

Exploring the Pathways between Care and Custody for Girls and Women

Literature Review Summary

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Introduction

- This targeted literature review provides the context for a Nuffield Foundation funded project that seeks to explore how to disrupt the routes between care and custody for girls and women. Whilst many children in care do very well and do not come into conflict with the law, the over-representation of care experienced individuals in criminal justice settings is a persistent problem. There is increasing recognition that this is explicable in part by the fact that they may be subject to unnecessary criminalisation. There has been a surge of interest in this issue recently in England and Wales, and internationally, but this has not been consistently applied to all individuals with care experience. In particular, there has been a lack of focus on the experiences of girls and women. The interplay between gender and ethnicity has also been neglected.

Context

- At 31 March 2018, there were 75,420 children looked after in England, and 44% were girls (DfE, 2018). Possibilities for gender analysis are very limited as other important information in the national data collection, like ethnicity, is not broken down by gender.
- The principal reason for entering care for 63% of all children who became looked after in England was 'abuse or neglect'. A mere 1% of children entered care specifically because of 'socially unacceptable behaviour' despite popular perceptions continuing to link care experience with troublesome behaviour (DfE, 2018).
- Offending rate data for looked after girls is limited because it is based only on those looked after continuously for 12 months or more; nearly half of children in care are looked after for shorter periods. Nevertheless, the data highlights that 360 girls aged 10 years or over and looked after for at least 12 months were cautioned or convicted in the year ending March 2018. Youth justice involvement was more likely for older children, with 4% of looked after girls aged 16-17 receiving a caution or conviction (DfE, 2018).
- Children in residential care continue to be over-represented in the youth justice system, but the proportion receiving a caution or conviction has fallen in recent years (Howard League, 2019). Girls in care living in a children's home are four times as likely to be youth justice involved than girls in care more generally (DfE, 2018; Howard League, 2019).
- While there are very small numbers of girls in custody (n = 30 at April 2019), estimates suggest that around 50% of children in custody are care experienced (PRT, 2016). The small numbers of youth justice involved girls increases the risk that their needs and experiences will be further marginalised and overlooked (Goodfellow, 2019).
- Evidence suggests there is a greater over-representation of care experienced women in prison than care experienced men. A Ministry of Justice survey found 31% of adult female prisoners had been in care compared to 24% of males (MoJ, 2012), although these are likely to be underestimates due to the challenges in identifying those with care experience in prison.
- Many women are mothers and sole carers when they enter prison (Corston, 2007), which inevitably has consequences for their children. Yet there is no national data collection on the number of care experienced women in prison whose own children are taken into care.

Methodology

- Our targeted and interdisciplinary review of literature, based on firm inclusion and exclusion criteria, reveals a sparse amount of research evidence directly focused on care experienced girls and women in the justice system. Based on searches of five key databases across the last 20 years, in combination with a consideration of the 'grey' literature in other databases, and relevant policy documents, just 12 pieces of 'very relevant' literature were identified that specifically focused on our topic of interest. All were based on research conducted outside of the UK. This led us to also consider broader categories of literature such as that covering all individuals with care experience (including boys/men and girls/women) and youth/criminal justice experience.

Overlapping Biographies

- Well-evidenced links between early trauma and both being taken into care and involvement in offending highlight the overlapping biographies of girls and women with care experience, and those with youth and criminal justice system involvement.
- Studies suggest that adversity may have a greater impact on both care and justice involvement for girls and women than boys and men. For example, girls in care may have experienced greater levels of adversity than boys (Lipscombe, 2006). Evidence from the USA highlights that girls are more likely to have experienced sexual abuse and/or exploitation than boys (Shrifter, 2012) and that adversity may be more influential for Black girls than other ethnic groups (Zettler et al., 2018).
- Over-representation in criminal justice settings may also be associated with increased rates of mental ill health which are common among girls in care, female young offender cohorts and adult women in custody (Bartlett & Hollins, 2018; Chitsabesan & Bailey, 2006; Postlethwait et al., 2010; Sadler, 2018). Yet vulnerable care experienced individuals in England are being failed by mental health services (Innovation Unit, 2019).
- Looked after girls generally have better educational outcomes than looked after boys, but they still have poorer outcomes than non-looked after girls (DfE, 2019). Looked after children are four times more likely to have a special educational need and five times more likely to be excluded from school than other children (DfE, 2019).
- Socioeconomic inequalities and care experience are also linked, with Black individuals particularly affected (Bywaters et al., 2017; 2019). Coming from a socially deprived background is also associated with violent behaviour, especially among girls (McAra & McVie, 2010; 2016). The association between poverty and criminal justice involvement among care experienced women has long been documented (e.g. Carlen, 1988).

What happens in the Care System?

