

The link between child maltreatment and adolescent offending

Systems neglect of adolescents

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This paper is concerned with the nexus between abuse and neglect and adolescent offending in the lives of some children and young people, and the lack of a coordinated response to these by both the child protection and juvenile justice systems. The "early years" message has had considerable influence, particularly in relation to child protection and early intervention, but "early intervention" has largely focused on interventions "early in life" rather than "early in the pathway". Infants and young children are clearly vulnerable to abuse and neglect, and there is increasing evidence that children's early brain development and socio-emotional and cognitive development can be severely compromised by inadequate or harmful parenting (Egeland, 2009). The "window" does not close, however; there are other peak periods of both significant brain development and increased risk—beginning in early adolescence and continuing through adolescence to early adulthood.[1] As Dahl (2004) pointed out:

> Compared to young children, adolescents are stronger, bigger, and faster, and are achieving maturational improvements in reaction time, reasoning abilities, immune function, and the capacity to withstand cold, heat, injury, and physical stress. In almost every measurable domain, this is a developmental period of strength and resilience.
>
> Yet, despite these robust maturational improvements in several domains, overall morbidity and mortality rates increase 200% over the same period of time … related to difficulties in the control of behavior and emotion. It is the high rates of accidents, suicide, depression, alcohol and substance abuse, violence, reckless behaviors, eating disorders and health problems related to risky sexual behaviors that are killing many youth in our society. (p. 3)

While Dahl was referring to young people in the US, Australian figures indicate the same increased level of mortality and morbidity for adolescents, especially for males (Australian Institute of Health and Welfare [AIHW], 2008b).

Being subjected to abuse and neglect is also significantly more prevalent among adolescents

Children and young people who have progressed deeper into the juvenile justice system are more likely to have experienced abuse and neglect, have mental health problems and be developmentally delayed.

than for the general population, but the responses of child protection intervention and mental health services for children, adolescents and their families are inadequate to meet the level of need.

What is clear is that children and young people who have progressed deeper into the juvenile justice system are more likely to have experienced abuse and neglect, have mental health problems and be developmentally delayed. The research literature provides a quite consistent picture of the link between abuse and neglect and offending, which will be outlined later.

It is important, however, to understand how that link plays out in terms of the direction or numbers of children and young people in both the child protection and juvenile justice systems. For example, what proportion of children and young people in the criminal jurisdiction have a background of abuse and neglect or have been in contact with the child protection system? How many have been or are in state care? And how many children in the welfare or child protection system have been or are involved in offending, and come to the attention of police or appear before the Children's Court to answer one or more charges.

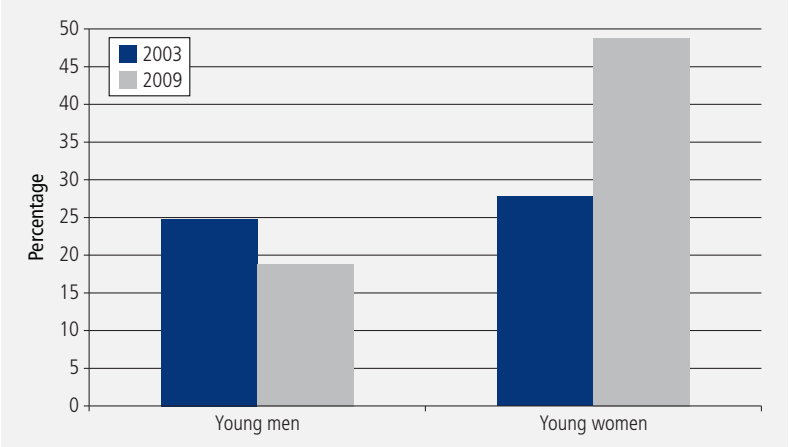
The involvement of young people in care and criminal matters

In understanding the link between maltreatment and offending, it is useful to look at the extent to which children appear in both the child protection and juvenile justice systems.

