

From care to custody: surviving incarceration - the English experience

CY CJ Associates Webinar – 9th December 2020

TIM BATEMAN (TIM.BATEMAN@BEDS.AC.UK)

UNIVERSITY OF BEDFORDSHIRE

CHAIR, NATIONAL ASSOCIATION FOR YOUTH JUSTICE



The presentation draws on...

- Two year study (2018-2020) funded by the Nuffield Foundation and undertaken by the staff at the University of Bedfordshire (literature review- <https://www.beds.ac.uk/media/271504/nuffield-literature-review-final.pdf>; executive summary - <https://www.beds.ac.uk/media/271273/surviving-incarceration-exec-summary.pdf>; full report - <https://www.beds.ac.uk/media/271272/surviving-incarceration-final-report.pdf>)
- Examined the experiences of a sample of looked-after, and non-looked-after, children who have been incarcerated, exploring their pathways into, through and out of custody, illuminating differences and similarities between the two populations and contributing to understanding of the over-representation of the former
- Focussed on 9 local authorities within the South and West Yorkshire Resettlement Consortium
- Quantitative analysis of all children sentenced to custody over 4 year period; interviews with 48 children (22 looked after at point of custody); case file analysis for 45 of those children; interviews with 19 practitioners

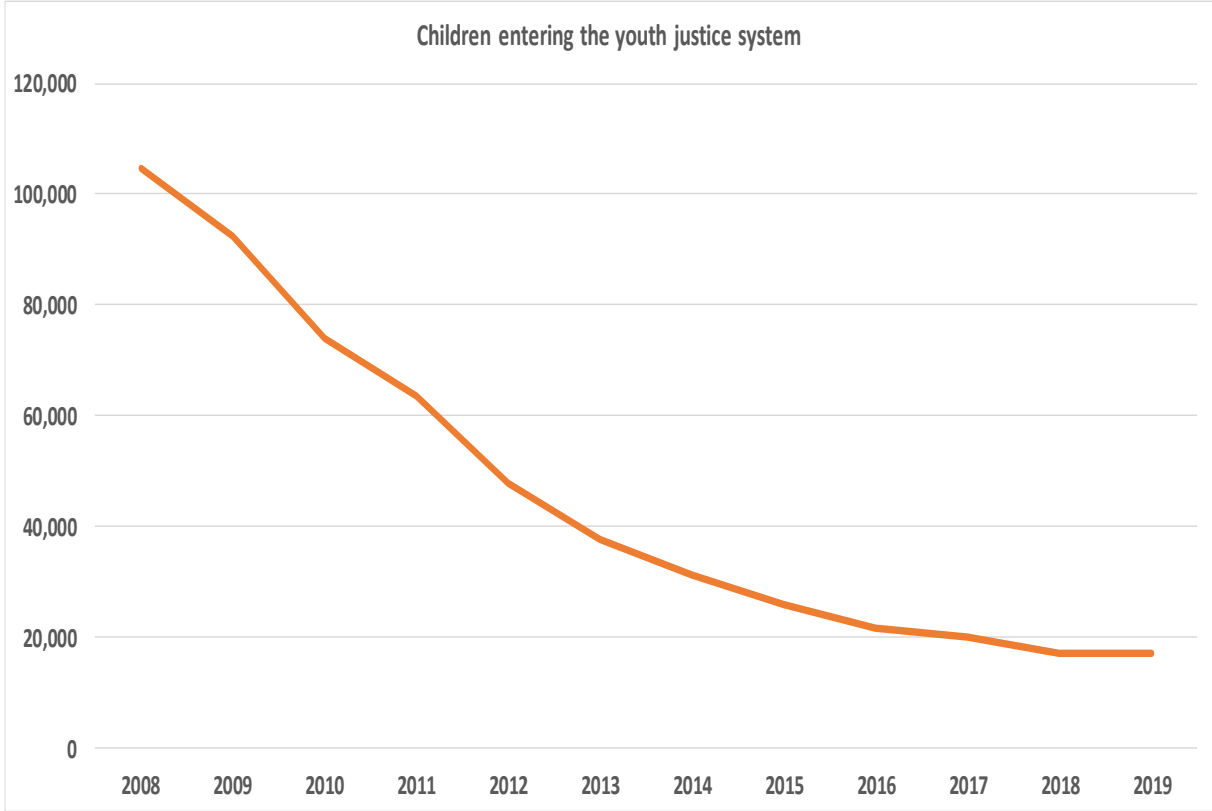
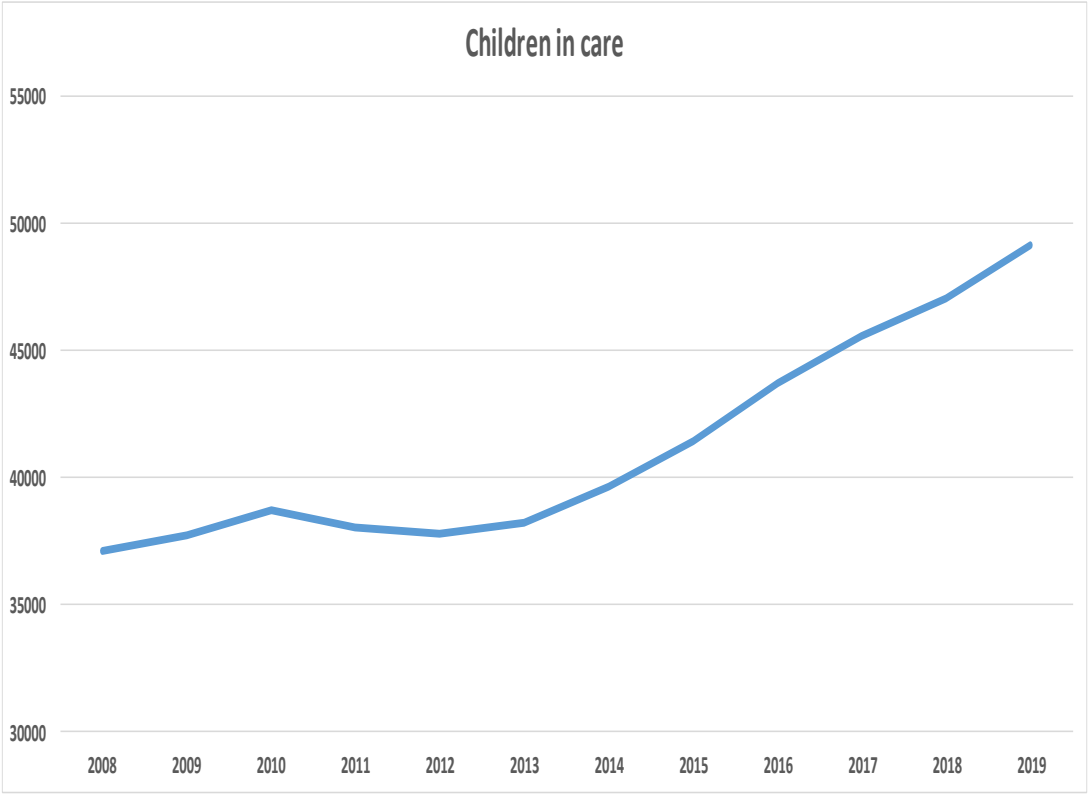
Context for the research [1]

