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## CRIMINALISATION OF CHILDREN IN CHILD PROTECTION SYSTEMS

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MONASH  
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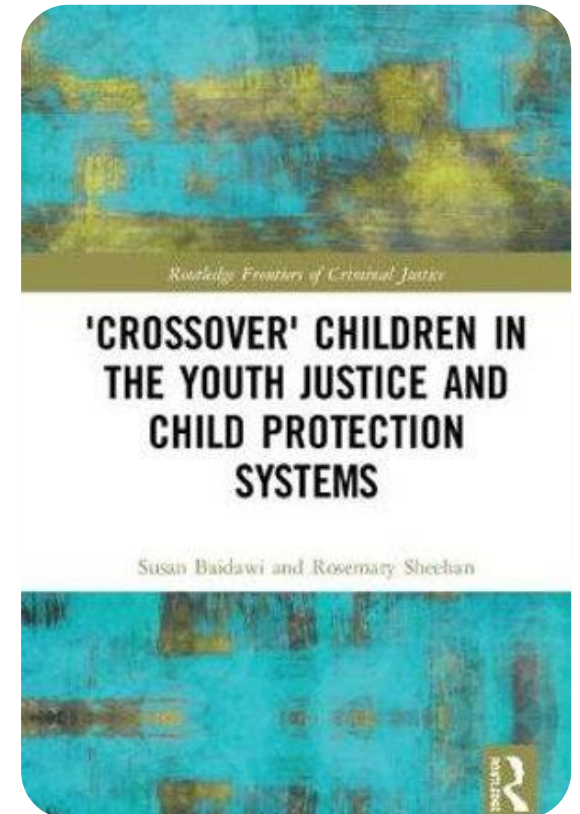
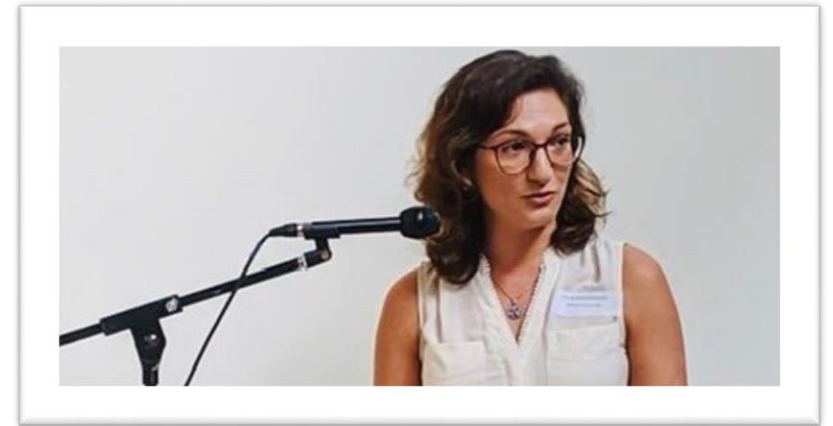
DR  
**SUSAN BAIDAWI**

**14 years research experience focusing on  
Child protection, youth & adult criminal justice**

**Recent studies:**

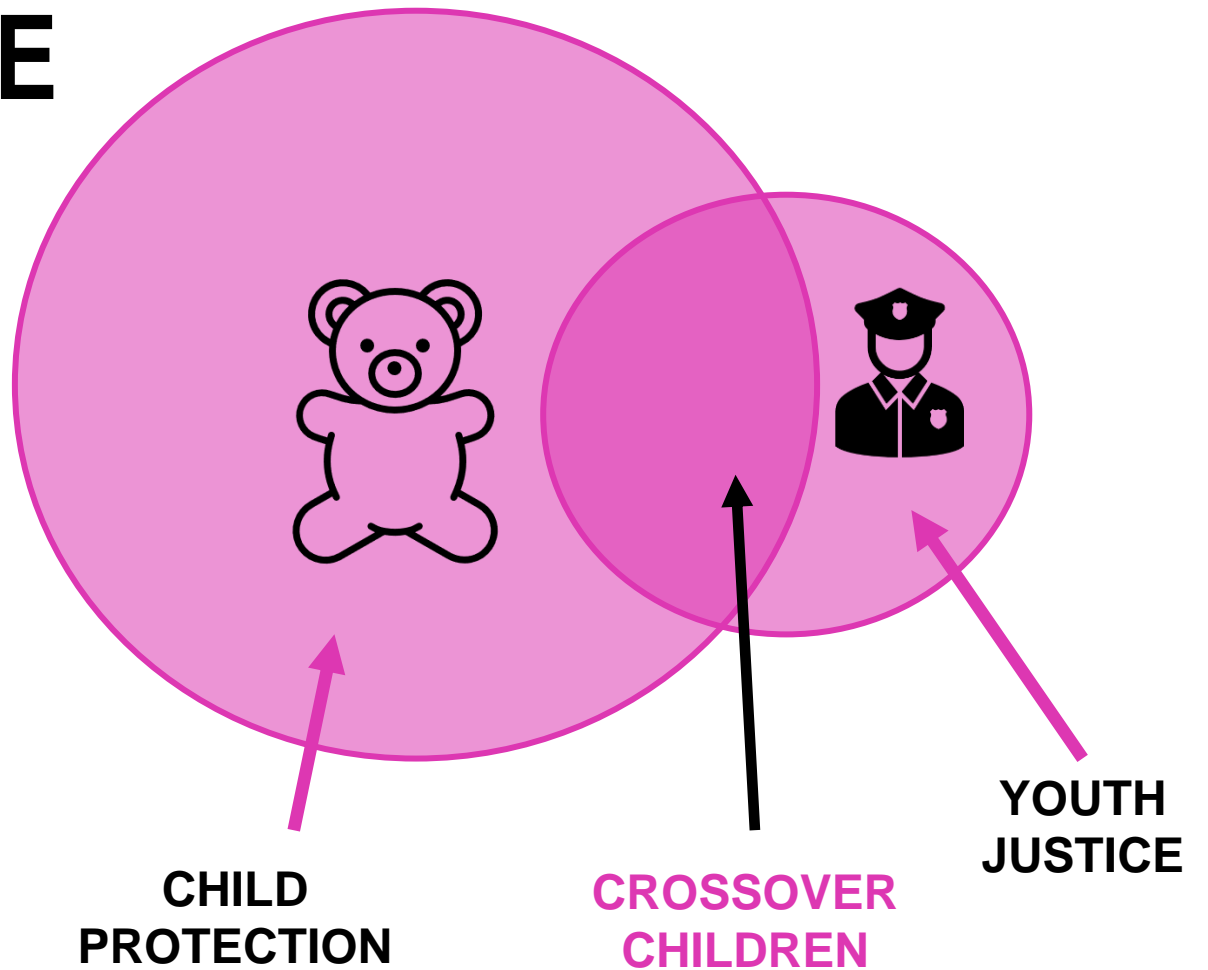
- **Australian Institute of Criminology (2021-24) Children aged 10 to 13 years with alleged offending**
- **Disability Royal Commission (2021-22) Care criminalisation of children with disability in child protection systems**
- **Australian Research Council Fellowship (2019-22) Crossover children**

