

Cross-Over Youth Project: Navigating Quicksand

Dr. Judy Finlay, Principal Investigator & Co-Chair, Provincial Steering Committee
Justice Brian Scully, Judicial Lead & Co-Chair, Provincial Steering Committee
Matthew-Eaton Kent, Resource Coordinator
Tara-Rose Farrell, Communications Coordinator
Peter Dicks, Communications Coordinator
Jessica Salerno, Case Conference Facilitator

September, 2019

Table of Contents

6	Acknowledgements
9	EXECUTIVE SUMMARY
33	PART 1: PREFACE
34	PART 2: HISTORY
36	PART 3: MODEL DESIGN
38	PART 4: THE PILOT SITES
40	PART 5: SUB-COMMITTEES OF THE PROVINCIAL STEERING COMMITTEE
42	PART 6: EVOLUTION OF PROJECT STRUCTURE AND SERVICE DELIVERY
45	PART 7: THREE ESSENTIAL PILLARS OF PRACTICE
46	PART 8: COMPLICATED SYSTEMS AND CROSS-OVER YOUTH: THE NEED FOR COLLABORATION
55	PART 9: INTERSECTION POINTS
56	PART 10: COY IDENTIFICATION AND REFERRAL SOURCES
58	PART 11: THE IDENTIFICATION AND UNDERSTANDING OF EMERGENT THEMES
59	PART 12: TYPES OF CASES
60	PART 13: DEMOGRAPHICS
	PART 14: THEMES
63	Theme One: Trajectory from the Family Home into the Youth Criminal Justice System: The Child Welfare to Prison Pipeline in the Belleville and Toronto Sites
64	Understanding What Was Learned
64	i. Trauma's Role in Trajectory of Cross-over Youth
67	ii. Trauma Amongst Youth Served by COY Project
68	iii. Reasons for Initial Child Welfare Involvement and Child Welfare Penetration
70	iv. The Child Welfare to Youth Justice Pipeline
73	v. Penetration into the Youth Justice System as Related to Parent/Teen Conflict
73	vi. Gaps in Practice and System Coordination
76	vii. Group Care Charging Practices
78	viii. Placement Instability and Recidivism
79	How it was Learned
80	i. Limitations
80	Discussion and Considerations for Policy and Practice

80	i.	Consideration #1: Implementation of Early Family-Based Interventions
81	ii.	Consideration #2: The Adoption of a Trauma-informed Approach to Practice that Avoids the Re-traumatization and the Criminalization of Trauma in Cross-over Youth
86	iii.	Consideration #3: Curtail the Use of Punitive Consequences for Victims of Trauma (Cross-over Youth)
89	iv	Consideration #4: Pre-escalation and De-escalation Approaches and Strategies, and Increased use of Discretion in Group Care
98	v.	Consideration #5: Restorative Justice
101		Summary
	2	Theme Two: Movement Through the Criminal Justice System
103		Introduction
105		Police
105	i.	Overview
105	ii.	What Was learned:
107	iii.	How it Was Learned
108	iv.	Analysis
109	v.	Considerations
110	vi.	Summary
111		Crown
111	i.	Overview
111	ii.	What Was learned:
113	iii.	How it Was Learned
114	iv.	Analysis
115	v.	Considerations
116	vi.	Summary
117		Bail
117	i.	Overview
117	ii.	What Was learned:
121	iii.	How it Was Learned
122	iv.	Analysis
124	v.	Considerations
125	vi.	Summary

125 Pre-trial Detention

- 125 i. Overview
- 126 ii. What Was learned:
- 129 iii. How it Was Learned
- 130 iv. Analysis
- 132 v. Considerations
- 132 vi. Summary

133 Defence Counsel

- 133 i. Overview
- 133 ii. What Was learned:
- 135 iii. How it Was Learned
- 136 iv. Analysis
- 138 v. Considerations
- 139 vi. Summary

140 Conclusion

Theme 3: Indigenous Youth

- 143 i. Overview
- 145 ii. What Was learned:
- 146 iii. How it Was Learned
- 147 iv. Analysis
- 149 v. Considerations
- 150 vi. Summary

Theme 4: Black and Racialized Youth

- 151 i. Overview
- 151 ii. What Was learned:
- 156 iii. How it Was Learned
- 157 iv. Analysis
- 157 v. Considerations
- 159 vi. Summary

Theme 5: The Impact of a Lack of Youth Centering

- 161 i. Overview
- 163 ii. Youth Participation Through Partnership
- 164 iii. What Was Learned Across All Sites

167	iv.	Perspective from Youth Advisory Committee Members (Toronto)
169	v.	Peer Mentorship Programs
172	vi.	Silencing Youth Voice as a Systemic Dilemma
173	vii.	Beyond Listening: From Youth Voice to Youth-centering
174	viii	Cross-over Youth and the Role of an Advocate
177	ix.	Considerations
179	x.	Summary
181		SUMMARY
190		REFERENCES
207		APPENDICES

The Cross-over Youth Project: Navigating Quicksand Acknowledgements

It is always important to acknowledge funders who support the work of the community, particularly when it is related to a vulnerable population like cross-over youth. However, the support this provincial project has received from its funders has been outstanding. From the outset, when considering possible approaches to better serve these young people, officials from the Youth Justice Fund, Justice Canada engaged actively in conversations to help create the most effective strategy. Initially, a needs assessment was funded by them, which laid the foundation for Cross-over Youth Pilot Project at four sites in Ontario. Since 2014, officials have consistently offered support and guidance that did not intrude on the integrity of the project but enhanced its operations and longevity. When we realized that we had underestimated the complexity and intensity of the work required in the Toronto site to successfully achieve our goals, funds for an additional staff were generously offered by the Youth Justice Fund. Ongoing encouragement and advice has always been readily available without question. We are truly appreciative of the opportunity this project has offered the many young people, stakeholders, service providers, academics and students who participated.

Ontario Ministry of Children, Community and Social Services (formerly the Ministry of Children and Youth Services), once hearing of the project, immediately offered to work with its federal counterpart collaboratively and funded the Thunder Bay site, which was able to move forward earlier and longer than the project had anticipated.

The Laidlaw Foundation enthusiastically funded the youth advisors in the Toronto site to develop and understand the importance of a youth mentorship approach with cross-over youth.

All three funders jointly contributed to the outcomes of the Cross-over Youth Pilot Project, which provided a deeper understanding of what is required to interrupt the trajectory from care to custody.

There are many contributors that have supported the work of the Cross-over Youth project from the onset.

Firstly, the Project would like to express our appreciation to former Chief Justice Annemarie Bonkalo for her encouragement and support, allowing for the initiation of the Cross-over Youth Project, and to Chief Justice Lise Maisonnette for her advice and support, and that of her Office, throughout the course of the Project.

Secondly, we would like to acknowledge the members of the Provincial Steering Committee and the co-Chairs and members of the local steering committee in the Belleville, Thunder Bay and Brantford sites. It is through the over 150 local community partners that this Project was envisioned from the onset at the four sites. Each member was invested in not only the young people themselves but also in generating practice and policy change to improve the lived experience and wellbeing of these youth. Protocols for improved practice emerged and were initiated in each site as was advocacy for systemic change.

We need to acknowledge the young people who lived each day within this complex and complicated myriad of service providers. Youth were often disappointed and discouraged by the lack of progress they strived for through the Project but they weren't defeated. Team members at each site struggled to navigate the systems on their behalf but quickly realized that determination and passion were not enough. Hard lessons were learned through intense struggles and challenging dialogue. But action was not fast enough, change was not deep enough and youth didn't feel safe enough. For this we are humbled and enormously saddened but driven to do better knowing what we know now.

Finally, we need to thank the many staff and team members across the province who relentlessly advocated that the youth be at the center in all aspects of their care, participating in decisions being made about them, regardless of the service or institution they found themselves in; that young people spend as little time as possible in the justice system; that young people deserve respectful, anti-oppressive care and support that acknowledges their histories of trauma and that systems that perpetuate distress in the lives of young people be disrupted.

Judy Finlay, PhD

Justice Brian Muir Scully



Executive Summary

The Cross-over Youth Project (COY Project) evolved in the Province of Ontario over a period of a decade through many conversations among service professionals in courthouses, in classrooms, at agency meetings, at conferences, in boardrooms, during informal gatherings, or across tables. Service providers clearly understood the devastating outcomes for youth in child welfare care who became involved in the criminal justice system. The systems within which they worked, however, seemed too complex and intransigent, which made solutions difficult to discover. Based on these discussions, a Provincial Steering Committee (PST) with members representing 10 service sectors was formed in 2014. The PST immediately undertook a needs assessment with the goals of gathering information about the roles of the various stakeholders and participants in the lives of cross-over kids; developing a forward-looking set of recommendations to interrupt the patterns related to the cross-over trajectory; and educating the relevant service sectors across the province about the unique issues related to cross-over youth. The collation of the information gathered resulted in 10 key themes or priorities (Finlay & Scully, 2015). These themes formed the basis for the funding proposal to Justice Canada which shaped the model design for the COY Project at four pilot sites.

In brief, the COY Project was a four-year pilot project from September, 2015 to July, 2019 that set out to implement and evaluate a range of best practice options that were aimed at improving outcomes of young people who were dually involved in the child welfare and youth justice systems in Ontario. The goals of the COY Project were therefore to keep youth out of the criminal justice system, and if a youth in care is involved with the police or courts, to facilitate getting them out of the justice system, including detention, as soon as possible. The third goal was to facilitate the provision of children's services as opposed to a reliance on the justice system to access resources.

THE MODEL

The predominant issue noted by all sectors in the needs assessment, highlighted in the proposal and addressed directly in the COY Project was the tendency for service providers to work in silos, which resulted in multiple contradictory case plans created for dually involved youth. To address this issue, the components of the COY Project introduced at each site were all geared to sustainable community development through intersectoral collaboration. To this end, each of the four sites formed a local multi-sectoral steering committee whose members had decision-making authority within their agency and represented the unique culture of their community. There was a unilateral commitment to confront complex issues created by

complicated systems with a goal of achieving change. Furthermore, meaningful collaboration across service sectors was enhanced by cross- and inter-sectoral training at the introduction of each pilot site in the four local communities.

The COY Project was designed to address case specific and system level challenges with one level interactively informing the other. Staffing was consistent with this two-tiered approach. There was a case conference facilitator(s) (CCF) at each site. Case conference facilitation was provided within the Youth Court and in the community. Protocols for conducting case conferences were developed for implementation by the CCF. Through advocacy, youth engagement and a commitment to the centering of the youth's voice, the CCF worked to ensure that the needs of the youth were being met and their rights upheld throughout community case planning and conferencing. A centralized resource coordinator (RC) supported the work at the four sites related to policy development and implementation. Systemic capacity-building brought attention to the role and mandate of the various service systems and providers. Protocols were developed and applied to promote coordinated, integrated service delivery. Included in the model design and implemented across each site was an evaluation component with the primary goal of ensuring the identification and development of innovative alternatives to existing policy and practice for dually involved youth. Similarly, each site formed a youth advisory capacity in which youth with lived experience advised the local steering committee and staff. These model components were designed specifically to contribute to the wellbeing of cross-over youth and safer communities, and to build capacity and confidence in the youth justice and care systems.

THE PILOT SITES

The decision to engage four sites was made to ensure that the COY Project would not be Toronto-centric and that a variety of community and court cultures would be captured. Each pilot site developed a service model unique to the characteristics of their specific jurisdiction. The intention was for the sites to develop consecutively, beginning with Toronto, then Belleville, then the western Ontario site, and finally the Thunder Bay site. Due to the commitment and funding resources of the provincial government, the Thunder Bay site was able to move forward earlier and longer than the COY Project had anticipated. The Toronto site, due to the complexity of the cases within a complicated, multi-sector service system, had a presence at the 311 Jarvis St. site for two years. Due to staffing challenges, the Belleville site also operated for two years.

Toronto was selected as a site partly because the Court at 311 Jarvis St. was comprised of two-hatter judges who preside in both child welfare and youth justice courts. This pilot project was essentially court-centric in nature and operation. Toronto was also chosen to capture the large city culture with its inherent problems of communication and coordination within sectors (see the COY Project: Toronto Site Report).

Belleville was selected because that community had the largest number of group homes, proportionate to population, of any city centre in the province. The recognition that group home policies and charging practices were a major issue in the lives of these vulnerable youth made Belleville an important pilot community (See the COY Project: Belleville Site Report).

Thunder Bay was prioritized as a pilot site because the vast majority of the young people in the criminal justice and child welfare systems are Indigenous. The culture of that community, with its continuing struggle to address anti-Native racism, focused the work of the project. Many youth coming into the justice system lived in remote Indigenous communities. The distance between the First Nation and Thunder Bay resulted in geographic isolation, which presented challenges to the youth, their community, and the service sectors with which they interfaced. This was also a rationale for selecting Thunder Bay as a pilot site (see the COY Project: Thunder Bay Site Report).

Brantford comprises Six Nations, the largest intact Indigenous community in Southern Ontario. Taking this into consideration, along with the desire and the commitment of the community, particularly the local child welfare agency, to be involved, Brantford was chosen as the final pilot site (see the COY Project: Brantford Site Report).

Peterborough and Brampton (Peel) approached the COY Project in 2016 and 2018 respectively, asking to be involved, but as independent sites that were community-operated. These sites remain spontaneous, unfunded sites inspired by the principles of the COY Project.

FACING THE UNEXPECTED

As indicated earlier, the service to be provided by the COY Project, according to the funded proposal, was case coordination and conferencing. This service provision in all sites, was to be short term (one year) and was created to potentially learn a range of preferred practices from the experiences of the Case Conference Facilitators (CCF), the youth themselves, and the service providers. Also, because of the nature of a pilot approach, new strategies for service provision could be attempted during the pilot period in an effort to influence outcomes. The

Resource Coordinator (RC) had oversight into the systemic implications of the lessons learned and translated these to all the sites when applicable. Due to the complexity of the cases within a complicated multi sector service systems, the COY Project had a presence for two years, compared to the proposed one year term, at three sites.

As the Toronto Project site evolved, notable, unanticipated patterns began to emerge. Attention was given by the team to explore these often-troubling circumstances, which could potentially generate poor outcomes for youth. In this respect, more consultation and study were required to better understand these patterns than was intended or proposed when designing the overall COY Project. Efforts were made to consolidate and analyze the case information beyond what was provided by the simple case management data base introduced in Toronto and at all sites. Some relevant trends were confirmed through empirical analysis of case related statistics, even though the sample size was small. It must be noted however, that the lived experience of the young people and the intense case involvement by the CCFs, generated very rich information for a deeper understanding and analysis. This gave unprecedented insight into the patterns related to service demands and limitations across youth justice and children's service sectors that impacted outcomes for cross-over youth and compelled action. Whenever possible and appropriate, case analysis and confirmation of trends was sought at the other sites. The Belleville site confirmed the patterns identified in Toronto and new patterns emerged as well at that site. Overall, as the COY Project evolved the patterns arising, the lessons learned, and protocols designed to address these patterns informed all sites as they moved forward.

Another unexpected feature of the COY Project was the resistance by frontline workers to collaborate or participate in a meaningful way with other stakeholders. At the local and provincial steering committees, senior agency officials who were the members of the committees were instrumental in moving the agenda forward regarding inter sectoral collaboration. It was perceived as necessary for policy change to improve outcomes for cross-over youth. Further exploration of this dilemma at the sites revealed that stakeholders identified themselves as overworked and underpaid. Sometimes, what might have appeared as a lack of buy-in was actually a lack of resources; often stakeholders did not have the time to provide the care needed by crossover clients. Indeed, case management and conference attendance are resource-intensive, and require efforts to coordinate busy schedules and adapt to a different style of decision-making, one that commands mutuality and collaboration. It is not surprising that CCFs invested in their relationships with workers to combat the resistance. At the case level, The COY Project noticed that change happened most successfully one relationship at a time. That is to say, case by case and worker by worker.

The relational approach was time-consuming but highly effective. It was characterized by trust, respect, reciprocity and mutuality (Wright, Spohn, Chenane & Juliano, 2017). It depended on a willingness to share information, resources, decision-making, responsibility, and accountability. This was witnessed at the case level with young people, service providers, stakeholders, and steering committees.

The primary intention of the COY Project was to set in motion mechanisms for meaningful collaboration across service sectors in all four sites, to better serve cross-over youth. Partnerships require taking risks, working differently, and the commitment of resources. This was exceptionally challenging at each site. Strategies were put in place to understand and disrupt the resistance and build supports to facilitate the involvement of those working most directly with cross-over youth. In those instances, where partnerships and meaningful collaboration were achieved, there was the consistent acknowledgement that this led to improved responsiveness and better outcomes for cross-over youth. Sustained efforts, however, were required at both the systemic level, through cross sectorial, community-driven steering committees, and at the case level, through case-conferencing.

Probably the most challenging and certainly an unexpected dynamic in the COY Project was the engagement collectively of cross-over youth in an advisory capacity. Two sites intensively engaged a select group of young people with lived experience, and two sites drew on a variety of community resources to provide youth advice as needed. The development of meaningful relationships between young people with lived experience and adult allies seemed to trigger the anger and hurt that led to irreparable conflict. These youth who crossed systems have histories of trauma and loss in their family backgrounds and necessarily act out this grief and pain, particularly when confronted with traumatizing systems that do not provide safe environments. Youth demonstrated their total lack of trust and overt animosity towards those representing these institutions, systems, or for that matter any kind of authority. They expressed their feelings of pain, frustration, betrayal, and powerlessness through provocation and aggression in order to regain control and feel safe in relationships that were approaching closeness or had what was perceived as ambiguity and a lack of clarity in expectations. They were simultaneously hyper-vigilant and hyper-critical of those around them. The role of adult ally in these circumstances was fraught with challenges. Allies were viewed as, on the one hand, not intrusive enough to provide the necessary guidance and scaffolding to keep them safe, and on the other, too intrusive, such that they intruded on the youths' need for an independent voice. Adult allies with cross-over youth need to be unconditionally supportive, trauma-informed in their practice, able to respectfully pace relationships with these youth, always anti-oppressive in their approach and interactions, and able to accept each young person for their unique abilities and perspectives. This was without a doubt the most powerful and unexpected dynamic in the COY Project experienced by all.

Finally, in proposing the COY Project to the funders, we included a diagram of 25 intersection points in which innovative alternatives could be offered to cross-over youth (see Appendix 1). In recently reviewing the 25 intersection points we found that indeed the COY Project had intervened in 24 of the 25. This was somewhat surprising because we had not set out to map, navigate or address the multiple points in a purposeful, intentional manner. Nonetheless, considerations for changes in practice have been identified or protocols put in place for all but number 15, Trial. When reflecting on the lack of attention afforded the Trial, the explanation provided was that all four pilot sites focused on youth who were on a resolution path in the criminal justice system. With the advice and support of their defence counsel, the youth engaged in conferencing with key supporters and decision makers, in each of the child welfare and criminal justice systems, to appreciate and realize the essential components of the youth's plan to be incorporated in sentencing. The COY Project did not engage with youth on the trial trajectory as they would not be able to discuss the initiating circumstance that brought the youth before the court. However, once found guilty, conferencing with key players became available to craft a sentence that recognized the three principles of the project: youth centred voice, trauma informed lens and anti-oppression focus. Retrospectively and moving forward, mapping all the intersectional points and identifying a range of potential points of connection for proactive collaboration, protocol and policy development and evaluation would be highly effective in disrupting the trajectory from care to custody.

Many other circumstances arose that challenged the provincial and local teams to constantly reevaluate the landscape surrounding cross-over youth and reconsider their role in perpetuating rigid institutional values and structures that encumber, indeed at times re-traumatize young people. These narratives are captured in the themes discussed herein. This report, *Navigating Quicksand*, represents a compilation of all the information, activities, discussions, and thoughtful analysis gathered from each of the sites. At times, repetition of some of the content may be evident to the reader. However, because of the length, the report was written in a manner that allows readers to focus on certain sections that were particularly relevant to them. In this regard, sections were written to “stand alone” for the convenience of the reader. So, although some of the content, sections, and passages appear redundant, this is purposeful.

