
White	37
Black or Mixed	3
Total	40

The combination of 40 interviews with professionals and 54 interviews with care-experienced girls and women brings us to a total of 94 interviews conducted for this study, and it is these interviews that form the basis of the sections that follow.

5 Contextualising Overlapping Care and Justice Pathways

Key Points

- Trauma emerged as a key theme that could be traced across experiences of care and justice institutions.
- Many participants described backgrounds of abuse, serious violence and trauma, and had multiple experiences of victimisation throughout their lives.
- Violence and abuse at home (including domestic violence, physical and sexual abuse) was the most common reason reported for entering the care system, accounting for 22 participants overall.
- Twenty-nine participants reported being sexually abused as a child. Of these, 12 women discussed being abused whilst in care and nine discussed abuse whilst in care but outside of their care placements.
- Over a third of care-experienced participants (n=19) reported their first justice system contact occurred whilst in care.
- Of those reporting first justice system contact whilst in care, 11 were in children's homes at the time of this contact. Over-criminalisation for minor offending in children's homes was a common theme.
- An escalation in offence seriousness from the often minor challenging behaviour described in care settings was a feature of many women's lives. The leaving care experience was a key point for some in this respect, whereby offending behaviour worsened after the 'cliff edge' of leaving care.
- Disrupted education was common with 34 participants reporting leaving mainstream school early, although five were studying at college or university at the time of interview.
- Movement and instability in care could have an impact in different ways which can affect girls and women across the life course.

Introduction

In the discussion that follows we examine some of the key features of overlapping care and justice pathways. Care-experienced girls and women frequently described painful lives that defy easy categorisation. Indeed, many participants had identities that did not always sit neatly or comfortably together. Such roles could variously include: child in care or care leaver, victim/survivor, offender, prisoner, college/university student, employee, mother, daughter, sister, friend. Learning from the valuable insights that they shared inevitably involves telling a messy story.

Tracing Trauma Across State Care and Criminal Justice Systems

From the outset, contextualising overlapping care and justice pathways leads us straight to trauma (Fitzpatrick et al., forthcoming). Most women in prison described backgrounds of abuse, serious violence and trauma, and had multiple experiences of victimisation throughout their lives. Their biographies were filled with loss, pain and despair. Substance misuse and mental health issues were common themes.

These themes were also reflected in some of our interviews with girls and young women in the community, albeit to a lesser extent. Many of the latter participants were still very close to their care experience, with some still in care or having only recently left, and therefore the capacity for discussing difficult experiences was perhaps more challenging for those still in the process of living their care journey. However, it is important not to make assumptions.

Of the 54 girls and women interviewed, 29 reported being sexually abused as a child. Of these 29, 12 women discussed being abused whilst in care and nine discussed abuse whilst in care but outside of their care placements. Amongst the 17 girls/young women interviewed, a further two talked about being abused either physically or emotionally by carers whilst in care, and an additional three talked about abuse occurring whilst in care but outside of the care placement. This included criminal exploitation, sexual exploitation and/or sexual assaults. We note that no participants were asked a direct question about abuse and so this is not only a finding that emerged organically but one that may underestimate the prevalence of abuse both within care and outside it (cf. Independent Inquiry into Child Sexual Abuse (IICSA), 2019).

Across the interview groups, participants often expressed anger about what had happened to them in the past and fear about what might happen next. However, women and girls were certainly not passive victims. Their accounts often demonstrated aspects of agency, strength, survival and resistance, as well as a desire to support others. Nevertheless, we note the fragility of agency was particularly evident for those in prison, with 14 disclosing self-harm and/or suicide attempts. A further six women told us that they had been 'suicidal' but did not disclose whether this had involved an attempt. Chamberlen's (2018:167) work on embodying punishment observes how self-harm can act as a coping strategy for women experiencing the pains of imprisonment and in doing so, can "reveal the body as a vessel of survival".

Elsewhere, we describe self-harm in prison as a method of communicating, alleviating and/or ending pain (Fitzpatrick et al., 2022). The recent increase in self-harm among women in prison (MoJ, 2021) testifies to the importance of understanding this issue and in supporting women to develop safe coping strategies.

Furthermore, recent longitudinal analysis has demonstrated that care-experienced people are at greater risk of early death from ‘unnatural causes’ including self-harm and mental health causes, than non-care-experienced individuals (Murray et al., 2020) meaning that these issues have even broader implications. Experience of self-harm and/or suicide attempts was also evident within our sample of girls and young women, reported by four out of 17 participants.

However, there was also more of a sense of hope in at least some of these interviews carried out in the community. Amongst the girls/young women, five were in paid employment, two were at college and three were at university at the time of interview. Such experiences clearly highlight the potential for positive outcomes in later life and show that alternative pathways, which can help lead individuals away from systems of control and punishment, are entirely possible – when adequate support is provided.

Nevertheless, our study clearly reveals that when past trauma is not adequately dealt with in care (for example, due to inadequate support for mental health and/or inappropriate placements) and when care perpetuates further trauma (such as through abuse and/or instability), girls and women are vulnerable to crossing over from care into the youth or adult criminal justice system (cf Postlethwait et al., 2010). Furthermore, placement in custodial settings frequently generates further trauma (cf Flores et al., 2018). Therefore, a focus on addressing past trauma and preventing further trauma should be an absolute priority given the reasons for individuals being placed in care.

Reasons for Entry to Care

Overwhelmingly, violence and abuse at home (including domestic violence, physical and sexual abuse) was the most common reason reported for entering the care system accounting for 22 participants overall (17 women in prison, and five girls and young women). The actual figure may have been even higher as several others alluded to this issue, commenting for example that “stuff happened when I was six years old with my Mum’s partner” (Kayleigh, 32), but no further precise detail was provided.

Family breakdown (including parental separation and bereavement) was also mentioned by 11 participants (five girls/young women and six women in prison). Eleven participants (five girls/young women and six women in prison) also highlighted their own behaviour, which included being arrested or “uncontrollable”. Other reasons for entering the care system were also reported, including running away from home (n=8), parental substance misuse (n=5) and parental ill-health (including mental health difficulties) (n=6). Participants frequently mentioned more than one reason for being taken into care. Indeed, amongst those who cited their own behaviour as a contributory factor, it was suggested that this did not necessary tell the full story.

*“My mother used to say it was my behaviour... but it was more to it than that for me. There was reasons why my behaviour was that way and nobody tried to help me”
(Chloe, 23).*

Timing of First Contact with the Youth Justice or Adult Criminal Justice System

To explore overlapping care and justice pathways, it is instructive to consider the timing of participants' first contact with the youth justice or adult criminal justice systems: whether this occurred before going into care, whilst in care or after leaving the care system. Here we define onset of justice system involvement as the point at which individuals reported their first formal contact, including through the police being called, being arrested and/or convicted.

Table 8 shows the onset of criminal justice involvement by timing of care system involvement for all care-experienced participants. Of 37 women in prison, nine individuals reported their onset as occurring prior to care. However, over a third of the sample reported that this occurred during their time in care, and for eight women it occurred after leaving care. For six participants, their justice systems contact had begun in childhood, however, it was not clear whether they were in care at the time. Five participants were unable to recall the specific details of age of onset, and this information was unavailable for one woman whose interview ended early.

Table 8: Onset of Criminal Justice Involvement by Timing of Care System Involvement

Onset of Criminal Justice Involvement	Number of Women in Prison	Number of Girls/Young Women	Total Number of Care-experienced Participants
Before Care	9	6	15
During Care	13	6	19
After Care	8	-	8
Other ⁶	7	5	12
Total	37	17	54

An equal number of girls and young women in the community reported having first involvement with the youth justice system before going into care and during care, although the numbers are relatively small here. The timing of first justice system involvement is categorised as 'other' for five girls and young women; this includes one young woman whose youth justice contact first occurred between care episodes whilst homeless and four others for whom this information was not available.

When we consider the onset of criminal justice involvement for all care-experienced individuals in the table above, we can see that 15 reported this occurred prior to them going into care. Meanwhile, eight reported first contact after leaving care. However, over a third of all participants (n=19) reported their first justice system contact occurred whilst in care. This fits with the wider research evidence within our literature review, highlighting the increased risk of criminalisation in care (Fitzpatrick et al., 2019).

⁶ The 'other' category includes participants where it was not clear when their initial contact occurred in relation to their time in care. Also includes participants whose initial contact occurred whilst at home in between care episodes.

The Link Between Care Placement Type and Offending

Many participants experienced multiple placements in care and more than one placement type. Of 54 care-experienced girls and women, 42 had a mixture of placement types. Amongst the remaining 12, six had only been in foster care, three had only been in residential care, one had been just in hostels and another just in semi-independent accommodation. Table 9 below focuses specifically on those who reported their first contact with the justice system whilst in care (n=19) to highlight the types of care placement they discussed offending in. Of those who reported first justice system contact whilst in care, 11 were in children's homes at the time of this contact. Meanwhile, two participants were in foster care, one was in kinship care and another was in semi-independent accommodation. This information was unspecified for four individuals.

Table 9: Participants who Reported First Justice System Contact Whilst in Care by Placement Type

Participant	Placement Type at Time of First Justice System Contact	Placement Types Experienced
Alicia	Kinship Care	Foster Care and Kinship Care
Aubrey	Children's Home	Children's Homes
Carol	Children's Home	Children's Homes
Catherine	Children's Home	Foster Care and Children's Homes
Charlotte	Children's Home	Foster Care and Children's Homes
Emily	Semi-independent	Foster Care and Semi-independent
Isla	Unspecified	Foster Care and Children's Homes
Jody	Children's Home	Foster Care, Children's Homes and Semi-independent
Josie	Unspecified	Foster Care, Children's Homes and Secure Mother and Baby Unit (MBU)
Kayleigh	Children's Home	Children's Homes and Semi-independent
Lynne	Children's Home	Children's Homes
Mandy	Children's Home	Foster Care and Children's Homes
Nicki	Children's Home	Foster Care, Children's Homes and Semi-independent
Olivia	Unspecified	Foster Care, Children's Homes and Semi-independent
Roxanne	Unspecified	Kinship Care, Foster Care, Children's Homes and Semi-independent
Sara	Children's Home	Foster Care and Children's Homes
Selina	Foster Care	Foster Care and Children's Homes
Sophie	Foster Care	Foster Care
Zoe	Children's Home	Foster Care and Children's Homes

Alicia (32) was the only participant who reported first youth justice contact in kinship care, which is where she began shoplifting. By contrast, Sophie (24) had only been in foster placements and her offending varied, beginning as shoplifting, stealing cars and fighting before increasing in seriousness. Most commonly, participants linked their offending to experiences of children's homes and criminalisation within them.

For example, Jody (26) who entered care aged seven later ended up with multiple arrests in children's homes for assaults and fighting with other residents. Having been raped by one of the other children in one care home, she felt strongly that care "ruined my life". Jody first entered custody at 17 for a burglary offence and her offending progressed to violence linked to addiction issues.

"They used to get me arrested for swearing, used to get me arrested for dropping irons on the floor saying it's criminal damage... I ironed my clothes, I accidentally dropped the iron 'cos I missed the hole, dropped the iron on the floor, the iron broke. They got me nicked". (Jody, 26)

It was depressing to hear these experiences of criminalisation in care echoed across the generations. Whilst Aubrey (45) had only been in children's homes; her youth justice contact also began as minor assaults in children's homes and escalated to more serious violence in adulthood.

Meanwhile, Mandy's (46) youth justice contact also started in children's homes where she described her involvement in criminal damage and shoplifting as a "cry for help". All of Mandy's offending was linked to trauma around her family situation and going into care. This continued to impact her well into adulthood. Concerns about unnecessary criminalisation were also raised by a number of professional interviewees which we discuss in Chapter 5.

For some, the process of leaving care seemed to be a key turning point, and indeed this is a time when care-experienced young women in conflict with the law may have to navigate 'multiple cliff edges' as they transition from being in care to becoming a 'care leaver' (Agenda & AYJ, 2021:13). Recent changes to secondary legislation may have made the situation even worse, with unregulated accommodation now banned for children aged 15 and under but, shockingly, not for children aged 16 and 17, despite the fact that they are still children too (Willow, 2021). Roxanne (17) experienced a multitude of placements moving between home and care; her offending started in care but rapidly escalated when she entered semi-independent accommodation.

Meanwhile, Emily (21) mostly spent time in foster care and then went into semi-independent accommodation, which is where she started drinking alcohol and taking drugs. She linked her offending to aggression and assaults while under the influence of substances, all of which had continued into adulthood.

From Care to Youth Custody

Of those who had experienced youth custody in this study, multiple care placements were common. For example, Olivia (24) had multiple placements before entering supported accommodation at 16, after which she went on to have a further 20 placements. Her offending started after she was raped at 14 (at a friend's house) and included fighting, robbery, battery and substance misuse. She had particularly bad memories of her experience in a Secure Training Centre at 17.

“Horrible, horrible, they used to twist us up, beat us up. For the minorest thing, like they’d be shouting”. (Olivia, 24)

Another participant, Josie, became pregnant after being sexually abused by the son of her foster carer; she then experienced a secure MBU and numerous residential family centres. Her offending began as a survival tactic when she was running away from care, and included burglary. Josie first went to custody at 15 and described all her offending as linked to stealing. She also reported addiction issues and had been homeless prior to prison – a situation she anticipated being repeated for her on release.

“We’re just threw out them gates, got to walk over there so you can get a bus, haven’t got nowhere to live, back out on the streets... all I’m doing is I’m going back out on the streets... I’m better off in fucking jail I am... ‘cos I stay off drugs in here”. (Josie, 41)

Josie was not the only care-experienced woman who discussed the prospects of resettlement in such negative terms (see also Jung & LaLonde, 2016; McMahon, 2019), highlighting the immense challenge of re-building lives in the community post-punishment (Graham & McNeil, 2018). She was also not the only woman to share that she felt safer in jail, which is a damning indictment of the support available in the community. Having long moved beyond any entitlement to statutory leaving care support, the voices of women like Josie, who move between care and custody, and subsequently from homelessness to custody and back again, are far too rarely heard.

It was clear from participants that offending could begin in a range of different placements including foster care and kinship care. However, getting into trouble with peers in children’s homes was a particularly common theme (Howard League, 2017). Several participants commented on an over-use of the police in children’s homes to deal with behaviour that would not necessarily warrant an official or formal intervention for children living with their parents. It was clear that unnecessary criminalisation in care had been a key issue for some, and this was certainly not limited to those who had been in care many years ago.

Of the six girls/young women whose youth justice contact started in care, all had been criminalised for offending in care placements, with most specifically discussing children’s homes. For Nicki (17), children’s homes were where “things started to go wrong” and Isla (26) outlined how “when you’re in care you make one mistake the police get called straight away”. We note that the over-surveillance of girls’ own behaviour in care, which can contribute to their criminalisation, serves as a direct contrast to society’s failure to address victimisation including violence against women and girls more broadly (Cowling & Forsyth, 2021), which we discuss further in Chapter 6.

Other common themes in our study included instability in care and placement movement, running away, substance misuse and inappropriate accommodation. Several participants described an escalation from involvement in minor offences such as assault and criminal damage in care to more serious violence, suggesting that they were not provided with the necessary support to desist.

