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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 & Moslehuddin 2011).



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Among the most troubling outcomes of child protection-involved youth is their over-representation in the criminal justice system: children who come to the attention of statutory child protection services due to abuse, neglect or parental incapacity are at least nine times more likely than other young people to offend and come under the supervision of youth justice services (AIHW 2018b). Often described as a ‘care-to-custody pipeline’, this over-representation peaks in youth detention centres, where more than half of the children detained are known to child protection services (AIHW 2018b).

This is a concerning trajectory among young people exposed to considerable disadvantage early in life. Beyond the negative economic and socio-emotional impacts on children and communities, youth justice involvement—particularly due to serious and violent crime—is associated with early death and high likelihood of criminal justice system contact during adulthood (Lynch, Buckman & Krenske 2003; Tarolla et al. 2002). In 2017, the review of Victorian youth justice services (Armytage & Ogloff 2017), the NSW child protection inquiry (NSW Parliament 2017), and the Royal Commission into the Protection and Detention of Children in the Northern Territory (Australian Government 2017) each raised concerns about this group of children. Persistent calls for action are also evident internationally, in research and policy emerging from the United States (Ryan 2012), the United Kingdom (Shaw 2016), New Zealand (Stanley 2017) and Canada (Bala et al. 2015).

Prior research

The available research suggests crossover children experience high levels of disadvantage and have more complex needs than the overall youth justice population (Kenny & Nelson 2008). Children from child protection backgrounds come into contact with the youth justice system at an earlier age than other children (AIHW 2018b), and this younger onset is associated with an increased risk of progression to the adult criminal justice system (Chen et al. 2005). The limited Australian data also show crossover youth experience higher rates of violent physical and sexual victimisation, neglect, cognitive and mental health difficulties, educational and social exclusion compared to the broader youth justice population (Kenny & Nelson 2008). Of those involved with youth justice services, Indigenous children and young women are the subgroups most likely to have experienced child protection involvement or OOHC (AIHW 2018b).

Much of the research on crossover children has analysed administrative datasets, which have proven useful for identifying risk factors for offending among child protection-involved youth. These risk factors include recurrent or persistent maltreatment, placement instability, and placement in OOHC (particularly residential care; AIHW 2018b; Malvaso, Delfabbro & Day 2017). Research attempting to ascertain the impact of specific maltreatment types—that is, physical, sexual, emotional/psychological abuse and neglect—on offending risk have reported varied findings. One of the challenges in discerning the impact of different types of maltreatment is that victims are typically exposed to multiple forms of abuse and neglect. Additionally, these concepts overlap. For instance, childhood physical and sexual abuse are inherently emotionally abusive experiences. Despite these challenges, several studies have found evidence of elevated offending risk among children exposed to neglect and physical abuse in particular (Jonson-Reid & Barth 2000; Malvaso, Delfabbro & Day 2017; Stewart, Dennison & Waterson 2002).

Other research on crossover children has used qualitative or mixed-methods approaches, contributing to understanding of children's life experiences, including their child protection and educational experiences, offending and criminal justice involvement (Mendes, Baidawi & Snow 2014). These studies have also highlighted issues of systems abuse and 'care criminalisation', whereby OOHC system policies and practices contribute to criminal justice outcomes for these children (McFarlane 2017). Research from the United Kingdom and Australia has identified that children in residential care regularly face police contact as a result of minor incidents in the placement environment, for instance smashing a mug or making threats, that are unlikely to incur legal sanctions in a family home (McFarlane 2017; Mendes, Baidawi & Snow 2014 ; Shaw 2016). Despite an established association between child maltreatment and youth offending, the pathway of child protection-involved youth to the criminal justice system has received negligible research attention. Little is known about the family backgrounds, characteristics or outcomes of crossover children, including their offending and sentencing outcomes.

Methodology

This paper presents selected findings from the 2016–18 Crossover Kids Study, funded by a Criminology Research Grant (03/15–16) and the Victorian Department of Justice and Regulation (Baidawi & Sheehan 2019). In partnership with the Victorian Children's Court, the study set out to investigate crossover children's characteristics and offending. Crossover children were defined as young people before the Criminal Division of the Children's Court who were currently or had previously been involved in the statutory child protection system. The study addressed the following research questions:

- To what extent are children and young people before the Criminal Division of the Children's Court of Victoria also clients of the child protection system?
- What factors characterise children who 'cross over' between the child protection and youth justice systems?
- What factors contribute to the entry of these children into the criminal justice system?
- What are the factors that keep children entrenched in these systems?

Data collection

A detailed audit was undertaken of Children's Court files of 300 crossover children before three Victorian Children's Courts, including both Criminal Division (CD) and Family Division (FD) files. The study sample comprised all children (aged 10–17 years at the time of criminal charges) before the CD of any of the three Children's Courts who had current or historical FD matters in the Children's Court, where statutory child protection matters in Victoria are heard.

Cases were identified in chronological order according to when the child appeared before the CD, starting from June 2016 until the quota of 300 cases was filled in April 2017. The sample did not include children with non-statutory child protection involvement alone, children solely with interstate child protection involvement, or children presenting only with infringement matters. Case file audits were conducted at two metropolitan Children's Courts and one regional Children's Court (Table 1). These courts were selected to obtain a diverse sample in relation to children's CD and FD matters, socio-economic status, rurality, and culture.

Table 1: Children’s Court study sites

Court	Characteristics
Melbourne Children’s Court	Central metropolitan Children’s Court
Moorabbin Children’s Court	Suburban metropolitan Children’s Court
Latrobe Valley Children’s Court	Regional Children’s Court

Four data sources were audited for each child, including court-based CD and FD electronic files, and hard copy CD and FD files. CD files were the files of the current matter(s) for which the child was currently before the court. FD files were the files of the child’s current or most recent FD matter. Case file audits were fully completed for 91 percent of the children in the sample. Elements of some case files were incomplete (13/300 FD files and 14/300 CD files), because the hard-copy file either could not be located or was unavailable because of an ongoing matter at another court location. In these cases, much of the required information was garnered from other reports/files (eg child protection information available in the CD file), thus minimising the amount of missing data. Data concerning children’s lifetime exposure to physical, emotional or sexual abuse, neglect and other adverse childhood events were collected from court documents, child protection reports and other reports to the court (eg Children’s Court Clinic reports, police reports and paediatric forensic reports). The definitions of maltreatment adopted were based on those recommended by the World Health Organization and the International Society for the Prevention of Child Abuse and Neglect (2006).

Data analysis

Case file data are primarily presented using descriptive statistics to examine minimum prevalence of sample characteristics. Bivariate analyses were used to examine differences between subgroups (eg by gender or Indigenous status), and correlations between variables. Transgender children ($n=2$) were excluded from gendered analyses, and children whose Indigenous status was unknown (29%) were excluded from analyses based on Indigenous status. Finally, logistic and linear regressions were performed to identify factors predictive of offending subtypes or seriousness.