In relation to the criminal justice system, the starting point is children aged 10 and above (10 is the age of criminal responsibility),[2] so it is likely that there will be a substantial proportion who already have a child protection background or have experienced abuse and neglect. The deeper they move into the juvenile justice system, the higher that proportion is, particularly for females (Bender, 2010).[3] For example, a survey of young people on community service orders, revealed that 21% of males and 36% of females had a history of being in care (Kent et al., 2006, cited in Wood, 2008; Kenny & Nelson, 2008).[4]

A recent survey of young people in juvenile justice detention in NSW (Indig et al., 2011) showed that 81% of young women and 57% of young men had been abused or neglected, and for 49% of the young women and 19% of the young men, that abuse or neglect was "severe" (see Figure 1). While males were consistently more likely to offend than females, adolescent females who did offend and spend time in custody were more likely to have been maltreated than adolescent males. Their maltreatment was also more likely to have been severe, and they were more likely than males to have been placed in care before the age of 16 (40% of adolescent girls, compared with 25% of adolescent males)—overall, over half (57%) had been placed in care when they were aged 10 years or older. The overwhelming majority (92% of young women and 86% of young men) had a diagnosed psychological disorder, including an attention or behavioural disorder, a substance abuse disorder, an anxiety or other mood disorder, or a psychotic disorder.

If the starting point is children who are in contact with the child protection system, it is clear that the figures for the number of children who also enter the criminal justice are somewhat lower, and harder to obtain.[5] There are few recent reliable figures, for example, on the numbers of children in the care system who have been involved in the criminal justice system, though there is a misconception that the figures are quite high. Carrington (1993) found that one in five "state wards" (from a random sample of 1,046 female juvenile offenders) were placed in juvenile detention during their adolescence. The NSW Community Services Commission (1996) reported that young people in state care were 15 times more likely than the general population to enter a juvenile justice centre: 38% of male "wards" and 8% of female "wards" aged 10–17 years had appeared in the Children's Court and had a juvenile



Source: Adapted from Indig et al. (2011), Figure 6.7.3, p. 158

Figure 1 Proportion of young people in NSW juvenile justice detention reporting experiencing any serious childhood abuse or neglect, by gender

justice assessment. In a significant Queensland study following a cohort of children born in 1983, 10% had contact with child protection services,[6] and 5% had a court appearance for a proven offence by age 17 (Stewart, Dennison, & Waterson, 2002). Only 474 of the 41,700 children (1.14%), however, had both a substantiated child protection notification and a juvenile justice record. Of those who had been removed from their family and placed outside the home, 26% subsequently offended at least once, compared with 13% of maltreated children who had never been placed outside the home. More recently, a survey of 614 children in out-of-home care in Victoria found that 21% of the children aged 10 years and older had been cautioned or warned by the police, or charged with a criminal offence, within the last six months; the majority (59%) had not, and there was no response for 20% (Wise & Egger, 2008). Those in residential/lead tenant care were nine times more likely than children in home-based care to have had this type of criminal involvement. In general, then, the majority of abused and neglected children do not offend, but a large number of children who do offend have experienced abusive or neglectful and inadequate parenting.

Links from abuse and neglect to crime

There is a substantial body of research internationally and within Australia that indicates that there is an association between child maltreatment (abuse and neglect) and various social problems affecting children and young people, such as homelessness, substance abuse and suicide. In particular, there is consistent evidence for a link between child abuse and neglect and later offending and involvement in the juvenile justice system. More importantly, a number of studies point to the importance of timing, and implicate abuse and neglect—particularly neglect and poor supervision that extends into or starts in adolescence—in the development of offending behaviour.

The evidence for the association between abuse and neglect and later offending by children comes from a sizeable number of studies in different countries over several decades. These studies vary in their focus on different types of maltreatment and methodology, including cross-sectional and longitudinal studies (Brown, 1984; Fergusson & Lynskey, 1997; Grogan-Kaylor & Otis, 2003; Loeber & Stouthamer-Loeber, 1986; Mak, 1994; Smith & Thornberry, 1995; Stewart et al., 2002; Swanston, Parkinson, O'Toole, Plunkett, & Oates, 2001; Weatherburn & Lind, 1997; Widom, 1989). Longitudinal studies have significant advantages over other types of studies in that they allow an examination of the timing of both the abuse and neglect and the offending behaviour, and the possibility of inferring causality or at least the ordering of events. The research varies in their sources of data, including official and/or direct data from the children and their families. Of course, official data reflect the fact that these children have come to the notice of child protection and juvenile justice authorities, whereas self-reported offending and experiences of abuse and neglect may not have come to official attention. The link between abuse and neglect and later offending is evident, however, regardless of the measures of maltreatment or offending.