**Studies gathered data from Victorian Children's Court and consultations with a range of professionals including ACCOs**



# CROSSOVER CHILDREN PRESENTATION OUTLINE

- How do this group vary from **other children in child protection**?
- How do this group vary from **other children in youth justice**?
- Pathways to **criminalisation**
- Mental health & disability-related needs
- **ACCO perspectives on responding**



# CROSSOVER CHILDREN

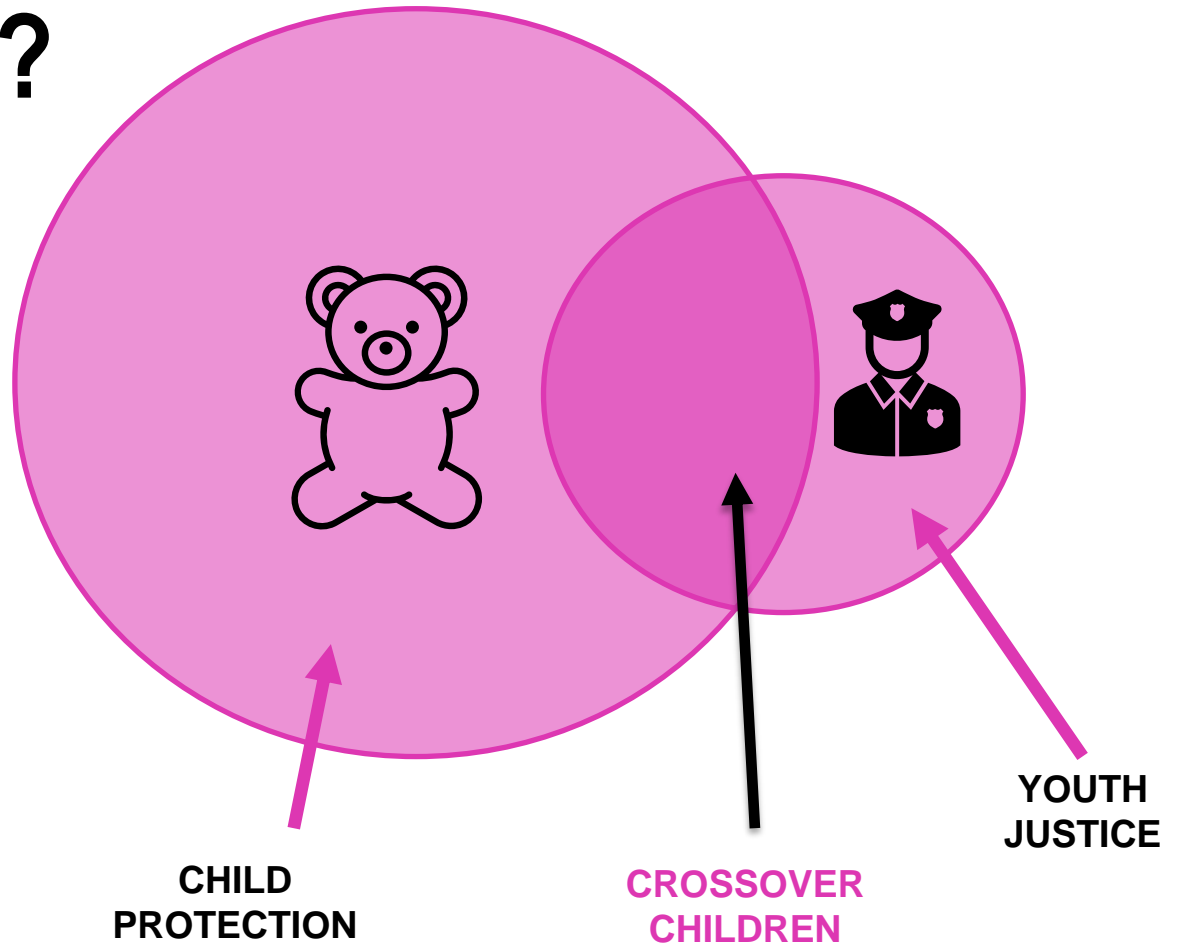
## CASE EXAMPLE

# “JOSEPH”

- **14 year-old Koori boy**
- **58 charges:** *threats to kill, assault, property destruction – all resi-care based*
- **Raised by his mother to age 13**
- **Exposed to FV, parental AOD & MH difficulties** *including suicide attempts*
- **9 CP notifications from 9 years old:** *no previous substantiations*
- **Relinquished by mother at age 13:** *behavioural challenges → Residential care*
- **Death of father** *→ further behavioural escalation → Police charges*
- **ITP raised queries in police interviews** *→ Police proceeded with charges*
- **Children’s Court Clinic Assessment:** *Intellectual disability, PTSD, CD, anxiety*
- **Charges struck out** *→ unfit to plead → Disability Services engaged*