THREE PILLARS OF PRACTICE

It was established early in the life of the inaugural sites that certain values and principles needed to guide the work of the COY Project. It was understood that the starting point to

successfully meeting the needs of young people involved within multiple systems, sectors, stakeholders and service providers, was to facilitate the provision of three essential pillars of care: youth-centering, anti-oppressive practice and trauma informed practice. When introducing these concepts, it is important to acknowledge that there exists a 3-way relationship between individuals, institutions and society. Staff function within institutions/agencies in ways they are expected to, and institutions function in ways that they are permitted to, based on larger societal norms and values. The relationships are also highly symbiotic, given that all three are interconnected. Therefore, any significant value shift requires change at all three levels. When the individual/staff develops an understanding of the structural factors that are at play, they can begin to more appropriately examine their own beliefs and perspectives that guide their practice. It's only then that they can identify and sustain strategies for implementing youth centered, anti-oppressive and trauma informed practices. For these reasons, it was appreciated, particularly as the COY Project matured, that these were very difficult principles to instill within not only entrenched institutional settings, but also forward-thinking community based agencies.

Youth Centering

Youth centering is based on the foundation that young people are the experts of their own lives. They should drive the decisions that impact them. Professionals and service providers who are youth centered will help facilitate voice and meaningful participation. A youth-centered process incorporates safety, supportive resources and capacity building to maximize the youth's agency. A prerequisite to a youth-centered approach is an understanding of anti-oppressive and trauma-informed practice. Professional experience is valuable but must not overwhelm or undermine the voice of the youth. Each youth's journey is unique with individualized ways of responding and coping.

Anti-Oppressive Practice

Grounded in the principles of anti-racism, inclusion and equity, anti-oppressive practice (AOP) seeks to rectify the disproportionate representation of racialized young people in the child welfare and youth criminal justice systems. AOP recognizes the intergenerational impact of institutional power-imbalances and seeks to end the institutional oppression of racialized young people by advocating for system wide policy change, challenging the status-quo, and mitigating power-imbalances at individual and systemic levels of practice. AOP requires stakeholders and service providers to acknowledge and rectify the ways in which they enable systemic racism and racial biases in their own work.

Trauma-Informed Practice

Cross-over youth are young people with significant trauma histories. Trauma-Informed care recognizes that young people involved in child welfare by definition have histories of trauma and neglect. Trauma informed practice rejects a behavioral approach to intervention and acknowledges the consequences of punitive approaches with youth dually involved in the child welfare and youth justice systems. A trauma-informed lens encompasses; (1) an understanding of trauma on the development of children and youth; (2) the need for youth to feel safe in order for trauma healing to begin; (3) the role of relationships which are imperative to establishing safety, and; (4) the responsibility of stakeholders to engage in processes of co-regulation when responding to the needs of cross-over youth.

EMERGENT THEMES

Case-conferencing at both the Toronto and the Belleville sites promoted an in-depth understanding of the lives of 48 dually involved young people. The Project's court-centric case conference model lent itself to a rich understanding of systemic issues and gaps in service provision, and aided in the development of best-practice model components and protocols. Forty-eight cases over a two-year period reinforced the value of this intensive work. An in-depth analysis of case-notes and discussions with the CCFs revealed patterns and trends, from which noteworthy themes emerged. Themes also emerged from the extensive time that the coordinator at the Thunder Bay site spent observing and documenting cross-over youth cases in the courts over a 10-month period of time. Finally, the coordinator in Brantford, in consultation with the local Steering Committee, identified themes relevant to cross-over youth in that community. Themes were also drawn from complex, interdisciplinary systemic work. The Project undertook a variety of mechanisms to dig deep into the systemic structures that impact the trajectory of cross-over youth. The steering committee meetings, subcommittees, one on one interviews with key stakeholders, youth advisory meetings, team meetings and case consultations all informed the generation of themes and their analysis. The themes varied across sites, but a number salient themes arose as follows:

- Theme One: **Trajectory from Family Home into the Youth Criminal Justice System**
- Theme Two: **Navigating the Justice System**
- Theme Three: **Indigenous Youth**
- Theme Four: **Black and Racialized Youth**
- Theme Five: **The Impact of a Lack of Youth Centering**

Before launching into a summary of each of the themes, it is important for the reader to understand a typical journey of cross-over youth who are navigating challenging family dynamics while negotiating relationships within a complicated system of service sectors, resources and service providers. In any given day, a cross-over youth could have contact with the police, a “CAS” worker, a child advocate, an OCL, a defence counsel, a duty counsel, a legal clinic, crown attorney, a justice of the peace, a judge, a probation officer, a teacher, independent group home staff, and a clinician. In navigating multiple systems, cross-over youth will encounter numerous individuals with a myriad of roles. These individuals will further impact the lives of cross-over youth; they could help steer them off the youth justice path, or be instrumental in facilitating a deeper penetration into that system.

THE JOURNEY

The starting point for this trajectory was within the family home. Parents of cross-over youth frequently had their own adverse histories of trauma, mental health concerns, domestic violence and enduring poverty that resulted in their limited capacity to parent effectively. The youth often experienced or witnessed trauma and violence within their family home which led to entrenched adaptive responses such as externalizing behaviors or relational difficulties. At the time of the initial involvement by CW, parents were overwhelmed and unable to manage. Early intervention with an array of culturally appropriate services and therapeutic supports for the parents and the youth that would wrap around the family and address the root causes of the family distress was required as a safety net to disturb the erosion of the familial relationships and the ultimate breakdown of the family. When this type of intervention was not introduced, the removal of the youth was ultimately the solution to ameliorate the parent/teen conflict. The youth was not only taken away from their parents, siblings and family home, but also the community, peer group, school and other critical supports. This was devastating for the young person. When the young person was then placed in group care, usually at a considerable distance from his home, group home staff were not equipped to deal with complexity of urgent needs presented by the youth at the time of admission. The young person was forced to navigate a world they were not familiar with. They often could not contain or regulate their feelings of betrayal, lack of worthiness, rage, powerlessness, hopelessness and fear. They were hyper vigilant and reenacted familial patterns of coping. Because the philosophy and practice of many group care settings is institutional in nature, compliance to structure and rules was paramount. If the youth’s volatility evidenced by their behaviors was not managed well, with sensitivity and from a trauma informed lens, behaviors would escalate, and charges would be laid. In most incidences, this was the very first charge that a youth had ever received. It was at

that moment that they entered the YJ system – from care to correction. This represented a further breach of trust, betrayal and lack of safety. At first entry into YJ, there is typically a bail hearing for the conditions for release. As CW does not offer surety, the youth is housed in detention. If there is no placement plan in place for the youth, they could languish in pre-trial detention until a plan is produced by CW and the defense counsel. The bail conditions for release are often not tailored to the specific needs of the youth such that compliance is challenging, and breaches of those conditions occurs. This results in further (administrative) charges and the youth penetrates deeper and deeper into the YJ system. Youth consistently breach the conditions because they are running from group care and to their home community and family. Rarely, do CW, YJ or residential care staff seek the advice, wishes or participation of the youth in decision making at any point in the journey from care to custody. Noteworthy, is that Black youth acquired more severe charges on average and once charged, Black young people spend more time in pre-trial detention as compared to both white and Indigenous youth.

TRAJECTORIES FROM FAMILY HOME INTO YOUTH CRIMINAL JUSTICE SYSTEM: THE CHILD WELFARE TO PRISON PIPELINE IN BELLEVILLE AND TORONTO SITES

Although all cross-over youth have experienced trauma, given the unique lives of each of the cross-over youth served through the Project's Toronto and Belleville sites, there is no one way to describe the trajectory of young people who become dually involved with the CW and YJ systems. The Project saw the majority of the youth served at both sites entering the CW system as older youth and due to parent/teen or parent/child conflict. The reason for child welfare involvement was not seen as a predictor of penetration into the youth justice system on the aggregate; however, readers are encouraged to review the Cross-over Youth Project's Toronto site and Belleville site reports for further reading specific to those sites.

Group care settings at both sites acted as a gateway into the YJ system by criminalizing the trauma of cross-over youth served by the Project. Healing is the restorative process of becoming healthy and whole. It is a central element in recovery from trauma. Cross-over youth need to be given the time, space, and chances to work on restoring and healing themselves. Across both sites, it was found that, regardless of a young person's reason for entry into care, while residing in out-of-home placement, operators framed the young person within the context of a community's safety concerns, rather than building upon their existing strengths through therapeutic, rehabilitative intervention. Both sites observed multiple placement breakdowns as a major indicator for a deeper penetration into the YJ system. Strict rules were imposed upon the young persons, resulting in the procurement of administrative

breaches, further charges, and placement instability. Often, young people received their very first charge in out-of-home care.

Placement instability ensured that cross-over youth remain involved with the YJ system, and the failure to acknowledge the impacts of multiple placement changes has severe implications on the quality of life that these young people are experiencing. The Project has come to identify the deplorable amount of placement changes that the young people served were subjected to. This is exacerbated for the racialized youth served by the Project, in which Indigenous young people were particularly mistreated by the excessive placement moves. Even further, these placements had a blatant disregard for cultural and racial differences, in which group care practices were heavily entrenched in colonial expectations and practices, thus ensuring that these young people felt isolated and othered within the predominantly white communities. These punitive practices are setting young people up to fail, as they find themselves with countless charges and no way out. As explored through the findings across both Project sites, young people are senselessly being charged for their expressions of trauma in out-of-home care settings.

It is the Project's hope that a focus on trauma will inform and educate those working with vulnerable cross-over youth. As a service-provider or stakeholder in the YJ or CW system, it is incumbent on participants to take responsibility in helping a youth to a place of stability that will allow them the opportunity to achieve their potential. Shifting thinking to a more trauma-informed approach hopefully encourages frontline staff, managers, supervisors, and decision-makers to examine their current practice and modify it with a view to fully incorporating a trauma-informed lens. The YJ system should employ strategies that are healing and rehabilitative, not re-traumatizing and counter-productive.

The Project recommends early intervention and proactive supports that foster a wraparound approach to help prevent young people from further penetrating CW and potentially crossing over to the YJ system. During instances in which young people are dually involved, the Project recommends restorative justice as a model to combat recidivism. Restorative justice must be culturally appropriate, conducted in partnership with the young person, and operated from strengths-based perspective. Group care practices, beginning with the transition from a colonized bureaucratic culture of punishment and criminalisation, to an anti-oppressive and trauma-informed perspective that reduces the use of police intervention and charging of young people, is necessary. The Project further recommends collaborative approaches between police and group care staff to ensure that young people are not unjustly charged and criminalized.

MOVEMENT THROUGH THE CRIMINAL JUSTICE SYSTEM

The justice sector is the sector which decides whether a CW youth will enter or remain in the youth justice system. As such it holds tremendous power over the future of youth in care: it is the system that decides whether youth “graduate” from care to youth justice and become cross-over youth.

The police are the point of first contact with wide discretion to charge youth or take no or more informal measures. The Crown Attorney (“Crown”) is the next decision maker with exclusive say in whether charges will proceed. Defence Counsel (“Defence”) play a critical role in trying to influence the Crown to withdraw charges or take a lenient approach, consistent with the needs of youth in care. Any one of these actors in the justice system could profoundly change the course of a youth in care’s life.

Keeping this in mind, the Project played particular attention to these members of the justice system and how they interacted with or served cross-over youth. The Project looked at whether the various decision makers or advocates communicated with each other effectively and whether they understood the complex, trauma-based needs of youth in care. The Project looked for clues as to whether keeping youth in care from becoming cross-over youth was on the radar for each of the police, Crowns and Defence. Further, was this part of their dialogue with each other and were they open to using services such as conferencing to ensure that the appropriate dialogue and problem solving occurred. The Project was concerned with whether there were their gaps in understanding, service delivery, communication or interaction that could be filled.

The Project analyzed the interplay between each of these justice sector actors as well as their interactions with youth coming from care into the world of youth justice. In doing so, the Project used various sources of information, including literature reviews, case shadowing and interviews and consultations with youth involved in the justice sector as well as stakeholders from each of the Police, Crown and Defense. Certain practices stood out-both positive and negative- that warranted exploration in the interests of better serving cross-over youth. The Project then proceeded to prepare the report on this sector to address what was learned, how it was learned and to provide its analysis and considerations. In the end, the Project has offered considerations to improve the quality of interaction with the sector and to help keep youth out of or reduce the amount of time youth spend in the justice system. The following discussion addresses these considerations.

Cross-over youth present the youth justice and child welfare systems with a significant challenge. The cross-sectoral conferencing model usually offers an alternative to custody in cases otherwise not eligible for non-custodial dispositions. There is tremendous benefit to both the system and the youth to attempt this holistic and rehabilitative approach, especially since there is no evidence that custody works as a rehabilitative tool for youth with histories of trauma. Counsel representing these vulnerable youth ought to be reassured with privacy commitments, educated and properly funded to support their clients to participate in, and benefit from, the conference model.

The report on the Justice sector found that the culture within each component of the system contributed to increased involvement of CW youth in the justice system. Despite specific statutory direction, police and Crowns were reluctant to use discretion to divert matters away from the justice system when youth engaged in reactive or ongoing behaviours, which were often linked to trauma. Discretion was most likely to be exercised on “first” time “offenders”. Police had difficulty shifting from the “safety” mentality to a more trauma-informed approach. Crowns who were more senior were more likely to have the confidence and understanding to give youth consecutive “chances”, recognizing the complexity of their underlying needs. Defence counsel who had knowledge of the child welfare system or a mentor within that system, could advocate more effectively for their clients. Crown and Defence who could arrive at a point of mutual trust within an adversarial system, based on built in protections and who engaged in conferencing, saw its benefits in terms of holistic, front end planning for youth. Problems consistently arose with respect to standard, restrictive bail conditions that set up youth --who react based on trauma-- to re-offend, leading to further entrenchment in the system. Lack of appropriate placements influenced decisions by Crown to vary bail and decisions by Defence to seek bail-contrary to the YCJA which prohibits the use of detention as an alternative to child welfare. This and related factors contributed to youth spending unnecessary time in pre-trial detention, an environment which is counter-intuitive and without any proven benefit for youth living with trauma. Regional differences and the lack of province wide directives supporting a less-restrictive approach contributed to inequities in the system, particularly for racialized and Indigenous youth.

The above noted negative practices led to increased vulnerability of CW youth and further, unnecessary entrenchment into the justice system. The positive practices such as conferencing and cross-sectoral knowledge with appropriate safeguards helped break down some of the existing silos and gained some traction with some Crowns and Defence.

In light of the COY Project's work relating to the justice sector, it offers the following considerations:

Police

- Provide Trauma Informed Training for all Police Officers
- Trained Mental Health Professionals should accompany officers responding to situations involving cross-over youth
- Implement Increased Use of Pre-Charge Diversion or No Further Action
- Provide Explicit Written Directives to encourage increased use of pre-charge diversion or no further action.

Crown

- Provide Training in Trauma-Informed Practice for Crown Attorneys
- Increase the use of Diversion Programs
- Increase the use of Cross-Sectoral Conferencing
- Revise Centralized Crown Policy and Procedure Accordingly to support and direct the above

Bail

- Adopt across the system of the principles in R.v. Antic, which mandate the least restrictive forms of release and conditions at all stages of the process-police release, justice of the peace and judicial bails.
- Make use of the provisions of the Criminal Code and the YCJA that mandate consideration of non-criminalizing approaches, including for breaches of bail conditions. Consistent with this, provide clear directives that lack of placement options should not lead to failure to hold bail hearings.
- Streamline the process to favour more global bails and the transfer of charges between jurisdictions for global resolutions.
- Review and revise standard bail conditions to reflect the above principles

Pre-Trial Detention.

- Put an end to the use of Pre-Trial Detention for cross-over youth
- All decision makers should implement the above as a matter of best practice and follow up with amendments to the Criminal Code and the YCJA.
- Until these recommendations are implemented, provide clear directives that lack of placement options should never lead to time in pre-trial detention.

Defence Counsel

- Provide specialized training for YCJA counsel including in relation to trauma-based awareness, child welfare systems and YCJA principles as distinct from adult criminal justice principles. Provide YCJA counsel with CW counsel mentors with knowledge of the child welfare system and vice versa.
- Encourage the use of “two hatter” counsel who have undertaken the requisite training in both CW and YCJA.
- Provide funding for Case Conferencing for cross-over youth

INDIGENOUS YOUTH

The YCJA explicitly acknowledges the special status of Indigenous youth in response to their overrepresentation in the justice system and recognition of the state's contributory role. Canadian research also confirms that Indigenous young people are also overrepresented in the child welfare system. Critical to the discussion of Indigenous overrepresentation in the YJ and CW systems is the context of the tragic, multi-century history of colonialism and its negative impact on Indigenous families and communities. The process of colonization is one that has and continues to impact the lives of Indigenous people and youth. For example, rather than working proactively to remedy the impact of residential schools, Indigenous youth are still removed by child welfare authorities from their families, their communities, and their land, language and culture and placed in residential settings in urban areas not attuned to their circumstances, culture or needs. They are then criminalized and punished for any normative behavioral deviations caused by this attachment rupture and dislocation. This is exemplified by the Indigenous cross-over youth's experiences in Thunder Bay, who were removed from their home communities in the far north and sent to areas in Southern Ontario like London and Belleville to live in group care settings in majority

white communities. They are unable to speak their own language because no one would understand them, and it is difficult for them to maintain cultural ties as they cannot partake in traditional rites and ceremonies. In effect, Indigenous youth are still currently removed from their home communities and sent to residential schools in the south, only now they are smaller and even more hidden from society.

The lack of northern investment drives some well-meaning stakeholders to search for a southern solution to the acute crisis facing the youth they serve. Both the Belleville and Thunder Bay Steering Committees report that a disproportionate number of northwestern Ontario Indigenous youth are being sent to southern Ontario for treatment that is unavailable in the North. They relocated to southern Ontario as there are no medium to long term crisis beds for youth. The financial cost for these residential placement resources is extraordinary. This short-term solution is diverting much-needed resources from the home communities of the vulnerable youth. This strategy ensures that it is not possible to get ahead of the problem. Worse still, many of the resources are being expended on counterproductive approaches. This can be seen plainly by the resulting criminal charges and incarceration of the Indigenous youth with whom the COY Project engaged. This well-recognized trajectory is occurring despite the strong advocacy efforts by Indigenous communities, leaders and service providers for enhanced investment, resources and equal treatment.

The COY Project demonstrated that youth justice conferencing is an effective alternative to reduce juvenile detention and divert Indigenous young offenders away from the formal criminal justice system. The conferencing process allowed Indigenous youth to achieve otherwise unlikely results, such as returning to their home community or simply being able to speak with family on the phone. Most importantly, the conferencing process gave YJ stakeholders an alternative mechanism to custody. It is a first step in decolonizing the YJ system's approach to Indigenous youth.

The increased cross-sectoral communication between community stakeholders and local steering committees led to increased cross-sectoral collaboration on the issue of Indigenous youth being sent to the south from the far north. The collaboration and communication in and across communities was an overwhelming positive development which culminated in the proposal to convert under-utilized YJ facilities to mental health crisis beds by the Project's local Thunder Bay steering committee. It was in that forum that some stakeholders collaborated together for the first time in many years.

The COY Project paid attention to the lessons learned historically and began to take action collaboratively in support of Indigenous leaders, service providers, stakeholders, communities, families and youth to disrupt current practices that reactively repeat colonialism.