Does timing matter?

A group of recent studies with large-scale or representative samples both in Australia and in the US has pointed to the importance of the timing of maltreatment in relation to the likelihood of later offending, which is pertinent to issues concerning adolescents. The consistent finding has been that young people whose maltreatment persists from childhood into adolescence or that starts in adolescence are much more likely to be involved in crime and the juvenile justice system than those whose maltreatment was limited to their childhood (Jonson-Reid & Barth, 2000a; Smith, Ireland, & Thornberry, 2005; Stewart et al., 2008; Thornberry, Ireland & Smith, 2001).

The US study by Thornberry, Ireland and Smith (2001) used data from the Rochester Youth Development Study (RYDS), a broad-based longitudinal study of adolescent development. They compared the rate of self-reported delinquency and other adverse outcomes (such as drug and alcohol use, depression, teen pregnancy, dropping out of school and behaviour problems) among adolescents aged 14 to 16. The adolescents were categorised into five groups based on whether, and when, they had a substantiated maltreatment record. One group had not been maltreated, but the others had child protection records that occurred in early or late childhood or in adolescence or that extended into adolescence from childhood. They found that:

> Substantiated maltreatment that begins and ends in childhood—whether subdivided into early or late childhood maltreatment or treated as a unity—is, by and large, not significantly related to the range of adolescent outcomes measured in the RYDS study. There is some impact of late childhood only maltreatment on

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> outcomes in early adolescence, but that impact fades by later adolescence.
>
> In contrast, adolescence-only maltreatment and persistent maltreatment increase the risk of a variety of adolescent adjustment problems. (p. 975)[7]

An Australian study by Stewart et al. (2008) reported similar findings, and also highlighted the importance of school transitions as vulnerable periods. This study was based on a cohort of children born in Queensland in 1983 or 1984, using administrative data to identify those who had at least one maltreatment episode documented by the child protection or child welfare department, as well as those who had been formally processed in the juvenile justice system (e.g., those with formal police cautions or court appearances).[8] Stewart et al. identified six separate trajectories of maltreatment, four of which peaked at or around school transition periods. These were periods around which children were more likely to experience maltreatment. There were marked differences in the likelihood of offending for children on these different trajectories. Like Thornberry et al. (2001), "children whose maltreatment trajectories either started in or continued into adolescence were more likely to offend as a juvenile than children whose maltreatment trajectories were confined to early childhood" (p. 61).

As Thornberry et al. (2001) pointed out, these findings do not suggest that there are no shorter term negative consequences from childhood-limited maltreatment. Intervention to stop maltreatment early is clearly important, especially given the harmful longer term consequences of chronic or persistent maltreatment that continues into adolescence.



These findings do suggest, however, that it is important to intervene to prevent and stop maltreatment that begins in adolescence, as well as that which may continue into adolescence. Adolescence is a period in which increasing exercise of autonomy in a safe environment is important for optimal development in young people; however, it is also a period in which access to other means of escape from an adverse family environment is likely to be unsafe and to lead adolescents into trouble. As Thornberry et al. and others point out, adolescents' increasingly difficult and oppositional behaviour may "mask and prevent attention to the maltreatment that underlies and reinforces it" (p. 977). Maltreated acting-out adolescents are less likely to receive sympathetic attention than younger children, and are more likely to run away, become homeless and engage in illegal and survival activities that bring them to the attention of police (Kaufman & Spatz-Widom, 1999).[9] The attention of police rather than child protection services means that the interventions these adolescents receive are more likely to criminalise them than "treat" them (Garbarino, Eckenrode, & Powers, 1997). Effective mental health services and evidence-informed treatment are therefore essential for older children and young people who are being or have been maltreated. So also are appropriate services for young people who are homeless.[10]

The importance of transitions

Stewart et al.'s (2008) study highlighted the significance of transitions in children's exposure to maltreatment and their subsequent likelihood of offending. Four of the six trajectories they identified indicated peaks in maltreatment at or just before children's transitions into primary school, and from primary to secondary school. These are normative transitions for Australian children, but the ease with which children are ready, supported, and able to make these transitions may vary markedly. Transitions, even normative ones that may be anticipated, cause some uncertainty and may become periods of stress for children and their families. These are also times of increased openness to change and may provide useful opportunities for support and intervention if required.

