


**Please cite the Published Version**

Hunter, Katie , Francis, Brian and Fitzpatrick, Claire (2023) Care experience, ethnicity and youth justice involvement: key trends and policy implications. Research Report. ADR (Administrative Data Research) UK.

**Publisher:** ADR (Administrative Data Research) UK

**Version:** Published Version

**Downloaded from:** <https://e-space.mmu.ac.uk/632618/>

**Usage rights:**  In Copyright

**Additional Information:** This work contains statistical data from ONS which is Crown Copyright. The use of the ONS statistical data in this work does not imply the endorsement of the ONS in relation to the interpretation or analysis of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates.

**Enquiries:**

If you have questions about this document, contact [openresearch@mmu.ac.uk](mailto:openresearch@mmu.ac.uk). Please include the URL of the record in e-space. If you believe that your, or a third party's rights have been compromised through this document please see our Take Down policy (available from <https://www.mmu.ac.uk/library/using-the-library/policies-and-guidelines>)

# Care Experience, Ethnicity and Youth Justice Involvement: *Key Trends and Policy Implications*

Dr Katie Hunter, Professor Brian Francis and Dr Claire Fitzpatrick  
September 2023

---

## About This Briefing

---

This briefing is based on descriptive findings from an ADR UK (Administrative Data Research UK) Research Fellowship project. The project began at Lancaster University and was completed at Manchester Metropolitan University in September 2023. The project involved analysis of new linked datasets from Ministry of Justice (MoJ) and Department for Education (DfE) formed under the Data First initiative. The analysis was carried out in the Office for National Statistics (ONS) Secure Research Service. The analysis utilised DfE data taken from the National Pupil Database containing demographic information and Children Looked After (CLA) datasets detailing children's social care involvement in England. The analysis also utilised MoJ data from the Police National Computer, which includes information about proven offences and sentencing outcomes in England. The primary focus of the fellowship was to understand the links between care experience (i.e. having been in foster care, children's homes and/or kinship care), ethnicity and involvement with the youth justice system in England.

# Contents

<b>Summary of Key Findings</b>	<b>3</b>
Approach and Dataset	3
<b>Understanding Care Experience</b>	<b>4</b>
<b>The Research Context: Longstanding Inequalities in Youth Justice</b>	<b>4</b>
Recent Policy Developments	5
Neglected Intersections: The Overlap between Care Experience, Ethnicity and Youth Justice Involvement	5
<b>ADR UK Fellowship Project: Four Key Findings</b>	<b>6</b>
Key Finding 1	6
Key Finding 2	8
Key Finding 3	10
Key Finding 4	12
<b>Conclusion</b>	<b>13</b>
<b>Policy Recommendations</b>	<b>14</b>
Recommendation 1	14
Recommendation 2	14
Recommendation 3	15
Recommendation 4	15
<b>A Final Note of Caution</b>	<b>16</b>
<b>References</b>	<b>17</b>

## Summary of Key Findings

**Key Finding 1:** Care-experienced children were disproportionately likely to have youth justice involvement compared to those without care experience, with some groups of ethnic minority children being even more likely to have youth justice involvement.

**Key Finding 2:** The gap in youth justice involvement between care-experienced children and non-care-experienced children widened over time. This gap widened further still for some groups of ethnic minority children.

**Key Finding 3:** Typically, care-experienced children had much more youth justice involvement than non-care-experienced children. Some groups of ethnic minority care-experienced children had even higher levels of youth justice involvement.

**Key Finding 4:** A significantly higher proportion of care-experienced children received a custodial sentence compared non-care-experienced children. Custodial sentences were twice as common among Black and Mixed ethnicity care-experienced children compared to White care-experienced children.

## ***Approach and Dataset***

The following findings were produced by taking a longitudinal approach, which included four cohorts of children born between 1996 and 1999. Snapshot demographic information for children born in each birth year was extracted from the respective 2006 to 2009 educational censuses when they were aged 10 (the Minimum Age of Criminal Responsibility in England and Wales).<sup>1</sup> The resulting dataset contains information for approximately 2.3 million children and includes demographic information (including gender and ethnicity), information about children's services involvement and/or youth justice involvement.

Of the 2.3 million children in the dataset, 2% had been in care at some point and 5% had received a youth justice caution or conviction between the ages of 10 and 17. In linking these datasets, it was possible to determine the extent of youth justice involvement among care-experienced children (those who were at some point a 'looked after' child) versus non-care-experienced children. The resulting findings give us a picture of youth justice involvement in England between 2006 and 2017. It is the first time that youth justice involvement among care-experienced children, and how this varies by ethnic group, has been explored on such a large scale.

This analysis covers children born between 1996 and 1999 who were recorded in the National Pupil Database in England at age 10. Therefore, the data may not be representative of all children in England. There are also limitations that mean we might be underestimating the number of care-experienced children in the dataset. Despite these challenges, this data offers important opportunities to carry out large scale analyses for public good.

Further information about the datasets and limitations can be found in this [Data Explained publication](#).

---

<sup>1</sup> The longitudinal birth cohort approach and specific birth years were chosen to allow a full eight years of data from ages 10 to 17, thus allowing cohorts to be compared.

## Understanding Care Experience

### What does it mean to be care-experienced?

In England, a child who has been in local authority care is known as a looked after child, or a child in care. Typically, a looked after child will live in foster care, children's homes, or residential settings such as schools or secure units. However, some children live with a close friend or relative (kinship care). Care leavers are individuals who have left care. Depending on whether they meet certain limited criteria, some care leavers will be entitled to support from their local authority up to age 25. The term care-experienced refers to someone who spent time in care as a child, regardless of their age.