Movement and Instability Across the Life Course

Whilst clearly necessary in some cases, it is well documented that changing placements not only involves a change of caregiver but can also involve changing social workers, changing schools, losing contact with friends, family and leaving a familiar area (Schofield et al., 2014). In short, movement and instability may create further disruption in childhoods that are already disrupted (Shaw, 2014; Stanley, 2017), with multiple placement moves increasing the likelihood of youth justice involvement for girls (Hébert & Lanctôt, 2016; Kim & Leve, 2011; Malvaso et al., 2017). Our research found that frequent moves may also establish patterns of instability and difficulties settling in other aspects of life (e.g. education, relationships, housing) that persist into adulthood:

“(S)till now to this day I move and then I feel like I need to move again and that’s not ‘cos of anything, that’s because I’m so used to keep moving and moving and moving and moving”.
(Zoe, 25)

Instability was often reflected in disrupted schooling. A stark finding concerned the number of participants who reported having left mainstream school early. This was mentioned by over half the girls and young women in the community (nine out of 17), and by two thirds of the women in prison (25 out of 37) (see Appendix F). Some participants had gone on to a pupil referral unit whilst others dropped out of school altogether.

These numbers are particularly concerning given the evidence that quality attachments in care in combination with a commitment to, and involvement in, education can be protective against offending behaviour (Taylor, 2006). Several participants criticised children’s services for too readily accepting their lack of educational involvement and for not having higher aspirations for children. It is worth reiterating here however that five care-experienced participants in the community were studying at college or university at the time of interview and were generally positive about their futures.

As highlighted earlier in Table 4, of those for whom placement number was known (n=42), 23 individuals had had between three and nine placements, whilst nine had had 10 placements or more. Amongst this latter group, three girls/young women had experienced 20 or more placements and one woman in prison reported experiencing 64 placements (information she had obtained from her care files). Although the overall picture was not straightforward, some who experienced the lowest number of placement moves had more limited offending histories. This included one participant Grace (17) who had two placements, felt relatively secure in care and credited care with helping her to stop fighting. Notwithstanding the evidence that some care experiences can be protective (Lipscombe, 2006; Taylor, 2006), such positive stories were rare in this study. This is likely due in part to the nature of our sample, given that we specifically recruited for those with youth or adult criminal justice contact.

Amongst those who had experienced 10 or more placements, four girls/young women linked their offending to experiences of instability and the care system’s inability to meet their needs (including in relation to mental health or ethnic identity). Meanwhile, three of the women in prison had long offending histories with substance misuse issues, and had been in prison multiple times, highlighting how instability may persist across the life course, with movement in care later repeated within custody settings.

Concerns about instability and movement also arose in interviews with professionals. One member of the judiciary observed how care-experienced girls in court had often moved an “horrific” number of times. Meanwhile, six YOT interviewees noted the commonality of placement moves amongst girls on their caseloads, with links made to the quality of provision, and a lack of training and resources. It was clear that the inability of placements to meet girls’ individual needs frequently led to them being moved on, often into out-of-area placements, where they can become “out of sight, out of mind” (YOT 1) as their needs are moved elsewhere. Some professionals also expressed concerns over how systems themselves could perpetuate trauma when time and resources were a challenge.

“Time is difficult, resources are difficult... and also... proper training and understanding of the impact of trauma... A lot of us we’re just dealing with the symptoms still and we’re not, because of the revolving door, because people are in and out of services, because of complex history... we never really get to that place where they have enough one to one direct work done to be able to get to the nub of it” (Police 4)

Also clearly recognised were that the challenges described played out against the wider social context of austerity, characterised by a retrenchment of welfare provision.

“The infrastructure of society around proper housing, proper mental health facilities, proper treatment providers, proper understanding with the NHS and public health around women and what they have to deal with is just not robust enough” (Probation Service 3)

Against the backdrop of this wider social climate, we note increasing concerns over the links between young women’s poor mental health and their experiences of poverty and deprivation (Agenda, 2020).

Summary

This chapter has sought to contextualise participants’ overlapping care and justice pathways. Tracing trauma across state care and criminal justice institutions enables us to highlight the sheer prevalence of violence and abuse in the lives of many care-experienced girls and women, including pre-care and during care. Multiple experiences of victimisation were evident in so many lives. Meanwhile, over-criminalisation in care was also an issue for some, and particularly evident amongst those placed in children’s homes. Furthermore, placement movement and instability in care was evident for many participants and could be felt in different ways across the life course. As some professionals highlighted, these issues frequently played out against the backdrop of inadequately resourced systems and services. Such challenges are considered further in the following chapter.

6 The Challenges Facing Care-Experienced Girls and Women in the Youth and Criminal Justice Systems

Key Points

- Care-experienced girls and women in trouble were often disadvantaged by negative gendered judgements. These could combine with discrimination against those from minority ethnic backgrounds and be reinforced by an over-reliance by professionals on official files.
- Despite recognition of progress made in recent years in increasing awareness of unnecessary criminalisation in care, it would be a mistake to assume that this no longer occurs. Participants across all groups were clear that it often continued.
- Reducing police involvement in care settings requires a greater understanding of the challenges facing care staff and the need to improve staff training and support and raise the status of the sector.
- The link between unmet mental health needs in care and subsequent criminalisation was stark, and there is a need to dramatically improve mental health support in the community to prevent prison continuing to be the default option in the future. Specific support is also required for self-harm and/or suicide attempts in both care and custody.
- Participants described some shocking accounts of victimisation or exploitation being ignored in care, and the impact of abuse experienced within care settings was long-lasting.
- Care-experienced girls and women in trouble may be subject to damaging cycles of excessive surveillance and inadequate support at different points across the life course – the former occurring in relation to criminalisation and the latter in relation to victimisation and leaving care support. Meanwhile, the experiences of those who became mothers highlights how excessive scrutiny may begin again should care-experienced girls and women go on to become parents themselves.

Introduction

This chapter explores the challenges facing care-experienced girls and women in the youth and criminal justice systems and considers some of the factors that contribute to their justice system involvement. We focus on the impact of judging girls and women in relation to gender, ethnicity and their care histories, highlighting how negative judgements may interact with criminalisation in care and the denial of victimisation. Care-experienced girls and women reported being subject to varying levels of surveillance and support at different points with oversight ranging along a continuum that encompassed the excessive, through to the barely adequate and, at times, non-existent. We conclude by briefly discussing the topic of motherhood to highlight how excessive surveillance may combine with stigma across the life course, potentially having an impact across the generations. Overall, the chapter highlights some of the systemic challenges in responding to symptoms of trauma within systems of care and control.

Judging Girls and Women: The Impact of Gender, Ethnicity and 'Official' Care Histories

Gendered Judgements

A key theme across all interview groups was that care-experienced girls and women in trouble were often disadvantaged by negative gendered judgements. Wider research highlights how girls in the youth justice system may be perceived as more difficult to work with than boys (Baines & Adler, 1994; Bateman & Hazel, 2014) and viewed as 'doubly deviant' for transgressing not only the law but also stereotypical views of how society has traditionally expected girls to behave (Burman & Gelsthorpe, 2017; Clarke & Chadwick, 2020). Our research highlights how care status and gendered judgements may interact to create further stigma.

“I find more often that the young women that have been in care are used to the system and so either are resigned to their fate... Or become quite aggressive and ‘no I’m not going to do that’ because of perhaps a need to rebel. So they’re quite difficult to deal with”. (Magistrate 3)

Care-experienced girls/women were variously described by the professionals interviewed as “harder to engage”, “disrespectful” and “aggressive” and comments seemed to vary between calling out stigma and at times perpetuating it.

“[Looked after girls] tend to be, and it’s bad I know to generalise, but they tend to be disengaged... they have their own protective shell, and they are very difficult to get through to... In my experience girls in the youth court are worse than boys... Girls are much harder to engage... are far more dismissive... have a tendency either as a defence mechanism or because it’s how they feel to be disrespectful”. (Judge 6)

“If they commit a crime... they can be judged as... they’re not real women or they’re not real girls or there’s just sort of a weird sort of judgement or attitude by professionals against them”. (Children’s Services 3)

Such attitudes were often acutely felt by those with care-experience.

“It was always oh she’s just being an absolute brat”. (Jenny, 22)

Ethnicity and Racism

In some cases, ethnicity could add an additional layer of disadvantage as Black and minoritised children must also contend with racialised judgements. Research suggests that ethnicity and care status can produce a 'double whammy' of disadvantage for ethnic minority children in care (Hunter, 2022) which can become a 'triple whammy' for girls (Goodkind et al., 2013; McFarlane, 2010; Williams-Butler, 2018). This emerged as a challenge in our interviews.

“(T)he fact that they’re looked after and then maybe from a Black or ethnic background would sometimes exacerbate already difficult problems, ‘cos of how they fit in or maybe there’s certain cultural issues that come into play that make things more difficult to manage as well”. (Police 4)

Care-experienced participants from minoritised backgrounds reiterated the challenge of fitting into care placements (Sissay, 2019), whilst shifting the focus from how they fitted in, to the lack of placements available to cater for their cultural needs (Barn, 2010; Stanley, 2017).

“(T)here aren’t many foster carers or care placements... like that mirror my culture... People don’t know how to deal with people of different ethnicities”. (Lucy, 23)

Not only was fitting in highlighted as an issue, but so was standing out (Karolia & Wainright, 2020). This was identified as a particular problem for girls in trouble.

“Now I’m a Black kid who’s in care, you know I’ve just added another cherry on the top, I’m always in the limelight of the police. The police are always going to notice me first”. (Isla, 26)

Moreover, six care-experienced interviewees discussed overt experiences of racism across a range of institutions. Nicki (17) had endured negative judgements based on her ethnicity both in school and in care, and during interactions with the police. She told us she had “never been treated well in a police station” and how on one occasion, an officer had used a racial slur before tasing her. Aubrey (45) described being labelled as “aggressive” and receiving harsher treatment in prison, which she attributed to racism.

Aubrey also felt that prison officers separated ethnic minority women out across the wings because it was perceived that they would “cause trouble”. Similar issues were highlighted by some professionals, with one noting: “we’ve got a long way to go to break down the impact of institutional racism” which was described as “very loud” and “very present” (Children’s Services 2). Others stressed the need for far greater diversity amongst professional groups.

“White practitioners have no understanding of some of these complex cultural barriers and obstacles to understanding that young woman’s trauma and her journey into the criminal justice system... We are way off understanding some of the BAME [Black, Asian and Minority Ethnic] experiences of some of our women in relation to trauma”. (Probation 3)

Furthermore, a lack of understanding about cultural barriers could combine with a preoccupation with ‘official’ care histories.

Official Files and Judgements

Girls and women stressed that a reliance on official files by professionals could reinforce negative judgements of those in care.

“I felt like the social workers that had worked with me just read my file and formed an opinion on me without actually knowing me. They wasn’t always around, and their solution is always to move me or blame me. So no, when I was younger, I never felt supported”. (Bobbi, 20)

“My support worker at the care home, one of the things she said that really peed me off was that she was like ‘I’ve read your file, I know everything about you’. I was like ‘no, you’ve read my file, you know what’s on my file, I am more than just a piece of paper’”. (Ellie, 18)

Whilst Bobbi and Ellie illustrate the problem of over-reliance on an official record, file or ‘paper self’, we note also Lucy’s comment on how “refreshing” it was when she finally met a member of children’s services willing to look beyond her official story.

“She sort of said: ‘This is your report, this is everything I’ve read about you. You sound like an absolutely horrible individual on paper, however I don’t care. Tell me who you are and we’ll take it from there’, which was really refreshing and really new as well”. (Lucy, 23)

An ability to look beyond the official record, and the inaccuracies and prejudices they may contain (Carlen, 1988; Stanley, 2016), is not only an example of good practice, but should be essential practice for those working with care-experienced girls and women in trouble. This is not least because negative judgements could affect individuals across a range of different domains that are not just limited to offending – an issue to which we later return.

The Preventing Unnecessary Criminalisation Agenda

Making Progress in the Context of Inconsistent Practice

There has undoubtedly been an increase in awareness of the unnecessary criminalisation of children in care in recent years (Fitzpatrick, 2020), where challenging behaviour in care settings may lead to police involvement in a way that simply would not be the case for many children living with birth parents. The publication of the national protocol to prevent this (DfE et al., 2018), preceded by the Laming Review (PRT, 2016) highlights the increased recognition at the policy level.

Notwithstanding the fact that official data does not include all the care population, but only those looked after continuously for at least 12 months, it is still heartening to see the reduction in offending rates of those in residential care in recent years (Howard League, 2021) which is testament to the ongoing efforts of so many.

Several professionals felt that attitudes and responses to children in care had changed in a positive direction, with greater awareness of the problem of unnecessary criminalisation, and more opportunities for diversion and the use of restorative justice. Yet there was also recognition of inconsistencies in practice, which could be exacerbated by the sheer number of different care providers.

“Gone are the days when we had people throwing plates and all of a sudden the care workers would ring the police. You know we’re not seeing that anymore. But I do think if there is any inconsistency, I just think it’s because there’s so many different providers out there all providing different services”. (YOT 5)

With 70% of children’s homes now in the private sector, the privatisation of care undoubtedly poses serious challenges for the care of children (Shaw & Greenhow, 2020), including in ongoing efforts to embed the reducing criminalisation agenda into practice. Not only do individual providers offer different services, but there continues to be different levels of staff tolerance and training. Noting that police call outs had “reduced massively with the restorative justice”, one participant further stated:

“The experience of that is variable. There are some homes and settings which are excellent at you know implementing the ideology of restorative justice, but then there are others who are less much less tolerant”. (Children’s Services 5)

Whilst the use of restorative justice was mentioned as a positive development in various interviews, there is a need to be mindful of how this is used in practice (Staines, 2013). Caution is required in accepting the use of restorative justice uncritically in care settings without giving due consideration to its particular impact on girls (Österman & Masson, 2018). What is clear from the comments above is that practice continues to be variable. In short, despite the progress made in recent years, it would be a mistake to assume that unnecessary criminalisation no longer occurs. Participants across all groups were clear that it often continued.

Criminalising Girls in Care: ‘No Room for Teenage Transgressions’

As highlighted earlier, many girls and women interviewed had experienced significant trauma and loss prior to and/or during care. This was often exacerbated by frequent placement moves and instability, and/or a lack of communication or consultation about future (and even immediate) plans, which could lead to them acting out because they were feeling angry, lost, confused or abandoned. Such feelings and emotions were frequently described, reinforcing the understanding of offending as a response to trauma (Fitzpatrick, 2017; Mendes et al., 2014).

“I was just kind of very confused, very lost, angry, upset, no one explained anything... That made my mind just kind of think no one cares, why should I care about anybody else, I’m not bothered, I’ll just get drunk and I’ll do whatever I want”. (Hannah, 26)

“I felt unwanted, I didn’t know where I belonged... I’d started kicking off, I got restrained. I got arrested for the first time”. (Zoe, 25)

Many continued to feel the stigma attached to being in care acutely, including those still in care or who had recently left.

“There’s still this stigma within the care system of you are in care, therefore every minor accident you have... is clearly intentional, you are a piece of shit, let’s get you arrested”. (Ellie, 18)

Professional perspectives frequently echoed the concern of care-experienced girls and women, with clear recognition that there may be different thresholds for involving the police in care settings than in family homes (cf McFarlane, 2010).

“The growing pains which parents are willing to accept in a normal family home, may be less acceptable to people in positions of authority in a care home, so minor levels of abuse or damage end up being criminalised”. (Judge 1)

Others commented on there being “no room for teenage transgressions” (Prison Service 7) which ultimately could result in girls in care moving “up the tariff much quicker” (Children’s Services 1). Moreover, the issue of different thresholds for challenging behaviour can clearly be exacerbated by the increased surveillance children in care experience, with “more eyes on a young person” (Children’s Services 4) and “being looked at under a microscope” (Judge 2).