If maltreatment occurs at these times, this may hinder children's ability to negotiate such transitions successfully (National Crime Prevention, 1999). As Stewart et al. (2008) suggested, children who struggle with these transitions, especially from primary to secondary school, are more likely to have difficulties with their academic performance

and peer relationships, increasing the likelihood that they will experience bullying and school failure (Bolger & Patterson, 2001). "These experiences will, in turn, exacerbate the long-term negative consequences associated with child maltreatment" (Stewart et al., 2008, p. 61), and increase the likelihood of antisocial behaviour problems and offending. On the other hand, if abused children are able to perform well at school and are positive about being there, they are less likely to engage in offending behaviours (Zingraff, Leiter, Johnsen, & Myers, 1994).

There are other non-normative transitions for some children who have been maltreated that also increase the risk of offending. Several studies have shown that placement in out-of-home care doubles the risk of post-placement offending (Ryan & Testa, 2005; Stewart et al., 2002), particularly if this occurs during adolescence (Ryan, Hernandez, & Herz, 2007) and involves placement in a group home (Ryan, Marshall, Herz, & Hernandez, 2008). Multiple placements or placement instability, together with changes of school—particularly changes that involve exclusion from a previous school—are also associated with an increased risk of difficult behaviour and later offending. Widom (1992), for example, found that it was not being placed outside their home that made children in care more likely to be involved in crime, but the stability and number of their placements:

> Children who moved three or more times had significantly higher arrest rates (almost twice as high) for all types of criminal behaviours—juvenile, adult, and violent—than children who moved less than three times. (p. 5)

Other studies have also reported a link between placement instability and offending (Jonson-Reid & Barth, 2000a, 2000b; Runyan & Gould, 1985), but Ryan and Testa (2005) found that this was significant only for males. As Widom (1992) reported, three or more placements doubled the risk of offending but only for males; for females, *any* placement, not just instability, increased their risk of offending.

The nature of this relationship, however, is likely to be complex since one of the main reasons for changes in placement and school exclusion occurring is that carers and schools have difficulty tolerating and managing the difficult or antisocial behaviour of children who do not feel secure and engaged in those environments (Taylor, 2006). In some cases, the child's behaviour may also lead to direct police involvement. While children and young people in their family home may cause damage or threaten harm in anger and upset, their difficult behaviour is generally dealt with by the family. When a child is in care, however, staff or carers may call in the police to manage their behaviour, leading in many cases to charges being laid (Alder, 1997; Carrington, 1993; NSW Community Services Commission, 1999; McFarlane, 2010–11; Taylor, 2006). While this practice is not restricted to NSW, Carrington (1993), the NSW Community Services Commission (1999) and McFarlane (2010–11) showed that this practice is longstanding and ongoing in NSW.[11] McFarlane examined 111 randomly selected 2009 NSW Children's Court criminal files, of which more than a third involved children and young people aged 11 to 17 who were in care at the time or had recently been in out-of-home care. She found that "the most common charge that brought a child in care to court—that of malicious damage, generally inflicted on property belonging to the care home where the young person was residing" (p. 347). Many of these young people, and particularly young women, were charged in relation to malicious damage or behaviours at specialist facilities "engaged by the state to provide professional behaviourist techniques to mitigate the child's allegedly 'challenging' behaviour or psychiatric issues" (p. 347).

Once children and young people in out-of-home care are involved in the juvenile justice system, there is evidence from various jurisdictions that they are also likely to receive more punitive treatment because of their in-care status. In 1996, the NSW Community Services Commission reported that children in care ("wards") were "more likely to be refused bail because of the lack of appropriate supervised accommodation, because of their lack of community ties and support from their families, and because it seems that magistrates assume, perhaps with some justification, that they are safer in custody than on the streets" (National Crime Prevention, 1999, p. 163). There is continuing concern that children and young people in care are being refused bail and are on remand because of the lack of appropriate accommodation for them outside the juvenile justice system (McFarlane, 2010–11; Stubbs, 2010; UnitingCare Burnside, 2009; Wong, Bailey, & Kenny, 2010).[12] This is one of the indicators of "systems neglect" of adolescents in need of care in the child protection and juvenile justice systems.