### Why do some children go into care?

Annual DfE data shows that children in England enter care for a variety of reasons. Almost two thirds go into care due to abuse or neglect (66%). A further 27% enter care due to family dysfunction or acute stress, absent parenting or low income, while 5% enter care due to their own or a parent's disability. Just 1% of children enter care due to socially unacceptable behaviour. [Find out more.](#)

### How did the research measure care experience?

Children who had at least one record of being 'looked after' in the CLA data were counted as care-experienced, regardless of the length of time spent in care. However, there are some limitations which must be acknowledged. The CLA data includes snapshot information collected on 31 March each year. The information made available to researchers only includes the most recent episode in care (for each recording year). This means that children who were looked after for shorter periods in between data collection dates do not appear in the CLA data. Children who ceased to be looked after before entering school also do not have a record in the CLA data. Therefore, these children are not counted as care-experienced in this analysis.

## The Research Context: Longstanding Inequalities in Youth Justice

In England and Wales, the youth justice system has been characterised by longstanding disproportionality in relation to ethnicity and care experience.<sup>1,2</sup> These issues were the subject of two major independent reviews, yet there is still progress to be made. In 2016, Lord Laming chaired a review into youth justice involvement among children in care and care leavers.<sup>3</sup> Laming revealed that many children in care were subject to unnecessary youth justice involvement that would not occur if they lived in a non-care setting. The review found that children in care were disproportionately likely to be convicted rather than cautioned compared to those who had not been in care, and estimated that up to half of all children in youth custody were care-experienced.<sup>3</sup>

The following year, David Lammy MP chaired a review into treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system.<sup>4</sup> Lammy found disproportionality across all levels of the justice process, and that over-representation in relation to Black individuals was worse in England and Wales than in the USA. The review also highlighted the 'hidden' over-representation of children from Gypsy, Roma and Traveller backgrounds, who are often obscured in official statistics. Both reviews called on policymakers to urgently develop strategies to reduce over-representation in justice systems.<sup>5,2</sup>

## **Recent Policy Developments**

The Lammy Review drew a detailed response from government addressing all 35 of its wide-ranging recommendations, including the need for better monitoring and accountability structures.<sup>5</sup> The Laming Review also received significant policy attention with the publication of a cross-departmental *National Protocol on Reducing Unnecessary Criminalisation of Looked-after Children and Care Leavers*.<sup>6</sup> The protocol provided a recommended framework for reducing youth justice involvement among children in care through localised agreements, which focus on behaviour management, de-escalation and dealing with incidents without police intervention. The protocol represented national recognition of the issue. However, it is not a legal requirement so its effectiveness in practice may be limited.<sup>7</sup>

The reviews and subsequent responses seemed to mark a turning point whereby disparities in youth justice involvement were at the forefront of national policy. And yet, there has been limited evidence of meaningful change on the ground. The government's engagement with Lammy's recommendations appear to have stalled while disproportionalities in relation to ethnicity have increased throughout the youth justice system.<sup>8,9,10</sup> For example, official statistics show that the proportion of ethnic minority children in youth custody increased to 52% in 2021/22 almost doubling since 2006/07.<sup>11,2</sup> Similarly, survey data suggests that the over-representation of care-experienced children in custody has increased.<sup>2</sup>

The Independent Review of Children's Social Care failed to mention unnecessary criminalisation or the cross-departmental National Protocol produced just four years earlier.<sup>12</sup> Certainly, efforts to implement local protocols have been fragmented, inconsistent and in some cases, potentially harmful.<sup>7</sup>

## **Neglected Intersections: The Overlap between Care Experience, Ethnicity and Youth Justice Involvement**

Dialogues around tackling over-representation have also failed to address an important fact: the overlap between children from ethnic minority backgrounds and children who have been in care. Unpublished Youth Justice Board data made available to the Laming Review revealed that 44% of care-experienced children in youth custody were from an ethnic minority background.<sup>3</sup> A more recent inspection found that a third of Black or Mixed ethnicity boys on court orders had children's services involvement.<sup>13</sup>

Qualitative research evidence suggests that ethnic minority children in care face a 'double whammy' of disadvantage that increases their risk of youth justice involvement.<sup>2,14</sup> International studies also indicate that care-experienced children from racially minoritised backgrounds are over-represented in youth justice systems in Canada, Australia and across the United States.<sup>15,16,17</sup> Despite this, our understanding of the relationship between care experience, justice systems involvement and other intersectional identities (including ethnicity, gender, disability, mental health needs as well as experiences of victimization) was previously hampered by a lack of available data.<sup>18</sup>

The newly linked datasets from MoJ and DfE are a crucial opportunity to enhance our understanding and make meaningful change. Currently, eight government departments share a cross-cutting aim to '[s]upport the most disadvantaged and vulnerable children and young people through high quality local services so that no one is left behind'.<sup>19</sup> The challenge is making this happen in practice – an ambition which this research hopes to address.

## ADR UK Fellowship Project: Four Key Findings

***Key Finding 1: Care-experienced children were disproportionately likely to have youth justice involvement compared to those without care experience, with some groups of ethnic minority children being even more likely to have youth justice involvement.***

This project found shockingly high levels of youth justice involvement among care-experienced children compared to those without care experience. 1 in 3 care-experienced children (33%) born between 1996 and 1999 received a youth justice caution or conviction between the ages of 10 and 17 compared to 4% of those without care experience.<sup>ii</sup> The DfE publishes annual figures on the proportion of looked after children (excluding those looked after for less than 12 months) who receive a youth justice caution or conviction each year.<sup>20</sup> During the period 2006 and 2017, this proportion lay somewhere between 9% and 5% of looked after children.<sup>2</sup> The longitudinal approach taken in this project suggests that the official statistics under-estimate youth justice involvement among care-experienced children in England.