# WHO ARE CROSSOVER CHILDREN?

- Child protection-involved youth **9 x more likely enter youth justice**
- **First nations children 17x more likely** to experience dual system contact
- **Justice-involved females** more likely to experience CP contact compared with justice involved males
- At least **50% of children in custody** known to child protection
- Often **multiple child protection reports**
- **Earlier initial** justice system contact & greater **justice system entrenchment**



# INTERGENERATIONAL CRIMINALISATION OF FIRST NATIONS PEOPLE

- Our 2019 crossover children study findings suggested that crossover children would be more likely to enter adult justice system
- 2022 Queensland study proved our hypothesis correct
- Disrupting adult incarceration pathways for First Nations people must begin with looking at CP and YJ policy and practice



Dr Susan Baidawi @susanbaidawi · Jun 21

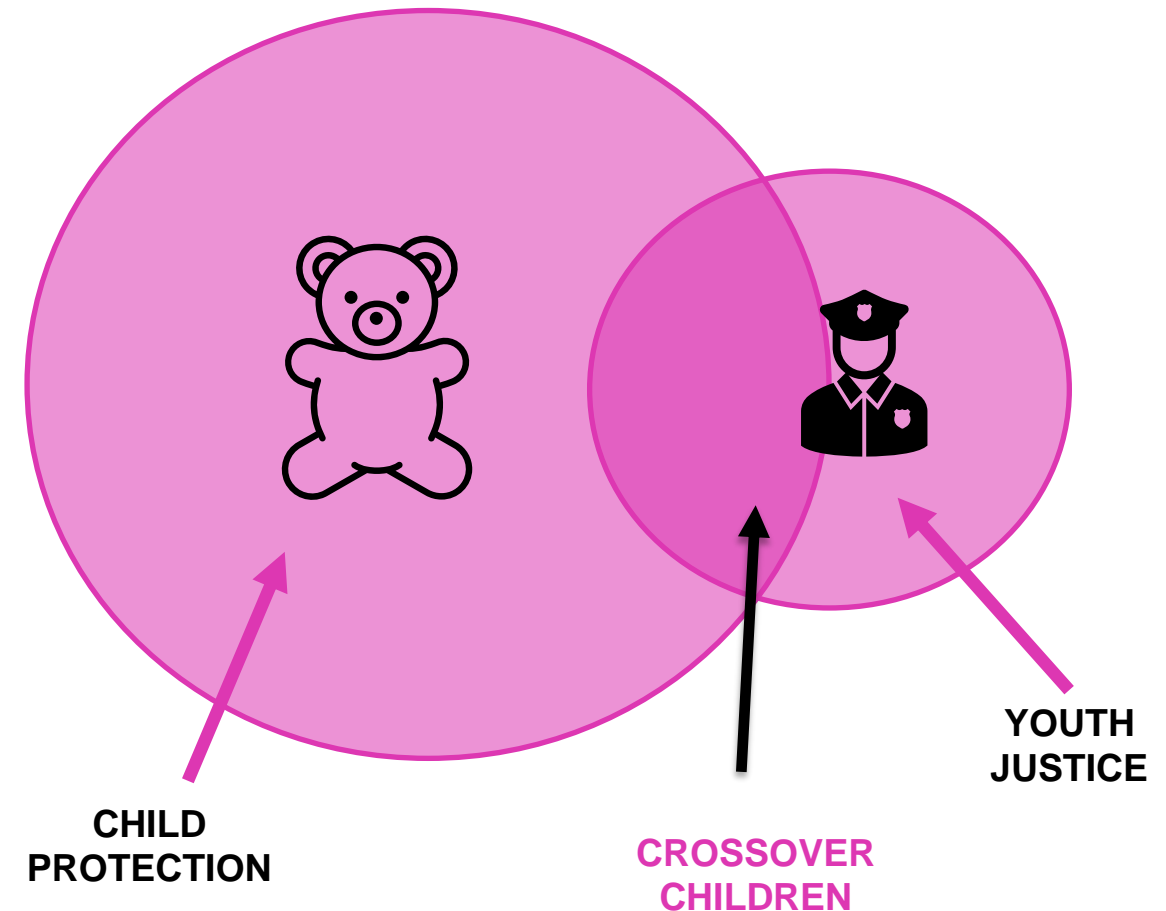
Amazing analysis by @benmatthewsed @susanmcvie & @GriffCrimInst colleagues supporting the findings of our 2019 @AICriminology study that crossover children are at greater risk of ending up in adult justice systems. Earlier and better support is a must. [bit.ly/3OtUNjf](https://bit.ly/3OtUNjf) ✓

Indigenous men. These overall results agree with Baidawi and Sheehan's (2019, p. 12) assessment that 'children with a "life-course persistent" offending profile may be over-represented among cross-over children compared to the overall cohort of youth offenders'—and we find this to be particularly true for Indigenous men.