The final transition that young people in care make—leaving care—may also make them vulnerable to involvement in the criminal justice system, and if it occurs after the age of 18, they are then subject to the adult rather than the juvenile justice system (Taylor, 2006).

Placement in out-of-home care doubles the risk of post-placement offending, particularly if this occurs during adolescence.

Children in need of care or in care who move into the juvenile justice system are arguably neglected by both the child protection and juvenile justice systems.

US and Canadian research as well as several English and Irish studies have indicated that care leavers are over-represented in the criminal justice system (Courtney & Dworsky, 2006; Cusick & Courtney, 2007; Jonson-Reid & Barth, 2000a; Kelleher, Kelleher, & Corbett, 2000; Taylor, 2006). A recent Australian report (McDowall, 2011) has also indicated that a large proportion of young people leaving care (60%) are doing so without a leaving care plan and with inadequate support in terms of accommodation, employment prospects and sources of social and emotional support. The lack of formal support and supportive relationships at an age when most of their same-age peers not in care are still living at home leaves these young people vulnerable to homelessness, unemployment, mental health issues, and drug and alcohol abuse problems, and there is a greater likelihood that they will commit offences, partly at least for survival purposes (Taylor, 2006).

Systems neglect

Children in need of care or in care who move into the juvenile justice system are arguably neglected by both the child protection and juvenile justice systems. There has been a longstanding debate about dealing with young people involved in the juvenile justice system according to their "needs" or their "deeds". In the 1980s there was a shift to a "justice" model in the Children's Court rather than a welfare model because of well-based concerns that children with "welfare needs" were receiving longer, more punitive and more intrusive sentences. The practices were reported upon by the landmark *Seen and Heard* report by the Australian Law Reform Commission in 1997, as well as the NSW Community Services Commission.[13] Evidence about current practices, however, suggest that there are longstanding and continuing concerns about homeless children and children in care being denied bail and having to be remanded in custody (McFarlane, 2010–11; Stubbs, 2010; Wong et al., 2010).[14] In his report on the Inquiry into Child Protection Services in NSW, Wood (2008) stated that "one problem which was repeatedly brought to the notice of the Inquiry has been the difficulty in securing accommodation for young people who might otherwise have been released on bail, but cannot be released because they do not have stable accommodation or are unable to return home because of family breakdown or safety or neglect risks" (para. 15.8). Wood went on to comment that:

> A positive commitment on the part of Juvenile Justice to secure accommodation for young people within the juvenile justice or criminal justice systems who would be allowed their liberty, either pending trial or pursuant to a non-custodial disposition such as a bond or suspended sentence, had they a stable place in which to live, would accord with the requirements of the international instruments to which Australia is signatory [i.e., the UN Convention on the Rights of the Child]. (para. 15.19)

In their report based on a qualitative study of 145 young people who were in custody and appearing before the Parramatta Children's Court, Wong et al. (2010), for the Youth Justice Coalition,[15] concluded that:

> Young people are not meeting bail conditions, in particular "reside as directed" conditions, because there is not a model of care in NSW that can meet their needs. A therapeutic or rehabilitation service needs to be funded that can manage the effects of abuse, neglect, mental health issues, drug and alcohol abuse, learning difficulties and disrupted education during this period. It should be a service that can continue to provide support beyond the period of detention and help to reduce the chances of a young person re-offending. (p. 23)

There are other areas too where children in care or in need of care are subjected to systems neglect when they move from being "troubled" to "troublesome". While abuse and neglect may be closely related to children's offending behaviour, the court and service responses are quite separate, and children with both "care and crime" issues are dealt with separately in the child protection or juvenile justice systems. Whereas the children and young people in various states in the US who are caught up in both child protection and "delinquency" matters are called "cross-over kids", there is no clear term here, limited data, and little optimism about being able to make any practical progress in this area. In 1998, the Australian Institute of Health and Welfare published a scoping study in this area; ten years later, in 2008, a further report was published in relation to the feasibility of linking data sets "to analyse the flows of young people between three community services sectors: child protection, juvenile justice and the Supported Accommodation Assistance Program (SAAP) and identify the characteristics of young people who move between the three sectors" (AIHW, 2008a, p. 1). A national study of this type that includes all states is essential.