The DfE annual figures also do not break this data down by ethnicity. This analysis revealed higher levels of youth justice involvement among nearly all ethnic minority groups compared to White British children (see Table 1 below). For example, roughly half of all care-experienced Gypsy/Roma children and 46% of all care-experienced Irish Traveller children received a youth justice caution or conviction compared to 34% of White British care-experienced children. Higher rates of youth justice involvement among Black Caribbean (39%), Mixed White and Black Caribbean (42%) and Mixed White and Black African (38%) care-experienced children are also worth noting. Depending on their ethnicity, care-experienced children were between 2 and 16 times more likely to have youth justice involvement than those who had not been in care.

---

<sup>ii</sup> Another way of looking at the data is that care-experienced children account for 2% of the overall dataset (n= 2,291,320) compared to 15% of those with youth justice involvement (n=109,650).

**Table 1: Proportion of children who received at least one youth justice caution or conviction by ethnic group major and care experience**

	Care Experience (n=50,080)	No Care Experience (n=2,241,260)
Ethnic Group Minor	Proportion with Youth Justice Caution or Conviction	
White – British	34%	4%
White – Irish	38%	5%
Traveller of Irish Heritage	46%	22%
Gypsy / Roma	50%	16%
Any Other White Background	29%	3%
Bangladesh	19%	3%
Indian	16%	1%
Pakistani	16%	3%
Any Other Asian Background	18%	2%
Black African	24%	5%
Black Caribbean	39%	8%
Any Other Black Background	32%	7%
White and Asian	29%	4%
White and Black African	38%	6%
White and Black Caribbean	42%	9%
Any Other Mixed Background	37%	5%
Any Other Ethnicities	22%	3%
Unclassified	31%	5%
All Ethnic Groups	33%	4%

This is the first time that youth justice cautions or convictions among care-experienced children in England have been measured on such a large scale. It is vital that we do not accept such high levels of youth justice involvement as inevitable.

### **Why does this matter?**

The overwhelming majority of children enter care for reasons not related to their own behaviour.<sup>20</sup> Children potentially bring with them disadvantage and complex needs that may be met with inadequate support.<sup>21,22</sup> A review of the literature concluded that ‘for a significant proportion of looked after children, the care experience does appear to contribute to the onset of offending behaviour, and for others it exacerbates and perpetuates their existing involvement’.<sup>23</sup> Due to limitations with the available data, we cannot determine precisely when the first justice system involvement occurred in relation to entry to care. Currently, CLA data is only made available to researchers for the most recent episode in each recording year which is a significant limitation.<sup>24</sup>



Nonetheless, the wider literature suggests we should shift our perspective from individualized explanations to structural ones. Research suggests that children in care may be subjected to excessive police involvement and unnecessary criminalisation within care settings.<sup>25,18</sup> This has been recognized by government through the publication of the National Protocol.<sup>6</sup> Children may also be vulnerable to sexual and criminal child exploitation whilst in care, placing them at further risk of criminalisation.<sup>26</sup>

These findings also demonstrate large differences in youth justice involvement across ethnic groups. This project is the first time we are able to see some of the granularity in relation to ethnicity and youth justice involvement in England, moving beyond unhelpfully broad categorisations.<sup>27</sup> Official statistics demonstrate consistent patterns of over-representation of Black and Mixed ethnicity children, relative to their proportions in the general population.<sup>10</sup> There is longstanding evidence of heightened surveillance and intensive policing of ethnic minority communities in England and Wales.<sup>28</sup> Research has found that police officers may use prejudicial stereotypes, based on social class and ethnicity, to determine their use of discretionary powers like stop and search.<sup>29</sup> A statistical analysis published as part of the Lammy Review highlighted the importance of arrest for determining disproportionality throughout the wider justice system.<sup>30</sup> Given recent findings about the institutional racism, misogyny and homophobia within the Metropolitan Police Service,<sup>31</sup> we must be asking questions of our institutions.

Children who find themselves at the intersection of these inequalities – being both a child in care and from a racially minoritised background – are likely to experience a ‘double whammy’ of disadvantage.<sup>14</sup> Newly published qualitative research found that Black care-experienced young people felt that they were treated more punitively in both systems of care and justice.<sup>32</sup> The findings from this analysis demonstrate that we need to enhance our understanding of disproportionality and how it intersects with different identities. In particular, researchers should investigate the nuances between the broad ethnicity groupings wherever possible. This is especially important for understanding justice involvement among for example, those from Gypsy, Roma and Traveller backgrounds, as these are often lost in the official data.<sup>33</sup> A recent [ESRC-funded project](#) into experiences of crime and victimization among Gypsy, Roma and Traveller people will address an important knowledge gap and challenge harmful stereotypes about these communities.

***Key Finding 2: The gap in youth justice involvement between care-experienced children and non-care-experienced children widened over time. This gap widened further still for some groups of ethnic minority children.***

The time period covered by this analysis saw a sharp fall in youth justice involvement in England and Wales. Official figures show that first time entrants to the youth justice system fell by 85% between 2006/07 and 2016/17.<sup>2</sup> Similarly, this project revealed a fall in the prevalence of youth justice involvement across the four birth cohorts (1996 to 1999).