- In England and Wales, services for children in need of care / safeguarding and children in conflict with the law are separate

	Care	Criminal justice
Ethos	Welfare	Offence focused
Staffing	Children's services (social work)	Youth offending teams (multi-agency)
Decision making	Family court	Youth court (for most cases)
Secure provision	Secure children's homes (SCHs)	YOIs, secure training centres and SCHs

- 'Dual status' children are required to interact with two distinct sets of arrangements and differential forms of treatment

A complex interplay between systems



Dual status – the impact on ‘crossover kids’

- Different dynamics
- Coming into care and coming to the attention of criminal justice agencies are both indicators of vulnerability and both are associated with adverse outcomes
- ‘Dual status’ children – are particularly vulnerable and at risk of reduced life chances: less likely to complete education and more likely to experience substance misuse and poor mental health than those who have care or justice experiences alone. Children with a background of care in the youth justice system demonstrate significantly higher levels of reoffending than those without such experience
- The care population is consistently over-represented in the youth justice system and this disproportionality has tended to rise: in 2016 children in care were around five times more likely to be criminalised than other children; an increase from to 2.6 times as likely in 2010
- A rapid rise in the representation of care experienced children in custody (27% of boys in YOIs in 2010; 52% in 2019)

Care and custody: a toxic mix

- Looked-after children in custody:
 - Have higher, self-reported, rates of emotional, mental health or drug-related difficulties
 - Are significantly less likely to be on the enhanced level of the behavioural sanction /reward scheme
 - Receive fewer regular visits from family, friends and social workers
 - Take part in constructive activities less frequently

Explanations of overrepresentation

- Shared histories of adversity - experiences prior to coming into care make it more likely that looked after children will behave in a manner that infringes the criminal law
- Experiences within the care system exacerbate pre-care experiences increasing the risk that looked-after children will engage in criminal behaviour
- The response to lawbreaking by children in the care system is more likely to result in a formal criminal justice sanction than in the case of equivalent behaviour exhibited by children who are not looked-after
- Subsequent processes within the justice system are more likely to propel looked-after children into custody

What did we learn from quantitative data?

- Looked-after children in custody displayed higher levels of assessed needs than their non-care counterparts

Type of assessed need	Children in care	Children not in care
Mental health needs	63%	50%
Substance misuse needs	85%	70%

- On average, children in care:
 - were assessed as being a higher risk of reoffending (36 against 27 – ASSET score where available)
 - had more previous criminal justice disposals (6.9 against 3.4) but ...
 - received shorter custodial sentences (7.8 against 10.1) months
 - Were sentenced for less serious offences (gravity score 4.9 against 5.3)
- Persistency rather than seriousness?
- On release, looked-after children were breached at two and half times the rate of other children

Overarching themes: the need to survive and survivor identities

- A dominant theme that emerged from children's narratives – was that of survival.
- Children typically described their behaviour in terms of what was necessary for them to do in order to survive – and these explanations were equally relevant to their life prior to custody, within the custodial estate and what would happen release. *'So obviously I learned quick ... how to survive, how to earn money... Just living on the street, just walking round the street, just being able to walk where you want'* (Looked after child)
- While issues of survival were significant to all children in the sample, they tended to take on additional importance for children who were looked-after: They were distinguished from others in the sample since they did not just behave in ways that they considered essential to surviving, they also came to see themselves as survivors: *'individuals who had to look after themselves because, as they saw it, they could not rely others to ensure their wellbeing'*.
- These themes were evident at each stage of the child's journey.

Surviving life before custody: time on the street

- Instability, disrupted education, difficulties in the family home combined to explain why most children – with little else to do and nowhere else welcoming to go – spent considerable time on the street, in the company of like-minded peers or ‘family’
- This lifestyle was conducive to offending - to survive – and frequently knife carrying for status / protection in that hostile environment
- Children in care described factors, related to their care experiences, which made it more likely that they would adopt a street lifestyle as, at least in part, a legitimate response to how they felt the care system treated them
 - Residential care; multiple placements; often out of area
 - Limitations on access to internet and phones – hence contact with friends and family
 - Overly intrusive monitoring and oversight; petty rules and institutionalisation
- Children described running away from placements shortly after arrival or going into the streets to find other young people with whom they might associate as soon as they could.
- The street provided a sense of belonging which was not always evident in the care environment. Finding a way of surviving on the street was for many a logical response
- Looked-after children developed a sense that they needed to look after themselves in the absence of what they saw as an alternative support network. Self-reliance and avoiding emotional attachments went hand in hand

Surviving life before custody: from care to the street

- It was just unnecessary, like completely unnecessary. Like I can understand to a certain extent why certain restrictions might have been put in place, but then again to the extent they did is ridiculous. It took them six months for me to be able to have a mobile phone and for me to have contact with my girlfriend, that's only two restrictions lifted in six months*
- Aye, somewhere up north, no down south even. It was proper crap care though, because there was kids there right, but you didn't get to see any, and there was pretty much like two staff with you all the time. I ended up doing daft things there to get kicked out*
- I guess I was looking for a sense of belonging really. I didn't really feel like I belonged anywhere.....so I was looking for a sense of belonging, and then I got a name for myself, and I just found I had to live up to it. Because people didn't accept me before, but because I've got this name now, then I had to stick with it and people accepted me by my name, not by who I was*