McFarlane (2010–11) outlined the various concerns that have been raised in the NSW Parliament over several decades in relation to the circumstances of specific children, and highlighted the persistent denial of the problem and the failure to achieve any resolution or practical solutions. When children under the

parental responsibility of the Minister, for example, come before the Children's Court charged with an offence, there is no guarantee that a caseworker, carer or representative of the Minister as their "parent or guardian" will be present to support them.[16] Indeed, McFarlane's study indicated that this is "very rarely" the case. Focusing on the young women, McFarlane reported that the involvement of NSW Department of Community Services (DoCS) staff was minimal, although in "almost all cases the care status of the young women was identified by a Department of Juvenile Justice (DJJ) pre-sentence report". She noted that:

> the reports frequently commented that the DJJ officer had not been able to speak to a Department of Community Services (DoCS) representative, nor could they provide details of the specific DoCS office with responsibility for the child. It was also rare to have a Department of Community Services report provided to the court. In those cases where a DoCS report was furnished, the information it contained was sparse, generally comprising no more than a brief acknowledgment that the child before the court was currently in out-of-home care. In several instances this acknowledgment was provided only after the child had spent at least one night in a juvenile detention centre. Officers from DoCS attended court in person very rarely—only one of sixty-two files noted that an officer had been present in court. (p. 347)

Their carer, if present and still involved in their lives, does not have parental responsibility to make the decisions that may flow from the child's offending. While these children are legally represented by a legal aid lawyer, this person is their legal advocate and has little or no prior or ongoing contact with them. They also have no responsibility for identifying or meeting their needs.[17] While Wood (2008) pointed out that "serious problems can arise in those cases where a child or young person in statutory care comes into conflict with the criminal law and becomes subject to the control or supervision of Juvenile Justice" (para. 15.48),[18] the report does not deal with these problems in any depth, and the recommendations mainly relate to "aspirational" cooperation between Community Services and Juvenile Justice and a "shared client database".[19] While part of the explanation may lie in a caseworker-to-child ratio that is more than double the recommended level,[20] there is a clear need for casework to prioritise the needs of children involved with the criminal justice system when the state holds parental responsibility for them or when they are in need of care and homeless.



What other options are possible and available?

Australia, along with other English-speaking common law jurisdictions (England, Wales, Australia, Canada and the US, but not Scotland), has adopted a justice model for dealing with juvenile offenders over the age of 10. In the Scandinavian countries (Sweden, Denmark, Norway and Finland), "young offenders under 18 years of age are dealt with in a system of justice that is geared mostly towards social services with incarceration as the last resort" (Arthur, 2010, p. 59). In Scotland, too, children who offend, and their families, appear before a lay panel in children's hearings. The aim in these "welfare" processes is to understand why children are offending, and what their needs are, in order to try to divert them from this path. The focus is as much or more on their needs rather than their deeds. It is worth noting, however, that the welfare approach in Finland, which involves dealing with "troubling and troubled young people from a psychiatric rather than penal perspective", has resulted in much higher numbers of young people in Finland being accommodated within mental health institutions or "reformatories" (Pitts & Kuula, 2005).

In Australia, along with other countries, there are now some new initiatives, including therapeutic or problem-solving courts, that are providing alternative approaches, especially for Indigenous young people (e.g., Indigenous Courts in Queensland and Victoria) and those with a serious substance abuse problem (e.g., Youth Drug and Alcohol Courts). The evaluations of these courts have indicated some positive outcomes, and some capacity to engage with young offenders, but not surprisingly, no "magic bullets" (Borowski, 2010; Morgan & Louis, 2010; University of

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New South Wales Evaluation Consortium, 2004). While the window may not be closed to intervention, it is considerably more difficult and more expensive to intervene when there have been established offending behaviours among adolescents. As yet, there has been no coordinated program to deal with young people who offend while in care (or soon after leaving care) nor those who have been maltreated and offend.