In this dataset, approximately 39% of care-experienced children born in 1996 received a youth justice caution or conviction compared to 26% of those born in 1999. However, the drop was steeper for those without care experience, with youth justice involvement decreasing from 6% to 3% across the four birth years (see Table 2 below). Therefore, while all groups of children experienced a reduction in youth justice involvement over time, the gap between these cohorts also widened. For example, care-experienced children born in 1996 were 7 times as likely to be youth justice involved as their non-care-experienced peers compared to 9 times for those born in 1999.

**Table 2: Proportion of children who received youth justice caution or conviction by birth year and care experience**

	1996	1997	1998	1999
Group	Proportion with Youth Justice Caution or Conviction			
Care Experience	39%	35%	31%	26%
No Care Experience	6%	4%	6%	3%

The decline in youth justice involvement was also less pronounced for Black care-experienced children compared to White care-experienced children (see Table 3 below). Due to the smaller numbers involved when considering individual birth cohorts, it was not possible to apply the more granular 18+ ethnicity categorisations. Nevertheless, this data reflects broader trends in the youth justice system whereby the proportion of Black children has increased as the overall number of children entering the system has fallen.<sup>10</sup> So, while the gap between care-experienced and non-care-experienced children widened over time, this gap widened further still for Black children.

**Table 3: Proportion of care-experienced children with youth justice involvement by birth year and ethnic group major**

	1996	1997	1998	1999	Percentage Decrease from 1996 to 1999
Ethnic Group Major	Proportion with Youth Justice Caution or Conviction				
White (n=39,430)	40%	36%	32%	27%	13%
Asian (n=2,190)	21%	17%	17%	13%	8%
Black (n= 3,770)	37%	32%	28%	29%	8%
Mixed (n=3,240)	43%	42%	38%	32%	11%
All Other Ethnic Groups (n=600)	25%	26%	16%	19%	6%
Unclassified (n=840)	34%	34%	32%	24%	10%

### **Why does this matter?**

In 2013, The House of Commons Justice Committee stated that 'looked after children have not benefited from the shift towards a more informal approach to minor offending to the same extent as other children'.<sup>34</sup> This analysis reinforces and extends previous research, which suggests that diversionary measures that protect children from formal youth justice sanctions,<sup>35</sup> have not benefitted all children equally.<sup>1,2</sup> While there were decreases in the overall number of care-experienced children and children from ethnic minority backgrounds who received a youth justice caution or conviction, this decrease was less pronounced than it was for non-care

experienced children and children from White backgrounds. This further demonstrates the importance of considering intersectional identities and youth justice involvement. By focusing on improvements across the whole youth justice sector, we miss important nuances in the data, which has consequences for the most vulnerable children.

**Key Finding 3: Typically, care-experienced children had much more youth justice involvement than non-care-experienced children. Some groups of ethnic minority care-experienced children had even higher levels of youth justice involvement.**

A further analysis of those who received a youth justice caution or conviction (n=109,650) shows that the extent of youth justice involvement also varied by care experience. Of those who had youth justice involvement in this dataset:

- care-experienced children received roughly 4 cautions or convictions
- children without care experience received roughly 1 caution or conviction<sup>iii</sup>

The MoJ defines a 'juvenile prolific offender' as someone who has received 4 or more youth justice cautions or convictions.<sup>iv</sup> Using this definition, the majority of care-experienced children in this dataset could be categorised as 'prolific' offenders. Care-experienced children made up 15% of those with youth justice involvement (n=109,650) but 30% of the 'prolific' offending group (n=28,470).

There were further differences in the extent of youth justice involvement cross ethnic groups. Given the relatively low numbers in some minor ethnic groups, broad ethnicity categories have been used. Nevertheless, this still provides some important insights into the intersection between ethnicity, care experience and youth justice involvement. Figure 1 compares the median youth justice cautions or convictions (for those with youth justice involvement) by care experience and ethnic group. It shows that care-experienced Black and Mixed ethnicity children received approximately 5 youth justice cautions or convictions, more than double the figure for non-care experienced children and one more than White care-experienced children. Asian care-experienced children typically received fewer cautions or convictions than all other ethnic groups.

---

<sup>iii</sup> Median calculations were used to account for a significant minority of children who received a very large number of youth justice cautions or convictions, as these children were skewing the average for all groups.

<sup>iv</sup> Further details of this definition can be found [here](#).