Results

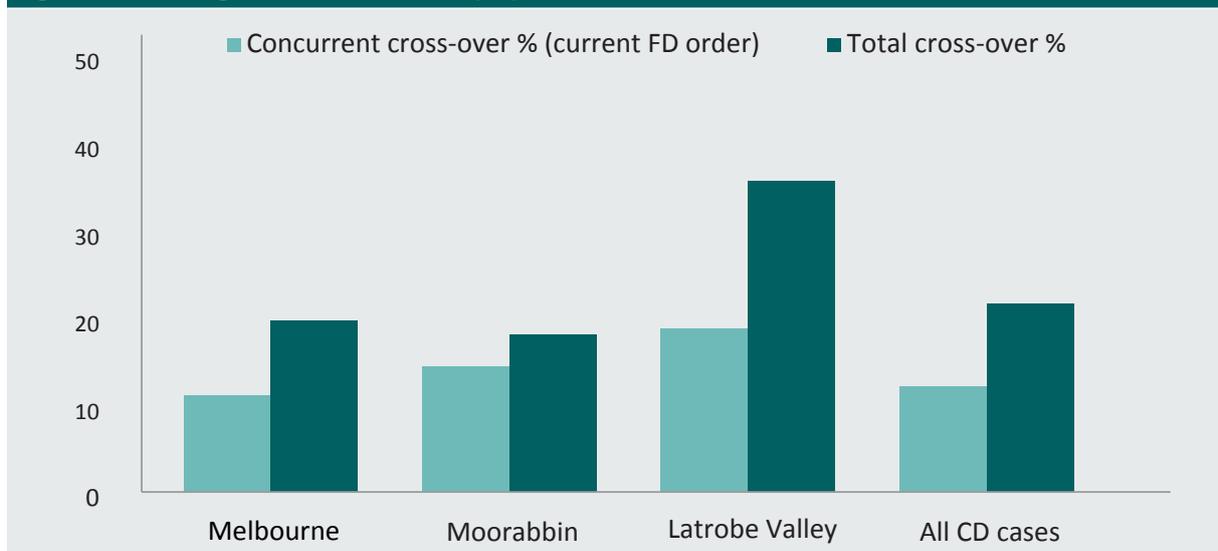
Demographic characteristics

Children’s mean age was 16.2 years and 66 percent ($n=198$) were aged between 15 and 17 years; 68 percent were male ($n=204$), 31 percent were female ($n=94$), and one percent identified as transgender ($n=2$). Aboriginal or Torres Strait Islander background was recorded for children whose case files officially identified them as Indigenous, including for those attending services solely available to Indigenous children (eg Koori Bail Support Program, Koori Court, Aboriginal healing services), or whose care placements were delivered by Aboriginal community controlled organisations. Non-Indigenous status was recorded for children whose case files specifically identified them as being from a non-Indigenous cultural background. In 18 percent of cases ($n=55$) the child was recorded as being Indigenous, while in 53 percent of cases ($n=158$) it was confirmed that the child was non-Indigenous. In the remaining 29 percent of cases the child’s Indigenous status was not apparent ($n=87$). While ethnicity was not identifiable for 47 percent of children ($n=141$), the remaining crossover children were most commonly from Aboriginal or Torres Strait Islander (18%, $n=55$), Anglo Australian (15%, $n=44$), Maori or Pacific Islander (9%, $n=28$), Middle Eastern (4%, $n=12$) and African (3%, $n=9$) backgrounds.

Proportion of crossover children before the court

During the study period, 63 percent of the children appeared before the Melbourne Children’s Court ($n=188$), 10 percent ($n=29$) the Moorabbin Children’s Court, and 27 percent ($n=83$) the Latrobe Valley Children’s Court for their index CD matters. ‘Index CD matters’ are the criminal matter(s) for which each child first appeared before the CD of one of the courts during the study period. Overall, 22 percent (289/1,334) of all children appearing before the CD of the three Children’s Courts were crossover children with current or historical statutory child protection involvement (Figure 1). Smaller proportions of CD-involved children had concurrent FD orders (12% or 164/1,334)—that is, they were subject to current FD court proceedings or orders. The Latrobe Valley Children’s Court had a greater proportion of total crossover children (36% or 79/221), and crossover children with concurrent FD matters (19% or 42/221), compared to each of the metropolitan courts (all $p<0.01$).

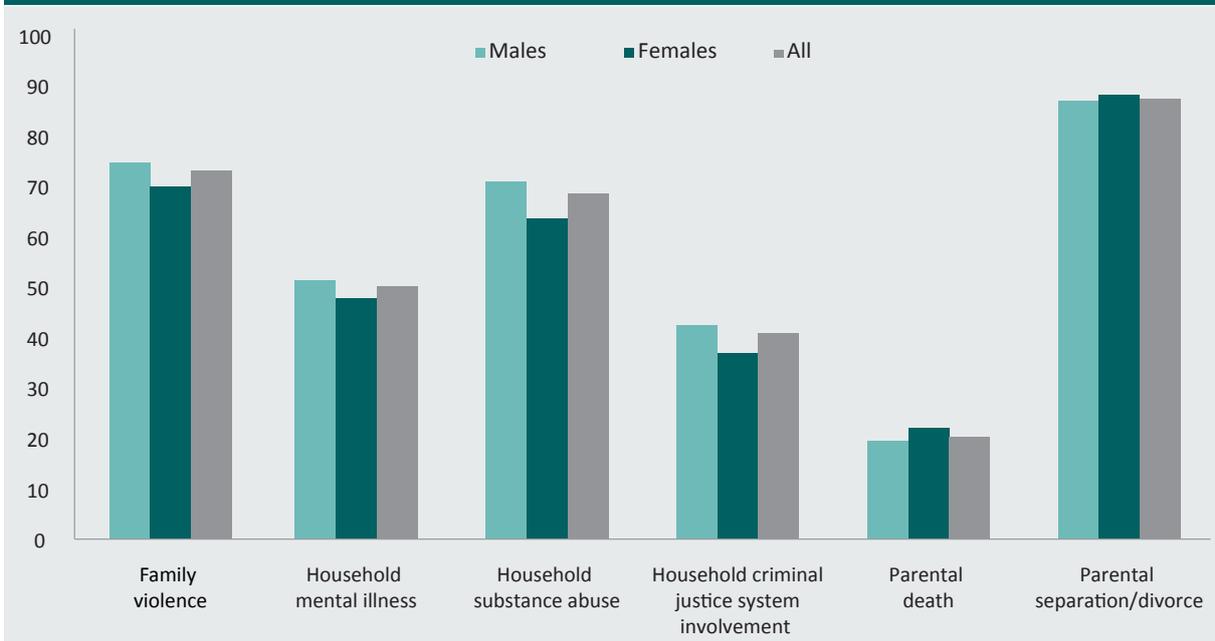
Figure 1: Percentage of Criminal Division (CD)-involved children who are crossover kids