“I hadn’t even been in care long, not even a year... and I just went home with this long criminal record”. (Charlotte, 20)

Potentially subject to different thresholds for behaviour, and under excessive surveillance at times, it is unsurprising that girls and women frequently used the word “angry” to describe themselves and the injustice they felt at being responded to in this way in a system designed to promote their welfare and protection.

“I was just so angry at everyone and everything”. (Olivia, 24)

The prevalence of anger was frequently commented on by professionals.

“They’ve got anger management [problems], they’ve been sexually abused, or whatever reason they are in care. Often it manifests itself and for some girls anyway in serious anger management issues. And they might smash their room up, they might smash a telephone, they might smash a window... Low level criminal damage that if they were at home in the family setting they would never be charged with those types of offences. But they are”. (Judge 2)

Judge 2 went on to describe the problem of escalation in the criminal justice system’s response, noting that even if an absolute discharge is given in court initially (in line with the preventing criminalisation agenda), difficulties arise when minor offending persists (Day et al., 2020; Shaw, 2014).

“But if it happens again and again and again... and if they don’t comply with any order that’s been made, you know what could be regarded as petty offending can escalate relatively quickly to a point where they’re looking at a short period in custody. Which wouldn’t happen to any other kid”. (Judge 2)

It is vital that those promoting a preventing criminalisation agenda take account of the potential for repeated challenging behaviour in care which may well be related to unresolved trauma and a repeated lack of support for individual needs.

Reducing Police Involvement and Pressures on Care Staff

One care-experienced young woman, who had been criminalised in care as a child, and was now working in a children’s home, shared her particular insights into the tensions care staff experience in avoiding police involvement.

“I do think that there’s an overuse of police officers... As bad as it sounds, you just want to cover your back. You don’t want anybody to say you didn’t protect a young person properly or you didn’t make the right steps... So sometimes you do feel like ok let me call in the ambulances or the police in those situations”. (Selina, 25)

In considering how to reduce unnecessary police involvement, Selina also drew attention to the problem of lone working which may be a particular issue in care settings struggling with staff shortages.

“Ban lone working because I think if it’s one member of staff by themselves like they’re more likely to call the police”. (Selina, 25)

Selina further highlighted the serious need to improve training for staff in children’s homes (Ofsted, 2021) and expressed shock at the lack of basic training for staff.

“A lot of the people are not qualified. It’s just like they haven’t even done basic child psychology you know and you’re working with traumatised children... At the moment it comes across that it’s quite an entry level job and ‘oh yeah as long as you haven’t got no criminal offences, come along and just do the shift work’. And it’s way more than that”. (Selina, 25)

Selina's comments concerning insufficient training on mental health, also made about the police and echoed by some prison service staff in our study, are alarming given the prevalence of mental health needs amongst those in care and custody settings. When combined with the low status that we attach to incredibly important 'care work' in this country, and the consequent high turnover of staff (Staines, 2016), this is a serious cause for concern. Such issues also increase the likelihood of the police being called to care homes for a child's own protection.

Mental Health Needs and Criminalisation

One participant recalled an instance of a girl being arrested for her own safety, and the tension that arose from carers being unable to deal with her self-harm versus the police's concern with not criminalising her.

“The police ended up arresting her just for her own safety. She was wandering around with this big shard of glass and you could see the blood like running down her arm.... The police basically came and said ‘unless one of you’s willing to give a statement and make a complaint about what she’s done, we will have to bring her back here within the next hour’... I was like ‘that’s bizarre... she’s not safe to come back. She’s safer in a police cell which is awful but it’s true’... And they were just like ‘yeah but we don’t criminalise children, she’s a 13-year-old child, we don’t want her in the police cells overnight’”.
(Children’s Services 6)

Here we see how insufficient mental health support in care and the community can also lead to an outcome of unnecessary criminalisation, even when the professionals involved perceive this as an “awful” outcome. This raises serious questions about the lack of mental health support for children who may have endured past and ongoing trauma and reveals how failings within the care system can easily lead to police involvement becoming a default option for carers who lack training and support. Of course, once known to the police, it becomes far easier for care-experienced girls and women to become one of the ‘usual suspects’ (McAra & McVie, 2005), with challenging behaviour quickly escalated through the justice system.

Moreover, records of police call-outs to children’s homes (including those with no further action taken) can be retained on record until a child’s 100th birthday in our punitive childhood criminal records system (Sands, 2016; 2018).

Numerous participants highlighted links between unmet mental health needs and criminal justice involvement. Sixty-eight interviewees in total discussed mental health in some capacity and half of the care-experienced sample (n=26) disclosed that they had mental health issues. This variously included issues ranging from anxiety and depression to diagnoses of bipolar and posttraumatic stress disorder (PTSD). It was abundantly clear in many interviews that mental health and a lack of associated support, could both contribute to and exacerbate criminal justice involvement.

“[Mental health support] was so inconsistent, it was so bad”. (Adele, 23)

Some women felt strongly that instability in care could create further trauma and damage mental health.

“(B)eing in care kills your mental health, it really kills your mental health. ‘Cos as a kid you shouldn’t have to worry who, what, where, why, when, how. Who’s going to be there? Are you going to be safe?... No child should have to worry about that”. (Joanne, 39)

Expressing a similar sentiment, Roxanne (17) described her sense of isolation in care after being removed from her family.

“(Y)ou feel like you’re dead, ‘cos you’re not there. You’re just dead innit, you’re dead to everyone”. (Roxanne, 17)

Such issues of isolation may be compounded for those from minority ethnic backgrounds (Barn, 2010) and reproduced for those within custodial institutions – too often with devastating consequences (Goldson, 2002; INQUEST, 2018). Eighteen women in prison outlined difficulties in accessing mental health support with many receiving no support at all. Within prison settings, high levels of mental health needs posed ongoing challenges for institutions ultimately designed to punish and control.

“it is terrible here mental health wise... trying to see a doctor for mental health, or when you come in and your medication comes through, and they don’t give you your meds for days... it’s a long process that and it shouldn’t be ‘cos a lot of people were self-harming... trying to take their own lives”. (Lynne, 43)

Lynne’s comments above were far from uncommon. Of 54 girls and women, 24 raised self-harm and/or suicide as an issue, with well over a third (14 women in prison and six girls and young women in the community) reporting harming themselves and/or attempting suicide. The commonality of self-harm and suicide attempts raises further questions about the quality of support available for girls and women with care experience. Furthermore, our interviews highlighted a complex relationship between self-harm and suicide attempts, care experience and criminal justice contact. For Laura (17) a recent suicide attempt had led to the police being called, and after a struggle when trying to get her to the hospital, she was convicted of assaulting a police officer. Meanwhile, Hannah, told us that her suicide attempts were related to her youth justice involvement and feeling overwhelmed by her criminal record.

“Everybody kept telling me how this criminal record is going to stop me having a life and blah blah blah. So actually I got to about 15, 16 and self-harm got so much worse. I did everything I could to possibly try and kill myself ‘cos I just didn’t want to be here because I just couldn’t deal with everything that was going on”. (Hannah, 26)

Not only can unmet mental health needs contribute to unnecessary criminalisation, the impact of that criminalisation can also harm mental health as Hannah’s story sadly highlights.

Lack of Support for Girls and Women in Justice Systems

Furthermore, once in the youth justice system, there is a very real risk that the experience of being inadequately supported will continue, including in court.

“[The biggest challenge is] trying to get an allocated social worker to attend, I do better now because I resorted to ‘well if I’m not getting the allocated social worker I’ll have the head of service’... I don’t do it willy nilly but if there is a child who actually appears to be completely abandoned by everything”. (Judge 6)

A lack of support in the courtroom was a theme echoed within custodial settings where ongoing efforts to improve services for those with care experience (HMPPS, 2019) may be easily thwarted by a lack of engagement from the local authority. Prison service professionals variously described the support for those leaving the care system as “absolutely appalling” (Prison Service 4) and the ‘cliff edge’ for those leaving care as “outrageous” with a “real lack of continuity and support” (Prison Service 6) on leaving care which made women vulnerable. There undoubtedly remains a risk that care-experienced individuals in custody will be ‘effectively abandoned’ (Coyne, 2015). Yet paradoxically, custody can become a perceived inevitability, and one in which some women felt more supported than in the community.

“Prison is the default option because the resources in the community are not there”. (Prison Service 2)

“I see this [prison] as my home and these people are my family”. (Marlene, 38)

Several women drew parallels between prison and their experiences of care with Steph (43) commenting “[prison] is a kids home but you can’t run off”. For some, this had led to them becoming fearful of leaving prison and having to navigate the outside world with insufficient support (cf Jung & LaLonde, 2016).

Having discussed how girls and women may find their own behaviour subject to over-surveillance in care, and some of the subsequent consequences of criminalisation, we move on now to contrast this to the lack of surveillance in other areas of their lives.

Victimisation, Exploitation and Harm

Overlooked: The Exploitation and Abuse of Girls in Care

Not only did participants report high levels of victimisation prior to entry to care, some interviewees revealed shocking accounts of the extent of abuse, victimisation, and exploitation experienced whilst in the care system (cf Shrifter, 2012). Twelve participants discussed experiences that would fit under the government definition of either Child Sexual Exploitation (CSE) or Child Criminal Exploitation (CCE) although they were not all responded to as exploitation. Negative judgements and the stigma attached to being in care were highlighted once again here, but this time often in relation to under-surveillance of violence and abuse (cf Firmin, 2020). For example, Isla (26) described how the violence she suffered from a boyfriend between the ages of 13 and 15 was frequently overlooked by staff in the children's homes where she lived.

“I was going through a lot of domestic violence with a partner. I used to come home with bruises and stuff. And you know it was just kind of like ‘if she walks past the office and don’t say nothing, we haven’t seen it so there isn’t a problem’... So it was overlooked quite a lot”. (Isla, 26)

Similar comments were made by a professional.

“I sometimes think that we overlook what I would call actually abusive relationships and sexually harmful relationships as boyfriends, because they’re children in care”. (Children’s Services 2)

The same participant went on to highlight additional issues for children from Black communities, noting they are “over sexualised from a very young age... a lot of things are projected onto them that they’re adults long before they are”. This comment on the adultification of children from certain ethnic groups may go some way to explaining their particularly disproportionate representation in the youth justice system (Hunter, 2019). It also undoubtedly poses challenges for a youth justice system seeking to promote a ‘child first’ agenda (Case & Browning, 2021) as clearly not all children are perceived as children.

In line with victimisation being overlooked, others described how exploitation (both criminal and sexual) may be ignored. For example, Hannah (26) explained how she challenged staff over her concerns about the lack of support provided to another young girl.

“In the care home that we were in, I kept telling the staff: ‘Are you fucking serious? Are you actually letting her go? She’s 13, she’s 14, like you’re letting her go with these old men that are picking her up’. And all they kept saying to me was, ‘we’ve reported it and the police are aware of it’”. (Hannah, 26)

Meanwhile, Lucy (23) discussed how abiding by the rules in her foster placement meant that her involvement in criminal exploitation went unchallenged. Describing herself as “dedicated to the gang line”, she explained how she would leave her foster home on an early morning bus each day and return by around midnight to sleep.

“I followed the foster carer’s rules [laughter]. I haven’t broken any of their rules, they didn’t ask me what I was doing, they didn’t ask me what I’d spent my money on or to give them a detailed account of where I’d been. They just asked me to be in at that time and I was. I slept in my bed”. (Lucy, 23)

Lucy was highly critical of children’s services overlooking the serious offences she became involved in, because she came home to sleep in her bed each day and did not cause trouble by going missing. By playing within the rules of her foster placement, she was not a focus for attention and felt that she was only eventually saved by going to prison.

“I’ve lived a very, very dangerous lifestyle so when you ask the question of did social services protect you... I’m fully aware that they were aware themselves of everything that I was doing, the kind of unsavoury individuals that I was surrounding myself with and they did absolutely nothing to safeguard, protect, or to sort of acknowledge why is she doing this or she’s actually in real danger”. (Lucy, 23)

Such negligence seems astonishing, reflecting the provision of a bare-minimum of care and safeguarding. However, even when exploitation was clearly identified, if individuals were not in a position where they were able to engage, support could be withdrawn altogether. This demonstrates the need for attentive and flexible support which takes account of girls’ needs as victims/survivors. Practitioners and young people should be given time to develop relationships, with options remaining open.

“(T)hey might not be able to engage with the service but it doesn’t mean that everything should go away... I think there needs to be more scope for practitioners to be able to say actually I think this young person will work with me. We just need to give them that little bit of extra time to get to a place where they’re able to”. (Children’s Services 4)

Highlighted above is the important point that good practice provides children and professionals with time to work together. It also provides children with the space for multiple opportunities to return for support.

Professional Perspectives on Exploitation of Girls in Care

Amongst our interviews with professionals, participants frequently highlighted how children in care were viewed as particularly vulnerable to exploitation. However, despite some recognition of the often-complex arguments for and against moving a victim of exploitation away from the area, there was a general concern with the extent of movement that these children could face.

“Children’s social care might argue it’s for their own protection but I would suggest that sometimes it’s to move the problem elsewhere... They can’t actually cope with the needs of the child or the behaviour of the child and they are literally dumped into another part of the country”. (YOT 7)

Given the commonly shared view that girls in care were at increased risk of sexual exploitation, it was particularly concerning to hear one professional state that they felt that the current focus on county lines drug gangs was diverting attention away from CSE. This respondent highlighted a re-emergence of inappropriate attitudes amongst practitioners.

“I think child sexual exploitation has taken a massive back step in the last 12 months. It almost has fallen off the agenda and an awful lot of professionals have reverted back to significantly inappropriate language and views about young females. The amount of times now we are hearing that girls are ‘putting themselves at risk,’ it’s a ‘lifestyle choice,’ back into that narrative that we had in the nineties and the early 2000s. There is a lot of blaming of young girls in terms of exploitation and I’m hearing it a lot within my own circles which makes me very, very angry”. (Children’s Services 3)

On balance, more professionals in our study called out inappropriate language and attitudes to girls and women in care (as clearly demonstrated in the quote above). However, occasionally views were shared that perpetuated stigma. In discussing a victim of CSE in care who they had worked with, one respondent stated:

“... (T)he child becomes much more sexualised and... sex is a commodity that she’s able to provide in order to achieve the goals that she wants to achieve, whether that be her offering sex or quite freely alleging sort of sexual misconduct but against individuals... She realises that that is a way for her to wield power within the care system, if she doesn’t like a member of staff”. (Police 3)

Unfortunately, such damaging comments perpetuate gendered judgements of over-sexualised and troublesome girls in care, which links to the adultification of Black girls and young women (Agenda & AYJ, 2021), and serves to reinforce a denial of victimisation and vulnerability.

The Lasting Impacts of Victimisation and Abuse within Care Placements

Dismissal of early experiences of abuse was less easy for the care-experienced girls and women in our study, and it became clear that memories of experiencing or witnessing abuse in, and prior to, care had remained with some participants across their life course. Valerie reflected on being abused physically, sexually and mentally in care homes.

*“What happened in [Residential School 1] I wouldn’t wish on my worst enemy”.
(Valerie, 45)*

Meanwhile, Josie highlighted the long-lasting sensory impact of hearing the abuse of other children in her care home, indicating the vital need to recognise the long-term effects of trauma (Our Care, Our Say, 2021), which can remain with women throughout their lives.