BLACK AND RACIALIZED YOUTH

The Black youth that the COY Project engaged with experienced overrepresentation and had a disproportionately harsh trajectory through the YJ system. At the COY Project's Toronto site, 57% of the youth the COY Project serviced identified as Black, while only 8% of Toronto's population identifies as Black. The demographic identity of the youth the Project serviced mirrored the findings of the overrepresentation of Black youth in the YJ system found in the literature. The Black youth that the Project engaged with experienced structural barriers and embedded systemic oppression. Stakeholders often lacked the AOP orientation needed to engage with the complex trauma of these young people, rooted in Anti-Black Racism and Colonialism. Too often stakeholders put no stock in supporting youth to remain connected to their communities through either placements or community-based programming. Further, the push back against case conferencing that the Project experienced in the many cases involving racialized youth, removed young people's voices from case planning and divorced their complex histories from the decision making process. As a result, both their placements and bail conditions would work to separate them from their families and communities, and burden them with unrealistic expectations, ultimately resulting in further charges and more time in pre-trial detention.

Furthermore, the COY Project found that Black cross-over youth served through the Toronto site faced larger pre-trial detention times on average as compared to white and Indigenous young people. It is suspected that this is a result of Black youth incurring more severe charges on average as compared to white and Indigenous cross-over youth served through the Toronto Site. Additionally, the COY Project uncovered evidence pointing to a trend that Black young people in the Toronto site were receiving more severe charges in out-of-home care and more administrative charges than white and Indigenous cross-over youth.

The findings of the Project fortify the need to devote substantial resources to the CW and YJ systems to ensure that AOP is embedded in all institutional culture. Front-line workers and organizations that engage with Black and racialized cross-over youth must implement Anti-Oppressive Principles that promote practices and policies that confront systemic barriers resulting from Anti-Black Racism and Colonialism that directly impact these young people's lives.

THE IMPACT OF A LACK OF YOUTH CENTERING

Positioning youth-centering within a Children's Rights framework contributes to an understanding of its significance both as a pillar of the COY Project and as a recommendation for best practice when supporting system-involved children and youth. For the COY Project, youth-centering as a model was grounded within the United Nations Convention on the Rights of the Child, and included youth-adult partnerships, peer mentorship, and the amplification of youth-voices through allyship and advocacy. Overarching each of these components is the concept of meaningful youth participation.

Partnerships between young people, youth-serving organization, and the adults who are employed within them that are grounded within a culture of allyship and advocacy are essential to upholding the rights of young people as equal participants in decision-making processes. For the COY Project, the most valuable lessons about youth-centering came from such partnerships.

To break the cycle for youth in the CW system, multiple service-providers must work collaboratively to ensure the centering of their youth voices. However, the Project found that youth-centering and meaningful youth participation was observed only in rare cases, and that those cases were largely dependent on a single empathetic stakeholder who valued this approach.

Youth advisory committees are an excellent platform for amplifying youth voices. However, further to the inclusion of young people as advisors to youth-serving organizations and programs, mechanisms need to be put in place at the front end of such initiatives, to ensure that young people are adequately equipped and feel adequately supported to fulfill these roles.

Because of their insight and unique capacity to form mentorship relationships with other cross-over youth grounded in trust and mutuality, it is essential that future programs and projects continue to partner with young people who hold lived experience. It is hoped that other organizations and programs can learn from the experiences of the COY Project as a pilot. Moving forward, the most important lesson would be the insurance that safeguards are put in place at the front-end of engagement with cross-over youth as partners. In order to accomplish the shared vision of better outcomes for cross-over youth, all efforts must be exhausted to continue strengthening the relationship between youth-serving organizations, adult allies, and cross-over young people as partners. These relationships are imperative to a better future for cross-over young people.

Summary

The best way to summarize the experience of those involved or working across the four COY Project sites is to list the significant lessons learned. It is through these teachings that conclusions and outcomes can be drawn by the reader. It is hoped that in so doing, a dialogue will be generated that will trigger meaningful change in policy and practice. The lessons learned are not mutually exclusive, nor are they listed in order of relevance. Individually and combined, they tell a story about dually involved, traumatized young people and those committed to supporting them as they make their way through a complicated maze of institutions. They are indeed navigating quicksand.

1. Effective intervention and support with cross-over youth cannot be managed by one single agency or service-provider, due to the intense needs of the young person and the complicated nature of the service system. When workers from multiple agencies who interface with cross-over youth do not collaborate when making decisions about these youth, the impact is far-reaching and detrimental in terms of youths' existing life circumstances and their trajectory forward. These young people "fall through the cracks". For this reason, open channels of communication and inter-agency coordination are recognized as the paramount prerequisites to disrupt pathways to poor outcomes for these young people. In those instances, in which partnerships and meaningful collaboration were achieved, particularly through case conferencing, there was consistent acknowledgement that this led to improved responsiveness and better outcomes for cross-over youth. The component of the project that was viewed uniformly across all sites as producing the most successful outcomes at the case and systemic levels was the opportunity for collaboration. However, it was this same COY Project expectation that faced the most resistance.
2. Cross-over youth do not represent a significant portion of the CW or YJ populations, but they absorb the most resources in their management. They uniformly have histories of trauma and loss in their family backgrounds, and necessarily act out this grief and pain, particularly when confronted with traumatizing systems that do not provide safe environments. The role of the adult ally in these circumstances is fraught with challenges, and requires the ally's ability to provide unconditional support, a trauma-informed lens, the respectful pacing of relationships, an anti-oppressive approach, and an acceptance of each young person for their unique abilities and perspectives. This was without a doubt the greatest lesson learned in the COY Project by all.

3. Patterns were identified that confirmed the nature of the trajectory for cross-over youth from their family home into the youth justice system. When a young person is exposed to trauma, they develop coping skills that are consistent with what they learn in their environment and are usually demonstrated through disruptive behaviours. In group care, these behavioural outbursts are often triggered either by staff engagement of youth in ways that represent a re-enactment of previous traumatic familial interactions, or by a need for the youth to combat overwhelming feelings that they experience when they are removed from their family home, community and peers. Frontline staff tend to lack the skills and knowledge to perceive these behaviours as expressions of pain, and respond with a behaviour-management rather than a trauma-informed lens. This approach emphasizes community safety over rehabilitation and the need for youth to conform to strict rules. This assertion of control by staff further exacerbates behavioural responses to trauma, typically resulting in the contacting of police. This precipitates the young person's involvement in the justice system, often for the first time. The trajectory is therefore confirmed. Whereas trauma may precipitate their behaviours, it is the ill equipped care system that propels these youth into the justice system. The cross over journey is therefore from family home generally for conflict with parents to group care where they revisit that conflict with staff who are perceived to be in a position of parental authority. This conflict triggers police involvement and entry into the youth justice system. Group care settings at both the Belleville and the Toronto sites therefore were criminalizing the behavior of youth that was in response to their traumatic histories and this acted as a gateway into the YJ system.
4. Placement instability ensured that cross-over youth remained involved within the YJ system, and the failure to acknowledge the impacts of multiple placement changes had severe implications on the youths' quality of life. The COY Project has come to identify the extraordinary number of placement changes to which the young people were subjected. Black and Indigenous cross-over youth served by the COY Project more frequently were subject to excessive placement moves. Even further, these placements had a blatant disregard for cultural and racial differences. Group care practices were heavily entrenched in mainstream expectations and practices, thus ensuring that the young people felt isolated within these predominantly white communities. Such punitive practices set young people up to fail, as they find themselves with countless charges and no way out

5. The COY Project saw the majority of the youth served at the Belleville and Toronto sites entering the CW system as older youth and due to parent/teen or parent/child conflict. The reason for child welfare involvement was not seen as a predictor of deeper penetration into the youth justice system on the aggregate. Nonetheless, early intervention and proactive supports that foster a wraparound approach are required to help prevent young people from entering CW and potentially crossing over to the YJ system.
6. One of the most compelling patterns identified in the COY Project wasn't only the overrepresentation of racialized young people dually involved in the child welfare and the youth justice system, but the harsher treatment experienced by these youth, particularly the Black youth, when they crossed into the youth justice system. For example, the COY Project found that Black young people were most likely to receive their first charge in group care (as compared to white youth). Findings also point to Black young people receiving the most charges, as well as the most severe charges in group care, compared to their non-racialized peers. Black cross-over youth also face, on average, the greatest number of administrative charges, typically breaches of bail or police conditions related to charges that they had accumulated in their time in group care, such as running away, missing curfew, or conversing with a co-accused. This pattern of over-criminalizing the behavior of Black cross-over youth is striking. These youth acquired more severe charges on average, as compared to both white and Indigenous youth. Once charged, Black cross-over youth spent on average more time in pre-trial detention than their white peers. Pre-trial detention is often used a social measure to contain youth, when a plan cannot be provided by the child welfare agency (guardian) to keep the young person safe. It is evident that there are specific patterns of practice that are employed when dealing with Black cross-over youth that are embedded in beliefs and practices of anti-Black racism. These practices target and treat Black youth more harshly in institutional and community settings that are intended to protect, care for, and rehabilitate youth.
7. Over the course of the COY Project's involvement at the Belleville and Thunder Bay sites, a pattern emerged. There were many Indigenous youth from remote, northern Ontario First Nations being placed in residential care programs in Belleville (Hastings and Prince Edward counties). This issue was a primary concern of both the Belleville and Thunder Bay local steering committees. The COY Project also engaged Indigenous young persons and other stakeholders with a particular connection to this issue to solicit their experience and perspective. The issue of repatriating youth back to their

home community became a major focus of the two sites. Another concern in Thunder Bay was that, while the overall number of youth in custody is significantly lower due to the introduction of the YCJA, almost all the youth in custody are Indigenous. Youth justice staff report that, in closed and open custody, there has not been a non-Indigenous youth in over a decade. Entry into the youth justice system for these youth is often a result of a history of trauma and loss. These two phenomena are troubling realities for Indigenous youth. These young people are being disconnected from their communities, families, peers, Elders, land, language, and culture while experiencing complex and historical trauma. Residential schools are spoken of as a historical injustice; however, the practices of removing youth from their First Nation, as is currently happening, are functionally analogous, as is the trauma they cause.

8. Cross-over youth experience significant periods of pre-trial custody and/or detention. Typically, defence counsel make a strategic choice not to attempt a bail hearing when there appears to be an inadequate plan, or none at all, available if the youth is released to the community. This is largely due to a lack of consistent inter-agency communication, particularly between CW and YJ systems and the lawyers representing these young people. When both sectors were involved with a young person, there was a reluctance to take responsibility for case management, and each deferred to the other. These bureaucratic struggles and conflicting goals and mandates often put the youth at risk of entering detention and being unduly incarcerated for extended periods of time. This was noted in every site report. There is much more pressure on the youth while they are in custody, and they are apt to be more amenable to speeding up the process just to get it over with in order to get released out in the community. For these reasons, the youth are not being given the full opportunity to challenge their charges and exercise their rights. In some instances, youth remained in detention because they refused to go to a group home setting that was far away from their community, family, or peers. Therefore, despite the court's insistence that these detentions complied with section 29 of the YCJA, which prohibits youth from being detained as a substitute for appropriate child protection, mental health, or other social measures, that was not the case.
9. Cross-over youth are subjected to onerous, trivial, and vague bail conditions. The majority of charges faced by these youth were administrative and related to a failure to comply to bail conditions. Bail conditions are intended to reduce the risk of the young person re-offending while in the community; however, the COY Project, in alignment with previous research, observed that these conditions further exacerbated

the chance of recidivism. Administrative charges are easier to accumulate, because they are related to non-criminal behaviour, such as a failure to comply with a curfew order or failure to reside in a place of residence as approved by CW. It was usually foreseeable which conditions would be most problematic before the youth was released, especially when the stakeholders were failing to address the original, underlying reasons for the cross-over youth's judicial involvement. An additional serious concern was that the administrative charges made the youth disenchanted with the system. Instead of promoting their reintegration into society, these charges pushed the youth to feel that the system was unfair and they could never 'win'. This pushed them deeper into the YJ system, including incurring adult charges.

10. Police are one of the most important intersection points in the trajectory of a cross-over youth through the youth criminal justice system. Police are the primary responders to conflict, and the decisions they make set in motion a cascade of consequences. The use of police discretion is critical to circumventing many of the negative outcomes cross-over youth experience in the YJ system. At the moment, incentives to charge still outweigh incentives to engage in proactive, relational policing. Police officers often expressed to the COY Project that they felt comfortable exercising their discretion not to charge or let a youth off with a caution, if they were able to locate a parent who would reasonably discipline the youth. They felt that releasing a cross-over youth to group care staff was not analogous. In speaking with the group care operators and staff, they indicated that they felt bound by the CW policy that required them to call the police. They felt that they would be held liable if they did not report a 'missing' youth immediately. Police expressed frustration with this policy, and acknowledged the ethical dilemma they faced. Nonetheless, they almost always charged the youth when they were called to respond, because they felt bound to enforce orders from judicial officers and that they had no discretion to exercise leniency. Greater communication and inter-sectoral collaboration instilled an understanding of the context and the systemic challenges faced by youth from the CW system. Increasingly, police officers were choosing to exercise their discretion through a myriad of non-charge options. During the time the COY Project was operating across the pilot sites, it observed an introduction or the expansion of pre-charge diversion programs (sometimes in response to cross-sectoral communication through the local steering committees).

11. Across sites, young people were most engaged in case conferences when a peer mentor was present. The COY Project observed that the relationship with the peer mentor served as a safe-guard for cross-over youth, and aided in their full participation in the conference. The youth mentor would also pass along their institutional knowledge about the system. If the youth were placed at a group home or in custody, the youth mentor would ensure that the youth knew what that would entail. They made sure that the youth knew what the day-to-day would be like, and what was expected of them. The COY Project demonstrated that the youth-mentoring program was most effective in a voice amplifying, advocacy role. The youth were more honest with the mentor. The similarity in background was key to ensuring that trust was developed. Peer mentorship also provided opportunities for young people with lived experience to participate in Youth Advisory Committee meetings. It was within this space that youth felt they were active participants, rather than “a vulnerable youth”. Because of their insight and unique capacity to form mentor relationships with other cross-over youth grounded in trust and mutuality, it is essential that future programs and projects continue to partner with young people who hold lived experience. Peer-mentoring was a vehicle to ensure the centering of youth voice and participation, and gave hope to cross-over youth.
12. Youth participants in the COY Project were identified through referrals from existing court personnel and stakeholders, including judges, Crowns, Children’s Aid Society (CAS) workers, lawyers, and other service-providers, and the majority of these referrals were the outcome of the continual presence of the COY Project in the courthouse. Despite several successes in this regard, the implementation of a permanent and formal cross-over youth identification and referral process remained a challenge for the COY Project at all sites.

Preface

The Cross-over Youth Project provincially evolved over a period of a decade through many conversations among service professionals in courthouses, in classrooms, at agency meetings, at conferences, in boardrooms, during informal gatherings, or across tables. Everyone clearly understood the devastating outcomes for youth in care who became involved in the criminal justice system. The systems within which they worked, however, seemed too complex and intransigent, which made solutions difficult to discover. When we called together colleagues in the four different sites across the province, both from the youth justice and the children's service sectors, the response was inspiring. Everyone came to the table ready to focus on solutions. There were 10 service sectors represented at each table and at no time did there appear to be divisions, tensions, or disagreement. Steering Committees were formed at each of the Toronto, Belleville, Thunder Bay and Brantford sites and at that point there was steady and uniform commitment to think “outside of the box” in order to create new fundamental change through innovation on behalf of these youth. There was dedication and courage to take risks within and across multiple sectors. Literally hundreds of stakeholders, young people, and their networks were engaged in the Cross-over Youth Pilot Project across the province, and it was through their commitment to collaboration that community-based solutions emerged. There was a team of staff, guided by the Steering Committees at each site and provincially, which worked tirelessly and with passion to seek out resolutions at the case and the policy levels.

This report, *Navigating Quicksand*, represents a compilation of all the information, activities, discussions, and thoughtful analysis gathered from each of the sites. The conclusions in the report are drawn not only from the 50 youth the Project engaged in intensive casework with but also from four years of complex, interdisciplinary systemic work. The Project undertook a variety of mechanisms to dig deep into the systemic structures that impact the trajectory of cross-over youth. The steering committee meetings, subcommittees, professional development events, one on one interviews, youth advisory meetings, youth workshops, case consultations, attending and organizing community events and interactions with decisions makers all informed the observations, analysis and considerations contained in this report.

In creating, proposing, operationalizing and evaluating the COY Project, we strived to maximize the principles of collaboration and partnership. To signal to all the multiple stakeholders and partners that we are honoring that perspective, we did not presume to make recommendations. We simply identified approaches or remedies for the reader to consider. We also identified the lessons we had learned across sites with the hope that these

lessons would resonate with the reader as well. In moving forward, each community may feel compelled to explore alternative approaches with cross-over youth given the weight and meaning attached to each lesson. This will necessitate policy and practice changes some of which are already in place.

At times, repetition of some of the content may be evident to the reader. However, because of the length, the report was written in a manner that allowed readers to focus on certain sections that were particularly relevant to them. In this regard, sections were written to “stand alone” for the convenience of the reader. So, although some of the content, sections, and passages appear redundant, this is purposeful.

We are thankful and deeply moved by the contributions made, the challenges articulated, and the work invested to effectively influence systems in order to better the lives of these young people. We are confident that acting on the considerations for change outlined herein will validate the intention of this work and generate a roadmap that is healing for the young people and regenerative for the services that were constructed to support them.

History

In 2012, Dr. Judy Finlay and Justice Brian Scully initiated the Cross-over Youth Project. The collaboration began when Justice Scully asked Dr. Finlay, formerly Ontario’s Child Advocate, to address the issue of cross-over youth on a panel that he was chairing at a Family Law Conference of the Ontario Court of Justice in January of that year. Judges of the Ontario Court of Justice, particularly those who presided in both child welfare and youth justice jurisdictions, had for a number of years been trying to address the unique vulnerability of youth enmeshed in both systems. The child welfare and youth criminal justice sectors were operating in silos, and these young people were being handed off from the child welfare system to the youth criminal justice system. The intent was to formulate a process within the court that would help to identify and plan for these particularly vulnerable young people. Following the panel presentation, Dr. Finlay invited Justice Scully to co-chair a province-wide review to find better outcomes for these young people.

An invitation was sent out to all the sectors that intersected with these young people, including relevant representatives of the provincial government, child welfare agencies, probation, Office of the Children’s Lawyer, Office of the Child Advocate, parents’ counsel, crown counsel, defense counsel, police, residential care, children’s mental health and education. Approximately 25 stakeholders attended the first meeting in October 2013.

The Ontario Court Chief Justice endorsed the initiative and Ryerson University offered administrative support.

On the basis of the commitment from all sectors at that meeting, a Provincial Steering Committee was formed. Between October 2014 and March 2015, a series of forums, including 18 focus groups, two round-table discussions, 42 dialogues with key informants, one panel discussions, three surveys, and two training sessions took place. The original plan was to focus on the service providers in the greater Toronto area (GTA). Early in the project, however, it became evident that the local Toronto child welfare agencies indeed place their youth in care in residential placements outside the city. Therefore, some interviews/forums in other sites, such as Hamilton, London, Belleville, Durham, Brampton, Chatham, Sudbury, Thunder Bay and Ottawa, took place. The goals from the outset for each of the forums were: 1) to gather information about the roles of the various stakeholders and participants in the lives of cross-over kids; 2) to develop a forward-looking set of recommendations to intervene in the patterns related to the cross-over trajectory; and 3) inform/educate the relevant service sectors about the unique issues related to cross-over youth.