Adverse childhood experiences

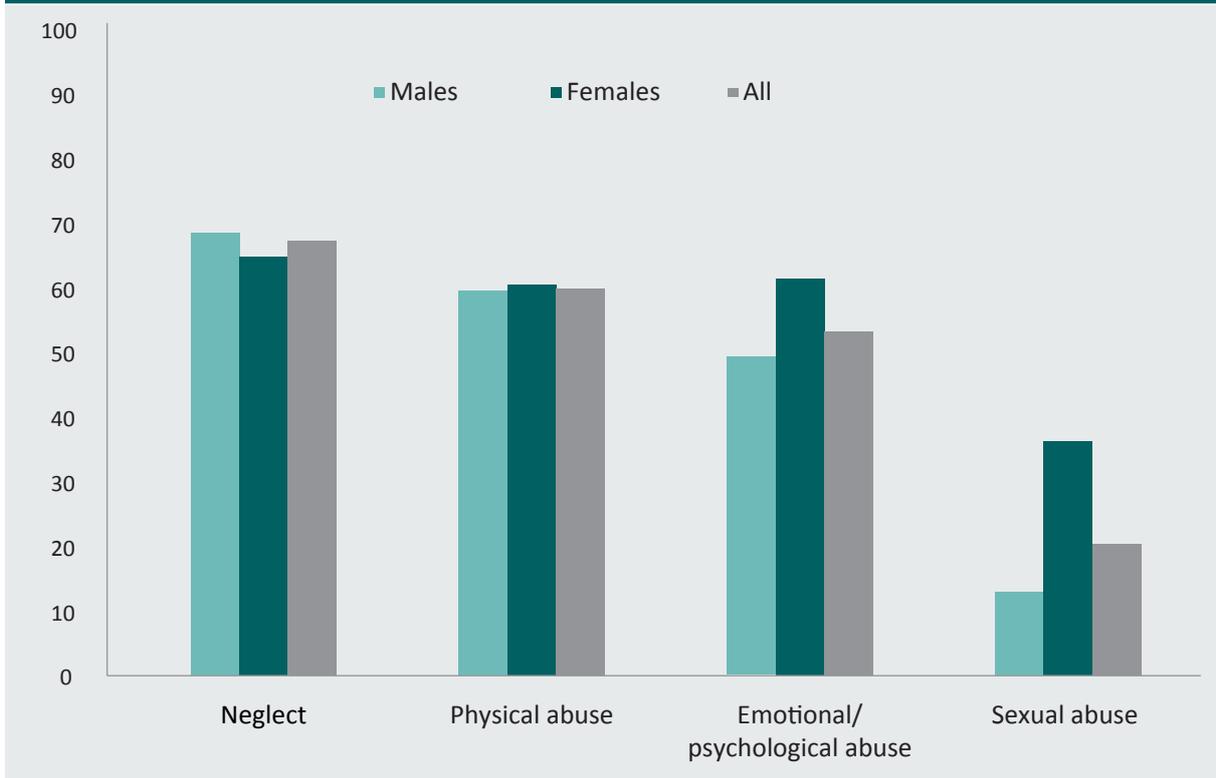
According to case file data, crossover children were exposed to a range of adverse experiences (Figure 2). Almost three-quarters had been exposed to family violence (73%, $n=220$) typically moderate to severe, and at least 50 percent had a household member with mental health concerns, including five to 10 percent whose parent experienced psychosis, psychiatric hospitalisation or suicide attempts ($n=15$ to $n=26$). At least 20 percent of children had a deceased parent ($n=61$), and 12 percent ($n=36$) had experienced the death of a sibling or other family member (including a foster family member), friend or partner. Deaths were often traumatic in nature, including homicides, suicides and overdoses, and several children were present when the deaths occurred or later discovered the deceased body. Relative to non-Indigenous children ($n=158$), higher proportions of Indigenous children ($n=55$) had been exposed to family violence (95% vs 71%, $p<0.001$), household substance abuse (89% vs 65%, $p<0.001$), and household criminal justice system involvement (62% vs 35%, $p<0.001$).

Figure 2: Minimum prevalence of exposure to adverse family circumstances (%) ($N=300$)



Neglect (67%, $n=202$) and physical abuse (60%, $n=81$) were widespread among crossover children (Figure 3). Females (36%, $n=34$) were more than twice as likely as males (13%, $n=27$) to have experienced sexual abuse ($p<0.001$).

Figure 3: Minimum prevalence of child maltreatment (%) (N=300)

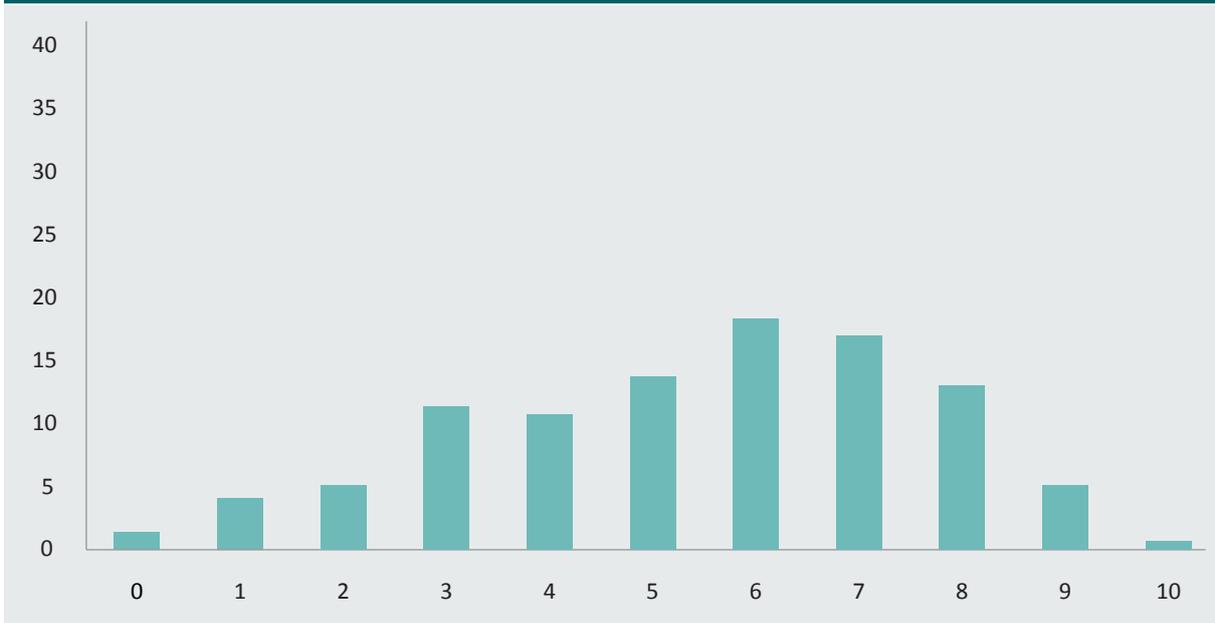


A cumulative score was developed (Figure 4) which totalled the number of adverse childhood experiences faced by each child, including the following:

- parental separation/divorce;
- parental death;
- exposure to family violence;
- household mental health issue;
- household substance abuse;
- household criminal justice system involvement;
- childhood physical abuse;
- childhood emotional abuse;
- childhood sexual abuse; and
- childhood neglect.

The mean number of these adverse events experienced was 5.4, and 68 percent of children had experienced five or more of these adverse childhood events.

Figure 4: Minimum cumulative adverse childhood experiences (%) (N=300)



Child protection involvement

Fifty-seven percent of children were subject to a child protection order at the time of their index CD matters ($n=172$), while the remainder had experienced past statutory child protection involvement ($n=128$). Among proven child protection matters ($n=276$), a child's latest FD matter was most often proven on the grounds of risk of 'psychological/emotional harm' (95%, $n=262$), and/or 'physical harm' (64%, $n=176$). At the time of their index CD matters, 43 percent of children ($n=130$) were in OOHC, 44 percent ($n=131$) were not, and 13 percent ($n=39$) were over 18 years and therefore ineligible for an FD order. Among children in OOHC, 69 percent ($n=90$) were placed in residential care; 22 percent ($n=29$) lived with kinship, foster or permanent carers; and six percent ($n=8$) were living independently. Children not in OOHC tended to be cared for by their mothers only, though smaller numbers were cared for by both parents ($n=26$), or fathers only ($n=17$). Two children not in care were identified as being homeless.

Almost all children had previous child protection notifications (91%, $n=252$), and 24 percent ($n=66$) had 10 or more prior notifications, though 48 percent of cases ($n=126$) were not substantiated until the children were at least 10 years old (Figure 5). Sixty-two percent of children ultimately placed in OOHC had their first OOHC placement after age 10 ($n=148$), commonly due to parental incapacity, maltreatment, relinquishment, or parent-child conflict. Overall, 80 percent of children spent time in OOHC ($n=237$), which was more common among children with an intellectual disability (19% vs 9%, $p<0.05$), a trauma- or attachment-related disorder (23% vs 7%, $p<0.01$), or a behavioural disorder (24% vs 5%, $p<0.001$).