“The geezer used to come up there every night, one of the care staff, and she used to be screaming ‘cos of what he used to do to her. That’s all that rings in my ears... I hear them noises, still I do”. (Josie, 41)

However, it would be a mistake to assume the potential for such abuse is an historic problem. For example, Roxanne (17) was scathing of carers in a children's home who she felt would provoke children into bad behaviour only to then restrain them in sexually inappropriate ways. Others also noted the persistence of abuse external to the care placement.

“I think all the abuse that happened in care homes, all the abuse that happened in foster placements, that hasn't stopped. That's still going on. It's just that I think when women report it, when girls report it, it isn't taken seriously. It's seen as 'oh you're a child in care, oh you've been hanging round these taxi drivers'... It must be so frustrating for them not to be able to have someone to listen to them... just because there's a stigma... they're in care”. (Magistrate 2)

In the disturbing quote above, Magistrate 2 highlights the problem of girls in care not being listened to. This theme was frequently echoed in interviews with girls and women who noted the impact of not being listened to on their trajectories through the youth and criminal justice systems (Day, 2017).

“They talk over us instead of talk to us”. (Ellie, 18)

Kerryann (34), who had been sexually abused by a carer in her children's home after entering care following abuse at home, felt strongly that listening to children was a key area of improvement needed for the care system.

“People being listened to, not being just pushed aside... believing them. If they're saying this has been happening to me, then listen to them... Actually find out what's going on with a person before moving them from pillar to post because then that's just going to make somebody think 'well nobody cares, what's the point'”. (Kerryann, 34)

In contrast to the common perception of girls and women not being listened to, some professionals perceived that care-experienced girls and women “can be quite bad at communicating” (Prison Service 7) or else had difficulty communicating. However, given the evidence presented above, we question who would even want to communicate, and particularly communicate traumatic experiences, when trust that anyone in authority is actually listening may have long since disappeared.

One of the most important initial challenges for practitioners is how to establish that trust (Humphery, 2020) to ensure that girls feel able to speak out and be believed. A further issue linked to trust concerns the power relationships and dynamics that often underpin sexual abuse and exploitation, whereby perpetrators may engineer circumstances designed to undermine victims and remove their agency (IICSA, 2019). In this context, the issue is not that girls and women are 'bad at communicating', but that they may have been actively discouraged from doing so. Coupled with the issue of not trusting those in authority, this puts the onus directly on professionals to build trust and confidence.

Motherhood and Intergenerational Stigma

An absence of trust in those in positions of authority can continue to impact the trajectories of girls and women in potentially damaging ways across the life course. We highlight this briefly here with respect to the issue of motherhood, and this returns us full circle to where we began this chapter – to the problem of stigma (cf Minson, 2020).

Some participants highlighted the contrast between the lack of support from children's services as they left care compared to the scrutiny they faced as parents (Fitzpatrick et al., forthcoming; Roberts, 2021).

“(T)here was no after care, we never saw social services again until I had children of my own. Then they got involved”. (Sara, 39)

Amongst professionals, there was also clear recognition that care-experienced mothers or mothers-to-be frequently faced stigma and negative judgements, which could be magnified for criminalised mothers (Baldwin, 2021; Clinks & Birth Companions, 2021). For one participant from Children's Services, this was reflected in “a bit of a preconceived idea that your parenting will be at fault just because you happen to have had to come into care” (Children's Services 4). They further explained:

“(I)t's not the child's fault that they've ended up in the care system, but yeah it's always kind of made to feel like it is their fault because they've had social care involvement that they then need to be assessed as to whether or not they're going to harm the child”. (Children's Services 4)

Another participant noted how the stigma attached to being in care was evident in the case files of girls and women who were pregnant or parents and could lead to individuals being reluctant to seek professional support.

“I understand that young females either pre or post 18 might be very very scared of actually engaging with professionals if they've had care experience of any sort. Because there seems to be a huge label that we need to stick on any case file whether it's a midwife, whether it's a GP... when it comes through to the referrals section at social care, that this person was in care”. (Children's Services 3)

This recognition of fear was absolutely reflected in the comments of girls and women.

“My experience of the care system terrified the life out of me for my son”. (Kerryann, 34)

Such feelings of terror could lead directly to women in prison being understandably unwilling to disclose a prior care status in prison, which then posed challenges in ensuring that they receive the leaving care support that they may be entitled to (Fitzpatrick, 2020).

“So if women come into prison and tell us that they were in care, they worry that their children may be taken off them. Because the women tell me that once they've been in care, it's like they've got a stamp on their forehead and every agency they come into contact with will view them as less able and less sensible and less... less able to care for someone else”. (Prison Service 7)

Clearly the effects of stigma and labelling of care-experienced girls and women are not just confined to the criminal justice system, but are evident in different domains across the life course. Whilst they can impact on perceptions of those with care experience as 'offender' or 'victim', they also impact on perceptions of individuals as 'parent'. Moreover, participants' experiences concurred with the wider evidence base that child removal can be a deeply distressing experience that is seldom met with appropriate support (Broadhurst et al., 2017), and may have various 'collateral consequences', including criminal behaviour (Broadhurst & Mason, 2017).

Summary

This chapter highlights how care-experienced girls and women may be subject to damaging cycles of excessive surveillance on one hand, but inadequate support on the other, at different points in their care journey. Gendered judgements may combine with discrimination against minoritised girls and women to reinforce these damaging cycles. Moreover, whilst girls and women may find their own behaviour subject to over-surveillance in care which increases the risk of their unnecessary criminalisation, this contrasts to a lack of surveillance in other areas of their lives and particularly victimisation and leaving care support. However, should girls become pregnant or mothers, then the cycle of excessive surveillance may begin again, and combine with the stigma attached to being in care to potentially have an impact across the generations.

Too many women in prison today were the girls in care of yesterday. Beyond the gaze of the community, their experiences are easily ignored. Yet the stubborn over-representation of those with care experience in custody must be addressed by dramatically improving the care and support that individuals receive at earlier points in their lives. It is vital that poor experiences and negative pathways are not used as an excuse for further withdrawal of the state or the removal of resources from the child protection system - quite the opposite. The nature of our sample means we are focused on some of those with the poorest experiences of care - but these experiences are not the experience of everyone and there is nothing inevitable about them. There is a serious need to raise aspirations for individuals and systems and challenge negative judgements. A key part of this endeavour is to learn from the voices of those who so frequently have been utterly failed - often across multiple systems.

7 Preventing Criminalisation, Promoting Diversion and Desistance

Key Points

- Thirty-six local protocols from across England and Wales were obtained for analysis. These protocols were aimed at preventing unnecessary criminalisation of children in care and/or supporting those already in contact with the justice system. If such protocols are followed, they clearly have the potential to divert children away from formal youth justice contact.
- However, many protocols took a 'one size fits all' approach with little evidence of criminalisation being viewed through a gendered lens. Only six mentioned gender, with only two of these recognising that girls in care are at particular risk of criminalisation. There was also a concerning absence of information about ethnicity.
- The normalisation of police involvement in some care settings and the emphasis on record keeping both can have unintended consequences. Lack of training and resources to embed protocols into practice represents a further barrier to ensuring that a commitment to preventing criminalisation is sustainable in the long-term.
- Interviews with professionals highlighted a commitment to diverting children from the youth justice system, and a recognition that this needed to involve far more than just avoiding prosecution.
- There is overwhelming evidence from across all interview groups that care-experienced girls and women should be diverted from custodial sentences wherever possible. Prison must cease to be a default option in the absence of community support. There is also a need for far greater recognition of the potential impact of imprisonment across the generations, particularly on care-experienced mothers.
- However, the importance of supporting those with care experience already in custody must not be neglected. Developing the role of prison leads with specific responsibilities for those with care experience could be a key way to improve support, but there are various barriers to making progress.
- Overall, care-experienced girls and women were very clear that trusted relationships could be a key mechanism for providing and receiving support, and genuine connections with supportive others were highly valued. To promote such relationships, there is a serious need to improve our systems. This includes going beyond the basics of providing a roof over children's heads, being trauma responsive, supporting staff and raising aspirations.

Introduction

In this chapter we focus on the prevention of criminalisation and explore what more can be done to promote diversion and desistance amongst care-experienced girls and women. Findings from our analysis of local authority protocols are presented, followed by further insights from interviews with girls, women and professionals. It is argued that a focus on diversion from formal contact with the justice system wherever possible is vital.

However, we also highlight the serious need to improve support for care-experienced girls and women already caught up in the criminal justice system, and particularly for those in prison. This chapter highlights areas of good practice, whilst presenting recommendations from research participants on how to improve our systems of care and justice. Yet in considering what good support might look like, a number of further challenges are revealed.

Analysis of Protocols Aimed at Preventing Criminalisation

Context and Coverage

In response to the Laming Review's (2016) call for national leadership in preventing the unnecessary criminalisation of children in care, the government published a cross-departmental National Protocol on Reducing Unnecessary Criminalisation of Looked-after children and Care Leavers (DfE et al., 2018).

Whilst this document has no statutory status, the very existence of a protocol which acknowledges that those with care experience were being unnecessarily criminalised is undoubtedly welcome. It is particularly important given that children in care have not benefited from the overall shift in youth justice towards greater diversionary measures to the same extent as non-care-experienced children (Hunter, 2019).

A key recommendation of the national protocol was that local authorities should develop a local protocol or local arrangements appropriate to their needs to ensure that the national protocol could be implemented in practice. The discussion that follows is based on analysis of 36 of these local protocols⁷.

We start from the position that protocols could play a very important role in preventing unnecessarily criminalisation at the local level – if implemented effectively. Over a decade ago, many local protocols did not even exist; that they do now should be taken as an indicator of progress. However, there is a need to consider how such protocols might be implemented in practice, particularly in ensuring that their development represents more than just a tick-box exercise and leads to meaningful change in practice..

⁷ Whilst the national protocol applies specifically to England, our analysis also includes protocols from Wales. Furthermore, the 36 local protocols included were obtained through internet searches and/or follow up attempts to make contact with YOTs across England and Wales by email and/or telephone. The limits of this approach included that this took place during the height of the disruption caused by the Covid-19 pandemic.

Map 1: Geographic distribution of protocols collected from England and Wales

Map 1 highlights the broad geographic distribution of the local protocols obtained for our analysis, with protocols obtained from across England and Wales. While beyond the scope of this research, it is noteworthy that geographical inequalities may affect the criminalisation of girls in care. The number of children in care varies by region (Doebler et al., 2021; Broadhurst et al., 2018); and children living in neighbourhoods with high levels of deprivation are more likely to be subjected to children’s services intervention (Bywaters et al., 2019) and youth justice involvement (McAra & McVie, 2015).

- 2 NORTH EAST
- 7 YORKSHIRE
- 6 NORTH WEST
- 3 EAST MIDLANDS
- 2 WEST MIDLANDS
- 2 EAST
- 5 WALES
- 4 LONDON
- 3 SOUTH EAST
- 2 SOUTH WEST



One Size Does Not Fit All

The Laming Review (2016) suggested that the joint-working protocols should ensure that “the protection of children and young people in care from criminalisation is gender-sensitive” (2016: 22). However, our analysis reveals that many of the local protocols take a ‘one size fits all’ approach to reducing criminalisation and/or supporting those already in the youth justice system.

Only six of the 36 protocols refer to gender and this reference is generally cursory. Furthermore, only two mention that girls in care are particularly at risk of criminalisation compared to girls not in the care system. The evidence from our literature review (Fitzpatrick et al., 2019) and this report highlights that girls in care may have distinct needs and may face stigma from professionals that needs to be challenged. Therefore, the lack of attention to gender is clearly of concern.

Furthermore, ethnic minority children in care may be particularly at risk of criminalisation (Hunter, 2019), with approximately two thirds of looked after children in youth custody identifying with an ethnic minority background (PRT, 2016). Despite this, ethnicity is noticeably absent from most of the local protocols included in our analysis. Just four out of 36 protocols refer to the ethnic identity of the child to which the protocol applies⁸. Of these four protocols, two identify the need to do work which recognises and takes into consideration the specific needs of ethnic minority children, one protocol includes a tick box which asks whether a child’s “ethnic, cultural, linguistic and religious needs” are being met in custody and another simply quotes the Laming review figure outlined above.

Some protocols did refer to the specific needs of children including those who are victims of exploitation (n=19), those who have gone missing from care (n=19), children with mental health concerns (n=7) and children with disabilities (n=7). Despite this, most treated children in care and/or care leavers as a homogenous group, rather than as individuals with multifaceted identities and experiences that may influence their likelihood of entering justice systems.

Any approach to reducing criminalisation and/or supporting those with care experience must take account of such identities in order to most appropriately meet their needs (Care Experienced Conference, 2019).

The Focus of Protocols: From Restorative Practice to Incident Classification

Of the 36 local protocols obtained for analysis, five focused on supporting children in care/care leavers already involved with the youth justice system. These documents outlined statutory duties towards children in care/care leavers, bringing together the relevant legislation in a concise document. Thirty-one protocols focused specifically on reducing the criminalisation of children in care (see Table 10), and it is instructive to consider the approaches aimed at achieving this.

Table 10: Focus of Local Protocols by Number of Protocols

Focus of Protocol	Number of Protocols
Reducing criminalisation	31
Supporting children in care/care leavers in CJS	5
Total	36

⁸ While a further eight protocols mentioned ethnicity, this was only in relation to aggravating factors for offences and was focused on the ethnicity of the victim, not the alleged perpetrator.

Of the 31 protocols focused on reducing unnecessary criminalisation, 30 make reference to ‘restorative’ approaches. However, this varies from vague mention to explicitly setting out what such an approach would entail, with some protocols (n=9) offering accompanying training for carers. We argue that ongoing training for staff should be essential practice here, particularly if we are to avoid protocols becoming ‘just another policy document’ (McFarlane et al., 2019: 37). Furthermore, whilst we support the use of restorative practice that is true to the principles of diversion from formal system contact, support and reparation, we also note the need for caution in applying practices that may have been designed for the male majority to girls and women (Sharpe, 2012).

Österman and Masson (2018) highlight the neglected role of gender in research on restorative practices, noting the need to ensure that restorative practices do not add to pre-existing vulnerabilities or the legacy of female victimisation experiences: “there may be cases where reparation and an apology is neither suitable nor safe for the woman, such as when the offense is in response to ongoing threats and violence” (2018: fn12). Meanwhile, Larsson et al (2018) found that female offenders were more likely to view restorative justice positively when they felt they were being genuinely listened to. This links to the importance of making time to listen to care-experienced girls and women highlighted in our previous chapter. However, we also reiterate the need to recognise the challenges of reaching those with a mistrust of professionals as well as a history of not feeling listened to or being believed.

The majority of the 31 protocols (n=21) classify behavioural incidents along three levels (for example, high, medium and low risk) and make suggestions for intervention based on these. All are concerned with de-escalation of incidents and trying to manage responses to challenging behaviour without formal justice systems contact. However, the protocols do differ in terms of contextual focus. Ten of the 31 protocols apply only to incidents that occur within the care placement itself, seven apply to incidents ‘in and around’ the care placement and eight apply to all incidents involving children in care and/or care leavers regardless of where they take place. This information was unclear for six protocols.

Furthermore, the scope of responsibility for reducing unnecessary criminalisation also varies widely. This is evidenced in the agencies involved in local protocols; some consist of agreements between the police and children’s homes while others incorporate a range of services including care providers, police, YOTs, Crown Prosecution Service (CPS), courts, health services and education providers. The majority of protocols mention children living out of area, with many stating that children who are not living in their home authority should be afforded the same protections as those living in their home area.