# CROSSOVER CHILDREN COMPARED WITH BROADER CHILD PROTECTION POPULATION?

Up to 10% of Child protection (CP)-involved children receive youth convictions. Compared with other CP involved children, crossover children:

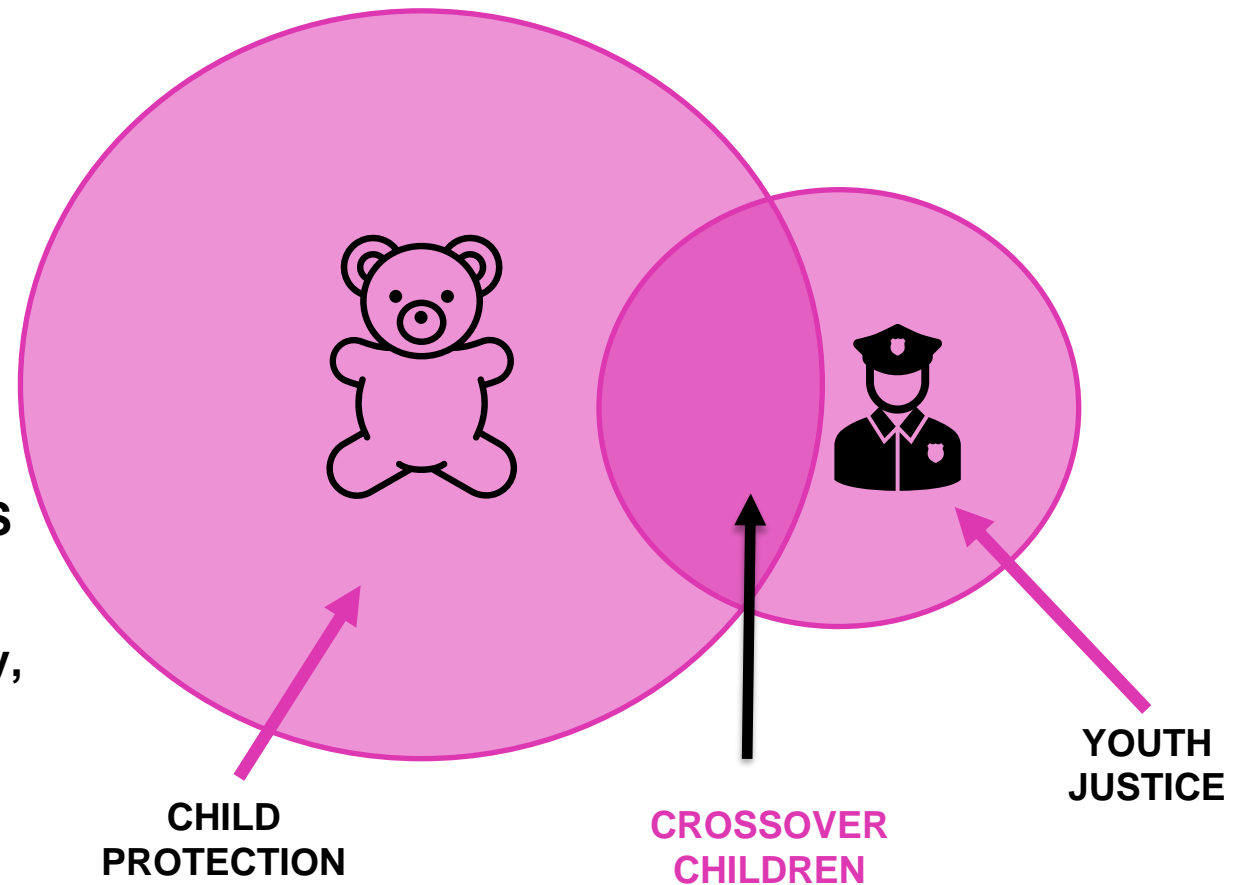
- More likely to be **male**
- More likely to be **First Nations children**
- More substantiated **physical abuse and neglect**
- More **chronic/persistent maltreatment**
- More likely to be in **OOHC (esp. residential care)**
- **Older age of entry** into OOHC
- More **placement instability/moves**
- More **emotional & behavioural regulation difficulties** (trauma +/- disability)