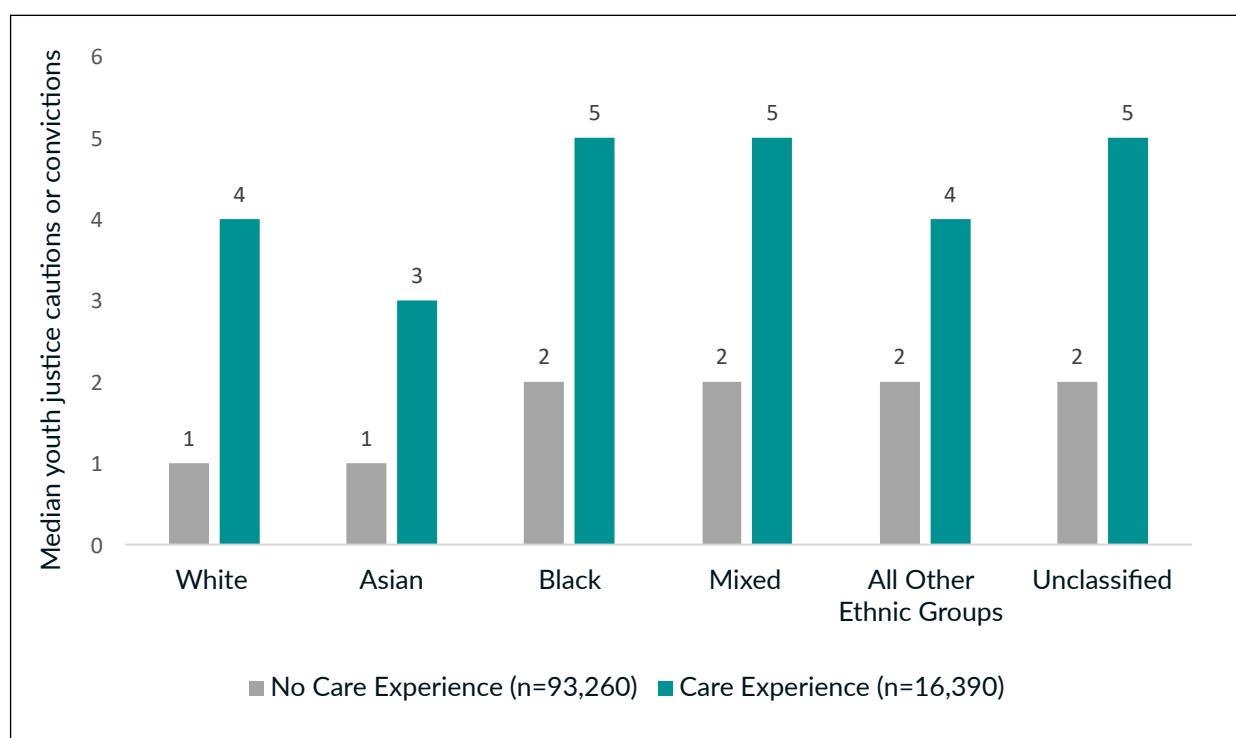


Figure 1: Median cautions or convictions for those with youth justice involvement, by care experience and ethnic group major

This clearly shows that generally care-experienced children had more youth justice involvement than non-care-experienced children in the dataset, and that this varied by ethnic group.

### Why does this matter?

The existing literature suggests that children in care may be subjected to repeated youth justice involvement. In 2016, the Laming Review found that unnecessary police involvement in care settings could result in some children obtaining long offending histories.<sup>3</sup> Research by the Howard League found excessive numbers of police call outs to some children's homes, often for missing incidents but also for minor behavioural issues.<sup>25</sup> The Howard League argued that this stemmed from conditions within homes, including staff shortages, and that some had treated police detention as 'respite care'. Such unnecessary police involvement can serve to familiarise the police with certain children, potentially contributing to negative perceptions.<sup>36,2</sup>

Previous qualitative research by Shaw highlighted that police intervention in care settings was more about the frequency of incidents rather than the seriousness, that staff used this as the 'ultimate sanction' for poor behaviour.<sup>37</sup> Other research indicates that care-experienced individuals can face 'excessive surveillance' whereby their behaviour is closely monitored, recorded and subject to formal sanctions.<sup>18</sup> The Edinburgh Study of Youth Transitions also found that the police can unfairly target certain categories of children, including those from broken families, who become 'objects of continual scrutiny'.<sup>38</sup>

Taken together, the above can help us to understand why care-experienced children are more likely to have youth justice involvement, and to be over-represented among those in the 'prolific' grouping. If we combine this with what we know about the processing of racially minoritised children,<sup>4</sup> we can see a pattern of compounded disadvantage emerging.

**Key Finding 4: A significantly higher proportion of care-experienced children received a custodial sentence compared non-care-experienced children. Custodial sentences were twice as common among Black and Mixed ethnicity care-experienced children compared to White care-experienced children.**

Custodial sentences are the end point of the youth justice system, and arguably the clearest expression of entrenchment in that system. This project found exceptionally high rates of custodial sentences among care-experienced children born between 1996 and 1999.

Of the 8,150 children who received a custodial sentence between 2006 and 2017, approximately 1 in 3 (32%) had been in care. Overall, care-experienced children made up 15% of all those who received a youth justice caution or conviction, and so they are over-represented among those who received custodial sentences. In this analysis, 5% of all care-experienced children received a custodial sentence, equating to roughly 1 in 20 children. The corresponding proportion of those without care experience who received a custodial sentence is less than 1% of the total (n= 2,241,250).

A closer look at custodial sentences received by those with care experience also reveals stark differences between ethnic groups. While 5% of the White care-experienced children received a custodial sentence, this figure was 9% for both Black and Mixed ethnicity care-experienced children. Therefore, these groups were nearly twice as likely to have received a custodial sentence as White children.<sup>v</sup> These findings provide quantitative evidence of compounded disadvantage among Black and Mixed ethnicity care-experienced children which requires further analysis.<sup>2</sup> Custodial sentences were slightly less common among Asian care-experienced children (4%), although still high.

The analysis suggests that custodial sentences were at least 8 times more common among care-experienced children than those without care experience, with differences varying across ethnic groups. Recent ONS figures using the same linked datasets demonstrate that 15% of care-experienced individuals had received a custodial sentence by age 24, over 10 times the proportion of individuals who had not been in care.<sup>39</sup> This project suggests that roughly a third those with care experience received their first custodial sentence when they were under 18 years of age.