However, given the inconsistencies in levels of engagement with, and approaches to, reducing unnecessary criminalisation across local authorities, this is likely to be a difficult task in practice. Furthermore, three protocols explicitly stated that they did not apply to private care providers, only those run by the local authority. Given that over a third of children in care are living in private provision (DfE, 2020) this is of serious concern⁹.

⁹ We also contacted 13 of the largest private children’s homes providers in England to enquire whether they had any protocols in place to reduce unnecessary criminalisation. We received just one response from a provider who told us they were too busy to deal with our request.

The Challenges of Police Involvement, Appropriate Record Keeping and Sustainability

Our analysis also revealed some concerns about the use of police involvement within protocols. Seventeen of the 31 protocols stipulate a close working relationship between care placements (in particular, children's homes) and police officers who may assist in a number of ways. For example, designated police officers may make regular visits to children's homes to gather information, identify risk of offending, and to attend liaison meetings that involve disclosure of non-serious incidents. Many protocols recommend that staff seek advice from local policing teams when making decisions about how to respond to incidents.

However, other protocols, such as the South-East protocol, noted in the Laming Review (2016) as an example of good practice, stipulate avoiding police involvement wherever possible. Indeed, the normalisation of police involvement (Shaw, 2016) could be seen as contradictory to the spirit of reducing criminalisation, given the evidence that police contact – whether for welfare or justice reasons – can lead to more formal justice system contact (McAra & McVie, 2010).

Accurate record keeping is also a key focus in the majority of protocols designed to reduce unnecessary criminalisation. On the one hand this is understandable, however, an official record of challenging behaviour could very easily accumulate in a residential setting where there is a requirement to record all incidents (Hoyle et al, 2020). 'Normal' childhood behaviour that might be dealt with without official intervention in a non-care setting could potentially result in a thick file of incidents in a care setting. Against this context, it is not surprising that care-experienced interviewees felt strongly that professionals should look beyond their official file. To repeat the words of Ellie (18): – *"I am more than just a piece of paper"*.

Whilst local protocols aimed at preventing unnecessary criminalisation of children in care are very welcome in theory, there is a serious need for caution in practice. This is particularly so with regard to the context and focus of the protocols, the potentially detrimental effects of excessive record keeping, and the possible unintended consequences of normalising police involvement in care homes.

Highlighted above are concerns about recognising the needs of specific groups (including girls and ethnic minority children) as well as variation in the scope of protocols which raises questions about consistency in local practice across England and Wales (Goldson & Briggs, 2021). While such protocols certainly have the capacity to promote diversion through reducing formal sanctions, many also require regular, informal police contact which can have the opposite effect.

Furthermore, the success of any protocol aimed at reducing unnecessary criminalisation relies on ongoing communication, training and support for those involved and must be properly resourced (McFarlane et al., 2019). When contacting YOTs about local protocols in their respective areas we were told about some having 'fallen by the wayside' after changes in staff. As outlined in our Conclusion, a renewed commitment to embedding protocols that contain appropriate provisions clearly into practice is vital if sustained efforts to promote diversion and prevent unnecessarily criminalisation are to be achieved.

Promoting Diversion

More Than Just 'Not Prosecuting' A Child

Numerous examples of diversion and alternatives to prosecution were mentioned in our interviews with professionals, albeit often in a non-specific way. Comments here included: “we’re looking at diversion, and restorative justice and all those sorts of thing” (YOT 2) and highlighted the importance of “batting it away from court” (YOT 5). Nevertheless, it was not clear that care-experienced girls and women necessarily identified actions taken as diversionary or felt they were effective.

“Only had the YOT team like once and I literally met with her once and I fell asleep, and I’ve never seen her again”. (Nicki, 17)

“When I first got in trouble I was reprimanded, a warning. And they took me round to look at a cell and that and said ‘this is where you’re going to end up and that if you don’t change your ways’. Not that it made any difference [laughs]”. (Olivia, 24)

Although not diverted, Jess (25) felt she had more support from the YOT while on a referral order, which is a community sentence. She described her YOT as “pretty good”, and in her case the community sentence unlocked access to support but this raises the question of why such support was not provided sooner

“(T)here was like certain workers that I knew would go out of their way to try and help... But that all stopped then when my order finished, they couldn’t work with me any longer. So that’s what I found as well, it maybe should have been a bit longer then, or they only get funding to work with you for so long and... then you’re just left with no support”. (Jess, 25)

Jess valued the support of certain workers, but her comments highlight the need for long-term support, not just short-term interventions (Humphery, 2020). We acknowledge the tension here of preventing criminalisation and avoiding formal youth justice contact versus young people feeling supported when under the supervision of a YOT. Clearly, such support needs to come at a much earlier point. Several professionals recognised that often opportunities had been missed to provide appropriate and timely support in care, particularly mental health support.

“(L)et’s put some therapy in place... You know it’s not just enough to not prosecute because otherwise they’ll just come around and do it again and again”. (Prison Service 7)

Highlighted above is the key point that promoting diversion needs to be about more than just not prosecuting a child. Local authorities need to be proactive about doing something positive, as opposed to just responding by not doing something. A specific example of such “diversionary activities” being set up in one area with children in care on the edge of criminality included:

“(P)roviding a mentor type role, someone that can be that trusted adult for them, help them, whether it’s guidance towards work, education, or just general support”. (Police 4)

Having a trusted adult was a strong theme across all interview groups and its importance cannot be emphasised enough (cf Farruggia & Germa, 2014). Even amongst those who felt failed by the system, as many care-experienced girls and women did, a trusting relationship was highly valued. For example, whilst Roxanne (17) was scathing of carers in a children's home (see page 39), she was however very positive about her YOT worker.

“I really like Danielle... you can tell when people generally care and when people generally don't. Like she's rang me outside of her office hours just to inform me on things, do you know she does things above and beyond. She's really good Danielle, she actually really is”. (Roxanne, 17)

Roxanne was not the only participant to feel this way about her YOT worker as we later discuss.

The Frustrations and Limits of Working Within Disjointed Systems

Meanwhile, in further considering diversion, it is clear that that this could take many forms beyond an individual's initial point of contact with the justice system via the police. For example, one member of the judiciary noted that they could signal their belief that a case had been brought to court unnecessarily by imposing an 'absolute discharge'–

“the ultimate sign of a court's disapproval” (Judge 2).

Another participant suggested that, despite the national focus on diversion, the police did not always “think diversion” and suggested that the CPS “need a specialist unit” to deal more swiftly with children in care cases because “in every level [of the system] there is delay” (Judge 4). Furthermore, it was recognised that the situation is not helped by the very low minimum age of criminal responsibility in England and Wales (Goldson, 2013; United Nations, 2016), and the need to respond to cases within criminal rather than family courts (Bateman, 2021). On cases involving girls in care, Judge 2 stated:

“They are frustrating cases to deal with actually... you just don't know what the answer to the problem is and the criminal law isn't the answer to it often. You know in other jurisdictions for example the age of criminal responsibility is quite high... I think in Poland it's sort of 16 or 17... and children that commit offences or breaches of their criminal law are dealt with not in the criminal courts but in a specialist family type court. So they're not criminalised from an early age”. (Judge 2)

Other members of the judiciary also expressed a sense of frustration and powerlessness at the limits of their role in cases involving care-experienced girls and women, not least in working across disjointed court systems where communication was very challenging (Bateman, 2021; Munby, 2017).

“The main problem is the inability of the two jurisdictions to talk to each other... there are huge problems with cross jurisdictional conversations and the two limbs of the justice system, crime and family, seem to operate in isolation and I think that that mirrors or replicate... what happens on the ground”. (Judge 7)

There is a clear need to improve communication between court jurisdictions and we return to this matter in our conclusion. For now, we now move on to highlight the strong arguments made by many participants for diverting girls and women who did appear in court away from a custodial sentence.

Diversion from Custody: Preventing Prison from Becoming the Default Option

Amongst the various concerns highlighted were the ineffectiveness of short sentences, the problem of imprisoning women in need of mental health support, the lack of resources in the community that lead to prison becoming the “go to” option, and the impact of imprisonment on women’s own children (Baldwin, 2017; Masson, 2017; Minson, 2020) which may perpetuate intergenerational pathways into care.

“Sentencing in the community would be far better... rather than sending them to prison on short sentences which in my experience serve no purpose whatsoever... Prison for me should be the last resort... it’s just an easy go to... for people who have got you know mental health issues... We’ve got ladies in here who shouldn’t be here because there’s mental health issues but again ‘cos of lack of support in the community, the default option is coming to prison... Prison is absolutely picking up the pieces of what should be happening in the community”. (Prison Service 2)

“(W)herever possible not send them into prison... You put one woman into prison and she’s got three kids and straightaway there’s going to be issues for those children. And if they do end up in the care system then actually what we’ve done is started that cycle all over again”. (Prison Service 5)

From the perspective of care-experienced girls and women, such intergenerational cycles could create acute feelings of fear, anger, shame and self-blame.

“There’s a lot of guilt there because I always said I would break that cycle and I would never ever have my children in care. But that cycle wasn’t broken”. (Maxine, 41)

Speaking to care-experienced women of different ages also highlighted how fear of children’s services involvement could be passed down the generations.

“My children are frightened ‘cos of social services... so they won’t let me see the grandkids or anything because they know because of my background that social services will get involved in their lives then and because of the experiences they’ve had with the care system, they’re absolutely terrified of it”. (Sara, 39)

In line with wider messages from research, the evidence is overwhelming that care-experienced girls and women should be diverted from custodial sentences wherever possible. However, the importance of supporting those with care experience already in custody must not be neglected.

Supporting Care-Experienced Women in Custody

Making the Care-Experienced People in Prisons Agenda Count

In recent years, there has been increased recognition of the over-representation of those with care experience in prison and the need to support them (HMPPS, 2019). This has led HMPPS to appoint a National Care Leaver Champion as well as Operational, Regional and Local leads for care-experienced people in prison. There were no such roles in the prison service a decade ago and the very existence of these posts is progress. However, the challenge is ensuring that they can contribute to real change on the ground in the lives of those with care experience. Participants in our study identified various barriers to making that happen.

Amongst the seven prison staff interviewed, five commented directly on either their lack of knowledge about 'care' issues (cf Fitzpatrick & Williams, 2017) or the lack of knowledge of other prison staff. Some had only become aware of the issues when appointed as care-experienced leads, highlighting the need for staff training.

“If I’m honest with you before I took this on... I’d never even heard of care experience. You know it’s not something that is widely talked about or known about... And so when care experience does come up, I really really tried to push it hard because I was shocked at how little I knew and how much I needed to tell everyone about it to make sure everyone knew”. (Prison Service 7)

Even amongst those who were passionate about promoting change and improving support, it was frequently acknowledged that a key challenge for the care-experienced lead was the lack of time, resources and workload space available for this role – which was described as “overwhelming” by two participants (Prison Service 3 & 4) and “absolutely a full-time role” by another (Prison Service 1).

“There’s no funding for this role, it’s purely driven by passion and wanting to make a difference really”. (Prison Service 4)

“It’s an add on job for what I’m doing... it does need some resource invested in it and if you invest resource in things, you actually get a better service and a better outcome”. (Prison Service 3)

Within this context of a lack of time and resources, it is not surprising that the support available in different custodial settings was variable and practice inconsistent. At the more limited end of the scale, one participant referred to some peer support and there being “a couple of members of staff who are care leaver aware” (Prison Service 3). At the more supportive end, it was clear there were very considerable efforts to provide meaningful support.

“Make sure that they are aware of their rights and entitlements but also that they’re getting continuity of care really. So we ensure that the personal advisor from the leaving care service continues to support them and we encourage them to come and visit”. (Prison Service 4)

The same participant described how regular care leaver forums had been set up in their prison, and the encouragement of peer-to-peer support with those imprisoned also appointed as care-experienced representatives on each wing. Another participant had set up a steering group which included care-experienced officers and imprisoned women working together to address the stigma attached to being in care, and to improve support.

“We were inundated with women that came forward... a huge number of women, some of which were telling an agency for the first time ever, you know telling the prison system... They wanted to talk about their incidents that had happened 40 years ago in care... all sorts of things. There were women coming forward wanting to access their files, and you know we were just swamped with the work that came with it”. (Prison Service 7)

Others too highlighted the value of care-experienced forums

“Very well attended... no huge structure to it... just a place... for those women just to get together and chat and know that they weren’t alone in those experiences”. (Prison Service 5)

Responses from Imprisoned Women: Solidarity and Peer Support

The care-experienced women interviewed had varied responses to these developments. Some women reported being completely unaware of any support for those with care experience in their establishment, yet others were actively involved, with numerous instances emerging of women demonstrating solidarity and support with each other. For example, Faye (30) had gone around the prison asking women if they would be interested in being part of a peer support group for those with care experience, taking down names on a piece of paper. Given the mental health challenges she described facing, this took a great deal of courage. Meanwhile, Mandy (46) checked daily on her friend Amy, an 18-year-old fellow care leaver who had not long entered the prison, at the laundry room where she worked. Another participant in a different prison had taken it upon herself to create a pamphlet of information for new entrants, signposting support services for women when they are at their most vulnerable.

Reflecting on the lack of support from her leaving care worker whilst in prison, Lucy (23) described how she encountered other care-experienced young people in a similar position. Recognising their collective struggle not only made her aware that she was not alone, but inspired her to develop work to identify, engage and support other care-experienced women.

“I found a group of individuals where it was not just me. These problems weren’t just my problems, and they weren’t a struggle that I was facing by myself. And not just that, there were care leavers that were... in a worse position than me and it was something that I just didn’t want to continue to happen”. (Lucy, 23)

Women with lived experience of care and custody supporting each other was a key theme within our interviews, and for some this could clearly be empowering. However, ultimately this still took place within the wider context of prisons being unsafe spaces. Elsewhere, we have described the profound impact of imprisonment on women who have suffered past trauma and may be in desperate need of mental health support (Fitzpatrick et al., 2022), as evidenced by the high prevalence of mental health needs, self-harm and suicide attempts within women’s prisons. Notwithstanding this wider context, where peer support and care-experienced forums existed, they were clearly valued by some women in our study (cf. Petrillo, 2021).

Where it could be more challenging to support care-experienced women was in securing tangible support and entitlements from the local authority. The difficulties of joined up working between some local authorities and prisons was noted as a particular challenge. However, one participant highlighted ongoing efforts to secure funding to combine leaving care pathway plans with prison sentencing plans.

“That means that that planning will be one single plan instead of people going off at different tangents and either a repetition of resources or, as we more often find is,

everyone's aware that there's an issue but then... everybody else is dealing with it and then actually nobody deals with it. And then when somebody gets to their release date and hasn't got anywhere to live, everyone wonders why". (Prison service 5)

Joining up leaving care plans with sentencing plans and ensuring that there is a clear line of responsibility for resettlement support certainly seems to be an avenue of good practice that is well worth pursuing for those girls and women who fit within the narrow confines of leaving care legislation, and who are eligible for leaving care support. However, contacting leaving care workers and personal advisors from prison was not easy for some staff who commented on the "absolutely appalling" leaving care support provided by some local authorities (Prison Service 4). With the leaving care age set at 18 in England, those leaving care in the community already experience compressed and accelerated transitions to independence in comparison to many of their peers in the general population – a situation intensified by the recent failure to ban unregulated accommodation for older children (Willow, 2021). Such transitions can clearly be exacerbated for those in prison (Fitzpatrick et al., 2016).