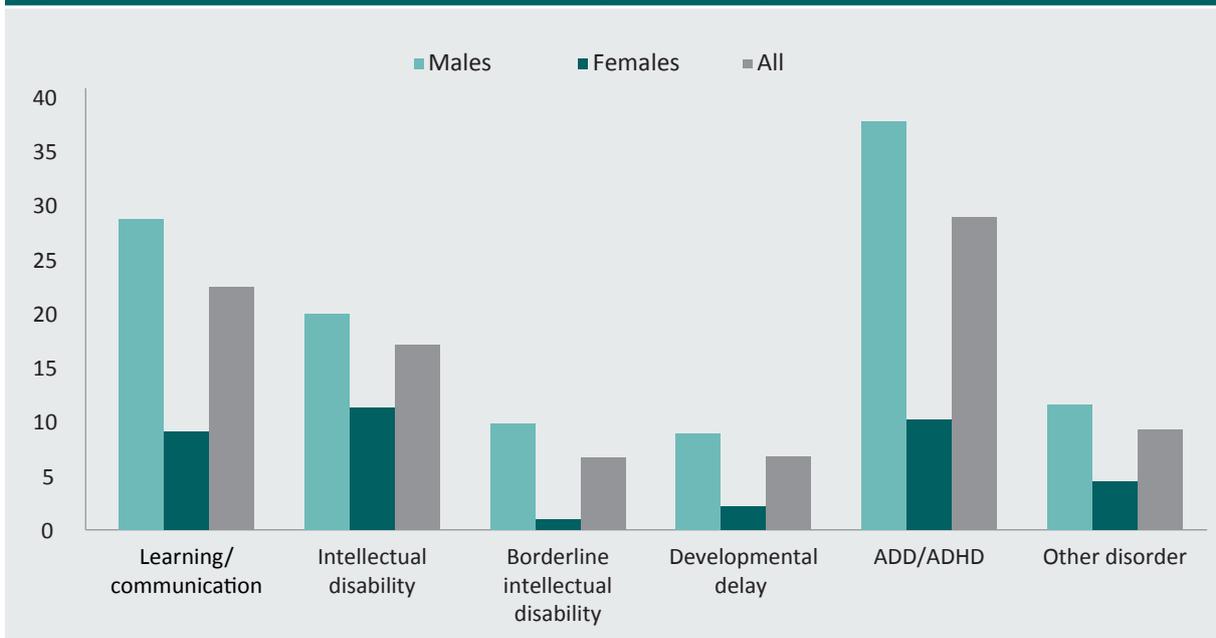
Figure 5: Age of first child protection notification and substantiation in Victoria (%)



Co-occurring challenges

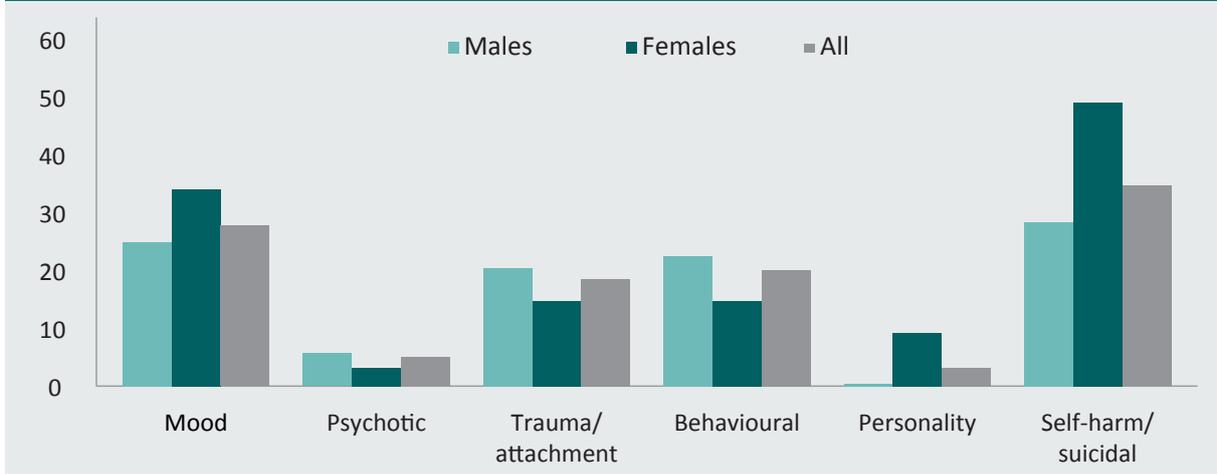
Twenty-five percent of children had physical health concerns ($n=71$), and secondary complications owing to neglect of physical health were seen. Around half of children ($n=134$) had diagnosed neurodevelopmental or neurological conditions (Figure 6), and these conditions were twice as common among males (59%, $n=112$) as females (25%, $n=22$) ($p<0.001$). Gender differences were seen in the prevalence of borderline intellectual disability, learning and communication disorders, developmental delay, and attention deficit/hyperactivity disorders (all $p<0.05$). Where data were available (38/47 children) intellectual disability was mainly in the mild range (89%, $n=34$), and 71 percent ($n=24$) of these children were diagnosed before their criminal justice involvement.

Figure 6: Minimum prevalence of intellectual disability, neurodevelopmental and neurological conditions (%)



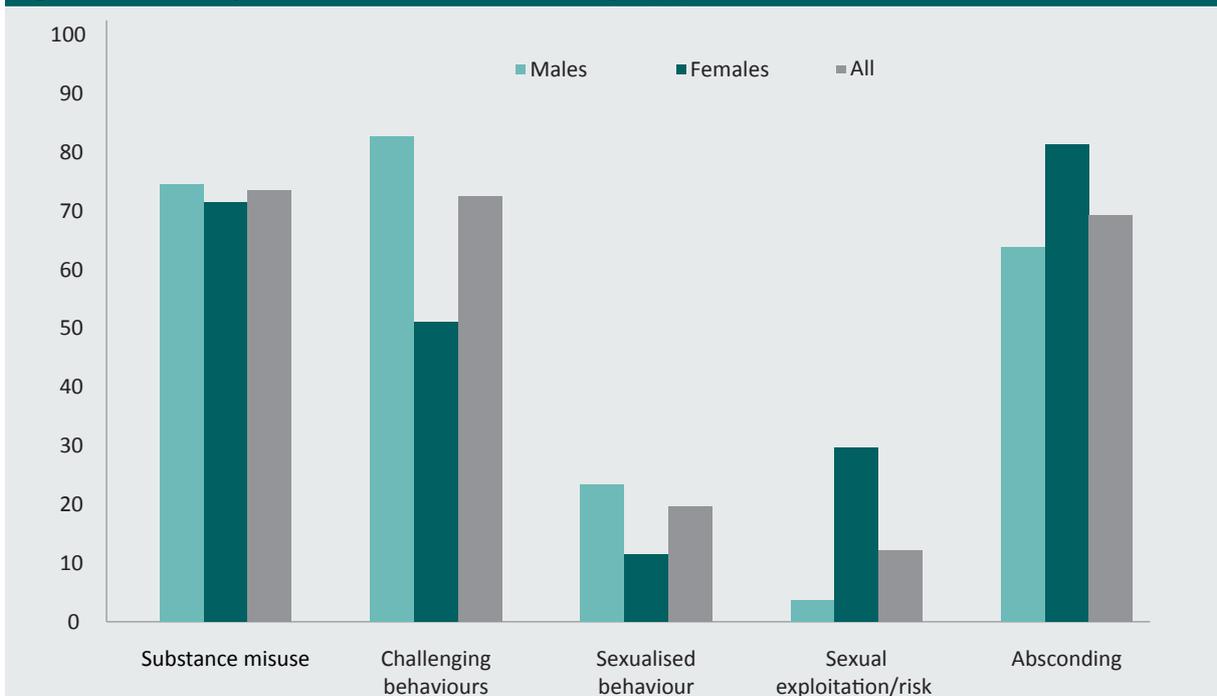
Sixty-one percent of children ($n=172$) had been diagnosed with a mental illness or condition, and at least 14 percent ($n=41$) had been treated in an inpatient psychiatric unit, or had been subject to a mental health treatment order. As shown in Figure 7, females were more likely to have a history of self-harm, suicidal ideation or suicide attempt (49%, $n=43$) compared to males (29%, $n=55$) ($p<0.01$).