- The overlapping biographies outlined above are important in understanding the care-crime connection, however they do not tell the full story. Indeed, pre-care factors can be exacerbated by the care experience itself.
- There is compelling evidence that stable placements with sensitive caregivers and appropriate professional support can reduce the risk of justice involvement (Schofield et al., 2014; Taylor, 2006). Sustained and positive relationships can be particularly

protective for girls (Farruggia & Geramo, 2015). Yet many children in care are exposed to traumatising instability and disruption (Children's Commissioner, 2018).

- Failing to adequately address children's vulnerabilities in care can contribute to their youth justice involvement (Bateman et al., 2018). Girls are more likely to abscond or go missing from care placements, putting them at increased risk of exploitation and youth justice contact (The APPG for Runaway and Missing Children and Adults, 2012).
- Placement instability is significantly associated with involvement in offending (Goodkind et al. 2013; Kim & Leve, 2011; Malvaso et al. 2017) – but whether this is worse for girls than boys is debated. Placement instability has been associated with increased involvement in sex work for girls (Hébert & Lanctôt, 2016).
- There is a dearth of research on the link between ethnicity, gender, care experience and justice involvement in the UK. Some evidence from other jurisdictions indicates that ethnic minority children in care may be particularly at risk of youth justice intervention (Doolan et al. 2013; Goodkind et al, 2013; Williams-Butler, 2018), although this varies according to different studies. A study of justice involved girls in New South Wales found that 60% of girls in the care cohort identified as Indigenous Australian, almost twice the rate found in the non-care cohort (McFarlane, 2010).
- There is much evidence to suggest that looked after children can experience excessive levels of youth justice intervention (PRT, 2016). Despite recent efforts to reduce unnecessary police involvement and evidence of good practice in some areas, the Howard League (2019) found the police are regularly called out to some children's homes, particularly to private providers. A number of international studies suggest that placement in residential care may be particularly relevant to understanding girls' justice involvement (e.g. DeGue & Spatz Widom, 2009).

What Happens to Care Experienced Girls and Women in the Youth and Criminal Justice System?

- For those in the justice system, research highlights how the stigma attached to being in care and negative stereotypes associated with care experience may play out in very particular ways for girls and women (see Staines, 2016), and is often linked to concerns around sexual behaviour and gender deviance.
- A significant body of research suggests that girls and women in general are treated more punitively for their transgressions because they are deemed unfeminine as well as delinquent (Carlen, 1988; Sharpe, 2011).
- Frequent confusion between 'risk' and 'need' among practitioners can result in higher sentencing tariffs for girls and women (APPG for Women in the Penal System, 2012), with these issues likely to be compounded for BAME individuals (Cox & Sack-Jones, 2017). Tam et al's (2016) study in the USA highlights child welfare involved girls may be removed from the community because of a misguided desire to protect them.
- Looked after children are also criminalised for minor offending (PRT, 2016), and may attend court alone or without someone who knows them well (Carlile, 2014; McFarlane, 2010). Such children can appear to be abandoned to the youth justice system (Shaw, 2014) and in need of stricter interventions which inadvertently accelerates their criminalisation (Hunter, 2019). Furthermore, evidence highlights that the local authority sometimes takes a step back from looked after children when they enter custody (HMIP,

2011). Yet justice professionals may lack knowledge and understanding of care leavers and are consequently unable to address individual needs (Fitzpatrick & Williams, 2017).

- We found very little specific research on girls and women with care experience in custodial settings. An ethnographic study of a female juvenile justice facility in the USA found that child welfare involved girls spent more time locked up and were poorly treated because of their dual status (Flores et al., 2018).
- Jung and LaLonde (2016) argue that care experienced women are more likely to be reincarcerated because they lack support from family and social networks. A recent report in England highlighted the lack of resources to meet the needs of care leavers exiting prison, with support services being fragmented and uncoordinated (Innovation Unit, 2019).
- Over half of women in prison are mothers, many are single parents (Beresford, 2018) with 50% of BAME mothers being single parents (Cox & Sacks-Jones, 2017). The children of women in prison may be affected by 'secondary prisonization' and 'secondary stigmatization' (Minson, 2018).
- It is unknown exactly how many care experienced women in prison lose their own children to the care system (Fitzpatrick, 2017), and therefore not possible to understand the extent of how the pathways between care and custody may or may not be reproduced across the generations.

Conclusion

- This review has explored what is known about the pathways between care and custody for girls and women. It has also considered the neglected interplay between gender, ethnicity, care status and offending. There are clear knowledge gaps in relation to what we can say with confidence, based on the limited official data available. Improvements in data collection and recording are urgently needed if we are to gain a fuller understanding of the key issues.
- Furthermore, the lack of research attention to the impact of care experience over time for girls and women in the youth and criminal justice system highlights that this is a topic that clearly warrants further exploration. It is particularly important that the voices of those with first-hand experience of state care and control systems are a central part of this future research agenda. The next stage of our project is to interview care-experienced women in prison, girls in care and the youth justice system, and professionals who work within systems of care and justice.

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