Abandoned in Custody: The Problem of Leaving Care Support

Amongst the women, Emily (21) commented on the lack of visits from her leaving care worker, noting that in nearly 11 months of her being in prison, she had had just three visits and "no engagement" from anyone else from children's services. Meanwhile, Cameron (25) stated that, whilst going into care in the first place had been "needed" given their violent family home life, they felt abandoned by the care system after coming to prison.

"You are my family. I have nothing out there and you can't even send me a poxy couple of quid to buy myself toiletries. Everything is money in here... canteen, your clothes, everything has to be provided for... They have the bog-standard shit that they give you but the rest if you wanted to maintain a normal life, it's all provided by family, friends, people that support you outside. And all I had was care, my social worker... They just chucked me, it literally felt like they just washed their hands". (Cameron, 25)

The abrupt change in support reported by Cameron was echoed by prison staff.

"I feel that women drop off a cliff, are dropped off a cliff by local authorities, and there's a real lack of continuity and support". (Prison Service 6)

Despite the ongoing efforts to develop support for care-experienced women in prison, and notwithstanding the hard fought-for progress in some establishments, it nevertheless remains the case that care leavers in prison may continue to be "offered the least support when they are at their most vulnerable" (Coyne, 2015: 21). As Cameron put it with respect to the local authority:

"One minute they're in my life and the next minute they've gone. It's like the older I've got the less time they wanted to spend with me, the less time they wanted to work with me, the less time they wanted to help me". (Cameron, 25)

Moreover, an awareness of the often woefully inadequate leaving care support available, and the limits of eligibility, may well have been a factor in some women not being willing to disclose their care experience to prison officers in the first place. Certainly, not being able to identify who in prison might be care-experienced was highlighted as a barrier to providing more general support for care-experienced women. All seven interviews with prison staff highlighted identification as an issue, with it being variously described as "a real problem" (Prison Service 1) where there are "huge gaps" (Prison

Service 5) and “limited data” (Prison Service 6). Some felt that women did not perceive any benefit in disclosing a prior care status when they were used to being let down. As noted in Chapter 5, others highlighted the fear amongst care-experienced mothers of what might happen to their own children if they revealed that they themselves had previously been in care.

Given the stigma attached to being in care that we have previously highlighted, in combination with the gendered and racialised judgements in society of girls and women in trouble (Clarke & Chadwick, 2020), we argue that the fear that women may have here is entirely rational. Shockingly, there is no national data collection on what actually happens to the children of care-experienced mothers who go into prison, and this represents a major knowledge gap.

Changing Outcomes, Improving Systems

In this section, we highlight key themes from participants about how we can change outcomes and improve our systems of support. There is undoubtedly a need for greater recognition of the distinct needs of care-experienced girls and women, as well as a need to raise aspirations both for those who come into conflict with the law, and for the systems of care and control that they encounter.

Going Beyond the Basics

A care system that goes beyond the basics of providing shelter is a crucial starting point.

“Girls do have specific needs and if they haven’t had anybody to talk to or I’ll use the word mother them for instance, you know how are they going to learn?... I think there are gaps in the system here with children in care. Yes provide a bed, yes provide food, but they also need nurturing... And loving and being told that somebody cares for them”. (Magistrate 4)

“I guess it’s about placements being more therapeutic as opposed to just almost existing to provide a roof over somebody’s head”. (YOT 5)

Going beyond the basics is a challenge that applies equally to custody.

“Quite often prisons are running under-staffed which means that resources will get diverted, to do the basics... So sometimes the really important work... the relationship forming work, the support work, and helping people prepare for release, sometimes takes a back seat unfortunately”. (Prison Service 5)

Girls and women in our study spoke loud and clear about wanting more care, compassion and understanding from the professionals in their lives (see also Care Experienced Conference, 2019; Our Care, Our Say, 2021). The need for a caring care system may sound obvious but clearly it had not been experienced by many participants.

“Sometimes it’s something as little as just having that care, it is literally as small as that. Because if you have the general care for someone, you will take your time out to sit down and find out what’s wrong, what’s going on, what support they’re going to need”. (Isla, 26)

“Understanding is a really big thing... putting yourself in their shoes”. (Grace, 16)

Supporting girls and women to develop positive and genuine relationships and connections (Brierley, 2021) was also highlighted.

“You’ve got to make sure that they’ve got some kind of relationship, you’re doing person centred work with them... they need to have made a connection with somebody... and they need to know that their views are the most important in that room”. (Hannah, 26)

“The main thing is staffing, the people who you’re around, ‘cos at the end of the day yeah this is their job, but this is our childhood”. (Roxanne, 17)

Being Trauma Responsive

From the perspective of some professionals, understanding past trauma as a way of contextualising behaviour was key to providing support.

“I think that trauma informed approach... If we train our staff to be trauma informed. It doesn’t mean to say... that means we make an excuse for everybody who’s committed a crime. No, it doesn’t mean that. It means that we understand the context of their life and the impact that that may have had on the behaviour, but we manage them in a sensitive way accordingly”. (Police 4)

A focus on digging deeper to explore the long-term implications of past trauma (Our Care, Our Say, 2021) and being trauma responsive (as opposed to just trauma informed) seemed to offer some hope for professionals of a new way of working.

“Now the cynical ones would say well we knew all this... this is just repackaging but actually there’s something quite different happening with this in the last couple of years around our retraining for women and that is that yes we’ve always been trauma aware, and informed, but we’ve not been trauma responsive. Now that is a massively significant point that I want to make... PSR [Pre-Sentence Report] authors in court are asking the right questions about previous experience but they’re not making the link, the kind of ‘so what?’ question unless they’re properly trained in being trauma informed. So what does that mean for an adult woman, who may have been passed around the care system all her life, all her early life and then ends up in the criminal justice system? What does that mean for her and how can the trauma that she’s experienced be managed in such a way that she recovers from that?” (Probation 3)

However, there must be recognition that responding to trauma requires resources, including appropriate placements and investment in mental health support.

“So children in care, a lot of them actually don’t access therapeutic services, I think they should have a pot of funding, like the adoption support fund... I think it should be the same for children in care”. (Children’s Services 2)

Raising Aspirations, Supporting Staff and Investing in Systems

Responding to trauma is also about raising aspirations for the status of care work, and providing ongoing training and effective supervision – in order to support those whose job it is to support others.

“I also think that we should focus on better quality supervision... proper clinical supervision... If that supervision isn’t effective it’s very, very difficult. Because you’ll join the police saying you want to make a difference, you’ll join being a social worker saying you want to make a difference, you’ll no doubt do the same as a prison officer. And within 18 months you know your view can be slightly clouded by... the constant hamster wheel of your work and your experience maybe of people lying to you, people being violent towards you, people letting you down... But that reason why you joined is still there. But the supervision in my view isn’t adequate in a lot of cases”. (Police 4)

Our systems are not only often inadequate in supporting care-experienced girls and women in conflict with the law, but also inadequate in supporting the staff who work with them. The emotional labour of practitioners was very evident at times in our interviews, although as Crowley (2021) notes, this is a neglected area of research, policy and practice despite being a factor that impacts upon relationships with young women.

Ultimately, failure to support staff, provide sufficient resources or appropriate care provision may simply perpetuate further trauma, because inadequate training and supervision of staff can lead to staff incapable of supervising and supporting girls.

“At the last risk management meeting for that girl that come out of custody the other week, I told [West Town] that the care home were not capable of supervising... With all respect they do not have the skills to manage her complex needs and behaviours. It needed a specialist therapeutic placement, which this certainly was not. But... basically the social worker said I have nowhere else to put her ‘cos nowhere else will take her. And of course within days she was trying to hang herself, she was offending, she became violent. So it’s a massive failure for young people. We’re failing them massively by moving them around the country”. (YOT 7)

The lack of specialist placements highlighted above absolutely concurs with various high court judgements in recent years exposing the scandalous absence of support for those with mental health needs. A judgement by Mr Justice Poole in September 2021 referred to the case of LT, a 12-year-old girl in care, where “the consequences of the national shortage of secure and other suitable accommodation available for vulnerable children... caused avoidable harm to this child”¹⁰. Moreover, the YOT worker’s quote above also reflects concerns made in various recent Ofsted inspections of care homes rated ‘inadequate’ about the insufficient skills and capabilities of staff.

“Less than half of the staff team have the necessary experience, skills and qualifications to meet the complex needs of the children in their care. They are not trained in the therapeutic approach that is set out in the home’s statement of purpose”. (Ofsted, 2021: 5-6)

¹⁰ [2021] EWHC 2593 (Fam)

Once again, the absence of appropriate provision in the community can increase the risk of prison becoming a default option for those with nowhere else to go. Yet once in custody, there is a high risk that a lack of support for mental health needs will once more be reproduced, albeit this time beyond the gaze of the community.

“.. (H)healthcare’s terrible. You ask for a mental health appointment and you’re still sat waiting for the referral five months later”. (Emily, 21)

In addition, the distinct needs of care-experienced girls and women that may not be appropriately responded to in the community may not be appropriately responded to in custody either. That said, early efforts to develop a bespoke offer for care-experienced girls and women in custody undoubtedly offer some hope for improving support.

“We know that our women have different needs. What we’re not so good at actually is responding to that, so there’s a lot of work going on now. You know most of our policies are a one size fits all policy, but I do think we’re getting better now at realising that we need to adjust that for different groups... They’re the sort of things that we’re starting to tease through now... so we can start translating that into some sort of policy and a bespoke offer really for our women and girls in prison”. (Prison Service 5)

The quote above returns us full circle to the theme of moving beyond ‘one size fits all’ to address distinct needs. If such an offer was both implemented and appropriately resourced, it could begin to provide care-experienced girls and women with the support that they need for returning to the community after prison.

Supportive Relationships

Relationships are key to supporting girls and women. Nowhere was this more apparent than during some of our interviews with girls and young women in the community who chose to be accompanied by their YOT worker as a form of support. As noted earlier, Roxanne (17) described her YOT worker as “really good” and felt she went “above and beyond”. On hearing about Roxanne’s care experience, her YOT worker commented:

“I’ve listened to bits but I’ve never heard it in full you know like the full story. It’s very powerful”. (YOT Worker accompanying Roxanne)

This reflects the need to understand the context of individual lives, as well as the desire of girls and women that practitioners look beyond what is written in an official file. Meanwhile, Zoe and her YOT worker described having a very close relationship, although the latter felt she had been looked on with disdain in the workplace for doing too much for Zoe, including at one point providing her and her baby with a place to stay.

Ellie and Amelia also chose to be supported by their YOT workers during interview. Both had only ever had one worker rather than a team of people which was the norm, and this was clearly valued.

“When I work with one person, I like to stick with that person”. (Amelia, 16)

Amelia's YOT worker had stayed on to work with her even though this had been a struggle to achieve.

“There is a gap in the support... I am fighting my case to keep hold of her... it's not just about her offending, it's about her emotional health as well”. (YOT Worker accompanying Amelia)

Whilst it was more common for girls and women to have experienced a turnover of multiple professionals involved in their lives, although few with full oversight of an individual's background, the importance of a single supportive adult to 'champion' a girl or woman came through strongly. Amongst some YOT workers interviewed, models of support were highlighted that involved one key worker acting as a conduit for support for a young person, with the worker supported by a team of specialists rather than the child being overwhelmed by too many individuals and subsequently lost in a sea of people.

There were various other cases of passionate practitioners from across different professional groups who went 'above and beyond' to make a difference and some of the stories told were inspiring but are not repeated here to protect identities. However, they should not have to go above and beyond because the support ought to be there in the first place; relying on practitioners to go the extra mile is unsustainable, and should not be relied upon to prop up inadequately resourced systems.

Acting outside one's professional remit also carries risks of both a personal and professional nature for staff, including burn-out, and may ultimately contribute to the process of children becoming invisible to practitioners, as described by Ferguson (2017) in a child protection context.

Finally, a further site for potentially supportive relationships that some girls and women described was in schools. For Hannah (26), a teacher was that trusted individual who had supported her to flourish:

“Helen was my teacher... I got to year 11 and I got GCSEs and that was purely down to her support and guidance and understanding... the only place that I'd turn up was school”. (Hannah, 26)

Hannah described how this teacher was the one person in her life who had raised aspirations and encouraged her to succeed. When not experienced as sites of exclusion (Cherry, 2012) schools can be an important source of continuity when life outside school has been disrupted, with teachers providing the guidance and support that some girls in care may desperately need. In contrast, Selina's (25) reflections on her time in care showed how carers had such low aspirations for her, and this links with our wider finding about the high numbers of care-experienced participants who left mainstream schooling early.

“I remember telling my foster carer and my social workers... I want to go to school, I want to go back to school and they just kept on telling me ‘no school's not for you’”. (Selina, 25)

Selina left school at 15 but later attended sixth form and university. The girls and young women who had continued their studies were hopeful for their futures and most had left justice systems involvement long ago, highlighting the possibility for positive outcomes, and that education may create opportunities for diversion and desistance (see McAra & McVie, 2016).

Yet whilst supportive relationships are of vital importance to care-experienced girls and women, the wider political climate has undoubtedly created barriers to their development. Over a decade of cuts to public services has meant that the professionals supporting women and girls in justice systems, from social workers to prison officers, are working with fewer resources than before (Agenda & Alliance for Youth Justice (AYJ) 2021), and this particularly impacts those with care experience (Innovation Unit, 2019). More broadly, austerity politics including the reduction in child benefits, the introduction of Universal Credit and the 'bedroom tax' have created conditions whereby the prevalence and severity of child poverty has increased (Block et al., 2020).

This is compounded by the lack of preventative services, such as early help, which is leading to an escalation of problems within families meaning they are more likely to be subject to social services intervention in the first place (Block et al., 2020). Such conditions bear down particularly heavily on minoritised girls and women (Hall et al., 2017) who are disproportionately likely to have social services involvement (Bywaters et al., 2016). The association between poverty and criminal justice involvement among women has long been documented (for example see Carlen, 1988) and so any solutions to address the criminalisation of care-experienced women and girls must take account of this wider social context (Featherstone et al., 2018).

Summary

This chapter has explored the challenges and possibilities of ongoing work aimed at preventing criminalisation and promoting diversion and desistance amongst care-experienced girls and women in conflict with the law. There has been a particular focus on local authority protocols seeking to promote diversion, and on recent developments to improve support in custody. Furthermore, insights from care-experienced girls and women, and the professionals who work with them, on how to improve our systems have been explored.

These provide some clues as to what good support can look like for those in conflict with the law. Care-experienced girls and women want someone to look out for them, who they can depend on, who is willing to fight their corner, and treat them with care, respect and without judgement. Some did find this in individual workers who made a difference to their lives, but sadly this seemed to be the opposite of what many experienced. Too many continued to be ejected to independence at a far earlier age than many of their peers, held criminally responsible at an earlier age than children in many neighbouring jurisdictions, and treated judgmentally by those who assume they will inevitably be troublesome or their capacity to parent will be questionable. Notwithstanding the considerable efforts of some individual professionals, too many continue to be abandoned to the prison system. In the worst instances, this simply serves to perpetuate intergenerational cycles of trauma.

8 Conclusions and Recommendations

Key Findings

Many children in care do not come into conflict with the law, and there is certainly nothing inevitable about them doing so. In the best cases, settled care placements with consistent and trusted carers can provide the love and stability that children need to flourish and may protect against offending behaviour (Taylor, 2006; Staines, 2016). However, the research presented in this report does not tell that story and many participants described extremely negative experiences of care.

The story presented is about care-experienced girls and women in conflict with the law, whose voices are rarely heard in consultations and whose experiences are frequently ignored in research. Often viewed as too few in number compared to boys in the youth justice system to be of significance, we know that girls in trouble may not only be outnumbered but also overlooked (Goodfellow, 2019). If they later become women in prison, there is a real risk that they will be completely abandoned.