### **Why does this matter?**

Qualitative evidence suggests that children in care at the point of sentencing may be more likely to receive a custodial sentence.<sup>2</sup> The instability that many children in care face, including difficulties settling into placements, multiple placement moves and/or changes of social worker, can give the impression that they are not supported to meet the requirements of a community sentence.<sup>2</sup> This is further complicated by the fact that the placement may be the site of offending in the first place.<sup>3</sup> It is therefore imperative that future CLA data includes information about exact care entry and exit dates. This will enable an analysis of when custodial sentences were received, relative to a child's time in care.

---

<sup>v</sup> Due to the low number of children who received custodial sentences in some of the smaller ethnic groups, it was unfortunately not possible to break this data down any further.

Nevertheless, it is clear that there is a significant minority of care-experienced children who find themselves in youth custody. Given ongoing concerns about safety, use of force and segregation in youth custody settings,<sup>40</sup> we should be gravely concerned by these findings. When sentenced to youth custody, care-experienced children and young people may be ‘abandoned’ by their local authorities and miss out on vital entitlements.<sup>41</sup> This can be especially difficult for Black care-experienced young people.<sup>32</sup> Too many care-experienced children are subjected to the most severe form of punishment and this issue deserves careful scrutiny.

## Conclusion

This briefing has outlined key findings about the prevalence and extent of youth justice involvement and custodial sentences among care-experienced children in the dataset, including stark differences across ethnic groups. It has demonstrated that care-experienced children in the dataset were disproportionately likely to have youth justice involvement, and typically received more youth justice cautions or convictions than non-care-experienced children. The even higher levels of youth justice involvement among certain ethnic minority groups – for example Gypsy, Roma and Traveller children and Black Caribbean children – when compared to White British children, is quantitative evidence of compounded disadvantage among ethnic minority care-experienced children.<sup>2,14</sup>

By employing a longitudinal approach, the data has considered the cumulative nature of youth justice involvement, which has left many care-experienced children with lifelong criminal records.<sup>42</sup> Furthermore, the data also reveals large differences in the prevalence of custodial sentences between care-experienced and non-care experienced children, which bears down particularly heavily on Black and Mixed ethnicity children.<sup>vi</sup> The overall reduction in youth justice involvement across the four birth cohorts also reveals that existing inequalities within the youth justice system have intensified. Certainly, the data paints a stark picture of inequalities in the youth justice system for which some ethnic minority and care-experienced children have borne the brunt. It is vital that future research digs beneath the broad ethnicity categorisations wherever possible, to understand how these inequalities manifest for specific groups.

This policy briefing has provided evidence of considerable differences in youth justice involvement among care-experienced children compared to non-care-experienced children, which particularly impacts those from ethnic minority backgrounds. Four key findings about disproportionality in relation to ethnicity and care experience have been highlighted; it is not intended as an exhaustive summary of findings.<sup>vii</sup> There is clearly more work to be done. We need to interrogate the specific relationship between these intersections using more complex analyses. Such analyses are currently being undertaken by the authors. However, we also need to improve the quality of available CLA data to deepen our understanding of these issues.

It is worth reiterating that this analysis covers only children born between 1996 and 1999 who were recorded in the National Pupil Database in England at age 10. Therefore, the data may not be representative of all children in England. There are also limitations that mean we might be underestimating the number of care-experienced children in the dataset. Nevertheless, this research is the largest longitudinal analysis of ethnicity, care experience and youth justice involvement in England to date. It has used cutting-edge linked administrative data previously not available to researchers. As such, there is much to be learned.

---

<sup>vi</sup> Due to the relative small number of children who received custodial sentences, it was not possible to break down the data into more detailed ethnic groups.

<sup>vii</sup> The authors have carried out further descriptive analysis of offence types and other youth justice disposals which will be published in due course.

## Policy Recommendations

### ***Recommendation 1: Improve availability of linked data by extending the Ministry of Justice Data First program***

The [Data First](#) program, led by the Ministry of Justice and funded by ADR UK, links data from across the justice system with data from other government departments. The program has already established wide-ranging collaborations between data owners, including the DfE, which have the capacity to improve social and justice outcomes. However, we must improve the availability of linked data to enhance the evidence base even further. It is vital that the DfE works towards providing all episodes in care to ensure that researchers can better understand the relationship between care experience and justice systems involvement.

As a starting point, the DfE could provide more information about care histories, such as true number of care episodes (rather than just the most recent episode in care) and the number and type of care placements. However, the most pressing question concerns onset of justice system involvement, and the relationship between this and entry to care. This question cannot be addressed without precise information about when an individual was in care, which is not available within the existing datasets. This must be addressed as a matter of urgency. The Data First program is currently funded until September 2025 and will require proper resourcing to achieve this aim. This includes sufficient funding for the ONS and the new Integrated Data Service infrastructure.

### ***Recommendation 2: The Ministry of Justice and Department for Education must publish data using detailed ethnicity categories wherever possible***

The analysis has provided key insights into differences within the 'big 5' broad ethnic groups (i.e. White, Black, Asian, Mixed and Other), reinforcing the need for more granular ethnicity data. The Lammy Review called for a cross-criminal justice system approach to improving ethnicity data which includes using more detailed ethnicity categories.<sup>4</sup> The MoJ accepted the recommendation in full, promising to improve systems for both recording and analysing data.<sup>5</sup> However, it has not yet delivered on this promise.

More recently, The Commission on Race and Ethnic Disparities made a recommendation that the ONS and the Office for Statistics Regulation develop a set of ethnicity data standards,<sup>43</sup> which were published in August 2023.<sup>44</sup> These standards should be used as a model of best practice across government departments. The DfE is already considering the use of more granular ethnicity data alongside its confidentiality policy.<sup>44</sup> As a matter of urgency, the MoJ and DfE must improve their ethnicity data wherever possible.