# CROSSOVER CHILDREN COMPARED WITH BROADER YOUTH JUSTICE POPULATION?

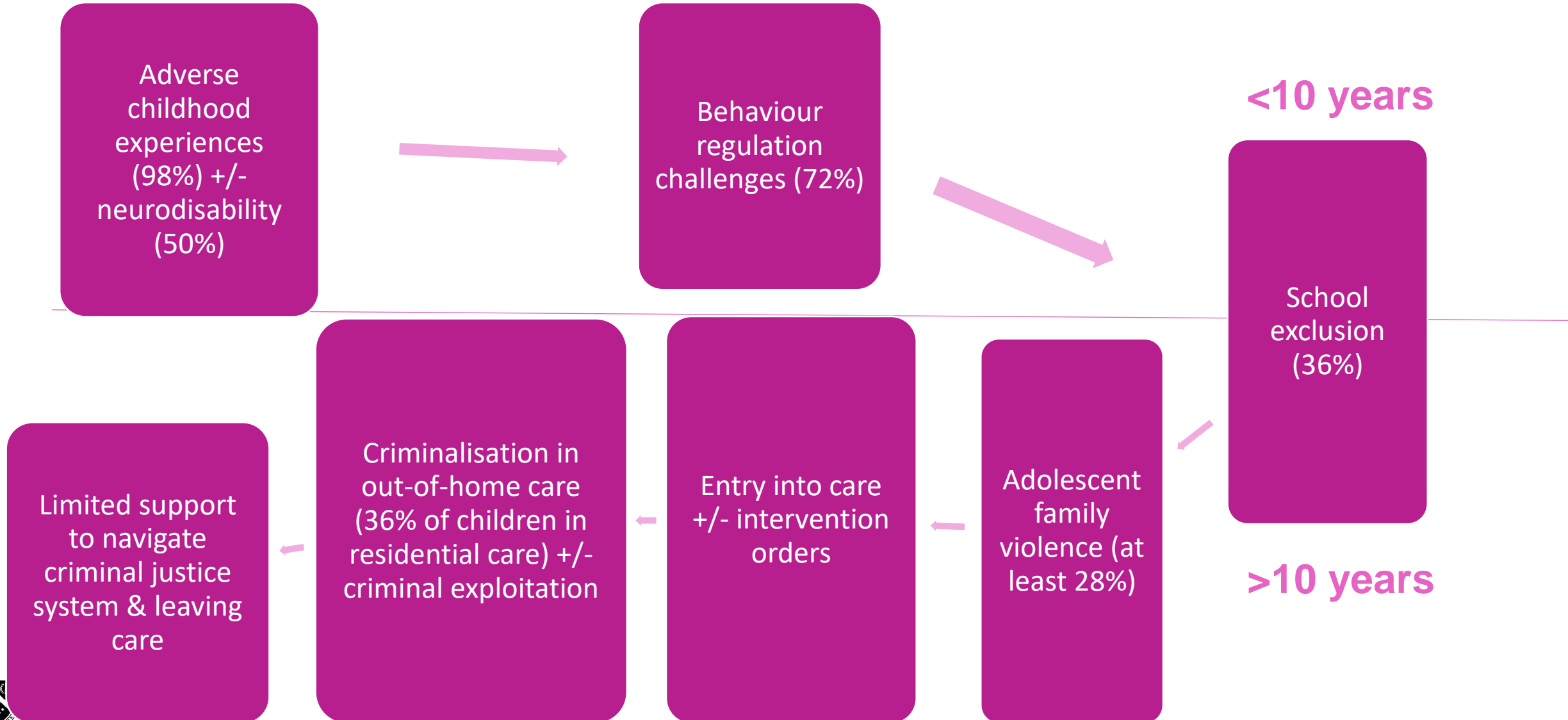
- **Sociodemographics:** More likely to be younger, First Nations & female
- **Justice involvement:** Earlier police & YJ contact, greater YJ entrenchment, greater likelihood of adult justice system involvement
- **Offending:** Greater likelihood of violent charges and reoffending, greater number of charges, more custodial time (including remand)
- **Family:** Greater parental and household challenges/disadvantage (e.g., parental death, CJS involvement, AOD and FV)
- **Support needs:** More complex (e.g. AOD, disability, mental and emotional health and wellbeing)



# PATHWAYS TO CRIMINALISATION

## PATHWAYS TO CRIMINALISATION

# CHILDREN WITH DISABILITY IN CHILD PROTECTION





***CRIMINOGENIC RISK***

**SYSTEMIC  
DISADVANTAGE**

## Multi-system factors impacting youth justice involvement of children in residential out-of-home care

Susan Baidawi  | Rubini Ball

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### Funding information

Australian Institute of Criminology, Grant/Award Number: CRG 03/15-16; Australian Research Council, Grant/Award Number: DE190101104

### Abstract

Children placed in residential care are significantly over-represented in youth justice systems. Drawing on interviews and focus groups with service providers, this exploratory study examines practice factors that impact on the criminalization of this group of children across multiple services and systems, including in the residential care environment, police, lawyers, courts and youth justice systems, as well as multi-systems practice with this group in one Australian state. Positive outcomes were observed for children in residential care where well-functioning care teams existed, as well as for children in therapeutic residential care settings. However, clear limitations were identified across all phases of children's youth justice system involvement, including placement with offending peers, the criminalization of behaviours of concern, greater use of remand and detention, limited support to navigate legal and youth justice processes, challenges to service collaboration, and limited applicability of sentencing considerations. The findings indicate a pervasive level of systemic disadvantage for this group of children, and imply that a holistic strategy underpinned by affirmative action across several systems will be necessary to address the ongoing criminalization of children in residential care.

### KEYWORDS

child protection, crossover youth, group homes, juvenile justice, residential care, youth justice

**BAIDAWI & BALL**  
**(2023)**

## Children in residential care – systemic contributors to criminalisation:

- Placement with **justice-involved peers**
- Criminalising **behaviours of concern**
- Greater **remand and detention**
- Greater **surveillance**
- **Limited support to navigate legal system**
- **Limited applicability of sentencing considerations**

**Positive outcomes from well-functioning care teams & therapeutic placements**

# TYPES OF MENTAL HEALTH DIAGNOSES & SYMPTOMS

- **Mental health diagnoses** from Victorian study of 300 crossover children
  - Any mental health diagnosis (61%)
  - Mood disorder (28%)
  - Behaviour disorder (20%)
  - Trauma/attachment-related (23%)
- **35% experienced self-harm or suicidal ideation – more common in girls**
- **Self-medication** via substance use
- **Similar rates for First Nations and non-First Nations children**



## Neurodisability among Children at the Nexus of the Child Welfare and Youth Justice System

Susan Baidawi<sup>1</sup> · Alex R. Piquero<sup>2,3</sup>

Received: 5 February 2020 / Accepted: 24 March 2020  
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### Abstract