This is particularly true for those with care experience who may not have wider networks of support, which can impact on the prospects of a successful return to the community post-punishment (Jung & LaLonde, 2016). Moreover, the serious lack of knowledge about what happens to the children of care-experienced mothers who enter prison obscures the intergenerational harms that imprisonment can create (see Chapter 3).

In presenting our qualitative findings, we provided an overview of our participants in Chapter 4, highlighting from the outset the problem of placement movement and instability in care. Chapter 5 moved on to focus on trauma as a key contextualising factor in understanding overlapping care and justice pathways that could be traced across experiences of state care and control institutions.

Many participants described backgrounds of abuse and serious violence and had multiple experiences of victimisation throughout their lives. For some, these experiences were very evident whilst in care. Over a third of care-experienced participants reported that their first justice system contact occurred whilst in care, and over-criminalisation in children's homes was a common theme. Leaving care experiences characterised by a lack of support were also a key turning point for some in shaping and reinforcing criminal justice pathways.

The challenges facing care-experienced girls and women in trouble were explored in Chapter 6. This highlighted the impact of negative gendered judgements which could combine with discrimination against girls from minoritised backgrounds and be reinforced by an over-reliance by professionals on official files. Despite progress made in recent years, participants across all interview groups were clear that the problem of unnecessary criminalisation in care continued.

Short term solutions such as repeatedly calling out the police to care settings may create long term problems, including lengthy and long-lasting criminal records. Criminalisation was also linked with unmet mental health needs. By complete contrast, there were some shocking accounts of victimisation or exploitation being ignored by those caring for girls.

Ongoing efforts to prevent unnecessary criminalisation in care and promote diversion and desistance were discussed in Chapter 7. The analysis of local authority protocols to prevent criminalisation highlighted that such protocols have considerable potential but must move beyond a 'one size fits all' approach to recognise the distinct needs of girls in care and those from minoritised backgrounds. Moreover, there is a serious need to guard against the possible unintended consequences of normalising police involvement in some care settings and emphasising appropriate record keeping.

This chapter further explored the potential of ongoing work to support those with care experience in custody whilst highlighting various barriers to making progress. Finally, a strong theme to emerge from interviews with girls and women was the importance of developing genuine connections and trusted, consistent, and caring relationships. Where such relationships existed, they were highly valued, yet too few participants recounted these relationships.

Overall, this study clearly reveals that care-experienced girls and women in trouble may be subject to damaging cycles of excessive surveillance and inadequate support at different points across the life course – the former occurring in relation to criminalisation and the latter in relation to victimisation, leaving care support and imprisonment. Furthermore, the experiences of those who became mothers highlights how excessive scrutiny may begin again when care-experienced girls and women become parents themselves. Yet this may be followed by a subsequent absence of support if their own children are then removed (Broadhurst et al., 2017).

Disrupting these damaging cycles could help to disrupt the routes between care and custody. However, there is also a need to recognise the wider social context in which these cycles take place. The decimation of early help under a succession of austerity focused governments (Block et al., 2020), and the devastating impact of this on child poverty and inequality are making life increasingly difficult for many families. At the same time, our systems of welfare and support are severely under-resourced, meaning that vulnerable children may be removed from so-called ‘struggling families’ into a struggling care system that cannot always adequately address welfare needs and, in the worst cases, may perpetuate further harm. Moving forwards within this context is not easy but change needs to happen.

Recommendations

Listening to care-experienced girls and women

Listening to the voices of those with lived experience must be a key focus for attention for all carers, care staff and other front-line practitioners working directly with individual care-experienced girls and women as there is much to learn from their valuable insights if we care enough to listen. This involves moving beyond tokenistic consultation to really centering girls and women in decisions about their lives. Gaining true insight into the best ways to respond to past trauma requires making time to listen to the needs and wishes of individuals. Girls and women in our study were absolutely clear that they wanted to be listened to without judgement, treated with care and respect, have their views taken seriously and to be believed. This recommendation is a pre-requisite that should underpin all the recommendations that follow.

Building a trauma-responsive care system that does not perpetuate further harm

The Department for Education (DfE) must create a care system that not only recognises, but can also adequately address and respond to, pre-care trauma, whether that be loss, grief, victimisation and/or experiences of violence. This includes providing resources for trauma-responsive training for carers and professionals who work with girls in care. A commitment to building a care system that can address past trauma, and crucially does not perpetuate further harm, should be an absolute priority given the reasons for individuals being placed in care in the first place.

Providing meaningful and timely mental health support

Girls and women must have access to timely and meaningful support for any specific mental health needs. However, services to address such needs, including both Child and Adolescent Mental Health Services (CAMHS) and adult services, are woefully underfunded. The Department of Health and Social Care (DHSC) and the DfE must work in partnership to ensure local authorities have timely access to sufficient specific specialist provision for girls in care with acute mental health needs. Moreover, prisons should work closely with community mental health teams to ensure that women in prison have access to timely professional support that continues when they leave the prison gates. The prevalence of self-harm and suicide attempts among care-experienced interviewees is clear evidence of what is at stake here. For some, getting these things right really is a matter of life and death.

Addressing the link between stigma and violence against care-experienced women and girls

The government's strategy on Violence against Women and Girls should recognise care-experienced girls and women as a distinct group in need of support, not least because of the overwhelming evidence that their victimisation may be minimised or ignored. In particular, those who come into conflict with the law may experience negative gendered and racialised judgements and not fit neatly with societal views of the 'ideal victim'. The stigma they face puts them at greater risk of violence and abuse not only in the community, but also within some care settings where experiences of violence, exploitation and abuse may be overlooked.

Developing protocols aimed at preventing criminalisation in care

We call on local authorities, including Directors of Children's Services and Chief Constables, to renew their commitment to local protocols aimed at preventing unnecessary criminalisation of children in care. These should be accompanied by ongoing training for staff in care settings and the police that is embedded into practice with a particular focus on: intersectional approaches which recognise the distinct needs of girls and those from minoritised backgrounds; the frequent blurring of the boundaries between victimisation and criminalisation; and the potentially life-long impacts of criminal records. Implementing protocols should be linked to the strong interrogation and use of local data. Where such protocols do not yet exist, local authorities must commit to developing them as a matter of priority. In this regard, the DfE, Home Office and Ministry of Justice should lead the way by placing a statutory duty on local authorities to prevent unnecessary criminalisation of children in care.

Recognising the limits of official files and moving beyond them

Individuals accessing their own official care files for the first time can find that much of their 'history' has been redacted and the remaining information is limited which can be distressing. However, carers, social workers and the police should be wary of the opposite happening when children in care come into conflict with the law or exhibit challenging behaviour. The requirement to record could potentially lead to a thick file of 'incidents' for a child in care that would simply not be recorded for those living within non-care settings. Where incidents are recorded, it is essential that information is also included about the context in which the behaviour of concern took place. Care-experienced girls and women felt strongly that they wanted workers to look beyond their official histories, avoid over-reliance on their files and take time to get to know them and understand the context of their lives. This is vital if we are to avoid the problem of challenging behaviour being decontextualised.

Promoting trusted and consistent relationships

Promoting trusted, caring and consistent relationships for those with care experience in trouble is of vital importance. However, there are various tensions when making this happen in practice. The government needs to improve support for those who support others and to make our systems robust enough so that there is sufficient space in professional workloads to spend time really getting to know girls and women and the context of their lives. The development of trusted relationships should not be dependent on committed practitioners having to go the extra mile to make a difference. Equally, good quality, appropriately resourced and accessible support services must be available for care-experienced girls and women in the community. Girls should not have to be involved with the youth justice system to benefit from support and women should not have to enter prison to feel safe.

Joining up disjointed court systems

Our research highlights how the challenges of having cross-jurisdictional conversations and sharing information across court systems may be a particular issue in cases involving care-experienced girls and women. The inability of the youth and family justice courts to talk to each other means that crucial contextual information about individual lives may be missing in criminal cases in particular.

Joining up our disjointed court systems by exploring the possibilities for enhancing communication and information sharing across courts, including developing joint training through the Judicial College could go some way to improving this. However, we also support recent calls for a consideration of what more fundamental restructuring of the courts might look like in the context of wider structural change. In this respect, the development of problem-solving courts and related initiatives warrant further exploration by the MoJ, Judiciary and other court services.

Linked to the theme of communication, our research also demonstrates a need for further work on how those who may have long since lost trust in the authorities can be supported to have their voices truly heard within the court process, whatever that process may look like.

Diverting girls and women from custody wherever possible

The evidence from this study strongly reinforces messages from wider research that women must be diverted from custody into community alternatives wherever possible. The immense harm that can come from imprisonment is starkly highlighted by the prevalence of self-harm and suicide amongst women in prison which leaves little doubt of the profound impact that being incarcerated can have. It is further revealed by the disrupted lives and fractured family relationships that can result from being locked up, as well as the immense challenge of re-building lives in the community post-punishment.

Prison must cease to be used as a default option when the lack of support in care and the community essentially helps to reproduce the well-trodden routes between care and custody.

Improving support for those already in custody

A commitment to diversion from custody is not incompatible with a commitment to improving support for care-experienced girls and women already in prison. There remains a serious need to ensure that they are not abandoned by their local authority. The development of an HMPPS agenda to support care-experienced people in custody, and ensure that they are identified, offers some hope.

However, to make this work count, it must be appropriately resourced with care-experienced leads in prison provided with the training, resources and workload space that they need to actually make a difference to individual lives. Committing resources to the development of a workstream that explores the specific support needs of care-experienced women in prison should be a key part of this endeavour. The joining up of sentencing and leaving care plans by prison staff and leaving

care workers could also create clearer pathways to desistance through fostering communication between agencies and more effective joint working to support women.

Confronting the intergenerational harms caused by imprisoning care-experienced mothers

There is a worrying absence of information about what happens to the children of care-experienced mothers who are imprisoned that must be urgently dealt with. The government needs to confront the intergenerational harms that imprisonment can create and particularly the potential impact on the children of imprisoned mothers which may lead to them coming into care. Sentencers must take account of the potential impact on children of imprisoning mothers including stigma. The impact of custodial sentences may be particularly important to consider for care-experienced mothers who may not have wider networks of family and social support upon which they and their children can depend. There also must be recognition among prison staff of the understandable fear that some imprisoned mothers may have of revealing information about their own children if they themselves have had a very poor care experience. These issues must be addressed with the utmost care and sensitivity.

Challenging stigma and raising aspirations

Both care-experienced girls and women and professionals in this study felt strongly that they wanted a care system that went beyond the basics. 'Care' needs to be so much more than just providing a roof over someone's head, and the government must raise aspirations of both our systems and the individuals within them. Raising the status of the sector requires investment in staff and appropriate placements, including ongoing training and support for carers and other professionals.

Those working to support children in care must be appropriately supported themselves and the importance of 'care' work needs greater recognition and to be given a far higher status if outcomes are to be seriously improved. Raising aspirations of systems and individuals is also about challenging the stigma attached to care experience, moving beyond negative gendered and racialised judgements, and questioning any assumed inevitability of the link between care and justice system involvement.

The participants in our study who were in employment, at college or university clearly reveal that positive outcomes are entirely possible in the context of wider support – including after youth or criminal justice system involvement. Their very existence helps to illuminate the possibility of hopeful futures.

Imagining alternative systems

Finally, at least some of the challenges raised in this report could be addressed by more radical change that involves a restructuring of our systems of care and justice and imagining alternative systems. Raising the minimum age of criminal responsibility in England and Wales so that it is no longer one of the lowest ages in Western Europe would prevent the possibility of younger children being unnecessarily criminalised in care and fit with the recommendations of the United Nations Committee on the Rights of the Child. Furthermore, moving beyond the narrow limits of the law and extending the age at which meaningful leaving care support is available could help to ease the compressed and accelerated transitions to independence faced by too many, and reduce the numbers currently caught up in the criminal justice system who are abandoned by their local authorities.

In conclusion, systemic failings in the wider society help to reproduce the routes between care and custody over time. Yet there are many different ways of doing 'care' and 'justice' and the way that we currently do things in England and Wales is not the only way to do it. Change is possible – if we care enough to make it happen.

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Appendices

Appendix A: Summary of 'Very Relevant' Literature

Author/s	Jurisdiction	Study Type	Methods
Farruggia & Geramo (2015)	Los Angeles, USA	Quantitative	This paper utilises children's services case file data and structured interviews with 188 youths in foster care (45% male, 55% female). It examines the associations between clinical and non-clinical indicators of problem behaviour, risk factors and protective factors for males and females. The sample is aged between 17 to 20 years and is 40% African American, 36% Latino, 11% White and 13% other ethnicities.
Flores et al. (2018)	Texas, USA	Qualitative	This study explores the struggles of child welfare involved girls held in a juvenile justice facility. It draws on 15 in-depth interviews collected during a 24-month ethnographic study of incarcerated girls. The sample includes girls aged between 14 to 19 years, and two thirds are Hispanic.
Goodkind et al. (2013)	Pennsylvania, USA	Quantitative	This paper investigates the relationship between juvenile justice involvement, child welfare experiences and mental health and substance abuse service receipt. It focuses on racial and gender differences. It is a birth cohort study of 17,471 youth involved with child services which draws on administrative data. The sample is 44.2% African American, 42.7% White, 7.7% other ethnicities with 5.4% of ethnicity data missing.
Hébert & Lanctôt (2016)	Quebec, Canada	Quantitative	This longitudinal study examines the impact of stability on the delinquent behaviour of adolescent girls in foster care. It draws on self-report questionnaires of 249 girls in residential units and measures several placement configurations including: number of official placements, number of exits from placement (returns to family), cumulative duration of placements, number of types of residential settings, and number of social workers.
Jung & LaLonde (2016)	Illinois, USA	Quantitative	This study draws on matched state administrative records from the Department of Corrections and the Department of Children and Family Services. It investigates whether incarcerated women with foster care experience during their teenage years have better or worse reincarceration rates than incarcerated women with no foster care experience. The sample covers 3,240 women released from prison in Illinois 1995 to 1999.
Kim & Leve (2011)	Pacific Northwest, USA	Quantitative	This research evaluates a middle school intervention program for reducing substance use and delinquency among girls in foster care. It uses self-report assessments with 100 girls in foster care before and after their transition to middle school. It examines differences between girls assigned to regular foster care and girls receiving the intervention program. The sample is 63% European American, 9% African American, 10% Latino, 4% Native American, and 14% multiracial.
Malvaso et al. (2017)	Unspecified state, Australia	Quantitative	This study uses linked child protection and youth justice data to investigate the effects of gender and ethnicity on the association between maltreatment, placement in out-of-home care and youth convictions. The sample consists of 17,671 youths (47% male, 53% female) in which 14.7% identify as indigenous.
McFarlane (2010)	New South Wales, Australia	Mixed-Methods	This study draws on a mixed-methods analysis of 111 Children's Court criminal files (74% male, 26% female). It focuses on the impact of child welfare involvement on outcomes for girls in court. The majority of the females in the sample are indigenous (60%).