In the US, such an approach is taken under a collaborative court model for juvenile justice courts, especially in relation to cross-over kids. The US National Council of Juvenile and Family Court Judges has produced various guidelines for juvenile delinquency courts of excellence, emphasising the role of judicial leadership and case management of these matters. This is similar in some ways to the role of the judicial officer in youth drug courts in Australia, but more extensive. Among the 16 key principles of the Model Delinquency Court, for example, are the following:

- juvenile delinquency court judges should engage in judicial leadership and encourage system collaboration;
- juvenile delinquency courts and juvenile abuse and neglect courts should have integrated one family–one judge case assignments;
- juvenile delinquency system staff should engage parents and families at all stages of the juvenile delinquency court process to encourage family members to participate fully in the development and implementation of the youth's intervention plan; and
- the juvenile delinquency court should engage the school and other community support systems as stakeholders in each individual youth's case. (National Council of Juvenile and Family Court Judges, 2011)



To be most effective in achieving its mission, the juvenile court must both understand the role of traumatic exposure in the lives of children and engage resources and interventions that address child traumatic stress.[21]

The model courts in the US and other non-adversarial approaches may offer lessons for a different approach here, although the "extensive involvement of the judiciary" is controversial in various quarters (Duquette, 2007). The underlying philosophy in dealing with cross-over kids in particular is to deal with the child's needs and deeds as one, holding children and young people responsible for their behaviour, but taking into account and responding to their needs and trauma by ensuring that they have the necessary support and services around them. There are good reasons to deal with both their needs and deeds, especially when there is evidence, from NSW at least, of systems neglect of adolescents by the child protection and juvenile justice systems. While much of the discussion has focused on various inquiries and commentary in New South Wales, there are common themes across Australia, though their particular manifestation may differ (AIHW, 1998, 2011).

Maltreated adolescents across Australia need early intervention and support, in part at least to try to reduce the risk of their later offending. We need to understand how many children in care are involved in offending and what interventions and services are successful in preventing later offending (Jonson-Reid, 2002, 2004), especially for maltreated children and adolescents. It seems very likely that some prevention measures are working, but we have little information about whom these work for and under what circumstances. It is important to build this knowledge and to increase the focus on adolescents in child protection, on the understanding that intervening early means intervening early in the pathway as well as early in life. The window for effective intervention, especially in relation to offending behaviours, is not closed after early childhood, though it is likely to be more expensive to intervene at later ages. Crucially, state parental responsibility for children and young people in care must not stop once they have offended and become troublesome as well as troubled.

Endnotes

1 The Pathways to Prevention report (National Crime Prevention, 1999), for example, provides a pointer to the importance of intervening early in the pathway as far as possible, but not assuming the "window" has closed. "Don't assume that all is lost if you don't start early in life or if a first offence has already occurred. As Tizard (1991) has especially pointed out, we need to avoid the error of thinking that there are no 'second chances', that 'if at first you don't succeed, you don't succeed'. We may have to work harder if we missed the first opportunity, but we should not abandon hope. Intervening after a first offence needs then to be thought of as reasonable as intervening early in the pathway toward repeated or chronic offending (Guerra, 1996b, Tremblay & Craig, 1995)." (p. 54)

2 Between the ages of 10 and 14, there is a rebuttable presumption that children do not have the capacity to understand that what they have done is a criminal offence (*doli incapax*). The UN Committee on the Rights of the Child has urged that the minimum age of criminal responsibility for children should be 12 years.

3 This is consistent with the findings of other studies that have found that female offenders are significantly more likely than males to report victimisation prior to their offending (Stewart, Livingston, & Dennison, 2008).

4 This part of the survey has not been repeated since.

5 Notably, the National Framework for Protecting Australia's Children (Council of Australian Governments [COAG], 2009) includes a strategy that aims to "improve our understanding of children in the child protection and care system by: developing and implementing a system for the collection and analysis of confidential unit record data across homelessness, juvenile justice and child protection records" (p. 27).

6 More recent figures on the proportion of children expected to have contact with child protection services, however, have risen to about one in five children.

7 A follow-up study by Smith, Ireland and Thornberry (2005) found that the adverse outcomes associated with substantiated maltreatment in adolescence continued into early adulthood, with increased likelihood of arrest, violent and other offending, and illicit drug use.