Figure 7: Minimum prevalence of intellectual disability, neurodevelopmental and neurological conditions (%)



Three-quarters of children (73%, $n=209$) had misused substances (drugs and/or alcohol), and there was evidence that 40 percent ($n=114$) had used 'hard drugs' (crystal methamphetamine, other amphetamines, heroin or inhalants). Females were significantly more likely to have run away from home or care placements, and to have either been at risk of or experienced sexual exploitation, while males were significantly more likely to display challenging behaviours and sexualised behaviours (all $p<0.05$) (Figure 8).

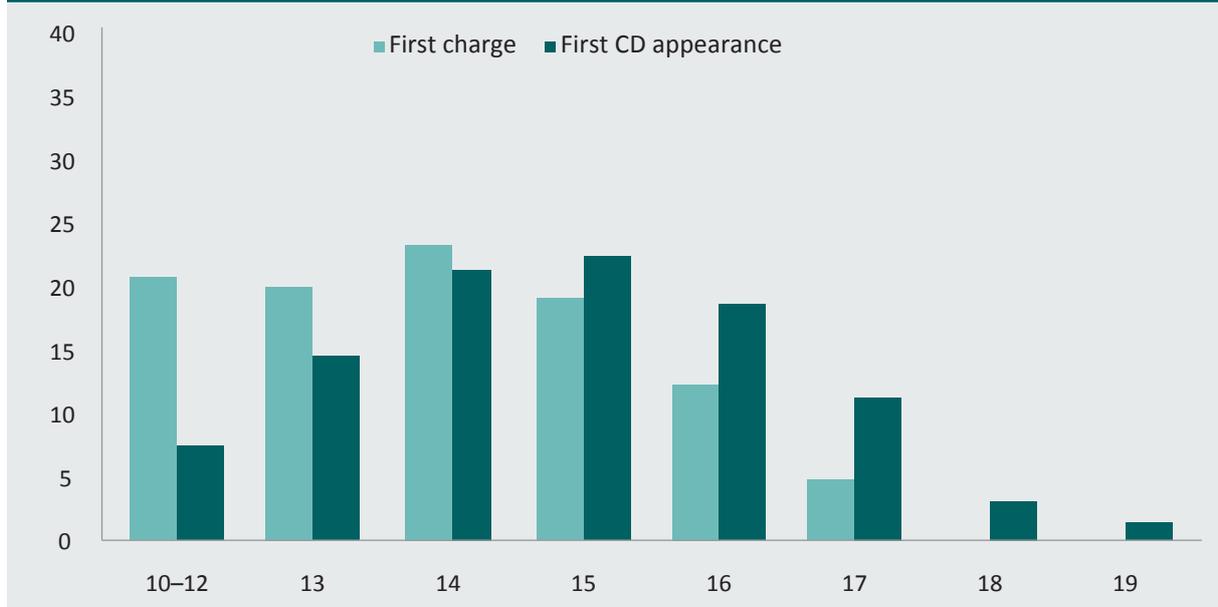
Figure 8: Minimum prevalence of behavioural challenges (%)



Offending and sentencing outcomes

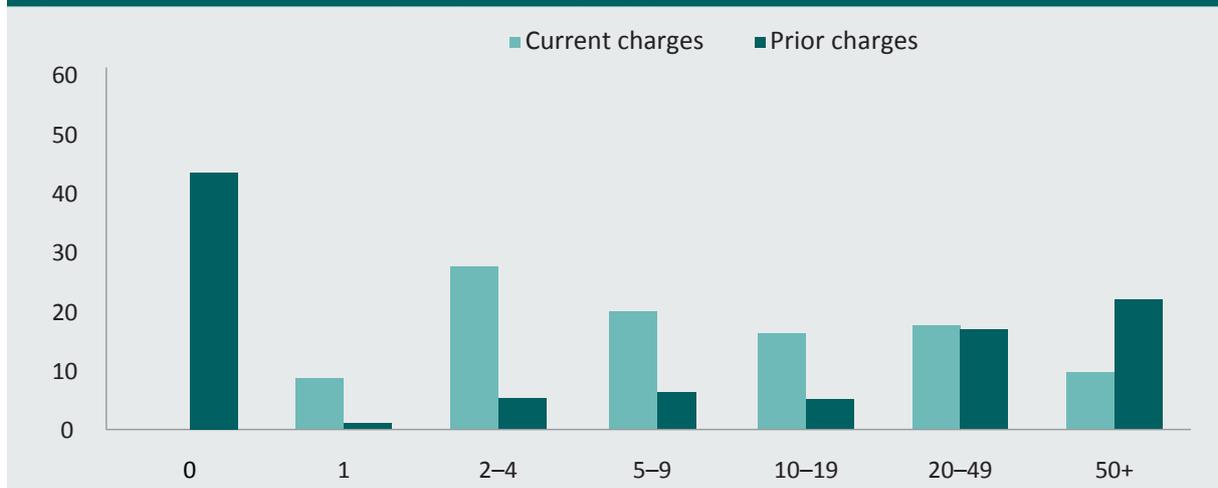
Forty-one percent of crossover children were aged under 14 years when they were first charged by police ($n=122$), and 23 percent ($n=65$) were under 14 when their first CD matter was finalised (Figure 9). Geographic variations were seen, with children before the regional criminal court having a younger peak age of initial police charges (27% at 10 to 12 years, $n=23$) compared to children before metropolitan courts (26% at 14 years, $n=57$).

Figure 9: Age in years at first police charge and first Criminal Division court finalisation (%)