Author/s	Jurisdiction	Study Type	Methods
Postlethwait et al. (2010)	USA (National)	Quantitative	This paper examines gender differences in delinquency for youth reported and investigated as maltreated. It utilises longitudinal data from the National Survey of Child and Adolescent Well-being and covers 1,134 youth (43% male, 57% female). The survey sample was 51% European American, 28% African American, 15% Hispanic and 6% other ethnic origins.
Shrifter (2012)	Oregon, USA	Quantitative	This study draws on welfare and juvenile justice administrative data to compare juvenile offenders that have been in the child welfare system, to juvenile offenders who have not been in the child welfare system. The research examines 151,860 juvenile referrals (64% male, 36% female) and also compares race and gender among other characteristics. The sample is 74.7% White, 4.1% African American, 1.6% Asian, 12.6% Hispanic, 1.8% Native American and 5.2% other/unknown.
Tam et al. (2016)	Los Angeles, USA	Quantitative	This research utilises administrative data to investigate the effects of gender and child welfare statuses on sentencing for young people arrested for the first time. The sample consists of 5,061 juveniles (80% male, 20% female) aged between 12 and 17. The majority of the cohort were Hispanic (71%), and the remaining youth were Black (19%) or White (10%).
Williams-Butler (2018)	Illinois, USA	Quantitative	This study explores individual, caregiver, and system level factors that influence offending among child welfare involved African American youth. It includes quantitative analysis of Adolescent Needs and Strengths assessment data for 534 African American adolescents (69% male, 31% female). Results are compared across genders.

Appendix B: Example Participant Information Sheet



Participant Information Sheet for Care-Experienced Women

My name is Claire Fitzpatrick and I am a researcher at Lancaster University working in a team with colleagues from the Universities of Bristol, Lancaster and Liverpool John Moores. We would like to invite you to take part in a study about 'Disrupting the Routes between Care and Custody'. Please read this information sheet carefully before deciding if you wish to take part.

What is the study about?

This study aims to examine how to disrupt the connection between experiences of the state child care system (e.g. foster and residential care) and later involvement in the criminal justice system. The project will focus on the experiences of females who have been in care, and their views and recommendations for change.

Why have I been invited?

We have approached you because you have had some involvement in the care and /or criminal justice system. We are interested in your views on how far these systems meet the needs of girls and women, and whether there are improvements that could be made to help future generations of females. We would be very grateful if you agree to take part in this study.

What will I be asked to do if I take part?

If you decided to take part, this would involve taking part in an interview for up to one hour. We will ask for your consent for us to audio-record the interview. The interview will include questions on your experience of the care system and the criminal justice system, and your views on what needs to change. But you will not have to answer anything that you do not want to.

We will also ask for your consent to access your prison service records as we are interested in whether prior care experience is recorded.

What are the possible benefits from taking part?

The experiences of those with first-hand experience of the care and criminal justice systems are incredibly valuable in highlighting how these systems work in practice, and how they might be improved in the future. Taking part in this study will allow you to share your experiences and contribute to our understanding of the care-crime connection.

There will be neither advantage nor disadvantage to individuals whilst in prison if they decide to participate or not participate in this research. However, as a thank-you for giving up your time, we will ask you for the name of your Offender Manager (OM) in the community, as we would like to leave a £20 gift voucher with your OM in the community for you on release from prison.

Do I have to take part?

No. It's completely up to you to decide whether or not you take part. Your participation is voluntary.

What if I change my mind?

If you change your mind, you are free to withdraw at any time during your interview. If you want to withdraw, please let us know, and we will destroy your interview data. This will not compromise you in any way. You can also withdraw up to 2 weeks after taking part in the study by contacting us through your prison's care-leaver lead.

Will my data be identifiable?

After the interview, only the research team will have access to the ideas you share with me. The only other person who will have access to this is a professional transcriber who will listen to the recordings and produce a written record of what you have said. The transcriber will sign a confidentiality agreement. We will keep all personal information about you (e.g. your name, the institution you are based in, and any other information that could identify you) confidential, that is we will not share it with others. We will remove any personal information from the written record of your contribution.

How will we use the information you have shared and what will happen to the results of the research study?

We will use the information you have shared only for research purposes. This could include for journal articles and reports, as well as blog posts. We may also present the results of our study at academic conferences, practitioner events and to policy makers. When writing up this study's findings, we would like to reproduce some of the views and ideas you shared. We will only use anonymised quotes (e.g. from the interview with you), so that although we will use your exact words, you cannot be identified in our publications. The only exception to the above is that if anything you say in the interview suggests that you or somebody else might be at risk of harm, we will be obliged to share this information with a colleague. Behaviour that is against prison rules will also have to be disclosed. If possible we will inform you of this breach of confidentiality.

We will keep a transcription of your interview under a pseudonym/fake name and your personal details in a password protected space on a computer, so that only researchers can access it. We will keep these files for up to 10 years and destroy the audio recording within a year of our interview. The place where you live will be referred to as a region where you live, and not an exact place, for example the North or Midlands. Only generalised themes will be discussed in blog posts and on social media in order to protect individuals from being identified.

How my data will be stored

Your data will be stored in encrypted files (that is no-one other than the research team will be able to access them) and on password-protected computers. We will store hard copies of any data securely in locked cabinets in our offices. We will keep data that can identify you separately from non-personal information (e.g. your views on a specific topic). In accordance with University guidelines, we will keep the data securely for a minimum of ten years.

What if I have a question or concern?

Please direct any queries, complaints or requests for information through your prison establishment.

For more information about how Lancaster University uses personal data for research purposes and your data rights please visit our webpage: www.lancaster.ac.uk/research/data-protection

Sources of support

We appreciate that some of the questions asked are sensitive and the topics may be potentially distressing for some. With this in mind, please see the separate sheet for a list of sources of support that participants can contact if they wish to.

This study has been reviewed and approved by the Faculty of Arts and Social Sciences and Lancaster Management School's Research Ethics Committee.

Thank you for considering your participation in this project.

Appendix C: Example Consent Form



CONSENT FORM: WOMEN IN PRISON

Project Title		Disrupting the Routes between Care and Custody	Please tick each box
Principal Investigator		Dr Claire Fitzpatrick	
Contact		claire.fitzpatrick@lancaster.ac.uk	
1	I confirm that I have read and understand the information sheet for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily.	<input type="checkbox"/>	
2	I understand that my participation is voluntary and that I am free to withdraw at any time during my participation in this study and within 2 weeks after taking part in the study, without giving any reason. If I withdraw within 2 weeks of taking part in the study my data will be removed.	<input type="checkbox"/>	
3	I understand that any information given by me may be used in future reports, academic articles, publications, blogs or presentations by the researcher/s, but my personal information will not be included and I will not be identifiable.	<input type="checkbox"/>	
4	I understand that my fully anonymised data may be made available to a Lancaster University-approved data archive in the future, and made available to genuine research for re-use (secondary analysis).	<input type="checkbox"/>	
5	I understand that any interviews will be audio-recorded and transcribed and that data will be protected on encrypted devices and kept secure.	<input type="checkbox"/>	
6	I understand that data will be kept according to University guidelines for a minimum of 10 years after the end of the study.	<input type="checkbox"/>	
7	I agree to take part in the above study.	<input type="checkbox"/>	

Name of Participant _____ Date _____

Signature _____

I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant have been answered correctly and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

Signature of researcher/person taking the consent _____ Date _____

One copy of this form will be given to the participant and the original kept in the files of the researcher at their University.

Appendix D: Example Interview Schedule



Interview Guide for Women in Prison

Thank you for taking part in this interview. I want to remind you that do not have to answer any questions that you do not want to. If you want to stop the interview at any time, that is absolutely fine. Please just tell me, and you will not get into any trouble at all for this. That is because this is a research interview and not an interview that will have any impact on your sentence or care. Your involvement is completely voluntary, and nothing bad will happen if you do not want to take part.

Please also tell me if you want to take a break at any time (for example, if you want to go to the toilet) as this will also be just fine.

- Ask for consent again about recording the interview
- Go through reminders about anonymity and confidentiality

General

- 1 Age
- 2 Ethnicity
- 3 Occupation before going into prison
- 4 Marital Status

Care Experience

- 5 Can you tell me something about your story of having been in care, from when you first went into care to when you left? Please give as much detail as you would like to about this.
- 6 Age on entry to care
- 7 Reason for entry to care
- 8 Number of placements
- 9 Types of placements (e.g. foster care, children's home, kinship care or a combination)
- 10 Age on leaving care
- 11 Relationships with carers
- 12 Relationships with social workers
- 13 Education
- 14 Preparation for independence
- 15 After care support
- 16 Reflections on care experience (positive, negative, in-between)
- 17 Did you feel safe in care?
- 18 Reflections on leaving care and after-care (positive, negative, in-between)
- 19 Did you feel prepared for leaving care?
- 20 Did you feel that your needs were met in care?
- 21 In your experience, were your needs the same as boys in care? Please tell me why.
- 22 Do you think the needs of girls in care are appropriately met?
- 23 What could have improved your own care experience?
- 24 What ideas do you have to improve the care experience?
a. For girls? b. For boys? c. For both?

-
- 25 What changes do you think would make the biggest difference to girls in care and girls or women who have left care?

Criminal Justice System Experience

- 26 Can you tell us something about when you first starting getting into trouble with the police?
- 27 Have you been convicted of any offences? [Some participants may be on remand].
If so, do you mind giving further details?
- 28 Did you first get into trouble with the police before, during or after being in care?
- 29 Do you think being in care impacted on you getting into trouble and becoming involved in the criminal justice system/going to prison?
a. If not, why not? b. If so, can you tell me why?
- 30 Have you experienced any support in prison as a care leaver/someone with care-experience?
a. If so, what was it like?
- 31 Do you think there should be support for care-experienced women in prison?
a. If yes, what would help you?
- 32 How do you think prisons could better support women who have previously been in care?
- 33 What has your experience of prison been like?
- 34 Have you been supported to maintain links with your own family?
a. If so, which family members (e.g. parents, children, former carers, siblings)
- 35 Have you been supported with planning for when you leave prison?
- 36 Did you know that care leavers are over-represented in the criminal justice system?
a. Do you think this is inevitable?
- 37 What do you think are the main challenges facing women from care in the criminal justice system/prison?
a. Do you have any thoughts on how these challenges could be overcome?
- 38 What would have improved your own experience of the criminal justice system?
- 39 What ideas do you have to improve the experiences of women who have been in care who go to prison?
- 40 Can prison help to stop you offending?

Plans for the Future & Concluding Questions

- 41 What are your plans or hopes for the future?
- 42 What support would you need to make those plans happen?
- 43 Is there anything that you would like to add that I have not asked you already?
- 44 Is there anything that you would like to ask me?

Thank You

Appendix E: Example Analytic Framework

Analytic Framework for Interviews with Professionals

IDENTITY (RQ 1 & 2)	BEHAVIOUR (RQ 1 & 2)
Professional identity	Self-harm
Women/girls' identities	Functions
Ethnic identity	Severity
Sexual orientation	Commonality
Gender identity	System responses
Care identity	Offending
Labelling and stigma	Causes of offending
Gender	Offending type
Ethnicity	Peer influence
Care Experience	Blurring of victim/perpetrator
Sexuality	Frequency and seriousness
TRAUMA (RQ 1, 2 & 5)	HEALTH & WELL-BEING (RQ 1 & 2)
Trauma-informed approach	Substance misuse
Impact on behaviour of girls/women	Addiction
Domestic violence	Substance misuse support and intervention
Sexual abuse	Mental Health
Exploitation	Mental health support
Undiagnosed/recognised issues	Recognising mental health needs
Repeat trauma	Emotional well-being
	Relationships

STABILITY & SUPPORT (RQ 1, 2, 3 & 4)	
	Poverty & deprivation
	Family life
	Maintaining relationships
	Care system
	Placement moves
	Out of area placements
	Care environment
	Quality of provision
	Vulnerability in care
	Education system
	Housing and accommodation
	Transitions
	Leaving care
	From child to adult services
	From youth justice system to adult criminal justice system
	Resettlement
	Motherhood and pregnancy
	Monitoring of care experienced women and girls
	Antenatal care and support
	Child removal/putting children into care
	Intergenerational impact

JUSTICE (RQ 1, 2, 4 & 5)	
	Prevalence of care experienced individuals in justice system
	Criminalisation (in care, in school, responses to victimisation)
	Missing incidents
	Diversion
	Restorative justice
	Length of intervention/sentence
	Imprisonment/secure accommodation
	Resettlement
	Racism and discrimination
	Courts
	Pre-sentence report
	Sentencing

TRUST (RQ 3, 4 & 5)	
	Trust in care system
	Staff training and experience
	Trust in justice system
	Trust in other agencies
	Multiple/changing professionals

WORKING WITHIN SYSTEMS (RQ 2, 5 & 6)

Working with girls/women

Numbers

Building relationships

Female workers

Needs of women/girls

Working with care experienced individuals

Knowledge of care status/experience

Identification and disclosure

Access to data/ records

Quality of data

Multi-agency Working

Communication and data sharing

Partnerships

Variation between agencies

Working conditions

Resources and funding

Workloads

Prioritisation

Wellbeing and support (including vicarious trauma)

Training and experience

Covid-19

CHANGING OUTCOMES (RQ 4 & 5)

Early intervention and support

Listening to girls/women

Specialist placements

Tailoring interventions

Achieving independence

Appendix F: Selected Characteristics of Care-Experienced Participants

Participant				Placement Number			
First Justice System Contact				Left Mainstream Education ¹¹			
Adele	23	Other	-	Kayleigh	4	During Care	Yes
Alice	-	After Care	-	Kelly	-	Before Care	Yes
Alicia	4	During Care	Yes	Kelsey	4	Before Care	Yes
Amelia	1	Before Care	-	Kerryann	-	Before Care	Yes
Anne	2	After Care	Yes	Laura	5	Other	Yes
Aubrey	2	During Care	Yes	Leanne	6	After Care	Yes
Becky	-	Other	Yes	Libby	-	Other	-
Bobbi	6	Before Care	-	Lucy	10+	Other	-
Cameron	-	Before Care	-	Lynne	1	During Care	-
Carol	-	During Care	Yes	Mandy	7	During Care	Yes
Cassandra	4	After Care	No	Marlene	2	After Care	Yes
Catherine	-	During Care	Yes	Maxine	2	After Care	No
Charlotte	4	During Care	Yes	Melissa	1	Other	Yes
Chelsea	3	Other	-	Millie	2	Before Care	-
Chloe	3	Before Care	-	Nicki	6	During Care	Yes
Ellie	4	Before Care	-	Nico	6	Other	-
Emily	6	During Care	No	Olivia	20+	During Care	Yes
Emma	4	Other	Yes	Roxanne	10	During Care	Yes
Faye	-	Before Care	Yes	Sara	-	During Care	Yes
Grace	2	Before Care	-	Selina	20+	During Care	Yes
Hannah	7+	Other	Yes	Sophie	15	During Care	Yes
Isla	50	During Care	-	Steph	10	Before Care	Yes
Jade	-	Before Care	Yes	Susan	2	-	No
Jenny	5	Before Care	Yes	Valerie	5	After Care	Yes
Jess	5	Other	Yes	Sara	-	During Care	Yes
Joanne	5	Before Care	Yes	Selina	20+	During Care	Yes
Jody	64	During Care	No	Sophie	15	During Care	Yes
Josie	6	During Care	Yes	Steph	10	Before Care	Yes
Kayleigh	4	During Care	Yes	Susan	2	-	No
Kelly	-	Before Care	Yes	Valerie	5	After Care	Yes
Kelsey	4	Before Care	Yes	Vicky	-	After Care	Yes
Kerryann	-	Before Care	Yes	Zoe	20+	During Care	Yes

¹¹ Denotes whether participants left mainstream education to go into alternative provision e.g. Pupil Referral Unit. Includes those who left education altogether.