The collation of the information gathered resulted in 10 key themes, which were ranked according to the frequency of citation within and across sectors. They are as follows:

1. Mechanisms to ensure better communication and collaboration across service sectors.
2. Joint opportunities for cross-sectoral training for stakeholders who impact the lives of cross-over youth.
3. The expectation of reasonable bail conditions to which youth are able to abide.
4. The shift in policy and practice that allows for consistency in child welfare workers so that they can advocate effectively for cross-over youth in their care.
5. The availability of (two-hatter) judges, counsel, children's lawyers, and crown attorneys who are knowledgeable of both youth justice and child welfare.
6. Guidelines for charging practices in group homes.
7. The provision of specialized court workers who can provide meaningful information to the court about the needs of cross-over youth.

8. The provision of “Mentors” for youth who will stand by them, navigate through the system with them, and negotiate resources and services on their behalf.
9. The development of alternatives to group care, such as treatment foster care or programs geared to independent living.
10. The accessibility to education plans that are integrated into the youth’s overall plan of care that would build on successes and are respectful of the unique needs of cross-over youth.

Based on these 10 themes or priorities, with guidance from members of the Provincial Steering Committee, a funding proposal to Justice Canada for four pilot projects was crafted. The following are the model components that shaped the COY Pilot Project.

Model Design

The model components developed in consultation with the Provincial Steering Committee were based on these 10 key themes. The predominant issue noted by all sectors in the needs assessment was the tendency for service providers to work in silos, which sometimes resulted in contradictory plans being brought forward by each sector. To address this issue, the committee highlighted the pressing need to develop solutions that would promote cross-sectoral collaboration in the child welfare and youth criminal justice systems. To this end, the components of the COY Pilot Project were all geared towards sustainable community development. For example, the Provincial Steering Committee represents the first step in developing sustainability. There are 10 service sectors represented at the table. There was a unilateral commitment to confront complex issues created by complicated systems with a goal of achieving change. The strength of this unique group is the partnerships launched among peers. The experience of the committee formed a springboard to model development in the four pilot sites. Each of the four sites was expected to form a local multi-sectoral steering committee whose members had decision-making authority with their agency and represented the unique culture of their community.

Meaningful collaboration across service sectors was enhanced by cross- and inter-sectoral training. An inter-sectoral training and partnership development event took place at each site at the beginning of each pilot project. All service sectors were invited to bring a range of frontline and supervisory staff to the day-long training. Cross-sector roundtables encouraged discussion about each other’s mandate, role, and perspective. This was the beginning of the partnership development that was enduring.

The ten foundational themes were both case- and system-specific, and one informed the other. Staffing was consistent with this two-tiered approach. There was a case conference facilitator(s) (CCF) at each site. Case conference facilitation was provided within the Youth Court and in the community. Protocols for conducting case conferences were developed for implementation by the CCF, the Judge, or a professional from the youth's community. Follow up to the recommendations from the conference took place to ensure continuity in service provision. The CCF worked closely with the youth. Through advocacy, youth engagement, youth mentoring, and a commitment to the centering of the youth's voice at all times, the CCF worked to ensure that the needs of the youth were being met and their rights upheld.

A centralized resource coordinator (RC) supported the work at the four sites related to policy development and implementation. Systemic capacity-building brought attention to the role and mandate of the various systems. It provided education about appropriate interventions and strategies, and offered case-related advice and problem-solving. This was offered in each site to local participants so that they acquired the skill-sets needed to sustain the model that had been developed locally through the Pilot process.

Evaluation took place with the primary goal of ensuring the identification and development of innovative alternatives that could be applied in the four sites and throughout the Province. Two sites had independent evaluations conducted by academics from Ryerson University, and in two sites the evaluation was undertaken by the provincial team.

Each site was expected to form a youth advisory capacity in which youth with lived experience advised the local steering committee and staff about policy and practice. Two sites expanded this capacity by successfully introducing a peer mentorship program.

Finally, from the outset, each site was to consider a model that could be sustained past the four-year period of funding.

All of these components contributed to the wellbeing of vulnerable youth and safer communities, and built capacity and confidence in the youth justice system.

The Pilot Sites

The decision to engage four sites was made to ensure that the project would not be Toronto-centric and that a variety of community and court cultures would be captured. The intention was for the sites to develop consecutively, beginning with Toronto, then Belleville, then the western Ontario site, and finally the Thunder Bay site. The provincial Ministry of Child and Youth Services prior to the implementation of the COY Pilot Project offered to work with its federal counterpart collaboratively, and funded the Thunder Bay site, which was able to move forward earlier and longer than the COY Project had anticipated. The Toronto site, due to the complexity of the cases within a complicated, multi-sector service system, had a presence at the 311 Jarvis St. site for two years. Due to staffing challenges, the Belleville site also operated for two years.

TORONTO

Toronto was selected as a site partly because the Court at 311 Jarvis St. comprises two-hatter judges who preside in both child welfare and youth justice courts. For a number of years, the judges had been trying to address the lack of coordination and communication in cross-over youths' lives by bringing the systems together, when youth enmeshed in both jurisdictions were identified. This pilot project was essentially court-centric in nature and operation. Toronto was also chosen to capture the large city culture with its inherent problems of communication and coordination within sectors comprising people set in their ways as related to dealing with these issues.

BELLEVILLE

Belleville was selected because that community may have the largest number of group homes, proportionate to population, of any city center in the province. The recognition that group home policies and charging practices were a major issue in the lives of these vulnerable youth made Belleville, with more than 80 group homes in its jurisdiction, an important pilot community.

THUNDER BAY

Thunder Bay was prioritized as a pilot site because the vast majority of the young people in the criminal justice and child welfare systems are Indigenous. The culture of that community, with its continuing struggle to address racism against Indigenous persons, focused the work

of the project within the community to address the challenges presented by racism. Many youth coming into the justice system lived in remote Indigenous communities. The distance between the First Nation and Thunder Bay resulted in geographic isolation, which presented challenges to the youth, their community, and the service sectors with which they interfaced. This was also a rationale for selecting Thunder Bay as a pilot site.

THE WESTERN ONTARIO SITE: BRANTFORD

Originally, Milton was going to be the fourth pilot site, as there were two-hatter judges sitting in the courts doing similar work to the judges in Toronto. Milton is a smaller, farm-based community, so engaging with that population would have provided cultural variety to the Cross-over Youth Project. However, the two-hatter judges that were going to be involved were moved to different jurisdictions, and a decision was made to eliminate two-hatter judges in Milton. With these changes, it was decided that Milton was no longer an option. Chatham-Kent became the next site to be considered. However, upon consultation with the judges in that jurisdiction, and learning of the limited number of young people and group homes in that community that would be merit a pilot study, Chatham-Kent, too, was removed from consideration. Brantford then came forward, seeking help to organize a presentation in their community. Brantford comprises Six Nations, the largest intact Indigenous community in Southern Ontario. Taking this into consideration, along with the desire and the commitment of the community, particularly the local child welfare agency, to be involved, Brantford was chosen as the final pilot site.

Full funding for the COY Pilot Project as proposed by Ryerson University in consultation with the Provincial Steering Committee was received in September 2015 with a completion date of July 2019. The contributions of the members of each of the Steering Committees, but in particular the provincial committee, was outstanding. Each member outlined their proposed contribution for the four-year period, a dollar amount was attached to these contributions, and it was over double the amount of the proposed budget. This spoke volumes to the dedication and commitment of the community partners to the COY Pilot Project.

After funding was in place and the sites began to establish their Steering Committees and develop plans to operationalize their goals, two communities approached the Chairs of the Provincial Steering Committee for consultation regarding the evolution of their own independent sites.

Peterborough approached the COY Project in 2016, asking to be involved, but as an independent site that was community-operated. Support was provided with the sharing of protocols and information. The Co-Chairs presented twice to the community, and were inspired by the interest and commitment generated. Peterborough provided a unique perspective. It is a Unified Family Court jurisdiction with all family and child welfare adjudication being processed by the Superior Court of Justice, a factor requiring different procedures for sharing information with the youth court situated in the Ontario Court of Justice. Recognizing the value of focusing on these vulnerable youth, Peterborough determined to implement the project without financial support from our project.

Brampton (Peel) was the second spontaneous, unfunded site inspired by the principles of the COY Pilot Project. The community had a strong sense of engagement. In October 2018, the Brampton Steering Committee hosted a cross-over youth event in their jurisdiction that was attended by hundreds of local stakeholders. The local Brampton committee is active and well-represented. They are currently working on an information-gathering process to determine the needs and unique characteristics of the cross-over issues in their community. The COY Pilot Project placed two child and youth care graduate students at the courthouse to observe the court process and conduct stakeholder interviews to collate local insights. The Brampton site is actively working on implementing a conferencing system that brings together YJ and CW proceedings in the spirit of the Project's initiative. The committee is also looking to secure funding for a more formal intervention. The site is particularly interesting due to the sheer volume of youth matters that the court handles. Brampton is the largest single court in Ontario, and is designated a 'mega' court by the Ministry of the Attorney General. It provides a window into the future of the court being built in Toronto.

As the work progressed at the Toronto site, sub-committees of the Provincial Steering Committee were formed to address some of the critical issues emerging from the case work undertaken by the CCFs. The RC identified the need to provide remedies where possible in the form of protocols. These protocols were then adapted when appropriate and relevant at the other sites.

Sub-Committees of the Provincial Steering Committee

A legal sub-committee was formed, comprising lawyers from the criminal justice system and the child welfare system. A child welfare sub-committee of lawyers from the child welfare agencies and workers from the child welfare system was also established. These committees were necessary to develop protocols within each silo, and to allow for an understanding of

the basics and issues of confidentiality in each system. Each member of these committees came to the table willing to learn about and understand each system so that they could then begin to communicate with each other and their colleagues. The core principles of the project—youth-centered voice, anti-oppression and trauma-informed lens—informed all discussion.

LEGAL SUB-COMMITTEE

The legal sub-committee was successful in addressing issues pertaining to bail and group home charging practices. They examined the particular vulnerabilities presented by cross-over youth in detention. Protocols were created that advocated for changes in youth bail and probation orders. Specifically, requests were made for exceptions to be noted in a young person's bail or probation order in areas such as no contact and non-association pertaining to residence and counselling. With the support of the Office of the Chief Justice, these changes were implemented by the Office of the Attorney General.

With the realization of these changes, members of the sub-committee have twice been invited to teach new Justices of the Peace on issues pertaining to the Youth Criminal Justice Act, and also to address the Provincial Crown Education Conference. Education opportunities for criminal defense counsel, parents' counsel, and lawyers in the Office of the Children's Lawyer are underway. Counsel with the child welfare agencies are also committed to instructing and educating their workers so that each sector is aware that bail and probation conditions are not automatic and exceptions may be sought.

CHILD WELFARE SUBCOMMITTEE

The COY Pilot Project noticed early on, during courtroom observations, a discrepancy between the advocacy of parents and that of professional legal guardians. Despite being well-versed in child protection law, CW professionals and layman parents often have scant knowledge of how the criminal justice process works. The uncertainty of parents is overcome by a natural desire to protect their children, whereas the professionals observed politely and only interjected when called upon. The COY Project constituted a committee of CW professionals and representatives from other relevant CW agencies. The purpose of the committee was to develop strategies to address this discrepancy, as there were noticeable variations in outcomes for CW youth. The committee's strategy for addressing the reticence of professionals to advocate was to increase their knowledge of the YJ system. The committee set to work on a compendium of knowledge and best practices for the YJ system written

in plain language. The guide provides a model for working with cross-over youth. The dual purpose of the guide was to develop a model for use, specifically in regions where the COY Project was operating, as well as to provide general information applicable to all CW workers. The intent was to provide an understanding of issues and practice specific to cross-over youth, to promote the comfort of CW workers with the YJ system, and to support the best possible outcomes for cross-over youth. CW workers are required to understand multiple systems related to youth in care, and to assist in translating that information to their youth. The information in the guide is based on research as well as the experiences and observations of the COY Project, including the members of the sub-committee, the steering committees, and the youth advisory committees at each site that provided feedback and shared their experiences.

Lessons learned at the initial Toronto pilot informed the sites that followed. Protocols and experience were shared, not as a way to suggest how they operate the sites, but to help generate ideas on how to address the issues unique to each community. Each pilot was chosen for its particular culture, which meant that it was the job of each site to find what best suited its community.

Evolution of Project Structure and Service Delivery

The core members of the staffing team were located in Toronto, with two CCFs, a RC, a Youth Engagement Facilitator (YEF), a Director (for short periods of time), and a part-time administrator. The Principal Investigator (Ryerson University) and Co-Chair of the Steering Committee was ultimately responsible for the management of the COY Project and the administration of funds. The Judicial Lead and other Co-Chair shared in this responsibility.

From the beginning, funds were divested directly to the Thunder Bay site to manage the delegated funds and personnel. This was largely due to geographic distance. The core team at Ryerson University consulted with and advised the local Steering Committee, their Co-Chairs, and the one staff member who coordinated activity at that site. Challenges arose in managing the operations in Belleville from Toronto. The Co-Chairs were informed by the experience of the Thunder Bay pilot site and the manner in which that site managed divestment. With the endorsement and support of the Provincial and local Steering Committees, Belleville and Brantford were allocated their share of the funding to organize and manage the resources in their respective communities. Many of the individuals working with vulnerable youth in these smaller centers knew each other already, and were able to work together as a team to marshal the resources in their communities. This model was effective and met with considerable success.

The Toronto and Belleville sites operated similarly in that they were both court-centric and case-driven. Both sites had CCFs who had a wealth of experience in their respective careers in the child welfare field. They knew and understood the local community and the challenges of working with intransigent service providers in a complex, multi-sectors service delivery system. Each was motivated to rise above the tensions that arose when they attempted to instill responsibility and accountability with the key players in the lives of the young people. They were each determined to offer each young person an opportunity to have a voice and meaningful participation in decisions being made that would impact their lives. They were strong advocates for the youth, and propelled that passion to create systemic remedies at the local committee meetings. They also facilitated the use of peer mentors as an alternative intervention strategy, and acted as adult allies with their respective youth advisory group. The other sites were not case-directed but responded to the unique needs of the youth and local community service providers and stakeholders. They were guided by the direction of the local Steering Committee. Please refer to the individual site reports from each of the four communities.

Each Pilot Project at the four sites were effectively bound to three overriding goals of the COY Project:

1. To keep youth out of the criminal justice system.
2. If a youth in care is involved with the police or courts, to facilitate getting them out of the justice system, including detention, as soon as possible.
3. To facilitate the provision of children's services as opposed to a reliance on the justice system to access resources.

In addition, they were made aware of the intersection points at which innovative alternatives can be offered to cross-over youth. It was from this framework that service was provided consistently across sites and outcomes measured.

Due to the nature of the project and the lived experience of those involved, who may have experienced racial discrimination and/or trauma themselves, there were challenges in team cohesion. Strong personality conflicts arose, which occasionally compromised the Project and presented the challenge of finding ways to navigate through conflict. Each site developed its own way of dealing with issues as they arose, reflective of culture and experience.

As indicated earlier, a primary operational expectation was to form a youth advisory committee that would guide and inform the work of the local steering committee and the Project team. At times, youth engagement was a lightning rod that drove conflict and challenges in communication between the youth with lived experience and those in the Project without that experience.

The Toronto site formed a youth advisory group comprising young people with lived experience at the beginning of that pilot. Challenges arose among the youth, due to the intensity of the discussions that took place related to the themes arising in the Project. Due to their lived experience, these discussions became uncomfortable, overwhelming, and often triggered historical circumstances or events for the members of the group. The group itself, by choice, was led by a peer, which added to the tension and complexity. The initial advisory group was disbanded for these reasons. The youth leader was given a paid position to advise and consult with the Project team. A second advisory committee was formed, comprising a combination of youth with lived experience and those without that experience. The age range of the youth members also increased with older youth who were from the university community. This composition of membership and the format also became problematic. Expectations of members of the new youth committee, the youth engagement coordinator, and the members of the Project team were not aligned, and communication became challenging. When the leadership of the Project changed, these relationships became increasingly strained and a final rupture took place. As a result, there was a lack of consistent youth voice at the Toronto site. Across all sites, the difficulty of engaging cross-over youth who have lived experience was one of the most significant lessons learned.

Two sites intensively engaged a select group of young people with lived experience, and two sites drew on a variety of community resources to provide youth advice as needed. The development of meaningful relationships between young people with lived experience and adult allies seemed to trigger the anger and hurt that led to irreparable conflict. These youth who crossed systems have histories of trauma and loss in their family backgrounds and necessarily act out this grief and pain, particularly when confronted with traumatizing systems that do not provide safe environments. Youth demonstrated their total lack of trust and overt animosity towards those representing these institutions, systems, or for that matter any kind of authority. They express their feelings of pain, frustration, betrayal, and powerlessness through provocation and aggression in order to regain control and feel safe in relationships that were approaching closeness. They are simultaneously hyper-vigilant and hyper-critical of those around them. The role of adult ally in these circumstances is fraught with challenges. Allies were viewed as, on the one hand, not intrusive enough to provide the

necessary guidance and scaffolding to keep them safe, and on the other, too intrusive, such that they intruded on the youths' need for an independent voice. Adult allies with cross-over youth need to be unconditionally supportive, trauma-informed in their practice, able to respectfully pace relationships with these youth, always anti-oppressive in their approach and interactions, and able to accept each young person for their unique abilities and perspectives. This was without a doubt the greatest lesson learned in the COY Project by all.

Three essential pillars of the COY Pilot Project evolved from the challenges faced in each site. As the pilots unfolded, these three pillars became essential to the sustainability of community culture. Each pilot stumbled over the meaning of these pillars to their project. They precipitated learning at every level and were ultimately embraced by each pilot site.

Three Essential Pillars of Practice

As a starting point to successfully meeting the needs of young people involved within multiple systems and sectors, stakeholders and service providers, the Project team attempted to ensure the provision of the following three essential pillars of care:

YOUTH-CENTERING

Youth centering is based on the foundation that young people are the experts of their own lives. They should drive the decisions that impact them. Professionals and service providers who are youth-centered will help facilitate voice and meaningful participation. A youth-centered process incorporates safety, supportive resources, and capacity-building to maximize the youth's agency. A prerequisite to a youth-centered approach is an understanding of anti-oppressive and trauma-informed practice. Professional experience is valuable but must not overwhelm or undermine the voice of the youth. Each youth's journey is unique with individualized ways of responding and coping.

Service providers were encouraged to approach each case with a readiness to listen and to respond with openness. Professionals, service providers, and caretakers undoubtedly approach youth with the best intentions. Understanding trauma, however, is a vital component of building a youth-centering practice. It can help explain some of the barriers youth put in place for self-protection that undermine their ability to form trusting relationships. Furthermore, youth-centering requires reflection on the impact of oppression and the use of power. There is an urge to dominate the conversation with youth, particularly

when they appear aggressive or non-attentive. Case-planning meetings often diminish the ability of youth to fully participate, because they may be intimidated or side lined by well-meaning professionals. Institutional practices often perpetuate this further with the promotion of predetermined planning outcomes, such as restrictive timelines, funding, or placement options. These approaches all serve to neutralize the voice of the young person who is at the center of the planning processes.

ANTI-OPPRESSIVE PRACTICE

Grounded in the principles of anti-racism, inclusion, and equity, anti-oppressive practice (AOP) seeks to rectify the disproportionate representation of racialized young people in the child welfare and youth criminal justice systems. AOP recognizes the intergenerational impact of institutional power-imbalances, and seeks to end the institutional oppression of racialized young people by advocating for system-wide policy change, challenging the status-quo, and mitigating power imbalances at individual and systemic levels of practice. AOP requires stakeholders and service providers to acknowledge and rectify the ways in which they enable systemic racism and racial biases in their own work.