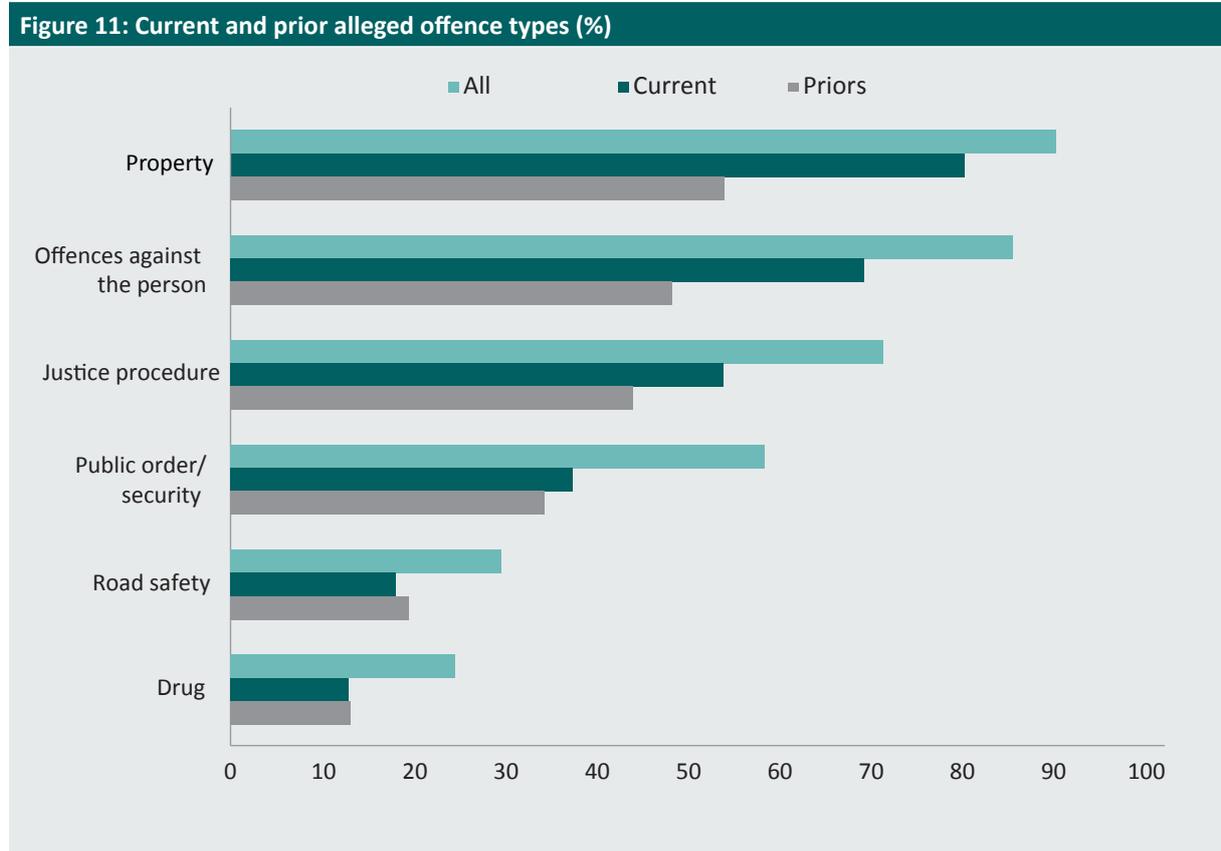


The number of charges consolidated in children's index CD matters ranged from one to 136 (median=7), and 27 percent of children ($n=82$) had 20 or more charges consolidated in their index CD matter (Figure 10). The large volume of charges consolidated in some children's index CD matters generally reflected their accrual of charges over time. For 35 percent of children ($n=105$), the charges had accrued over a period of more than six months. Forty-three percent of children ($n=130$) had no prior charges, meaning that their index CD matter was their first CD court appearance.

Figure 10: Number of current and prior police charges (%)

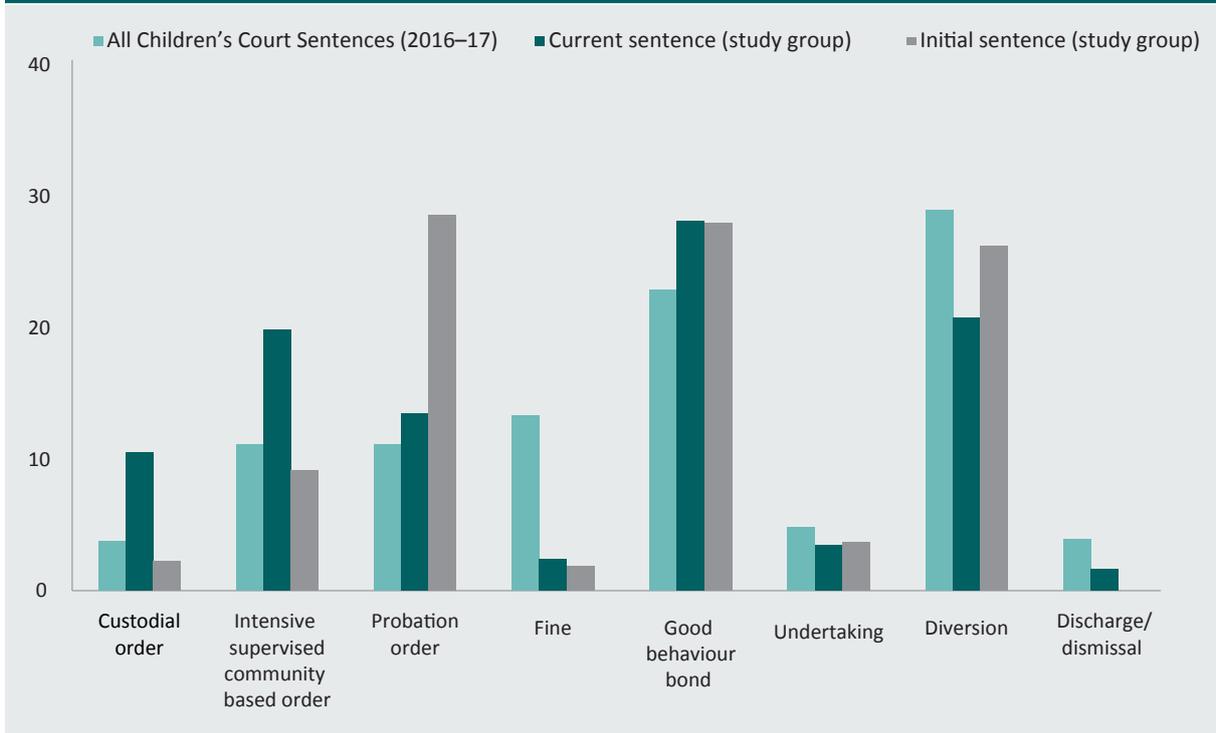


Most children had current or prior charges related to property offences (91%, $n=272$), offences against the person (86%, $n=258$), and offences against justice procedures (72%, $n=215$) (Figure 11). The prevalence of offences against justice procedures was likely inflated by legislation temporarily in operation in the study period criminalising breaches of bail conditions.



Most children (89%, $n=266$) were sentenced in relation to their index CD matters, while small numbers had matters which were struck out (4%, $n=13$), or ongoing/adjourned (4%, $n=14$). Additionally, two percent of children ($n=7$) were found incapable of criminal responsibility (*doli incapax*) or not fit to stand trial, most of whom had an intellectual disability or borderline intellectual functioning (70%, $n=5$). Compared to all children before the Children’s Court, crossover children received higher sentencing outcomes in 2016–17 (Figure 12). At least 42 percent of crossover children ($n=124$) spent time in youth justice custody (including remand) and 12 percent ($n=36$) received a custodial sentence.

Figure 12: Sentencing outcomes (%)



Note: Intensive supervised community based orders include Youth Supervision Orders and Youth Attendance Orders

Factors associated with younger, more voluminous and violent offending

A series of regression analyses were performed to examine factors predictive of offending outcomes among crossover children. Variables entered consisted of those demonstrating statistically significant bivariate associations ($p < 0.05$) with younger onset offending, more voluminous offending, and offending against the person among crossover children. Some variables were excluded due to missing data (eg Indigenous status), or overlap with other variables.

Among the sample, a younger age at first police charge was associated with a greater number of child protection notifications ($r = -0.155$, $p < 0.05$), Indigeneity (mean age at first police charge = 13.6 years vs 14.5 years, $p < 0.001$), and cumulative co-occurring challenges ($r = -0.247$, $p < 0.001$), particularly intellectual disability (mean age at first police charge = 13.7 vs 14.4 years, $p < 0.01$). A logistic regression was performed to assess the impact of various factors on the likelihood of crossover children being first charged by police under 14 years. Preliminary analyses indicated sufficient sample size, no outliers, and no violation of multicollinearity assumptions. The full model was statistically significant, $\chi^2(5, N=257) = 32.63$, $p < 0.001$, explaining between 12 percent (Cox and Snell R^2) and 16 percent (Nagelkerke R^2) of the variance in age at first charge (<14 vs ≥ 14 years), and correctly classifying 58.4 percent of cases. As shown in Table 2, only neglect was predictive of being aged under 14 years at the first police charge, with neglected crossover children being more than twice as likely to be first charged under the age of 14 years compared to other crossover children.