8 The small group of children (n = 176, 3%) whose offending (finalisation of an offence) preceded their first maltreatment notification were excluded from the sample. The earlier study by Stewart et al. (2001) indicated that 17% of children in this cohort who had at least one substantiated maltreatment report had a later proven offence, compared with 10% of those without such a report; and 26% of children in out-of-home care had a later offending record, compared with 13% who had not been placed.

9 As a number of studies have reported, homeless young people are likely to engage in drug sales, shoplifting, burglary, robbery and prostitution (Baron, 2003) in their "attempts to survive financially, protect themselves, and cope with their dangerous lives on the street" (Bender, 2010, p. 467).

10 The National Framework for Protecting Australia's Children 2009–2020 (COAG, 2009) includes a strategy for early intervention and prevention services for up to an additional 9,000 young people aged 12 to 18 years who are at risk of homelessness, in order to help them to remain connected with families (where appropriate), education, training and employment.

11 There are little data available to indicate whether these practices of charging young people in these circumstances differ in prevalence across care facilities provided by Community Services or non-government agencies.

12 There is also concern in Victoria that young people are being unnecessarily remanded in custody, although Victoria has consistently had the lowest percentage of un-sentenced remandees and the lowest rate of detention and remand in Australia.

13 As McFarlane (2010–11) pointed out: "In 1992, the NSW Parliament's inquiry into juvenile justice heard evidence that female state wards were 'forty times more likely to be detained in custody than other girls' and were 'frequently unable to meet the bail conditions regarding an approved place of residence, by default remain(ing) in detention' (Standing Committee on Social Issues 1992:141)" (Abstract).

14 Stubbs' (2010) analysis points to the "inadequacies of the *Bail Act 1978* (NSW) for dealing with young people", particularly young women with a history of sexual abuse and neglect and homelessness. When they cannot return to their families or carers, and cannot meet the bail conditions, "there are few other accommodation options available to them" (p. 492).

15 The Youth Justice Coalition report (Wong et al., 2010) recommended that "DoCS [Department of Community Services] and DJJ [Department of Juvenile Justice] cooperate to meet the needs of young people by: Sharing information (through data matching) to assist the court and to develop joint accommodation and intervention options. Ensuring there are formal arrangements to secure consistent practices and service delivery from other portfolios, including the NSW Police Force, NSW Health, Departments of Education and Training, Corrective Services, Disability and Housing. Funding a DoCS officer position at the Children's Court to assist young people with accommodation and welfare related issues" (p. 26).

16 The insertion of Ch 16A in the *Children and Young Persons (Care and Protection) Act 1998* was intended to promote communication between agencies and remove discretion from the Department of Community Services about responding to such issues; whether or not this has been effective is an empirical question.

17 McFarlane (2010–11) concluded that: "The lack of a DoCS officer, either physically attending court to assist a child in care or to make representations on the child's behalf via a written report, is an indication that the Department has failed in its duty to the young people in its care. Interdepartmental agreements between Juvenile Justice and Community Services regarding young offenders in care are clear: responsibility for such children is shared by the Departments, with DoCS having ultimate authority over children in its care who also happen to be in detention (NSW Legislative Assembly (Chadwick) 1993:3554-55; NSW Legislative Council (Tebbutt) 2002:1667)".

18 See also footnote 442 citing *HA v Minister for Community Services* [2003] NSW ADT 149.

19 See para 15.86: "For those who do become the subject of interest by both DoCS and Juvenile Justice, the case for extensive joint intervention including Health is compelling".

Maltreated adolescents across Australia need early intervention and support, in part at least to try to reduce the risk of their later offending.

The window for effective intervention, especially in relation to offending behaviours, is not closed after early childhood, though it is likely to be more expensive to intervene at later ages.

20 The Auditor-General's *Report to Parliament 2010* (Vol. 6), tabled in November 2010, indicates that "Community Services' caseworker to child ratio is currently 1 to 29, more than double the KTS [Keep Them Safe] recommendation that there be one caseworker to 12 children and young persons" (p. 3).

21 This principle concerning a "trauma-informed system of care" is taken from Buffington, Dierkhising, and Marsh (2010).

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