TRAUMA-INFORMED PRACTICE

Cross-over youth are young people with significant trauma histories. Trauma-Informed care recognizes that young people involved in child welfare by definition have histories of trauma and neglect. Trauma-informed practice rejects a behavioral approach to intervention and acknowledges the consequences of those approaches with youth dually involved in the child welfare and youth justice systems. A trauma-informed lens encompasses: (1) an understanding of trauma on the development of children and youth; (2) the need for youth to feel safe in order for trauma healing to begin; (3) the role of relationships, which are imperative to establishing safety; and (4) the responsibility of stakeholders to engage in processes of co-regulation when responding to the needs of cross-over youth.

Complicated Systems and Cross-over Youth: The Need for Collaboration

OVERVIEW

The legislative, service delivery, and governance landscape in Ontario highlights the number of players that will touch the lives of cross-over youth. In any given day, a cross-over youth could have contact with the police, a “CAS” worker, a child advocate, an OCL, a defence

counsel, a duty counsel, a legal clinic, crown attorney, a justice of the peace, a judge, a probation officer, a teacher, independent group home staff, and a clinician. In navigating multiple systems, cross-over youth will encounter numerous individuals with a myriad of roles. These individuals will further impact the lives of cross-over youth; they could help steer them off the youth justice path, or be instrumental in facilitating a deeper penetration into that system.

The needs assessment completed by the Provincial Steering Committee and Ryerson University in 2015 that launched the COY Pilot Project overwhelmingly emphasized the need to develop solutions that would promote cross-sectoral collaboration. Better communication and collaboration across the complicated array of service sectors that interface with cross-over youth therefore became the main thrust of the COY Project. Interestingly, the component of the project that was viewed uniformly across all sites as producing the most successful outcomes at the case and systemic levels was the opportunity for collaboration. At the same time, however, it was this same project expectation that faced the most resistance.

The literature speaks to an adversarial relationship between CW and YJ systems (CWLA, 2010). If both sectors were involved with a young person, there was a reluctance to take responsibility for case management, and each deferred to the other (Chang & Wells, 2010). Conflicting goals and objectives in serving the young person were also noted as a source of tension (CWLA, 2010; Walsh and Joggers, 2017). Child welfare typically is charged with the protection and wellbeing of the youth, and YJ is concerned with community safety. Funding was seen as a major contributor to this tension, with each sector protecting its resources (CWLA, 2010; Wright, Spohn, Chenane & Juliano, 2017) and not wanting to stretch its capacity by taking on more responsibility for the young person.

There was considerable reference in the literature to the frustration of working with these youth with complex needs in systems that were poorly resourced or equipped to effectively respond. Clearly, no one agency has the capacity to manage the multiple needs and intense behavioral responses of these young people. Professional collaboration was identified as the key to adequately brace these youth with the scaffolding required to protect and heal. The workers in a non-receptive, largely reactive multi-service network also need to be supported in ways that ensure their professional wellbeing. This was eloquently conceptualized as a “traumatized and traumatizing system” (McElvaney & Tatlow-Golden, 2016, pp. 62).

A further feature of service to cross-over youth that has implications for collaboration is that youth in CW care are perceived as at a higher risk than non-child welfare-involved youth, and

service providers may consequently avoid or treat them more intrusively and harshly (Chuang & Wells, 2010). This further disadvantages these young people. These youth do not represent a significant portion of the CW or YJ populations, but do absorb the most resources in their management.

When workers from multiple agencies who interface with cross-over youth do not collaborate when making decisions about these youth, the impact is far-reaching and detrimental in terms of youths' existing life circumstances and their trajectory forward (Chuang & Wells, 2010; Lutz & Stewart 2015; McElvaney & Tatlow-Golden, 2016; Petro, 2010; Walsh & Jagers 2017). These young people "fall through the cracks" (CWLA, 2010). Studies in the field of dually designated young people unanimously reported that a broad range of skilled resources from multiple fields, which are equipped to manage risk, to provide leadership and case management, and to intervene in safe, healing ways, need to be wrapped around cross-over youth (CWLA, 2010 ; Wright, Spohn, Chenane & Juliano, 2017; Ogbonnaya & Keeney, 2018). Open channels of communication and interagency coordination are recognized as paramount prerequisites to disrupt pathways to poor outcomes for these young people.

CREATING A FOUNDATION FOR COLLABORATION

A key operational expectation of each site from the outset was the provision of opportunities for cross-sectoral knowledge exchange and training. The impetus for this service guideline was twofold:

1. The Provincial Cross-over Youth Steering Committee was set up in 2013 in an attempt to understand the trajectory of youth from the child welfare to the youth justice systems, and the resultant consequences for these youth. The work of the Committee included undertaking a series of forums that were conducted in the GTA in order to identify best practice and the real or perceived barriers to intervening in the patterns related to this trajectory. This knowledge exchange proved extremely valuable, and reinforced the belief of the steering committee that inter-sectoral exchange was necessary to teach one another about their respective roles, but also to learn about other service sectors and form alliances. The committee reinforced this as a requirement at the front end of the development of each pilot site.
2. Prior to the actual development and implementation of the Project, a needs analysis took place provincially, also funded by Justice Canada. Two of the 10 key findings of this needs assessment were to create a) mechanisms to ensure better communication

and collaboration across service sectors; and b) joint opportunities for cross-sectoral training for stakeholders who impact the lives of cross-over youth.

Therefore, the inaugural Toronto, Thunder Bay, Belleville, Brantford, Peterborough and Brampton sites each began its formal implementation with a cross-sectoral training day. In many of the sites, there were more than one information-sharing day, networking exchange meetings, or training days before the local steering committee was in place (see the site reports). The objective was to bring together different service sectors that regularly work with youth in care, with the goal of facilitating cross-sectoral communication and learning about each other's roles, mandates, and practices. Many participants noted in the evaluations of the events that they had an increased interest in service sector collaboration, and identified the role of case-conferencing as a vehicle for improved collaboration, both at a case level and, indirectly, at a systemic level.

Interestingly, at the Toronto site, participants in the information day noted how effective the mock case conference was in their learning, and how beneficial it was to understanding how service sectors can work together in the best interests of the child. Therefore, the case scenario was utilized in three different sites and the feedback was consistent. There was evidence during the mock case conference that challenges exist across service sectors in coming together and appreciating each other's role, in order to make the compromises necessary for meaningful planning to take place on behalf of the youth. Noteworthy, as well, was that youth participants, and those playing the role of youth, felt that "their voice was dismissed" or "not taken seriously", or that they were "marginalized" at times during the case conference scenario. By and large, however, the information and networking sessions were excellent opportunities for learning, reflection, and critical analysis at the outset of each of the Pilot sites. The case scenario was utilized in three different sites and the feedback was consistent.

The availability of steering committees at each site, comprising representatives from 10 service sectors who have the ability to make decisions on the part of their agency, built in a durable collaboration component. All sites spoke of the value of the committees for creating meaningful partnerships and creating opportunities for greater understanding of each other's mandates and roles. It is noteworthy that the committee members promoted increased cooperation across the sectors when managing cases or developing policy and practice guidelines. There was absolute buy-in at the steering committee level at each site. However, it was apparent that this expectation of collaboration did not translate easily to the work of frontline practitioners. Case conferencing was challenging.

The COY Project facilitated training at each site related to trauma-informed practice. This was highly successful, as demonstrated in the evaluations of the event at every site. The training reinforced the principles of the Project and the importance of establishing alliances. Also, symposiums were held at the two larger sites to review the lessons learned and potential outcomes at the end of the operations of each site.

Program evaluation processes were put in place in the four sites, with one of the primary goals being to understand the role of inter-agency collaboration, and to assess whether the COY Project facilitated an increase in that collaboration. Two sites had independent evaluations conducted by academics from Ryerson University, and in two sites the evaluation was undertaken by the provincial team. In each evaluation, collaboration was identified as a key asset of the Project. For example:

“Stakeholders viewed the project – particularly the case conferencing – as enhancing their ability to work together and to create coordinated plans for crossover youth’s care.” (Toronto site evaluation, see Appendix 2)

“Making those connections, learning about what other agencies are offering and sharing what we have to offer as well. The committee was a varied group of professionals and each brought their own unique perspective and experience.” (Brantford site evaluation, see Appendix 2)

“I believe relationships [among service providers] have improved greatly. In the past we seemed to work in silos and now I feel that agencies are more focused on what is in the best need of the client.” (Brantford site evaluation, see Appendix 2)

“Stakeholders indicate the value of cross-sector communication and wish to maintain that connectedness past the period of funding of the Project” (Thunder Bay site evaluation, see Appendix 2)

The evaluation of the Belleville site has been undertaken in the form of a Systems Network Analysis, which assesses directly how networks are structured and the nature of the relationships and interactions between network members. This evaluation is still underway and will be available in fall 2019 (See Appendix 2)

In summary, multiple pathways to stimulate interagency cooperation and collaboration were put in place from the inception of the COY Project.

CASE FACILITATION AND CONFERENCING

The COY Project was set up as a pilot, with each site designed to test and introduce potential components of a model that is conducive to the individual needs of their community.

Initiated at the 311 Jarvis St. courthouse, the case-conferencing model evolved from stakeholder feedback that highlighted a need for solutions that would promote cross-sectoral collaboration to ensure better outcomes for dually involved young people. Early on in those sites that utilized case conferences as a mechanism to facilitate collaboration across sectors, it was established that relationships across partnering agencies were essential for successful outcomes for young people. CCFs recognized that their consistent and ongoing presence in the court, and their existing connections to stakeholders, offered opportunities to focus on scaffolding relationships amongst court stakeholders and community service providers. This nurtured a deeper appreciation for the value of inter-sectoral collaboration.

There was resistance to participate, however, particularly from key stakeholders. There were a number of reasons identified by stakeholders. For example, some defense counsel, particularly in the Toronto site, would raise confidentiality as an issue as it related to cross-jurisdictional involvement. Stakeholders demonstrated different philosophical approaches that they believed inhibited meaningful collaboration. An illustration of this, which occurred in more than one site, was the children's service worker preferring a more siloed approach that would enable direct communication about the youth from other service providers without having to participate in an inter-disciplinary case conference. CW often felt ultimately responsible for the young person in their charge, and felt they were in a position to make decisions independently. Residential care supervisors also were not receptive, and did not recognize the benefit to the youth if service providers collaborated to address the youth's legal and social needs. Similarly, they were in a position to make independent decisions about the plans for youth without guidance from or collaboration with other collaterals.

The Toronto evaluation, however, discovered that stakeholders identified themselves as overworked and underpaid. Sometimes, what might have appeared as a lack of buy-in was actually a lack of resources; often stakeholders did not have the time to provide the care needed by crossover clients. Indeed, case management and conference attendance are resource-intensive, and require efforts to coordinate busy schedules and adapt to a different style of decision-making, one that commands mutuality and collaboration. This was also confirmed in the literature (Wright, Spohn, Chenane & Juliano, 2017). As indicated earlier, effective intervention and support with cross-over youth cannot be managed by one agency

or service-provider, due to the intense needs of the young person and the complicated nature of the service system.

The CCFs mediated the necessary roles and agreements among service-providers. Case conferences took several forms, including informal, formal, and court-ordered (s.19s) conferences. It was not uncommon for the CCF to facilitate numerous case conferences over the duration of a young person's involvement. Court-ordered case conferences were an excellent resource, especially when the CCF faced obstacles in bringing together stakeholders to engage in collaborative planning with the young person. However, formal court "section 19" conferences typically required several prior informal or formal conferences to have occurred before the case was ready for judicial intervention.

Conferencing was found to be most successful when the youth was able to express their wishes and opinions. Building trust and understanding with the young person was a foundational step to a successful conference.

CCFs were also aware that, for case conferences to be successful, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance and youth centering. To achieve this this, the CCFs spent a significant amount of time before, during, and after case conferences scaffolding relationships between stakeholders and service providers, fostering a culture of youth-centering amongst case conference attendees, and ensuring stakeholders follow through on agreed-upon action items in preparation for and following case conferences. This was time- and resource-intensive, but the most necessary part of the role to ensure sustainable outcomes. This necessity was evident in both the Belleville and the Toronto sites. The Brantford and Thunder Bay sites, possibly through recognition of the labor intensive nature of conference facilitation, took a different approach to understanding the experience of cross-over youth in their community.

A number of the findings of the Toronto evaluation recognized the pivotal role of the CCFs (see appendix 2). For example, respondents understood that the attention and resources offered by the CCFs reduced the demands on the stakeholders:

- The CCF was responsible for facilitating and arranging the stakeholders for case conferences to develop coordinated plans for the youth.
- The CCF made it easier for different service-providers to connect and share information appropriately in the context of case conferences.

- The coordinator played a unique role in advocating for cross-over youth in the program, both within and without case conferences.
- The case coordinator also played a unique role in the youth's care, taking more time than other service providers to build relationships.

In both the Belleville and Toronto sites, CCFs took on responsibilities that extended beyond their role. The Project was designed to offer coordination of existing services and ensure cohesive collaboration. However, in the early stages, when confronted with gaps in the system, the CCFs often felt compelled to offer a full range of case-management services for the young person in absence of the mandate or resources to do so. The CCFs were indeed champions for these youth and the Project. They were driven to ensure that the best interests of the young people were met, through the building of responsible networks and circles of support. At times, their frustration was palpable, as they attempted to encourage and nurture meaningful working alliances across the services involved in the youth's life. Particularly exasperating was when young people remained in detention due to communication breakdown among the sectors. They navigated a lack of consistent inter-agency communication, as it relates to mandates, roles, and responsibilities. Bureaucratic struggles often put the youth at risk of entering detention and being unduly incarcerated for extended periods of time, as duly noted in every site report.

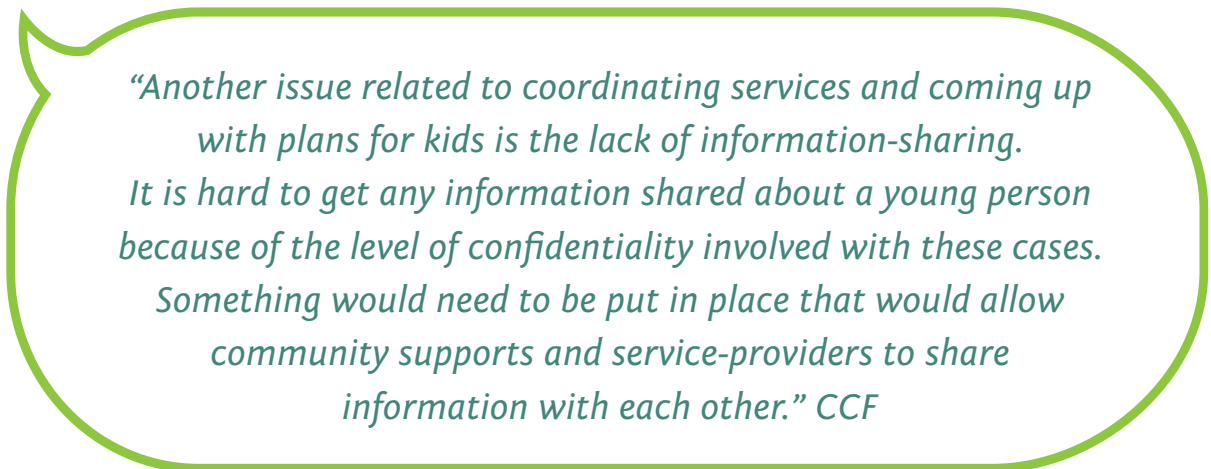
Case conferences were particularly successful when service-providers came to the table to negotiate resources, such as a placement, or when they were concerned about a placement breakdown due to the youth's escalating behaviours and a desire to move closer to family. Collaborative plans and mutual decision-making efforts were viewed as more suitable in such circumstances.

As the COY Project became more conversant with stakeholder dynamics, CCFs across sites were more cautious about duplicating services or taking on case management responsibilities. Instead, they invested their time and resources in delegating those tasks to other, more appropriate stakeholders. Through persistence, support, ongoing advocacy, and consultation, service-providers began to more completely fulfill their role on behalf of the youth they were mandated to serve. Sustainability, however, remains in question at a number of sites.

PARTNERSHIPS

The rationale for pursuing a partnership approach to service delivery is that it is assumed it will improve responsiveness, effectiveness, and efficiency (Wright, Spohn, Chenane & Juliano, 2017; Ogbonnaya & Keeney, 2018; Chuang & Wells, 2010). The goal of agencies and governments is to reduce duplication, share resources, share training opportunities, build organizational capacity through collaboration, and perhaps generate seamless service that is responsive to the client group. Furthermore, there is a growing acknowledgement of the complexity of social issues and the individual needs of vulnerable populations, like cross-over youth, that impact on all service sectors. There is also a recognition that single-handedly, no agency or profession can be expected to address these issues, needs, or circumstances. Today, the diversity and complexity of day-to-day living means that it is highly unlikely that any one service provider will have sufficient grasp of the range and emergent needs presented by the youth they serve. It is therefore preferable to pool knowledge and experience in the analysis of problems and the formulation of plans and interventions with these young people. The rationale for partnerships seems reasonable, even preferable, when confronted with the stark realities agencies face when dealing with cross-over youth. Nonetheless, partnering and collaboration is usually at the government's urging. Governments often expect the sharing of tasks, such as training, or the merging of staffing resources. Agencies and workers are legitimately resistant to alter their core principles and values or their embedded practices, especially when imposed by governments. The dilemma, however, is in the balance between status quo and innovation. The maintenance of traditional forms of case management, assessment, planning, and treatment are clearly not functional for cross-over youth. They are demonstrably punitive, traumatizing, and provocative, both for the youth and the service-providers. Innovative, flexible, and creative approaches are necessary to secure the safety and healing of these young people.

The COY Project noticed that change happened most successfully one relationship at a time. That is to say, case by case and worker by worker. The relational approach was time-consuming but highly effective. It was characterized by trust, respect, reciprocity and mutuality (Wright, Spohn, Chenane & Juliano, 2017). It depended on a willingness to share information, resources, decision-making, responsibility, and accountability. This was witnessed at the case level with young people, service providers, stakeholders, and steering committees.



All these features were required for the ability to take risks and explore new ways of working. Like members of the steering committees, there needed to be commitment on the part of leadership for frontline staff to work differently, given the intensity of resources required for a relational approach with these young people and other stakeholders. The relationships that were successful were active and built over time, and not abandoned when the funding ran out or perspectives differed.

In summary, the primary intention of the COY Project was to set in motion mechanisms for meaningful collaboration across service sectors in all four sites, to better serve cross-over youth. Partnerships require taking risks, working differently, and the commitment of resources. This was exceptionally challenging at each site. In those instances, where partnerships and meaningful collaboration were achieved, there was the consistent acknowledgement that this led to improved responsiveness and better outcomes for cross-over youth. Sustained efforts, however, were required at both the systemic level, through cross sectorial, community-driven steering committees, and at the case level, through case-conferencing.

Intersection Points

In proposing the COY Project to the funders, we included a diagram of 25 intersection points which innovative alternatives could be offered to cross-over youth (see Appendix 1). In recently reviewing the 25 intersection points we found that indeed the COY Project had intervened in 24 of the 25. This was somewhat surprising because we had not set out to map,

navigate or address the multiple points in a purposeful, intentional manner. Nonetheless, considerations for changes in practice have been identified or protocols put in place for all but number 15, Trial. The four pilot sites focused on youth who were on a resolution path in the criminal justice system. With the advice and support of their defence counsel, the youth engaged in conferencing with key supporters and decision makers, in each of the child welfare and criminal justice systems, to appreciate and realize the essential components of the youth's plan to be incorporated in sentencing. The COY Project did not engage with youth on the trial trajectory as they would not be able to discuss the initiating circumstance that brought the youth before the court. However, once found guilty, conferencing with key players became available to craft a sentence that recognized the three principles of the project: youth centred voice, trauma informed lens and anti-oppression focus. Retrospectively and moving forward, mapping the intersectional points and identifying potential points of connection for proactive collaboration, protocol and policy development and evaluation would be highly effective in disrupting the trajectory.