Table 2: Logistic regression—First charge under 14 years

Variable	Exp(B)	Wald	Sig.	95% CI for Exp(B)	
				Lower	Upper
Neglect*	2.234	3.947	0.047	1.011	4.938
Cumulative maltreatment types ^a	1.141	0.742	0.389	0.846	1.539
Family violence	1.180	0.191	0.662	0.562	2.476
Familial substance abuse	1.728	2.003	0.157	0.810	3.687
Familial criminal justice system involvement	1.307	0.753	0.386	0.714	2.393
Age of first notification	0.999	0.050	0.823	0.993	1.006
Age of first substantiation	1.005	2.591	0.107	0.999	1.010
Cumulative co-occurring challenges	0.876	3.188	0.074	0.757	1.013

*statistically significant at $p < 0.05$

a: Cumulative score (out of four) of exposure to the following maltreatment types: physical abuse, emotional abuse, sexual abuse, and neglect

A second linear regression was undertaken to identify variables predictive of a greater number of total charges among crossover children (Table 3). Preliminary analyses indicated no violation of multicollinearity or singularity assumptions, though three outlier cases (std. resid. > 3.3) were retained in the sample after excluding input error. The model explained 40 percent of the variance in children's total number of charges, $F(13, 252) = 13.0$, $p < 0.001$. Several factors were significantly predictive of children's volume of charges, including:

- age—for each additional year of age, the number of charges increased by 11 on average;
- gender—males had 20 more charges than females on average;
- parental death after 10 years of age—associated with an increase of 26 charges on average;
- first police charge under 14 years of age—associated with an increase of 47 charges on average;
- substance misuse—associated with an increase of 20 charges on average; and
- residential care placement for 18 months or longer—associated with an increase of 15 charges on average. Placement in residential care for shorter periods (eg cumulative totals of up to 6 months, or between 6 and 18 months) was not significantly predictive of children's total number of police charges.

Table 3: Linear regression—Total number of charges

Variable	B	SE(B)	β	t	Sig.
Age***	11.470	1.959	0.329	5.856	0.000
Male gender**	20.043	6.681	0.168	3.000	0.003
Neglect	2.800	6.094	0.023	0.459	0.646
Parental death >10 years*	26.332	11.024	0.121	2.389	0.018
First police charge <14 years***	46.512	6.257	0.418	7.433	0.000
School exclusion	4.450	6.215	0.039	0.716	0.475
Neurodevelopmental/neurological disorder	1.416	6.668	0.013	0.212	0.832
Mental health diagnosis	0.405	6.880	0.004	0.059	0.953
Trauma- and attachment-related disorder	4.829	7.601	0.035	0.635	0.526
Behavioural disorder	8.768	7.959	0.065	1.102	0.272
Substance misuse**	20.334	6.689	0.164	3.040	0.003
Challenging behaviours	7.963	6.956	0.064	1.145	0.253
Residential care > 18 months*	15.433	7.280	0.117	2.120	0.035

*statistically significant at $p<0.05$, **statistically significant at $p<0.01$, ***statistically significant at $p<0.001$

Note: Neurodevelopmental/neurological disorder excludes intellectual disability

The final regression analysis examined factors predictive of offence against the person charges among crossover children. Like those related to children's volume of offending, these findings should be interpreted with caution given the cross-sectional sample, as children may have been charged with violent offences subsequent to these analyses. Preliminary analyses indicated sufficient sample size and no violation of multicollinearity assumptions, though 10 cases were outliers (predicted to have been charged with violent offences, but had not been at the time of the file audit). In several cases, outlying children had subsequently been charged with offences against the person. The full model was statistically significant, $\chi^2(6, N=274)=38.38, p<0.001$, explaining between 13 percent (Cox and Snell R^2) and 24 percent (Nagelkerke R^2) of the variance in children's offence against the person status, and correctly classifying 85 percent of cases. A younger age at first police charge ($p<0.001$) and male gender ($p<0.05$) were the strongest predictors of violent offending, though 'hard drug' use ($p=0.06$) approached significance as a predictive factor (Table 4). Among crossover children, each additional year in age at first police charge was associated with a 39 percent decrease in the odds of being charged with a violent offence, while males were 2.4 times more likely to have an offence against the person charge compared to females.

Table 4: Logistic regression—Offence against the person charges

Variable	Exp(B)	Wald	Sig.	95% CI for Exp(B)	
				Lower	Upper
Male gender*	2.407	4.694	0.030	1.087	5.327
Age at first charge***	0.605	12.601	0.000	0.458	0.798
Substance misuse	1.510	0.753	0.385	0.595	3.832
Hard drug use	2.805	3.568	0.059	0.962	8.180
Challenging behaviours	1.468	0.698	0.403	0.597	3.608
Cumulative co-occurring challenges	1.006	0.002	0.965	0.774	1.307

*statistically significant at $p<0.05$, ***statistically significant at $p<0.001$

Discussion

As with all research analysing secondary data, study findings are limited by the validity and reliability of case file information (Epstein 2010). As such, reported characteristics of crossover children should be interpreted as minimum prevalence levels. The study findings nonetheless add to the body of research aiming to understand their trajectories from child protection to criminal justice system involvement. The study sample was representative of the state-wide population of crossover children ever under child protection orders and who were sentenced/diverted in the Children's Court in terms of the proportion who were Indigenous (18%); females were slightly under-represented (30% vs 39%) compared to state-wide data (Sentencing Advisory Council 2019).

Cumulative harm and adversity

Research indicates that children first entering OOHC at older ages face a higher risk of youth justice contact (Cutuli et al. 2016; Ryan 2012). Yet the current study indicates that child protection services received notifications about most crossover children before age 10, emphasising both the potential for and importance of improving efforts to prevent cumulative harm to this group. Findings related to cumulative adversity, likely underestimates, demonstrate the considerable harm to which this group of children are subject. The average number of adverse childhood experiences among the study group (mean=5.4) bears similarity to that reported in US research of 930 crossover children in juvenile justice residential programs (mean=4.7 to 4.8; Baglivio et al. 2016). The differences are perhaps explained by slight variations in the nature of the adverse experiences measured (our study added parental death, and omitted emotional neglect).

These findings add to those of recent South Australian longitudinal research, which reported crossover children had greater maltreatment recurrence (measured by greater numbers of substantiations), and maltreatment persistence (notifications and substantiations both prior to and after age 12), compared to children solely involved with child protection services (Malvaso, Delfabbro & Day 2017). Additionally, the findings add to growing evidence that Indigenous children in the justice system appear to have experienced greater cumulative adversity compared to their non-Indigenous counterparts (Malvaso, Delfabbro, Day & Nobes 2018). These findings collectively point to the importance of cumulative harm, encompassing chronic adverse experiences and experiences of multiple harm types, in explaining the outcomes observed among crossover children (Bromfield & Miller 2012).