***Recommendation 3: Place a statutory duty on local authorities to prevent unnecessary criminalisation of children in care and care leavers***

Local authorities should be supported to develop their own versions of the *National Protocol on Reducing Unnecessary Criminalisation of Looked-after Children and Care Leavers*.<sup>6</sup> These documents must have appropriate provisions which prioritise behaviour management and diversion from formal youth justice involvement wherever possible. The protocols must also take account of the specific needs of different groups of children, including those from racially minoritised backgrounds.

The government must place a statutory duty on local authorities to prevent unnecessary criminalisation. Ongoing training and resources should be provided for staff to ensure protocols are embedded in practice.<sup>7</sup> These efforts will help to narrow the youth justice gap between children who have been in care and those who have not.

***Recommendation 4: Promote understanding across youth justice agencies of the needs of care-experienced children in order to improve support***

In acknowledging the significant minority of care-experienced children who already have youth justice involvement, we must ensure that *all* youth justice agencies have a statutory duty to promote the wellbeing of care-experienced children. These duties must be fully understood and implemented. Under the Children Act 2004, local authorities and their 'relevant partners' must act in the best interests of children in care as part of their corporate parenting duties. When it comes to youth justice, these 'relevant partners' include only Youth Offending Teams and local policing bodies. The government should extend corporate parenting duties to all agencies working in youth justice including non-local policing bodies, the courts, Crown Prosecution Service, and youth custody.

We must also ensure that staff working across these agencies are properly trained to understand and implement these duties in practice. This will increase support for care-experienced children by improving understanding of their entitlements and the specific challenges they might face. In doing so, we can work towards preventing further justice systems involvement and improve children's life chances. The HMPPS Strategy for Care-experienced People,<sup>45</sup> which is currently being updated, demonstrates a commitment to upholding corporate parenting principles within the custodial environment. The strategy also takes account of the needs of specific groups, including those from racially minoritised backgrounds. From this work, agencies can see what might be possible in developing their own models of good practice.



### ***A Final Note of Caution***

It is a huge responsibility to be trusted with sensitive de-identified data. There is a danger that these findings could be used to perpetuate negative stereotypes about care-experienced children and children from ethnic minority backgrounds. Therefore, It is vital that we take the wider context into account when interpreting findings and drawing conclusions. It is also imperative that we listen to those with lived experience of the issues being researched.<sup>32</sup>

This briefing has contextualised findings within the wider literature, including research on unnecessary criminalisation and disproportionality in relation to ethnicity, both issues that demand policy attention. High levels of youth justice involvement among care-experienced children are not an inevitability but a sign that somewhere along the line, we have failed them.

### **Funding**

This work was funded by ADR UK (Administrative Data Research UK), an Economic and Social Research Council (ESRC) investment (part of UK Research and innovation [Grant number: ESW002221/2])

### **Ethics**

This project received ethical approval from Lancaster University and Manchester Metropolitan University Ethics Committees. Access to the deidentified data was granted by the Ministry of Justice and Department for Education. All data was accessed in an ONS Safe Pod or secure setting under an Assured Organisational Connectivity Agreement.

### **Copyright**

This work contains statistical data from ONS which is Crown Copyright. The use of the ONS statistical data in this work does not imply the endorsement of the ONS in relation to the interpretation or analysis of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates.

### **Dataset Information**

Department of Education, released 10 March 2022, ONS Secure Research Service, dataset, Bespoke National Pupil Database extract.



## References

- 1 Day AM Bateman T and Pitts J (2020) *Surviving Incarceration: The Pathways of Looked After and Non-looked After Children Into, Through and Out of Custody*. Available [here](#).
- 2 Hunter K (2019) *Institutionalised Criminalisation: Black and Minority Ethnic Children and Looked After Children in the Youth Justice System in England and Wales* (unpublished PhD thesis). University of Liverpool. Available [here](#).
- 3 Prison Reform Trust (2016) *In Care out of Trouble: An Independent Review Chaired by Lord Laming*. Available [here](#).
- 4 Lammy Review (2017) *An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. Available [here](#).
- 5 Ministry of Justice (2017) *Government Response to the Lammy Review on the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*. Available [here](#).
- 6 Department for Education, Home Office and Ministry of Justice (2018) *The National Protocol on Reducing Unnecessary Criminalisation of Looked-After Children and Care Leavers*. Available [here](#).
- 7 Hunter K Fitzpatrick C Staines J and Shaw J (2023) A difficult balance: Challenges and possibilities for local protocols to reduce unnecessary criminalisation of children in care and care leavers. *Youth Justice*, 0(0). Available [here](#).
- 8 Prison Reform Trust (2021) *Lammy Five Years On Prison Reform Trust: Update on the Lammy Review's Prison Recommendations*. Available [here](#).
- 9 Webster R. (2020) How far has the MoJ got in implementing Lammy? *Russell Webster* [blog] 20 February 2020. Available [here](#).
- 10 Bateman T Brodie I Day AM Pitts J and Osidipe T (2023) 'Race', Disproportionality and Diversion from the Youth Justice System: A Review of the Literature. Available [here](#).
- 11 Youth Justice Board and Ministry of Justice (2023) *Youth Justice Annual Statistics 2021/22: England and Wales*. Available [here](#).
- 12 MacAlister J (2022) *The Independent Review of Children's Social Care*. Available [here](#).
- 13 HM Inspectorate of Probation (2021) *The Experiences of Black and Mixed Heritage Boys in the Youth Justice System: A Thematic Inspection by HM Inspectorate of Probation*. Available [here](#).
- 14 Hunter K (2022) 'Out of place': The criminalisation of Black and minority ethnic looked after children in England and Wales. *Prison Service Journal*, 258: 13–18. Available [here](#).
- 15 Brownell M Nickel N Turnbull L Au W MacWilliam L Ekuma O Valdivia J McCulloch S and Lee JB (2018) The overlap between the child welfare and youth justice systems in Manitoba, Canada. *International Journal of Population Data Science* 3(4). Available [here](#).
- 16 Colvin E Gerard A and McGrath A (2020) *Children In Out-of-home Care and the Criminal Justice System: A Mixed-method Study*. Australian Institute of Criminology. Available [here](#).
- 17 Vidal S Connell CM Prince DM and Tebes JK (2019) Multisystem-involved youth: A developmental framework and implications for research, policy, and practice. *Adolescent Research Review*, 4(1):15-29. Available [here](#).
- 18 Fitzpatrick C Hunter K Shaw J and Staines J (2022) *Final Report: Disrupting the Routes Between Care and Custody for Girls and Women*. Available [here](#).