COY Identification and Referral Sources

Youth participants in the COY Project were identified through referrals from existing court personnel and stakeholders, including judges, crowns, Children's Aid Society (CAS) workers, lawyers, and other service-providers, and the majority of these referrals were an outcome of the continual presence of the COY Project in the courthouse. Despite several successes in this regard, the implementation of a permanent and formal cross-over youth identification and referral process remained a challenge for the COY Project at all sites. Several factors contributed to the challenge of implementing a sustainable identification and referral process for cross-over youth as follows:

Firstly, there are four primary databases maintained by the Government of Ontario that track a youth as they progress through the process of "crossing-over." At present, none of these four databases offers a complete picture of the youth's progress across both systems at any one moment. None of these databases has the capacity to "speak" to each other. All four were designed in isolation of each other for a different purpose: ICON for the Ontario Court of Justice criminal matters, FRANK for the Ontario Court of Justice family matters, SCOPE for Crown Attorneys to follow criminal matters, and CPIN for child welfare agencies to track child welfare matters. Until the databases are modernized, identification of cross-over youth should occur through an analogue "dual alert" system. A court administrator would be required to manually cross-check between the FRANK and ICON systems. The court administrator would then be responsible for alerting the presiding judicial officer, so they can begin a process of cooperation with the other seized judicial officer, if there is one. The youth and their counsel would be given final say over whether they wanted their matters to be resolved through the cooperative cross-over approach.

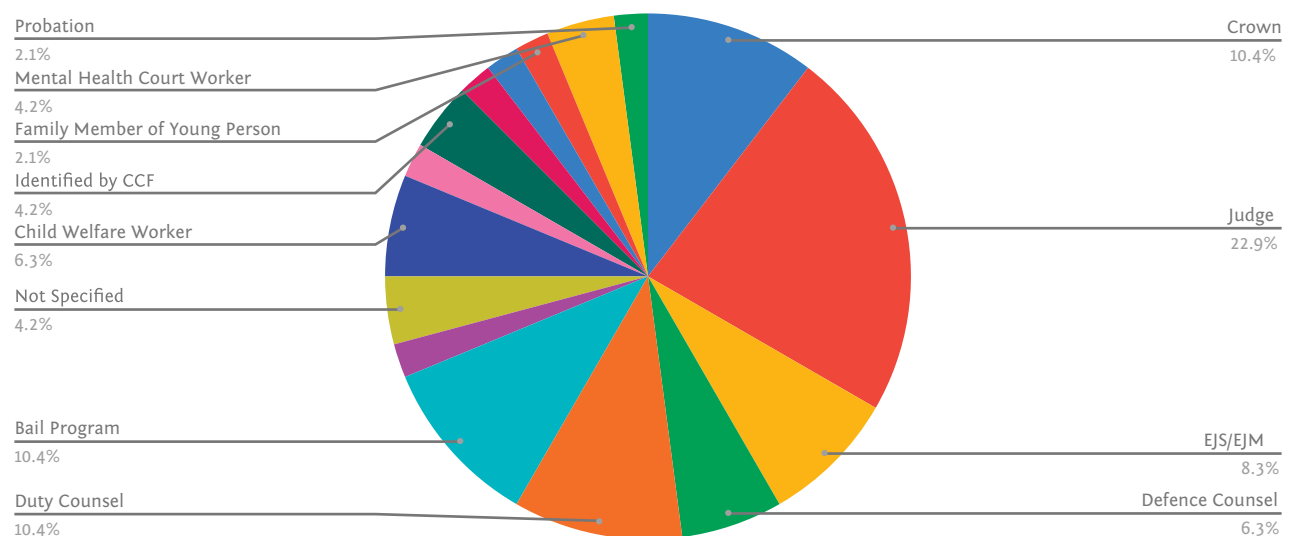
In order to try to minimize any youth falling through the cracks, the “dual alert” system would also include checking between the SCOPE and CPIN databases to create a fail-safe. Once a Crown Attorney or CAS worker becomes aware that the youth has dual involvement, they fill in the requisite category. If the case is positively flagged as a “cross-over” case, an alert would remain on the file to ensure identification during all further proceedings in both systems.

Secondly and notably, there remained a steady resistance towards implementing a referral process through a permanent CCF in the court. Eventually, following lengthy negotiations, the Project coordinated a provincial-wide referral process through Legal Aid. As an initial step, a referral form was introduced, which required that the name of counsel, counsel’s contact information, and the next return date be filled out. Once the COY Project’s Toronto and Belleville sites were notified of the referral, the CCFs followed up regarding the case through the young person’s lawyer. A significant benefit of this method was ensuring the confidentiality and privacy of the young person. However, ensuring consistency in the application of the agreement was problematic. Referral forms were infrequently filled out, and CCFs were often required to sit in court to ensure that a cross-over youth was referred. In the Belleville site, judges routinely made the referrals directly to the Project to avoid this problem.

The table below captures the referral sources for the 48 full-service cases facilitated through the COY Project. The majority of referrals were initiated by the two-hatter judges, those with experience in both child welfare and youth justice.

Count of Referral Sources: Full Service Cases

Toronto and Belleville Sites



The Identification and Understanding of Emergent Themes

BACKGROUND

As the Toronto Project site evolved, notable, unanticipated patterns began to emerge. Attention was given by the team to exploring these often troubling outcomes faced by the CCFs and the youth. In this respect, more intensive discussion, consultation, and study were required to better understand these patterns than was intended or proposed when designing the COY Project. Efforts were made to consolidate and analyze the case information beyond what was provided by the simple case-management database introduced at all sites. An independent evaluation component was also solicited to provide another layer of understanding and insight. When possible and appropriate, confirmation of these trends was sought at the other sites. Overall, the arising patterns, lessons learned, and protocols designed to influence practice at the inaugural site informed the other three sites. Themes were generated accordingly.

GENERATION OF THEMES

Case-conferencing at both the Toronto and the Belleville sites promoted an in-depth understanding of the lives of 48 dually involved young people. The Project's court-centric case conference model lent itself to a rich understanding of systemic issues and gaps in service provision, and aided in the development of best-practice model components and protocols. Forty-eight cases over a two-year period reinforced the value of this intensive work. An in-depth analysis of case-notes and discussions with the CCFs revealed patterns and trends, from which noteworthy themes emerged. Themes also emerged from the extensive time that the coordinator at the Thunder Bay site spent observing and documenting cross-over youth cases in the courts over a 10-month period of time. Finally, the coordinator in Brantford, in consultation with the local Steering Committee, identified themes relevant to cross-over youth in that community.

To reiterate, themes were also drawn from complex, interdisciplinary systemic work. The Project undertook a variety of mechanisms to dig deep into the systemic structures that impact the trajectory of cross-over youth. The steering committee meetings, subcommittees, one on one interviews with key stakeholders, youth advisory meetings, team meetings and case consultations all informed the generation of themes and their analysis.

The themes varied across sites, but a number salient themes arose as follows:

- Theme One: **Trajectory from Family Home into the Youth Criminal Justice System**
- Theme Two: **Navigating the Justice System**
- Theme Three: **Indigenous Youth**
- Theme Four: **Black and Racialized Youth**
- Theme Five: **The Impact of a Lack of Youth Centering**

Types of Cases

Given the limited scope of the pilot project in Toronto and Belleville, the number of brief- and full-service cases was restricted to a total of 85 combined. The CCFs were able to work intensely with only 48 cross-over youth. However, these 48 cases consumed the time and resources over the duration of the COY Project. Given the adequate sample size of 48 young people who accessed supports through the COY Project at two sites, the themes that have emerged demonstrate noteworthy patterns and trends. The value of this intensive work, and the themes that have subsequently emerged, are highly relevant to policy and practice. Furthermore, pairing the themes with national and international literature further validates the understanding of the systemic and cross-sectorial issues faced by Ontario's population of cross-over young people.

BRIEF SERVICE CASES

Of the 85 cases encountered by the 311 Jarvis St. and Belleville courthouses, 37 are classified as brief-service cases. Brief-service cases are without a consent on file for further involvement by a CCF. As such, information on brief-service cases is limited to descriptive demographic information only.

The majority of brief-service cases were brought to the attention of the COY Project through referrals made by Youth Court Workers, Two-Hatter Judges, and other court-centred professionals. This was also the case in Thunder Bay, though that site only collected information and did not provide service. The cases from that site are not included in this discussion. A small number of brief-service cases were also consultations. In these instances, the CCF either offered advice and guidance to inquirers, or supported by connecting them to other resources.

Once given a referral, the CCF worked to gain consent to provide support from the youth and their defense counsel. The most prominent barrier in obtaining consent for full-service was a refusal from defence lawyers to participate with the Project. To this end, the Project learned that lawyers were sometimes reluctant to work with it for philosophical or ideological reasons. Defence lawyers are the only stakeholders statutorily obligated to act in the best interest of their client. Understandably, in an adversarial system, some are very protective of their client, and believe that a guarded and information-withholding approach is the best way to manage the risks their clients face.

FULL-SERVICE CASES

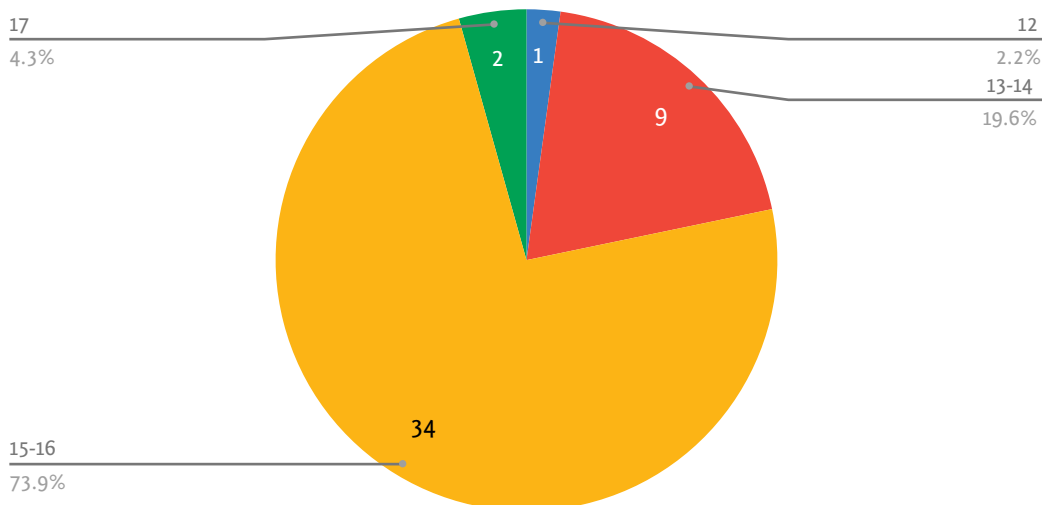
Cross-over youth who took part in full-service case-facilitation did so voluntarily and with the provision of informed consent. Once consent was obtained, the CCF began the process of engaging the young person in moving towards coordinating a planning conference with the stakeholders in the youth's life.

The COY Project provided full-service intervention to 48 young people at the 311 Jarvis St. and Belleville courthouses. Full-service case intervention entailed the long-term coordination and support of the CCF, with the average length of involvement being 7-8 months. However, in several cases the CCF remained involved with the young person for the duration of the Project at the Toronto site.

Demographics

Age of Entry to Project n=46

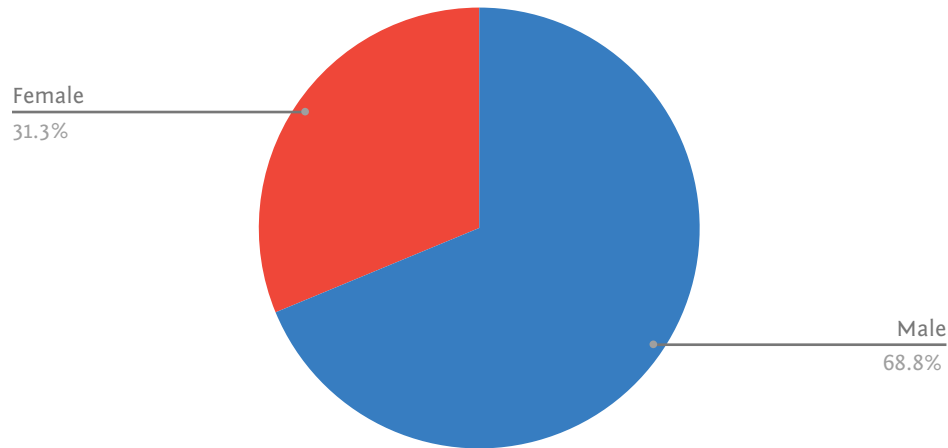
Toronto and Belleville Sites



Age and Gender: Of 48 full-service cases, one case involved a young person aged 12; nine cases involved young people between the ages of 13-14; 34 cases involved young people aged 15-16; and two cases involved young people aged 17. Two cases were not specified. Males represented 64% of cases and females accounted for 36% of full-service crossover youth cases.

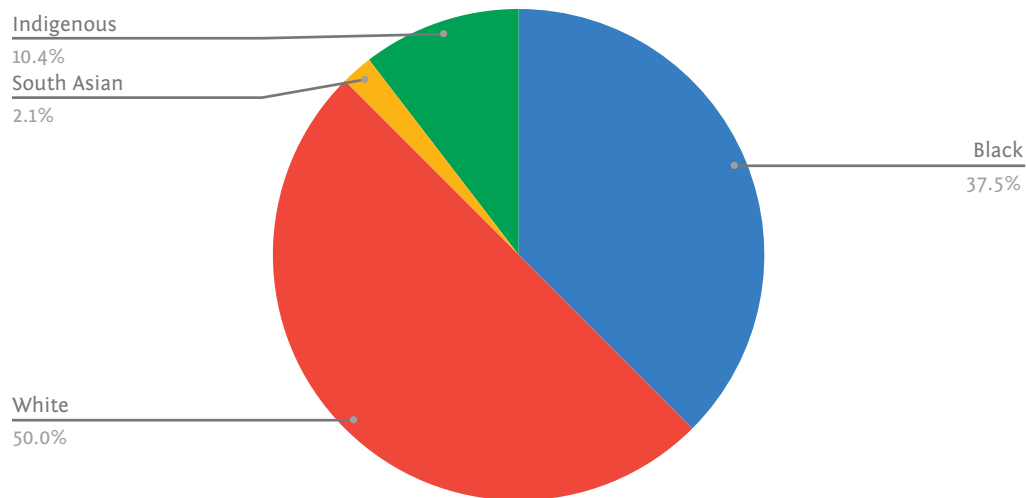
Gender n=48

Toronto and Belleville Sites



Race and Ethnicity n=48

Toronto and Belleville Sites



Ethnicity: Fifty percent of the 48 full-service cases involved non-white young people. Almost 11% represented young people who were Indigenous; 2.1% were South Asian; 50% were white; and 37.5% of all full-service cross-over youth identified as Black.



Theme One: Trajectory from the Family Home into the Youth Criminal Justice System: The Child Welfare to Prison Pipeline in the Belleville and Toronto Sites

INTRODUCTION

Even within the limitation the COY Project given the size of the caseloads, patterns were identified that confirmed the nature of the trajectory for cross-over youth from their family home into the youth justice system. The literature has theorized that there is not a direct link between a child's involvement with the child welfare system and a subsequent involvement in the youth criminal justice system, but rather that a past history of trauma leads to involvement with the child welfare system, and this past trauma also leads to behaviour that brings the child into conflict with the law and involvement in the youth justice system (Bala et al., 2015, p.7). When a young person is exposed to trauma, they develop survival skills that are consistent with their environment and are usually demonstrated through disruptive behaviours. (van der Kolk, 2005; DeCandia & Guarino, 2015; Oudshoorn, 2015). In group care, these episodes or outbursts are triggered either by a re-enactment of previous trauma, or by a need to combat overwhelming feelings. Frontline staff tend to lack the skills and knowledge to perceive these behaviours as expressions of pain, and respond with a behaviour-management rather than a trauma-informed lens (Phelan, 2006). The assertion of control further exacerbates behavioural responses to trauma, typically resulting in the contacting of police (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015). This precipitates the young person's involvement in the justice system, often for the first time. Young people are typically placed in group care by child welfare authorities. In the case of the youth served by COY Project in Belleville and Toronto, they were removed from their family home the majority of the time for conflict with their parents. The trajectory is therefore confirmed. Whereas trauma may precipitate their behaviours, it is the ill equipped care system that propels these youth into the justice system. The cross over journey is therefore from family home for conflict with parents to group care where they revisit that conflict with staff who are perceived to be in a position of parental authority. This conflict triggers police involvement and entry into the youth justice system. These young people also frequently experience placement instability, retraumatization and racism.

The discussion herein details this cross over journey, the significant role that trauma plays in the lives of these young people, the reasons they enter care, group care as a gateway to youth justice and the gaps in practice and institutional responses to interrupt this trajectory. Analysis is provided about the importance of family based intervention; the practice of the

criminalization of trauma; the role of placement instability and the lack of standards of care in deepening the young person's penetration into the justice system and the insidious nature of institutional racism and colonialism. Considerations for change that are necessary to disrupt the pipeline from child welfare to prison are offered.

UNDERSTANDING WHAT WAS LEARNED

Trauma's Role in Trajectory of Cross-over Youth

Trauma is the commonality that binds cross-over youth together. Their lived experience is the main driver of their present involvement in both YJ and CW systems. Their pain and associated coping mechanisms are the biggest drivers that push them into the cycle of misconduct. Trauma is emotional and/or physical shock. It is an event(s) that bursts the protective bubble in which most children experience the world. It makes them feel unsafe and forever alters the lens through which they view the world. For many young people, trauma leaves them feeling helpless, hopeless, and powerless (American Psychological Association, 2017). It has a detrimental impact on a young person's ability to trust others. Experiences such as sexual abuse, physical abuse, witnessing family and community violence, experiencing war, and other losses impact young people and can potentially result in trauma. Young people who have experienced trauma face many unique challenges, and are a vulnerable population who are often experiencing complex issues.

By definition, cross-over youth have experienced trauma, or else CW would lack the grounds to intervene. The depth of trauma varies, but for many it impacts them greatly and shapes every facet of their lives, including brain development and function, worldview interpretations, emotion regulation, bodily responses, and behaviours (Bath, 2008; Freeman, 2015; Oudshoorn, 2015; Hanauer, 2015). The pervasive nature of trauma, and the difficulty in controlling its symptoms, results in the affected youth's externalizing their trauma. These expressions are often criminalized.

The trauma the youth have experienced is not their fault, nor are the behavioural responses it causes. However, the current YJ approach to youth with histories of trauma fails to adequately adapt to the unique challenge. Cross-over youth require a trauma-informed approach. To be trauma-informed means one must consider the impact of traumatic events on young people. It begins with building an awareness of the trauma experiences young people may have been exposed to; understanding how trauma may manifest in young people's behaviours; and having an appreciation of the relationship between trauma and addictions,

mental health concern, and physical health (BC Provincial Mental Health & Substance Use Planning Council, 2015). Being trauma-informed can influence a young person's healing and recovery process.

Effects of Trauma

For cross-over youth, trauma can have both long-term and short-term consequences. Trauma is an invisible injury to many and often misunderstood. The impact of trauma is uniquely different for young people, but can profoundly affect them emotionally, cognitively, socially, physically, relationally, spiritually, and behaviourally (Perry & Szalavitz, 2013). It can also cause changes to the structure of the brain. It is these changes that, in turn, cause cross-over youth to struggle controlling aspects of their behaviour (acting out or withdrawing).

Trauma “hinders, rather than helps, human growth” (Oudshoorn, 2015). With all of these changes occurring in the brain and developmentally, it is not unusual to observe cross-over youth presenting themselves as being much younger than their chronological age. This is why it is so important that we treat young people based on their brain age rather than their chronological age (Perry, 2006), and ultimately meet them where they are at, emotionally and developmentally.