A key finding of the current study was the high proportion of crossover children with one or more deceased parents (20%), a prevalence greater than those reported in three other recent Australian studies of justice-involved youth (12–16%; Justice Health and Forensic Mental Health Network 2017; McFarlane 2017; Malvaso, Delfabbro & Day 2018). By way of comparison, Australian data indicate that only five percent of young people aged 18 to 24 years have experienced the death of a parent, indicating that crossover children are parentally bereaved at a rate at least four times greater than the broader population (Australian Bureau of Statistics 2015). The study adds to the growing body of research demonstrating the link between parental death and youth offending (Berg et al. 2019), and identifies an association between parental death in adolescence and crossover children's greater volume of police charges.

The current study also found neglect to be an important predictor of crossover children's younger age at first police charge. This accords with previous Australian and US research which determined neglect (Malvaso, Delfabbro & Day 2017), and particularly ongoing neglect (Ryan, Williams & Courtney 2013), to be predictors of offending and recidivism among crossover children. US researchers have proposed that neglect allegations during adolescence differ from those of younger children, and include the actions of caregivers (eg locking or kicking the child out of the home), as well as failure to act (eg supervisory neglect; Ryan, Williams & Courtney 2013). Failure to provide adequate welfare support to children arguably introduces a level of systems neglect (Cashmore 2011; McFarlane 2017), whereby adolescents in concerning circumstances (eg those facing significant family conflict, engaging in risk-taking behaviour, or needing mental health, behavioural health or disability support) may not receive intensive responses until their behaviours attract serious youth justice sanctions. Prior research from the United States raised similar concerns about limited child welfare intervention with children displaying behavioural challenges from late childhood onwards (related to disability, neurodevelopmental, and/or trauma- and attachment-related conditions; Ryan 2012). Yet as the author of that study described (p. 169), 'child welfare remains the only resource for many vulnerable families struggling with behavioural issues', meaning it is incumbent on these systems to minimise these children's progression to the criminal justice system.

Early onset of criminal justice system involvement

Crossover children in the current study were about three times more likely than other Victorian children to be first sentenced under the age of 14 (Sentencing Advisory Council 2016). A 2008–10 cross-sectional study of 160 children before the Criminal Court in New South Wales similarly found that those in OOHC were significantly younger (on average by nine months) compared to children in the non-care group (McFarlane 2017). Despite 41 percent of crossover children in the study acquiring their first police charges prior to the age of 14, only two percent had been assessed as *doli incapax*. This finding supports other Australian research that suggests that *doli incapax* provisions are perhaps not being implemented as intended (Fitz-Gibbon & O'Brien 2019), highlighting the need for further research in this space.

In the current study, a younger age at first police charge was associated with greater and cumulative maltreatment, adversity and co-occurring challenges. Furthermore, intellectual disability was associated with a significantly younger age of first police charge, echoing a prior study of 2,731 adult prisoners in New South Wales prisons (Baldry et al. 2013). The younger peak age of initial police charges in the regional subsample reflects these findings, being likely due to the region's higher proportions of crossover children who were Indigenous, or who had an intellectual disability—groups which both had younger ages of first police charge. The study's findings also reflect those of a US study of 64,000 young offenders, which found greater cumulative adverse childhood experiences among youth with an early onset of offending, even after accounting for various individual, familial, and personal history factors (Baglivio et al. 2015).

More violent and voluminous offending

Though prior reports note crossover children's tendency to be charged with property and criminal damage offences (Victoria Legal Aid 2016), the current study provides quantitative evidence that extended placement in residential care is predictive of crossover children acquiring a greater volume of charges, after accounting for other risk factors. The current study also found that crossover children are frequently charged with offences against the person (86%). These figures for violent and property offences among crossover children are disproportionately high: among all Victorian children sentenced in 2008–09, only 20 to 35 percent had committed property/deception offences, and only 26 percent had committed offences against the person (Sentencing Advisory Council 2016). However, these findings are consistent with previous research linking physical abuse, multiple types of maltreatment, and increased maltreatment severity with increased likelihood of youth violence perpetration (Maas, Herrenkohl & Sousa 2008).

Crossover children were also charged with a disproportionately high number of offences compared with other children charged with offences. For instance, the Victorian Crime Statistics Agency identified a small group of young offenders (1.6% of all children born between 1996 and 1998 who had been charged with offences) who were younger at their first police charge (mean=12 years), and whose offending accounted for 24 percent of all alleged youth offences (Sutherland & Millsted 2016). On average, this group of high-volume offenders had 77 offences each (compared to an average of 2 to 24 offences each among children in other offending trajectories). Despite their relatively young age, 22 percent of children in the current study's sample had been charged with 77 offences or more. Children first charged between 10 and 12 years (21% of the current study sample) had an average number of 79 charges at their index CD matter, meaning that crossover children are at least 13 times more likely to be classified in this high-volume offending group.

Similarly, Moffitt's developmental taxonomy theory describes subgroups of youth in the justice system, including a small group of serious 'life-course persistent' offenders, who differ from the larger cohort of 'adolescent-limited' offenders who engage in antisocial behaviour during adolescence only (Moffitt 2008). Data arising in the current study suggest that the 'life-course persistent' offending profile is likely more prevalent among crossover children compared to youth offenders overall. However, given the cross-sectional nature of the current study design, these analyses should be replicated with a longitudinal sample of crossover children in order to verify the findings.

Implications

The study's findings amplify the necessity of better preventing, diverting and responding to crossover children's criminal justice system involvement.

Prevention: The need for improved family support

The study's key implication is the importance of strengthening early support and, where warranted, statutory intervention with children and families. This is particularly the case for children who offend early in life, who tend to experience the greatest adversity, and poorest justice-related outcomes. Support and intervention are needed to prevent maltreatment and other harms, and to respond to educational needs, trauma and grief, mental and behavioural health challenges, and disability.

Diversion: Reconsider responses to early offending

As a result of their over-representation among those with early police involvement, responses to early offending disproportionately affect crossover children, particularly Indigenous children, who are further over-represented among younger crossover children. Rates of early offending are impacted by the minimum age of criminal responsibility which, at 10 years old Australia-wide, is below that recommended by the United Nations Convention on the Rights of the Child. Criminalising young children arguably diverts responsibility and resources from social welfare and other support responses. Additionally, the criminal justice system has limited capacity to intensively support children who offend early in life, by applying the principle of *doli incapax*, and graduated responses to children's offending. The implementation of a state-wide protocol for reducing criminal justice system contact for young people in out-of-home care, and targeted diversionary schemes to support crossover children entering the justice system as a result of adolescent family violence, are recommended by this and previous research (Gough & Hayden 2010; Mendes, Snow & Baidawi 2014; NSW Ombudsman 2010; Savvas & Jeronimus 2017).

Responses: Develop specific youth justice responses for crossover children

The lack of specific justice system responses to child protection-involved children is inconsistent with efforts to enhance responsivity to other over-represented groups of children and young people, including Indigenous children, and those with intellectual disabilities. Potential differential responses include:

- establishing a crossover children's court list for children concurrently involved in the Family and Criminal Divisions;
- increasing the involvement of child protection in the Criminal Division of the Children's Court;
- expanding diversion options (with varying levels of intensity and duration), particularly those targeting offending occurring in residential care environments and adolescent family violence;
- delivering specialist youth justice consultancy and advice to residential care providers to minimise children's risk of offending or reoffending; and
- having dedicated crossover children's workers (Bowles 2015; Mendes, Snow & Baidawi 2014).

The importance of better supporting crossover children is emphasised by this study's findings that this group of children are over-represented among those charged at younger ages, and those charged with violent offences and greater numbers of offences. The complexity of these children's support needs, and the relationship between their needs and the seriousness of their offending, reinforces the necessity of collaborative, whole-of-government efforts to avert the care-to-custody pathway. Future papers will report in greater detail on other aspects of crossover children's trajectories, including the context of their offending and factors associated with the onset of offending.

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