Although neurodisability features significantly across child welfare and youth justice cohorts, little research investigates neurodisability among crossover children with dual systems involvement. This study examined differences in childhood adversity, child protection involvement, and offending among crossover children by neurodisability status. Data were from a sample of 300 children (68% male, 31% female, 1% transgender; mean age = 16.2 years, range 10–21) who were charged and appeared in three Australian children's courts, and who also had statutory child protection involvement in the study jurisdiction. The results indicated that nearly one-half of crossover children had a neurodisability (48%) and this group experienced greater cumulative maltreatment and adversity, earlier out-of-home care entry and offending onset, more caregiver relinquishment and residential care placement, and a greater volume of charges. While substantial differences between specific neurodisabilities were evident, crossover children with any neurodisability had greater odds of having charges related to criminal damage and motor vehicle theft, however they were no more likely to have violent charges relative to other crossover children. The study's findings demonstrated that the prevalence of neurodisability, and child welfare system responses to this phenomenon, contributes to several offending-related trends observed among crossover children.

**Keywords** Crossover youth · Neurodisability · Child welfare · Juvenile justice · Delinquency · Residential care

## NEURODISABILITY IN CROSSOVER CHILDREN

- **48% of crossover children had diagnosed neurodisability: ADHD (29%), learning/communication (23%), intellectual disability (ID) (17%)**
- **Gender differences (59% boys vs 29% girls)**
- **ID more common in regional areas**
- **Similar rates for First Nations and non-First Nations children**

### Children with neurodisability:

- **Greater cumulative maltreatment**
- **Earlier out-of-home care entry**
- **Greater caregiver relinquishment**
- **Earlier first police charges**

# DIAGNOSIS OF DISABILITY IN CHILD PROTECTION & CROSSOVER CHILDREN

- **Lack of diagnosis or underdiagnosis**
- **Child Protection difficulties engaging with families, family transience or instability, difficulties accessing assessments**
- **Issues with statutory & medical definitions of disability**
- **Concerns about medical model of diagnosis – multiple diagnoses/ revisions, professional disagreements**
- **Delayed assessment ↑ risk of criminalisation of disability-related behaviours & criminalisation**
- **30% of crossover children with intellectual disability were diagnosed only after youth justice system involvement**





Royal Commission  
into Violence, Abuse, Neglect and  
Exploitation of People with Disability

# CARE CRIMINALISATION STUDY

**WESTERN SYDNEY**  
UNIVERSITY



**Dr Scott Avery**  
**Robyn Newitt**



**MONASH**  
University

**A/Prof Susan Baidawi**  
**Rubini Ball**  
**Lena Turnbull**  
**Jade Purtell**  
**Prof Rosemary Sheehan**



Centre for  
Evidence and  
Implementation

**Dr Gayatri Kembhavi-  
Tam**

# CARE CRIMINALISATION STUDY: ACCO FINDINGS



[Link to Report - Baidawi et al. \(2023\)](#)

- **5 Consultations with ACCOs across VIC, WA & NT (13 participants)**
- **Understanding, assessing, recognising and responding to disability;**
- **Need for culturally safe and appropriate services and systems;**
- **Disrupting pathways to criminalisation – educational exclusion and entry into residential care; and**
- **Broader systemic barriers and needs of children and families in child protection systems.**

# UNDERSTANDING, RECOGNISING & RESPONDING TO DISABILITY

- **Understanding and defining disability**
- **Stigma of disability**
- **Need for earlier and more appropriate disability assessment and interventions**

*Many families do not “like the word disability”: ...because then they think it’s their fault because – during their pregnancy or whatever. There’s a lot of – still, within the community, **lack of understanding that you could be anyone and you can have a child with a disability”***

*Children’s engagement in assessments “depends on them trusting whoever’s arranged the assessment” and “**a lot of kids don’t think they’ve got a disability and they’re just being ordered around to go and do these things. They don’t have any real understanding of why”.***

# UNDERSTANDING, RECOGNISING & RESPONDING TO DISABILITY

**Responding to  
diagnosed or  
undiagnosed disability  
among parents of  
child protection-  
involved First Nations  
children**

*“the NDIS expect that a lot of things are deemed as parental responsibility and when **we’ve got parents with disabilities, trying to support kids with disabilities and child protection’s involved. NDIS still don’t see that the parental responsibility needs to be shifted**”.*

# SERVICES & SYSTEMS THAT ARE **CULTURALLY APPROPRIATE & SAFE**

## **Culturally inappropriate services and approaches**

**Disability, mental and physical health challenges are conceptualised in solely Western frameworks:**

*“young people ... they can’t sleep in Youth Detention because it’s an adult prison for young Aboriginal people. People have died in there, so they say it’s like – they feel like there are spirits around, they feel like – they feel culturally unsafe. ... there’s also this kind of symptom of real longing for country and missing it and being so far away.”*

# SERVICES & SYSTEMS THAT ARE CULTURALLY APPROPRIATE & SAFE

Limited funding for  
culturally-specific  
services and  
programs

*“...money for supporting children and families goes to big, non-Aboriginal not for profits and **none of the money goes to Aboriginal community controlled organisations** to assist these kids and their families.”*

*“[ACCOs] only have the capacity to work with a small number of children within each region, when **[they] know that there’s so many other children out there that [they] could be helping but [they] don’t have the capacity to do so”**.*

# PATHWAYS TO CRIMINALISATION

## School exclusion & entry to residential care

*“[I’ve] seen a young person who was removed from her family, **placed in residential care unit, all the offending happened there within seven months, they just kept escalating...**”*