Surviving custody: the provision (or lack) of support

- Unsurprisingly, most children disliked deprivation of liberty – and the custodial regime. However some regarded it as an opportunity to make up for lost time in education or a chance for a new start
- This was less common for looked-after children who experienced the impersonality of custodial regimes as reinforcing the institutionalisation and failure to treat them as individuals which they had begun in children's homes.
- Relationships were key - children distinguished staff who showed respect and those who did not.
- Where children felt disrespected, contact with the outside world was particularly important. Family support was critical for children who lived at home; children in care frequently had less support in that regard. Where they did talk about family, this was frequently in negative terms.
- Most children were positive about relationships with their YOT worker- although they wanted more visits but children in care were frequently critical of their social workers.
- The lack of support from staff, professionals and family confirmed the perception among looked after children that survival required them to be self-reliant

Surviving custody: the provision (or lack) of support

- *'Like if I were in here and my mum and dad didn't support me, wouldn't send me no money and that, I don't know how I'd cope to be honest...I just appreciate what they've done for me innit, and when I get out I'm going to change'* (Child not in care)
- *'I don't care about mum and dad... I don't see them so I don't care'* (Looked after child)
- *'My last social worker before the one I have now basically said to me I'd never make anything of my life and she, and I was worst kid she'd worked with.... Obviously it's pissed me off, because like, who does she think she is? She's a social worker. The new one's alright, she just takes the piss, like every social worker, no matter who it is, just takes ages to do something. They say they're going to something about a month and it takes them about two months to do it'* (Looked after child)

Surviving custody: fighting or keeping your head down

- Getting through/ surviving the time in custody was a recurrent theme.
 - Two alternative such strategies emerged - though these were not mutually exclusive
 - **Keeping your head down** meant adopting a low profile, staying out of trouble wherever possible with staff and other children
 - **Fighting** was regarded by some children as a preferable technique to avoid victimisation or to maintain status
 - Looked-after children tended to see themselves as having lower status, and were seen by professionals as suffering a lack of 'social capital'. They were accordingly more likely to engage in 'fight mode'
- 'if you don't [fight], then that's how you just get [to be] a victim. If you show that you're not willing to stand up for yourself, then everyone's gonna think you're an idiot aren't they?'*
- Fighting rather than keeping your head down – a reflection of a survivor identity – led to higher levels of restraint and isolation, reinforcing perceptions that there was no option but to be self-reliant

Surviving resettlement

- The transition from custody to the community provided a 'window of opportunity' for positive change for some children, although most also recognised the challenge which was greatest where settled accommodation or family support was lacking
- Most children who were not in care wanted to return home and anticipated they would be able to do so, allowing them to focus on planning for other aspects of their life in the community
- Most looked-after children also wanted to return to the family home but recognised this was unrealistic
- The issue of where they would be living pushed other considerations to the sidelines
- Concerns over accommodation prevented many looked-after children reflecting on how they might construct a positive future for themselves or take advantage of practical or emotional support offered by professionals- prerequisites of effective resettlement
- This lack of planning and fears – often realised – that they would be placed in accommodation a long way from home with little support, reduced prospects of compliance with post custody supervision and increased the risk of a return to a street lifestyle and further contact with the justice system

Surviving resettlement

- *I'm going to go with my uncle, because he works for Eddie Stobart, and he said that I can have a go with him, and that's like £10 an hour, so I like the sound of that (Child not in care)*
- *I was in a semi-independent, called 16+. So it's called 16+ but I was 15. So basically, I was in a house for 28 days and then I'd have to go, move to a different property every 28 days because if I was there for longer than 28 days, then they'd have to register as a care home, or residential home or something like that. So, every 28 days I was moving about ... at the same time, I got seven days a week and at the same time I've got a tag [conditions of licence]. Obviously I'm flipping 15, I'm not Superman (Looked after child)*

Doing survival or developing a survivor identity?

- There was considerable overlap in the backgrounds and experiences of all children in the sample as they passed into, and through, custody but children in care exhibited trajectories that were distinct in important ways
- While all children exhibited strategies for survival at each stage of their journey, these strategies took on a different meaning for children in care, becoming an integral part of their identity
- The perceived need to be self-reliant meant that they did not just behave in ways that ensured their survival, they were also more likely than other children to develop a *survivor mentality*
- Looked-after children were not lacking in resilience; 'survivors' require considerable strength and confidence in one's own abilities. But this form of resilience focused on the here and now rather than facilitating a future orientation
- Looked after children were more resistant to potential offers of external support and more likely to rely on the own resources on release – frequently associated with a return to the streets
- A survivor identity thus made desistance from offending less likely