We must understand that “hurt people hurt people” (Bowen, 2009). Many of the cross-over youth hurt others because of their own trauma and pain. They believe they are ‘bad’ and are not deserving of understanding, compassion, or acceptance by others. It is important to understand that the hurt that these young people cause towards others is often never greater than the hurt they feel themselves. Trauma is an experience that can transform a young person's world into a terror-filled, confusing experience that dramatically alters the youth's path into and throughout their adult life. That is why it is imperative to better understand cross-over youth's experience, in order to help guide them through the challenges they face. As stated by Freeman (2015), “Childhood trauma can impact the whole young person, especially the way an individual thinks, feels, and interprets the world” (p.121). Traumatic experiences not only shape the way young people see the world, but they also put them on paths that they did not necessarily choose for themselves (Oudshoorn, 2015). The life experiences of young people involved with the YJ system are often characterized by poverty, violence, and neglect at the hands of their parents and care-givers (Oudshoorn, 2015). For many young people, symptoms of such trauma include a heightened level of stress, which presents itself through externalized behaviours that impact a young person's choices (Oudshoorn, 2015).

Trauma's Impact on the Brain

Research in brain development has shown that exposure to childhood trauma can have a detrimental impact on young people's brain development, cognitive and behavioural functioning, regulation of emotions, and attachment (van der Kolk, 2005; Perry, 2006). This can result in, and has been linked to, behavioural challenges in young people, risky behaviours such as alcohol and drug use, problems in school, and in some situations these negative factors may increase the likelihood that young people become involved in the justice system (National Child and Traumatic Stress Network, 2004).

When a young person has been exposed to traumatic events in their lives, their brain often activates a set of responses when they feel fear or danger that are intended to aid in their survival (Perry, 2004). According to Perry (2004), the continuum of these hyperarousal responses usually includes a flight response (running away, psychological disengagement, withdrawing from the outside world, dissociation); fight response (verbal vocalization, resistance, anxiety, aggression); or a freeze response (tuning out the threat, detaching oneself from others). In turn, the fear and threat they experience changes the way in which they think and respond, and the way in which they view the world (unsafe).

Traumatized young people often live in what is called an aroused state (Perry, 2004). In many instances they are living in the moment and do not often see or fully appreciate the consequences of their actions (Perry, 2004). With the added stressors of being in the CW system, dealing with the criminal justice system, and the other complex issues cross-over youth face (mental health issues, addictions, etc.), the effects of their trauma often get magnified, which in turn is exhibited in behaviours that many misinterpret. What is promising is that traumatized brains can adapt and improve if given the proper support (Perry, 2004).

Gaps in Practice and System Coordination

For cross-over youth who have complex trauma histories and accompanying mental health needs, the probability of further exasperating these issues through multi-system involvement is a significant risk. Furthermore, given the complexity of their needs, coupled with dual system involvement, the importance of improving communication and cooperation between stakeholders becomes even more imperative. For many of the youth with whom COY Project engaged, they had ended up in the YJ system due to gaps in the CW and mental health systems. In the literature, this is largely due to inadequate inter-agency collaboration and

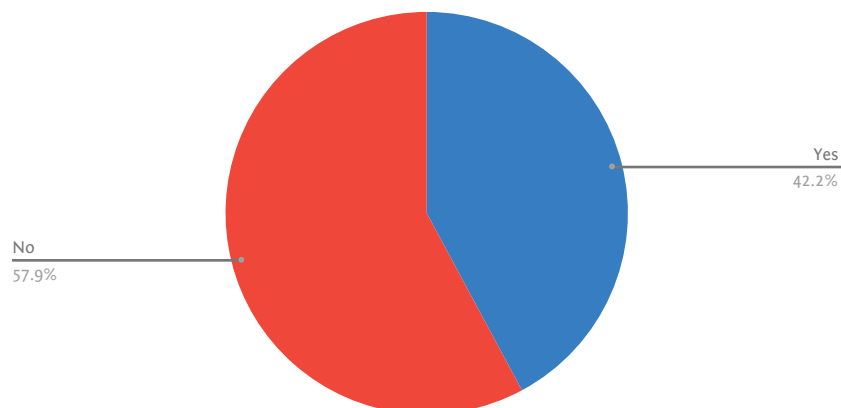
communication between CW and YJ systems with mental health service providers (Bala, et al. 2015; Finlay, 2003; Gordeyko, 2017; Lenhoff, Jones-Kelley & Abbott, 2017).

TRAUMA AMONGST YOUTH SERVED BY COY PROJECT

Every youth the COY Project interacted with who had YJ charges had experienced some form of trauma, and the effects were plainly evident during the Project's interactions with them. For most of the youth with whom the Project interacted, the trauma was complex, recurring, and substantial. There is a growing body of literature surrounding the interrelatedness of adverse childhood experiences and its impact on adolescent development and the increased risk of a young person's YJ involvement. (Baglivo et al., 2016; Hirsch, Dierkhising & Herz, 2018). Ninety percent of young people involved within the YJ system have experienced some form of past childhood trauma (Dierkhising et al., 2013). The findings from Dierkhising et al.'s (2013) study through the National Child Traumatic Stress Network suggest that justice-involved young people "report high rates of trauma exposure and that this trauma typically begins early in life, is often in multiple contexts, and persists over time" (p.1). Frequently, a trauma history influences a range of mental health concerns and addictions.

Percentage of Cases: s.34 Assessment Ordered

Toronto and Belleville Sites



The Project observed that many youth it engaged with suffered from mental health symptoms. Most predominantly cited in case-notes were young people's challenges with anxiety and depression, both of which are noted to be symptoms of post-traumatic stress disorder. The youths' YJ charges were significantly intertwined with their mental health instability. One indicator that the youth the Project served were experiencing trauma and its associated symptoms was the number of section 34 assessments ordered by the court.

A section 34 report is a court-ordered assessment of the young person's psychological, psychiatric, cognitive, and psycho-educational needs (Jones, 2014). In Toronto, section 34 assessments are conducted by a qualified psychologist through the YJ department of the Centre for Addiction and Mental Health (CAMH). Given how expensive they are, a mandatory prerequisite for a court-ordered section 34 contends that there must be reasonable grounds for the courts to believe that the young person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability, or a mental disability. Thus, they are only ordered when the judge strongly suspects the youth has mental health concerns that have contributed to their criminal justice involvement. In Toronto, 64% of full-service cross-over youth had obtained section 34 assessments, which were used in the court to better understand the challenges the youth were facing. Interestingly, in Belleville only 20% of full service cross-over youth had obtained section 34 assessments, a discrepancy possibly explained by the challenge multiple jurisdiction moves presented information collection in the Belleville site. The section 34 reports, which were usually ordered released to the Project with the consent of the youth, offered a very detailed breakdown of how trauma was affecting them. Consistent with findings in the literature, the Project found that cross-over youth have multiple diagnoses – often concurrent diagnoses – and untreated mental health concerns. Previous studies have emphasized that cross-over youth struggling with mental health are often missed or misdiagnosed, and that child welfare agencies are failing to provide mental health services for the youth in their care (Bai, Wells & Hillemeier, 2009; Gordeyko, 2017; Jonson-Reid & Barth, 2000).

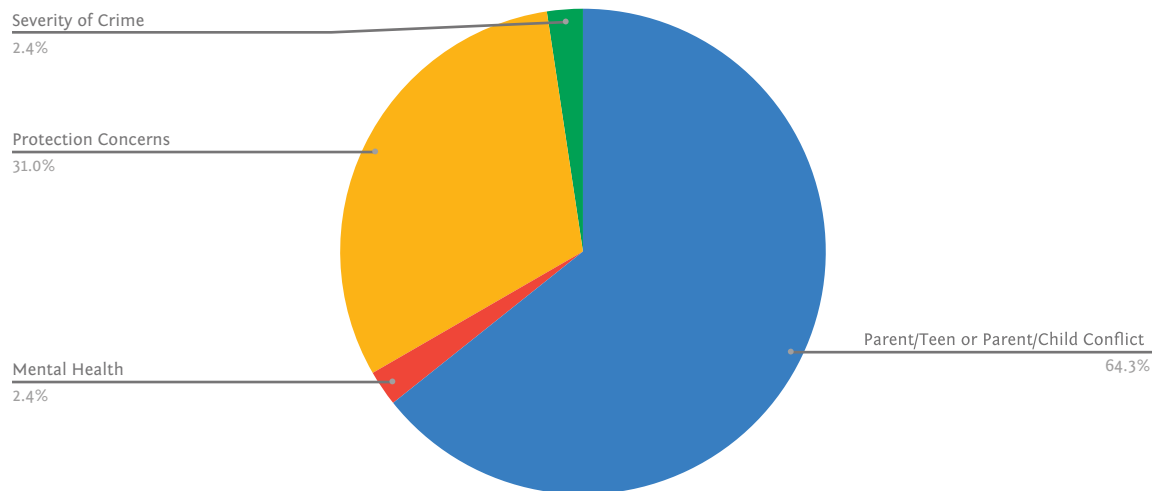
REASONS FOR INITIAL CHILD WELFARE INVOLVEMENT AND CHILD WELFARE PENETRATION

Children and youth are placed into care for a variety of reasons. The majority of young people enter the child welfare (CW) system due to protection concerns, including abuse and neglect (Turner, 2016; Burnside, 2012). However, Orsi et al. (2018) explain that, despite the CW system being designed to protect children from child maltreatment, too many older young people are entering into the system for reasons other than what it was designed for. Increasingly, young people are entering into the CW system because “they can’t get along with their parents. Or because of the teens’ challenging behaviors, such as defying their parents, being truant from school, running away, abusing alcohol and drugs or engaging in risky sexual or other activities that threaten their well-being or safety” (Orsi et al., 2018, p.15).

Johnson, Giordano, Manning, and Longmore (2011) highlight the value of relationships in relation to parent-teen conflict. Parent-child relationships play a significant role in adolescent development (Burke, Mulvey, Schubert, Garbin, 2014). According to the findings of Mirwaldt,

Perron, and Thomas (2004), “decisions to remove older youth from their family homes are more likely if there are identified behavioural issues” (p.27). Although older youth are entering to the CW system often due to care-givers’ inability to manage their behaviours, it is important to note that these “difficult to manage” behaviours are often a symptom of trauma. Recent statistics have raised the alarm on the prevalence of domestic violence in Canada (Government of Canada, 2018) and the impact of witnessing domestic violence on children and youth. Young people who grow up in hostile or abusive family environments learn to emulate the aggressive behaviour witnessed at home as a way of keeping themselves safe (Wolfe, Crooks, Lee, McIntyre-Smith & Jaffe, 2003; Cunningham et al., 2000). These older young people come with complex needs when entering the CW system (Burnside, 2012). Unresolved issues, such as the impact of early childhood trauma, further influence their entrance and persistent involvement in the CW system, especially when these underlying concerns are not appropriately addressed (Orsi, Lee, Winokur & Pearson, 2018; Shipe, Shaw, Betsinger & Farrell, 2017).

Reason for Initial Child Welfare Involvement (n=42)



Both the Toronto and Belleville Project sites saw the majority of young people served by the Project becoming involved with the CW system between the ages of 12 and 15. Surprisingly, the majority of young people across both sites became involved with CW due to parent/teen or parent/child conflict (64.3%). In Toronto, 17 young people (or 68%) entered care due to parent/teen or parent/child conflict, whereas in Belleville, the same was true of 10 young people (58%).

CCFs in both sites witnessed a lack of meaningful consultation and partnership with young people regarding their initial and subsequent placement settings. Young people were not consulted in regards to where they would prefer to be placed and what supports they felt they would need to manage such an extreme shift in environment. This lack of partnership with young people contributed to a deeper penetration into the CW system. At the end of the Project, the majority of young people with parent/teen or parent/child conflict at both sites who entered care on voluntary/supervision orders became either society or crown wards: 52% in Toronto, and 70% in Belleville. This supports the literature asserting that unresolved issues related to parent/teen or parent/child conflict can push young people further into the CW system (Orsi, Lee, Winokur & Pearson, 2018; Shipe, Shaw, Betsinger & Farrell, 2017).

THE CHILD WELFARE TO YOUTH JUSTICE PIPELINE

Recent literature examining the experiences of cross-over youth has suggested that the younger a child is upon entry to the CW system, the more likely they are to deeply penetrate the youth criminal justice system (Australian Institute of Health and Welfare, 2017). Yet it must be noted that, when youth enter the CW system at an older age, they have already spent considerable time in a chaotic, violent, and unsafe home environment. This increases the likelihood of internalizing aggression and hostility as a strategy to cope in that environment, or alternatively presenting with externalized behaviours that serve as survival strategies.

As older youth are entering CW with more severe behavioural challenges and complex needs in comparison to younger children, group care settings, rather than foster homes, are viewed as a more favourable placement option by CW agencies. Group care is presumably more equipped to manage these young people due to its staffing model (Burnside, 2012; Robst, Armstrong, & Dollard, 2011). Unfortunately, the streamlining of older youth into group care settings can have deleterious outcomes.

When young people are moved from their home and placed in a residential setting such as group care, they revert to these internalized or externalized coping strategies in order to protect themselves from what they perceive as unsafe environments. These styles of interaction and patterns of coping are learned from the aforementioned long history of witnessing domestic violence and intense conflict in their home. These youth automatically replicate these dysfunctional ways of communicating or resolving conflict in other settings (Finlay, 2009).

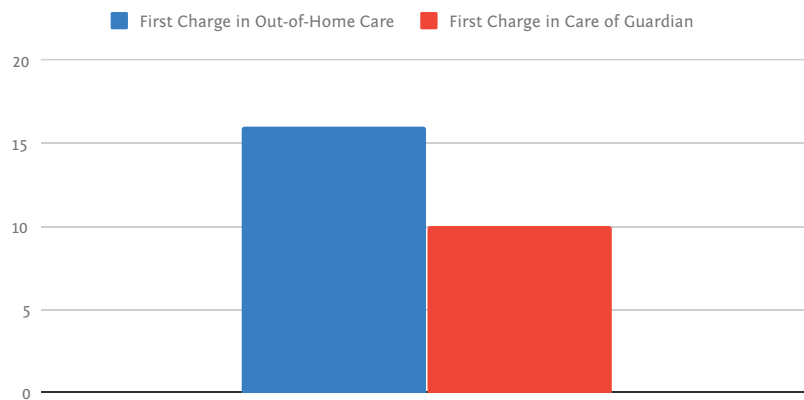
Unresolved issues related to parent/teen conflict influence a young person's deeper penetration into the CW system, as underlying concerns are not appropriately addressed (Orsi, Lee, Winokur & Pearson, 2018; Shipe, Shaw, Betsinger & Farrell, 2017). Normative interventions for cross-over youth generally, and non-white cross-over youth specifically, pathologize their behaviour. These approaches enforce control and deny the autonomy of the young person, both of which are detrimental to a youth's positive development (Guerra & Bradshaw, 2008).

Most young people served in both sites entered the youth justice (YJ) system between 14 and 15 years of age; 63% of youth in Belleville, and 52% of youth in Toronto. At both the Belleville and Toronto sites the Project saw these older young people crossing over to both the YJ and CW systems as a result of both missed and mismanaged diagnoses. CCFs in both sites witnessed a lack of familial supports when parent/teen or parent/child conflict brought involvement with CW agencies. In the Belleville site, most cases involved older young people that had been formally diagnosed; however, there were no familial supports or resources in place for the families to negotiate the challenging behaviours of their youth. At the Toronto site, it was found that young people often lacked formal diagnoses in the first instance. In those instances, where young people had identified diagnoses through individualized education plans via the school board or otherwise, it was often the case that recommendations for treatment were never followed. This lack of diagnoses or follow-through on plans of care led to parent/teen or parent/child conflict in the home. More on the importance of wrap-around supports will follow.

The Project saw young people crossing-over between systems due to parent/teen or parent/child conflict in two ways. First, there were instances of older young people becoming involved with the CW system as a result of the severity of their charges. Ultimately, these charges were seen by CCFs to have resulted from parent/teen or parent/child conflict in the first instance, meaning the conflict in the home resulted in the young person's offending behaviour. Alternatively, and more consistently, older young people were seen to cross-over to YJ following involvement with CW. The predominant pattern seen by CCFs was the influence that multiple jurisdictions had on young people crossing-over. At the Toronto site CCFs saw older young people being placed into care far from their home communities. Being out of jurisdiction, these group care settings lacked consistent and frequent visits from young people's CW workers. These youth would either run from the group care settings to return to their home communities, or 'act out' in the care setting, often leading to their first charge (50%). In Belleville, the CCF saw a similar trend, in which young people were often moved from their home community to the Belleville area for a placement given the number of group

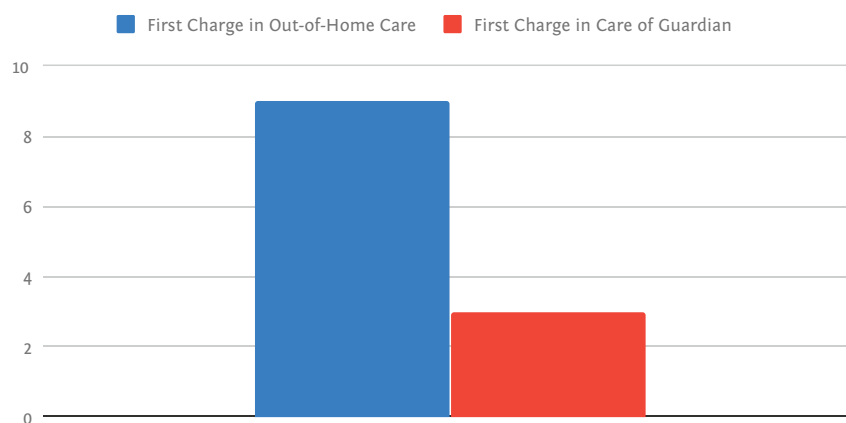
care providers in the region. As in Toronto, these homes being far from young people's home communities resulted in inconsistent and infrequent visits from young people's CW workers, and these youth either ran from group care settings to reach their home communities, or 'acted out' in the care setting, often leading to their first charge.

Count of First Charge Setting for Young People Entering Care Due to Parent/Teen or Parent/Child Conflict n=26



These trajectories into YJ are not wholly unique to parent/teen or parent/child conflict. Strikingly, in the Belleville site it was found that all those young people entering care due to protection concerns received their first charge in out-of-home care. In the Toronto site this pattern differed, however, with young people entering care due to protection concerns receiving the majority of their first charges in the care of a guardian. Taken together, the Project found, across both the Toronto and Belleville sites, that the majority of young people received their first charge in out-of-home care.

Count of First Charge Setting for Young People Entering Care Due to Protection Concerns n=12



PENETRATION INTO THE YOUTH JUSTICE SYSTEM AS RELATED TO PARENT/TEEN CONFLICT

Trends differ between the Toronto and Belleville sites when looking at young people's further penetration into the YJ system. At the Toronto site young people with initial CW involvement due to parent/teen or parent/child conflict trended towards penetrating deepest into YJ, as compared to youth that entered care due to protection concerns. On average, these young people had the most severe charges, the most severe first charges, the most administrative charges, and the most time spent in YJ. This is contrary to recent literature, suggesting that the younger a child is upon entry into the CW system, the more likely they are to deeply penetrate the youth criminal justice system (Australian Institute of Health and Welfare, 2017). However, it is not surprising, given what is known regarding the role that parent-child relationships play in adolescent development (Burke, Mulvey, Schubert, Garbin, 2014), and, if unresolved, its ability to further penetrate young people into the YJ system (Orsi, Lee, Winokur & Pearson, 2018; Shipe, Shaw, Betsinger & Farrell, 2017). At the Belleville site the opposite trend was seen. Young people with initial CW involvement due to protection concerns trended towards penetrating deepest into the YJ system, as compared to youth that entered care due to parent/teen or parent/child conflict. Consistent with the aforementioned literature, those young people entering care due to protection concerns received on average more severe charges and more administrative charges. These differences between sites warrant further consideration.