**After moving to a culturally-appropriate placement:**

*“...she moved to a stable family, with an Aboriginal family, that has really changed things. She’s in a stable placement. She’s connecting to the community and culture, she’s in the culturally appropriate placement. I think that’s really important. I think that’s really had a significant impact on her, getting the right support and getting back on track and seeing life in a different way.”*

# OTHER RECOMMENDATIONS

## Thoughtful use of language

*“when we go to NDIS, before we go and have the meeting, we actually state to them, ‘**Please do not use the word disability.** Explain to the young person what’s going on with their cognitive thinking and we don’t call it a disability’. The language that **they’re not only getting called criminal, they’re getting [told] that they’ve got brain damage, that they’re useless at the end of the day.**”*

## Prioritising families’ needs

*“...**sometimes families want other things addressed first.** “Yes, we want you on board to help with my son’s disability, but I’ve got a rat infestation in my house, and my house is not big enough for my four kids where two of them have got intellectual disabilities. I need to actually move house before I can clearly even start working with you to help my kids with disability, because I need to tick one thing off at a time.”*



# OTHER RECOMMENDATIONS

## Training & education

*Services: ...should have to undergo some sort of training education course ... “This is how you work with a family, now let’s talk about how you would work with a family with disability’. This is where the gap is. There is no education for these other professionals to come in and know how to work with a family with disability.”*

## Diverse & culturally-appropriate therapeutic options

*“Counselling sitting one-on-one does not always work. **We need to look into music, art. I’ve seen camping works well, especially going out bush.** First Nation’s kids have grown and may have heard from their families, brothers, cousins about going fishing, going camping, sitting by a campfire. It’s healing in itself being on country having – sharing dreamtime stories and so forth. So **we need to look at other options, not just like ‘you must engage with mental health counsellor’.** There are other ways to heal.”*

# SUMMARY: OPPORTUNITIES FOR PRACTICE & SYSTEMIC CHANGE

## Factors associated with increased chance of criminalisation of children with disability in child protection systems

### Systemic: Child protection system

Entry of children with disability to out-of-home care:

- Entry to out-of-home care\*
- Entry to residential care\*
- Placement in care for behavioural reasons\*

Systemic neglect of children in out-of-home care:

- Vulnerability to criminal exploitation
- Vulnerability to peer pressure in OOHC/poor placement matching\*
- Lack of support on transition from out-of-home care\*

Systemic issues in leading to service disruption:

- **Staff turnover**
- **Poor engagement with culturally and racially-diverse children and families**
- Lack of support on transition from out-of-home care\*

## Factors associated with decreased chance of criminalisation of children with disability in child protection systems

- Provision of intensive family support services\*
- **Children remaining with family**
- Placement in care for reasons of abuse/neglect (as opposed to child behavioural reasons),
- Placement stability in out-of-home care\*
- Residential care: detailed assessment, effective care teams\*, specialist therapeutic placement\*, placement routine & stability\*, reduced client numbers, enhanced matching of co-residents, increased staffing, reduced staff rotation, and disability expertise\*.
- **Placement with siblings or kin**
- **Supporting connection to culture and community**

**Summary:  
Disability Royal  
Commission  
Report (pp. 3-6)**

# SUMMARY: OPPORTUNITIES FOR COLLABORATIVE PRACTICE CHANGE

Summary: [Disability Royal Commission Report](#) (pp. 3-6)

- **Disability** Early disability assessment & support, culturally responsive service provision
- **Education** Reduce school exclusion, challenge punitive approaches to behavioural manifestations of trauma & disability
- **Cross-systems** Support prosocial connections (peers, mentors & activities), support connection to culture for Aboriginal and Torres Strait Islander and culturally and linguistically diverse children, improve service systems collaboration/integration, reduce institutional racism and/or violence

# GET IN TOUCH



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# Child protection and youth offending: Differences in youth criminal court-involved children by dual system involvement

Susan Baidawi , Rubini Ball

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<https://doi.org/10.1016/j.childyouth.2022.106736>

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## Highlights

- Child protection involved-youth are over-represented in youth justice systems.
- Differences between dual system and justice-only children are apparent.
- Dual system youth are younger, more often female, with more justice system contact.

[Baidawi & Ball \(2023\)](#)



[Baidawi, Sheehan & Flynn \(2020\)](#)



Contents lists available at ScienceDirect

## Children and Youth Services Review

journal homepage: [www.elsevier.com/locate/childyouth](http://www.elsevier.com/locate/childyouth)

### Criminal exploitation of child protection-involved youth

Susan Baidawi\*, Rosemary Sheehan, Catherine Flynn

Department of Social Work, Monash University, Melbourne, Australia



#### ARTICLE INFO

**Keywords:**  
Child criminal exploitation  
Child protection  
Child welfare  
Juvenile justice  
Victimization  
Crossover youth

#### ABSTRACT

**Background:** While at higher risk, child protection-involved youth are the subject of negligible research focusing on the criminal exploitation of children by adults.

**Purpose:** This exploratory study examines criminal exploitation of 'crossover' children, those traversing the child protection and youth justice systems, in Victoria Australia. It examines the relationships, processes, and criminal activity related to child criminal exploitation amongst crossover children, and canvasses current legal and welfare responses to this phenomenon.

**Methods:** Twenty-five interview and focus group consultations were undertaken with 87 child welfare, legal, justice, and education key stakeholders. Examples of child criminal exploitation were also identified from a case file audit crossover children (n = 300) appearing before three children's courts.