- 19 Department for Education (2021) *Corporate Report – DfE Outcome Delivery Plan: 2021 to 2022*. Available [here](#).
- 20 Department for Education (2023) *Children Looked After in England Including Adoptions*. Available [here](#).
- 21 Oakley M Miscampbell G and Gregorian R (2018) *Looked-after Children: The Silent Crisis*. Available [here](#).
- 22 Sanders R (2020) *Care Experienced Children and Young People’s Mental Health*. Available [here](#).
- 23 Staines J (2016: 31) *Risk, Adverse Influence and Criminalisation: Understanding the Over-representation of Looked After Children in the Youth Justice System*. Available [here](#).
- 24 Hunter K (2023) *Data Explained Ministry of Justice – Department for Education Linked Dataset*. Available [here](#):
- 25 Howard League (2016) *Criminal Care: Children’s Homes and Criminalising Children*. Available [here](#).
- 26 Shaw J and Greenhow S (2019) Professional Perceptions of the Care Crime Connection: Risk, Marketisation and a Failing System. *Criminology and Criminal Justice*. Available [here](#).
- 27 Commission on Race and Ethnic Disparities (2021) *Commission on Race and Ethnic Disparities: The Report*. Available [here](#).
- 28 Bowling B and Phillips C (2002) *Racism, Crime and Justice*. London: Longman.
- 29 Minhas R and Walsh D (2021) The role of prejudicial stereotypes in the formation of suspicion: an examination of operational procedures into stop and search practices. *International Journal of Police Science and Management*, 23(3)293–305. Available [here](#).
- 30 Uhrig N (2016) *Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales*. Ministry of Justice. Available [here](#).
- 31 Baroness Casey Review (2023) *An Independent Review into the Standards of Behaviour and Internal Culture of the Metropolitan Police Service*. Available [here](#).
- 32 Barnardo’s (2023) *Black Care Experienced Young Adults’ Navigating the Criminal Justice System: “I Feel Like the Care System Is Exactly Like the Jail System”*. Available [here](#)
- 33 Traveller Movement (2022) *Overlooked and Overrepresented: 5 Years on – A Briefing Paper by the Traveller Movement*. Available [here](#).
- 34 House of Commons Justice Committee (2013: 10) *Seventh Report of Session 2012–13 – Volume I: Report, together with formal minutes, oral and written evidence*. Available [here](#).
- 35 Bateman T (2012) Who pulled the plug? Towards an explanation of the fall in child imprisonment in England and Wales. *Youth Justice*, 12(1): 36-52.
- 36 Day AM (2017) Hearing the voice of looked after children: challenging current assumptions and knowledge about pathways into offending. *Safer Communities*, 16(3): 122-133.
- 37 Shaw J (2014) *Residential Children’s Homes and the Youth Justice System: Identity, Power and Perceptions*. Basingstoke: Palgrave Macmillan.
- 38 McAra L and McVie S (2005: 28) The usual suspects?: Street-life, young people and the police. *Criminal Justice*, 5(1): 5–36. Available [here](#).
- 39 Office for National Statistics (2022) *The Education Background of Looked-After Children Who Interact with the Criminal Justice System: December 2022*. Available [here](#).

- <sup>40</sup> Beard J (2022) *Research Briefing: Youth Custody*. House of Commons Library. Available [here](#).
- <sup>41</sup> Coyne D (2015) *Effectively Abandoned: Care Leavers in the Criminal Justice System Lessons from a Regional Pilot Project*. The Care Leavers' Association. Available [here](#).
- <sup>42</sup> Sands C (2016) *Growing up, Moving on: The International Treatment of Childhood Criminal Records*. Standing Committee for Youth Justice. Available [here](#).
- <sup>43</sup> Equality Hub and Racial Disparity Unit (2023a) *Guidance: Standards for Ethnicity Data*. Available [here](#).
- <sup>44</sup> Equality Hub and Racial Disparity Unit (2023b) *Policy Paper: Looked-after Children Data Strategy*. Available [here](#).
- <sup>45</sup> HMPPS (2019) *Strategy for Care Experienced People*. Available [here](#).

## Contact

Dr Katie Hunter  
Lecturer in Criminology  
Manchester Metropolitan University  
[k.hunter@mmu.ac.uk](mailto:k.hunter@mmu.ac.uk)  
[@DrKatieHunter](#)



MetroPolis