**Results:** Child criminal exploitation emerged as an issue in fifty percent (n = 12/25) of interview and focus group consultations. Participants regularly described this exploitation of crossover children by strangers, 'romantic' partners, and family members. Children in residential care and those with neurodisability were identified as vulnerable subgroups, with sexual exploitation and substance abuse operating as key facilitators of criminal exploitation. Legal and welfare responses included the use of intervention orders against exploiters, alongside child protection and secure welfare interventions with children.

**Conclusion:** Child criminal exploitation is an identified concern for child protection-involved youth and other children who appear before criminal courts in the study jurisdiction. Findings demonstrate a need for a clear conceptualisation of child criminal exploitation, both locally and globally, that captures the scope of this phenomenon. Evidence-supported frameworks for identifying, preventing, and responding to child criminal exploitation are required to minimise detrimental legal and developmental impacts on children.

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#### Review Manuscripts

## Gender Differences in the Maltreatment-Youth Offending Relationship: A Scoping Review

Susan Baidawi<sup>1</sup> , Nina Papalia<sup>2</sup> , and Rebecca Featherston<sup>1</sup>

#### Abstract

Maltreated and child welfare-involved youth are over-represented in juvenile justice systems. These youth are at a greater risk of serious offending and justice system entrenchment relative to their non-maltreated peers. Understanding gender differences in the pathways to justice involvement and the nature of offending among maltreated children is critical for informing policy and practice. Yet, this body of evidence is fragmented. This scoping review identified and narratively synthesized evidence from studies reporting on gender differences in the individual characteristics, maltreatment experiences, child protection involvement and offending profiles of maltreated youth who offend. A comprehensive search of four databases generated 11,568 publications, from which 180 met the review's inclusion criteria. These primary studies included participants aged 8–21 years with a history of childhood maltreatment and youth offending and reported at least one gendered analysis. Some consistent findings were reported across studies. A greater level of child welfare involvement and maltreatment exposure (particularly sexual abuse and multi-type maltreatment) was found for justice involved girls, relative to boys. Maltreated and child welfare-involved boys appear more likely to offend than girls, but findings about how gender moderates the maltreatment-offending relationship were inconsistent. Child welfare systems involvement (particularly foster care and residential care) appeared to be an important moderator for girls, and school performance mediated outcomes for boys. Across this body of evidence, few

TRAUMA, VIOLENCE, & ABUSE

2021, Vol. 0(0) 1–17

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[Baidawi, Papalia & Featherston \(2023\)](#)



Australian Government  
Australian Institute of Criminology

## Trends & issues in crime and criminal justice

ISSN 1836-2266 (Online) | ISSN 978 1 925304 13 8 (Online)

No. 582 December 2019

**Abstract** | The over-representation of children from child protection backgrounds in the youth justice system is a significant and longstanding concern. While the association between child maltreatment and youth offending is established, the pathway of child protection-involved youth to criminal justice outcomes has received little attention. This paper presents selected findings of a detailed case file audit of 300 crossover children appearing before the Victorian Children's Court in 2016–17. Findings explore children's exposure to maltreatment and other adversity, as well as their child protection involvement, co-occurring challenges, offending and sentencing outcomes. The risk factors for earlier and more serious offending are also examined. Results indicate that crossover children present with more serious offending profiles than other court-involved children. The findings emphasise the need to prevent, divert and respond to crossover children's criminal justice contact.

### 'Crossover kids': Offending by child protection-involved youth

Susan Baidawi and Rosemary Sheehan

Child maltreatment and youth offending present critical challenges. Child protection services investigate abuse, neglect and other harms to children, and respond to substantiated cases of harm via voluntary service provision or statutory court orders (Australian Institute of Health and Welfare (AIHW) 2018a). In Australia, 168,352 children received child protection services in 2016–17, including 119,173 who were the subject of an investigation, 64,145 who were on statutory care and protection orders and 57,221 who were removed from family and placed in out-of-home care (OOHC) with kinship, foster or residential caregivers (AIHW 2018a). National expenditure on child protection and related services in 2017–18 was \$5.8 billion (Steering Committee for the Review of Government Service Provision 2018). Despite these efforts, many young people involved with child protection services, particularly those removed from parental care, experience poor life outcomes. Young people leaving the care of statutory child protection systems experience higher rates of physical and mental health problems, homelessness and early parenthood, alongside poorer education and employment experiences compared to their peers (Mendes, Johnson & Mosehuddin 2011).

Journal of Youth and Adolescence  
<https://doi.org/10.1007/s10964-020-01234-w>

EMPIRICAL RESEARCH



## Neurodisability among Children at the Nexus of the Child Welfare and Youth Justice System

Susan Baidawi<sup>1</sup> · Alex R. Piquero<sup>2,3</sup>

Received: 5 February 2020 / Accepted: 24 March 2020  
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### Abstract

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Children and Youth Services Review

Volume 129, October 2021, 106176



## Aboriginal crossover children's characteristics, service needs and service responses: The views of Australian key stakeholders

Rubini Ball, Susan Baidawi

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<https://doi.org/10.1016/j.childyouth.2021.106176>

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### Highlights

- Substantial social disadvantage, maltreatment, and household adversity is noted among Aboriginal crossover children.
- The unique service needs of Aboriginal crossover children are often unrecognised by non-Aboriginal stakeholders.
- Key stakeholders lack consensus about appropriate service responses for Aboriginal crossover children.

[Baidawi & Sheehan \(2019\) – Brief Article](#)

[Baidawi & Sheehan \(2019\) – Full Report](#)

[Baidawi & Piquero \(2021\)](#)

[Ball & Baidawi \(2021\)](#)