GAPS IN PRACTICE AND SYSTEM COORDINATION

The Project observed repeatedly through its casework how gaps in the system affected youth with histories of trauma. The most glaring example of this failure was group care. Over and over, group care was the last resort for youth with histories of trauma. Youth who externalized their trauma symptoms exhausted other supports and CW placed them in group care.

“I left my mom’s house and went to a group home. I’m in the group home, and my siblings are in Brampton, and it’s a one-hour travel. So, I get on visitations, and they make me wait two months! I didn’t know who they lived with, what their phone number is, I just know they’re in Brampton. I told them they need to give me visitations or I’m not going to school. I had to be demanding. Three months go by, and I say screw this. I called the supervisor, my worker, my other worker, I called everybody in and sat them at the table and I had to go to court. And it took forever to get visitations and all I get is two visits a month. It’s not complicated, but they were saying they can’t pay for the taxi for me to visit my brothers. They don’t fund the things we need. And it’s frustrating. It’s like you have to get angry for them to take you seriously. They’ll walk all over us.” - COY

Group Care as a Gateway to the Justice System

The group care system is often perceived as a criminogenic environment, mainly due to the excessive utilization of police as a means to penalize a young person’s expression of trauma (Gerard, McGrath, Colvin, and McFarlane, 2019). In Ontario alone, it is estimated that over 50% of young people living in group care settings will incur criminal charges related to something that was done within this placement (Scully & Finlay, 2015). Common group care charges include property damage, assault, and “administrative” offences such as breaches of bail and/or probation (Bala et al., 2015). For many cross-over youth, group care placements serve as a direct pipeline into the YJ system (Finlay 2013). Duross, Fallon and Black (2010)

found that 81% of young people who had been placed in group care settings exhibited at least one “behavioural challenge,” including adverse peer relationships, running away, and acts of violence (as cited in Burnside, 2012). These young people placed in group care settings are at greater risk for criminal involvement than those in alternative placements (Bala, De Fillips & Hunter, 2013; Burnside, 2012; Robst, Armstrong & Dollard, 2011).

Group care as a ‘gateway to jail’ is heavily influenced by the lack of standards within the system, in which a failure to properly train frontline staff is pushing them to depend on police for de-escalation and crisis intervention (Finlay, 2003; Gharabaghi, 2010; Scully & Finlay, 2015; Bala, Finlay, De Filippis, & Hunter, 2015; Gerard et al., 2019). At all the pilot sites YJ and CW stakeholders expressed their frustration with the issue. This is in line with the literature, which shows that professionals express frustration and helplessness similar to the young people they are supporting (Walsh & Jagers, 2017).

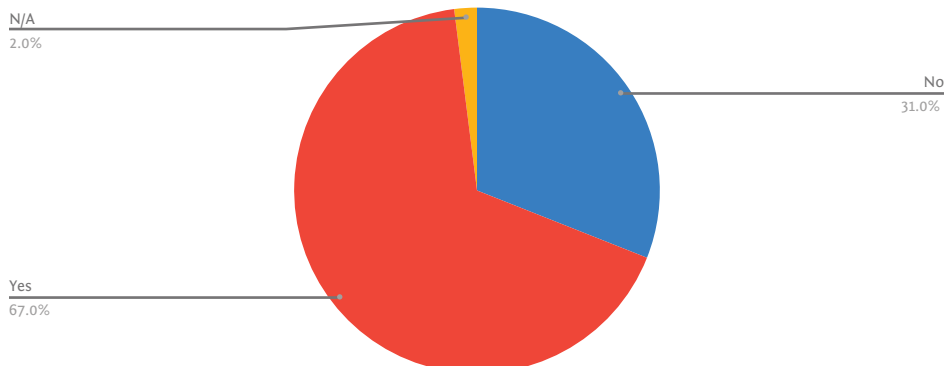
When a young person is charged and crosses-over into the YJ system, it is common practice for them to experience multiple placement changes as they continue to incur more charges (Scully & Finlay, 2015; Bala et al. 2015). This creates a life of instability for cross-over youth, and the impact it has on their cognitive and emotional development is vast, along with the higher likelihood of engaging in further criminal behaviour that results in an accumulation of charges (Hayden, 2010; Chiu, Ryan, & Herz, 2011; Bala et al., 2015; Scully & Finlay, 2015; Gharabaghi, Trocme, & Newman, 2016).

The use of intrusive measures not only discounts a young person’s lived experience, it also silences their voice and denies their rights (Finlay & Pearson, 2019). This emphasis on police for managing behaviour and subsequent instability is particularly catastrophic for Black and Indigenous young people. There exists a culture of racism within the group care system that allows these young people to be mistreated at higher rates than their non-racialized peers (de Finney, Dean, Loiselle, & Saraceno, 2011; Gharabaghi, 2019). This leaves them forced to conform to colonized standards, and, when they fail to do so, punished through the use of charging practices within group care. These practices are setting racialized young people up to become enmeshed within the YJ system.

GROUP CARE CHARGING PRACTICES

Percentage of Youth People that Received Charges in Out-of-Home Care n=48

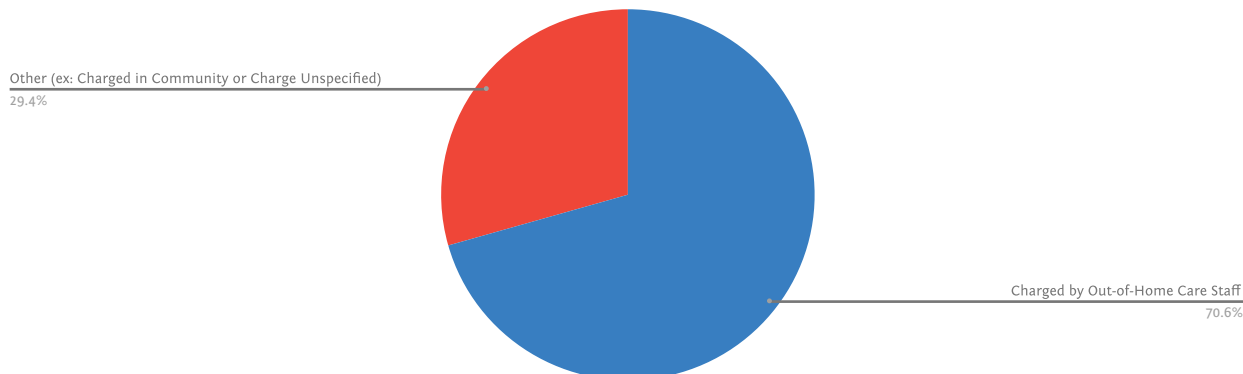
Toronto and Belleville Sites



The Project found that, across both the Toronto and Belleville sites, a total of 67% of the young people had incurred charges in out-of-home care settings, with Toronto reporting 64% and Belleville 70%. Even more staggering is that both sites identified that young people were in the care of out-of-home placements at the time of their first charge and entry point into the YJ system, with the Toronto site revealing 43% and Belleville 70%.

Percentage of Young People with 'Out-of-Home Care Charges' Charged by Out-of-Home Care Staff n= 34

Toronto and Belleville Sites



The Project was able to confirm that, across both the Toronto and Belleville sites, of those young people that had incurred charges in out-of-home care settings, a total of 70.6% had at some point been charged specifically by group care staff (66% percent in Toronto and 85% percent in Belleville).

The Toronto site found that young people who incurred their first charges in group care settings accumulated more administrative breaches and spent more time in pre-trial detention on average, as compared to those youth with initial charges in the care of a

guardian. Both point to a deepening penetration into YJ. Notably, the Toronto site report explores information pointing to a trend that Black young people in the Toronto site received more severe charges in out-of-home care, more administrative charges, and more time in pre-trial detention, as compared to white and Indigenous cross-over youth.

Within the Belleville and Thunder Bay sites, stakeholders stated that there were an overwhelming number of breaches incurred in group care settings, as young people awaited resolutions to pending charges. A stakeholder from the Thunder Bay site framed this issue within the context of group care staff calling police for breaches of bail conditions:

“He has a couple of substantive offences that are serious, but the rest are breaches, and he’s in care and it got down to the point where the group home is calling because they are mandated to do so, and police are charging. He has 30 charges before the court and they are mostly of the administrative breaches. Recognizing police didn’t use their discretion when charging. Recognizing that youth can’t follow curfew or no drinking and those shouldn’t be sanctionable and it’s indicative of the issues the youth is facing”
– COY Stakeholder (Thunder Bay)

The CCF in Belleville worked with a young person who was subjected to similar treatment:

“Within a two-month period of youth being placed at the group care, the police were contacted several times to attend the home and/or to locate youth as a missing person. By the end of the summer, youth had a total of 25 charges at the group care home, most of them administrative charges. Belleville is not his home jurisdiction and family resides hours away”. – CCF (Belleville)

PLACEMENT INSTABILITY AND RECIDIVISM

Recidivism was a common theme across both the Toronto and Belleville sites. Regardless of a young person's reason for entry into care (either protection concerns or parent-teen/parent-child conflicts), when in out-of-home placements, those operators framed the young person within the context of community safety concerns, rather than building upon their existing strengths. As a result, strict rules were imposed upon the young person, resulting in the procurement of administrative breaches. These charges are inseparable from conditions related to bail and probation. Through casework, it became apparent that many young people placed within group care settings were punished for being non-compliant with the rules of the home, a common bail condition. As with their initial involvement with YJ, recidivism among cross-over youth was seen by CFFs across both sites to be linked to placement instability.

“CW report that youth was moved from this placement due to their ‘aggressive behaviours.’ Since this placement change, CW has moved youth 14 times in the past three years”. – CCF (Belleville)

“CAS was taking youth to out-of-region group home places – despite youth not wanting to go. Youth was eventually taken to the group home and ran AWOLed with another peer. Youth ran to friends where she was arrested on a breach. Youth resisted arrest and was charged with assault” – CCF (Toronto)

“Youth expressed not wanting to go to group home out of the city; however, their request was not heard by CAS. This resulted in their first charge” – CCF (Toronto)

Notably, at both Project sites it was seen that Black young people experienced a large degree of instability in placements. At the Toronto site, 12 of 14 young people with charges in multiple jurisdictions were Black. At the Belleville site, there were only two full-service Black young people served by the Project; however, one had charges in five separate jurisdictions.

The complexity caused in the lives of cross-over youth at both sites by multiple jurisdictions often led to instances in which young people were detained in pre-trial detention for reasons outside the scope of the Youth Criminal Justice Act (YCJA). At both sites it was found that cross-over youth were detained as a social measure (64% percent at the Toronto site, and five of seven cases [71%] at the Belleville site). Reasons included there being no CW worker present in court and no placement available, and defence counsel's being unavailable to attend court. At both sites CCFs reported that this led to deleterious outcomes for youth, including a worsening of their mental health, and in some cases further charges while in detention, leading them even further into the YJ system.

Young people in Thunder Bay were particularly affected by excessive placement instability. In Thunder Bay, the average number of placements for youth was 14, with one youth reporting more than 50 placements across the country and another a disturbing total of 120 placements. Not only were the young people being moved an exorbitant amount, they were also being relocated extremely far away from their home communities. This included being moved across various provinces, with a specific inclination for Southern Ontario.

HOW IT WAS LEARNED

The Project gained this information through casework, youth feedback, stakeholder training session, intersectoral steering committee meetings, and court information. In their work, the CCFs were able to deeply explore the experiences of the youth they served. The Project engaged with youth advisory committees, youth representatives, and youth mentors with lived experience who shared their encounters to further elucidate the issues.

LIMITATIONS

A comparison of the findings across the Belleville and Toronto sites must be taken with some considerations. At the Toronto site the Project was able to secure comprehensive court information related to cross-over youth served through the Project. This provided significant insight into YJ trajectory. Contrastingly, at the Belleville site this information was not obtained; however, based on learnings from the Toronto site pilot, the CCF in Belleville more accurately captured cross-over youths' trajectory through the CW system. Further, both sites involved small sample sizes. Readers are encouraged to refer to both the Toronto and Belleville Cross-over Youth Project reports for further reading regarding the CW to YJ pipeline unique to those settings and outside the scope of this report. Due to a lack of information collected at the Thunder Bay site, it was not possible to compare information across all three sites.

DISCUSSION AND CONSIDERATIONS FOR POLICY AND PRACTICE

Consideration #1:

Implementation of Early Family-Based Interventions

Across both the Belleville and Toronto sites, the Project saw a lack of family intervention and wraparound supports as key factors in moving young people from the home through the CW and YJ systems. In order to improve outcomes and disrupt this trajectory into the YJ system, early intervention and proactive supports that foster a wraparound approach are required (Bala, Finlay, De Filippis & Hunter, 2015). It should be understood that the systems these young people need to go through are in and of themselves traumatic. For instance, court appearances: "Pre-existing trauma symptoms may be worsened through further victimization through the court process itself and the separation from family and other support networks as a result of incarceration" (Moore & Indig, 2013, p. 868).

Through the experiences of the Project, it was learned that many young people entered the CW system due to parent-child conflict, or in other words an inability to care for youth due to 'extreme behaviour'. The literature also further supports this finding, as unresolved issues, such as the impact of early childhood trauma, further influence a young person's entrance and persistent involvement in the CW system, especially when these underlying concerns are not appropriately addressed (Orsi et al., 2018; Shipe, Shaw, Betsinger & Farrell, 2017). Consequently, there is a lack of proactive support for the young person or their care-providers and networks. In order to improve outcomes and disrupt this trajectory into the

YJ system, early intervention and proactive supports that foster a wraparound approach are recommended (Bala, Finlay, De Filippis & Hunter, 2015).

Many resources are not employed until a case reaches a crisis point. Many of the families of cross-over youth would keep their youth in the home if they had the proper supports and resources to support them in doing so. However, it was the Project's experience that, for many families, resources were not provided until they were in crisis. Once in crisis, for many families, group care settings provided 'best placement options'. However, from these placements it was only a short jump to a young person's first charge. Disparagingly, once in the justice system a young person was more able to "jump the line" for services and resources that, in many cases, could have been provided at the front-end of their involvement with the CW sector. In agreement with the recommendations provided in the MCYS's (2016) Residential Services Review,

Greater communication and coordination across sectors and levels of service would likely result in fewer moves and disruptions in care for children and youth, and perhaps even fewer young people entering residential care. Mental health, behavioural, and crisis services should wrap around the young person and support that person where they are living. The young person should not be forced to move simply because additional supports are unavailable to help them in their current living situation. (p.22)

Consideration #2:

The Adoption of a Trauma-informed Approach to Practice that Avoids the Re-traumatization and the Criminalization of Trauma in Cross-over Youth

The literature has theorized that there is not a direct link between a child's involvement with the child welfare system and a subsequent involvement in the youth criminal justice system, but rather that a past history of trauma leads to involvement with the child welfare system, and this past trauma also leads to behaviour that brings the child into conflict with the law and involvement in the youth justice system (Bala et al., 2015, p.7).

The CW and YJ systems retraumatize young people through the common practices of stringent rules, emphasis on discipline, and breaches of trust (Bala et al., 2015; DeCandia & Guarino, 2015). The result of these practices is that young people feel abused by the systems and acquire a blatant mistrust of service-providers. This punitive culture fails young people by inflicting pain through punishment, which prevents them from developing accountability

and an awareness of the implications of their actions (Oudshoorn, 2015). This is exacerbated in the context of group care, in which behavioural responses to trauma typically result in the contacting of police (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015). Trauma-related behaviours are dealt with by staff who are ill-equipped to handle the situation, and when police are contacted, the young people are then forced to move to alternative placements. This process often leads to a young person being charged and their entrance into the YJ system, which provides context as to why young people consider residential care to be “gateways to jail” (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015). The lack of continuity of care is problematic for youth, as a foundational relationship is crucial to their wellbeing in out-of-home placements (Gerard, McGrath, Colvin & McFarlane, 2019). This was experienced across both project sites, where multiple jurisdictions and a rotating cast of service providers resulted in instable settings for young people and further breaches and charges.

In the case of older cross-over youth, behaviours leading to an initial involvement in the CW system can be interpreted through the cycle of violence theory, which posits that the pain from trauma transfers into violence, whereby the victim becomes an aggressor (Oudshoorn, 2015). This perpetration of violence is when many young people begin to engage in the YJ system. Such episodes are triggered by either a re-enactment of a previous trauma, or a need to combat overwhelming feelings of shame and humiliation. There is a high prevalence of traumatized young people in the YJ system, because “young people often hurt others because they are hurting” (Oudshoorn, 2015). This is especially pertinent for cross-over youth, as they are far more likely to be diagnosed with mental health and behavioural disorders in comparison to young people involved in one or neither system (Gordeyko, 2017). Cross-over youth are least likely to receive treatment for mental health concerns due to their dual involvement, as compared to their single-system and non-involved counterparts (Gordeyko, 2017).

The YJ system is currently constructed to address the external symptoms of trauma. However, the only way to treat a problem is to address the underlying cause(s), otherwise it is a never-ending battle with symptoms. The CW system is suppose to treat the underlying trauma with safety, support and love. However, the Project observed substantial shortcomings in that mission.

It is important to remember that a trauma-informed practice lens does not mean a trauma-centred approach characterized by extensive and detailed immersion in the trauma history of the youth (Bowden, 2009). In alignment with the literature, youth reported to the Project that service-providers required youth to constantly re-tell their story in great detail, rather

than focusing on addressing their issues. Service-providers would also encourage expression of feelings when it wasn't appropriate, and minimize the significance of the trauma in the youth's current life (Harris & Fallot, 2001).

Key Components to a Trauma Informed Practice Model with Cross-over Youth:

1. **Awareness:** Normalizing and validating the youth's feelings and experiences (Knight, 2014), which in turn can help cross-over youth make connections between present behaviour and past trauma. Conveying empathy and understanding affirms and validates cross-over youth. Awareness can also work to reduce isolation and feelings of being different.
2. **Safety:** Safety takes many forms: physical, social, emotional, and cultural (Knight, 2014). Youth are very attuned to their surroundings and will carefully study how adults present themselves, including their mannerisms, tone of voice, and body language. All of this information is used by cross-over youth to determine who is a 'safe' person and whether they have provided them with a safe environment (Steele & Malchiodi, 2012).
3. **Relational Practice:** Meet the youth where they are, and try to understand what they have been through. You may need to tailor how you work with them, what they can handle, or how fast or slow you work with them (Donisch, Bray & Gewirtz, 2016). Positive relationships can serve as the most beneficial therapeutic approach with cross-over youth. Positive, non-judgmental reassurance of youth's feelings and emotions are critical. Avoid using responses that might be negative and shaming.
4. **Restorative Thinking:** Some youth may not be ready for verbal therapy. In cases such as these, service-providers and stakeholders can still help youth develop verbal competencies and the capacity for self-reflection, which will help them build the capacity to cope (Knight, 2014). Active listening can help service-providers and stakeholders assist children in identifying and naming emotions (Knight, 2014). Further, this can help cross-over Youth identify triggers and avoid triggering behaviour.
5. **Co-regulation:** Service providers must teach emotional regulation through everyday soothing activities. These activities are instrumental in helping youth with trauma to learn emotional regulation (Bath, 2015). Service-providers must have the capacity to distinguish between problematic behaviours that are goal-directed and instrumental, and those that result from emotional flooding, and act accordingly (Bath, 2015). Use

your interactions with cross-over youth as teachable moments. Youth require service-providers to exert self-control and resist mirroring the youth's hostility. The best lesson is to be a living example and role model for healthy responses.

Challenges to Coordination of Multi-System Supports

Wraparound services for cross-over youth are currently uncommon, as organizations are not working collaboratively (Laidlaw Foundation, 2019). This lack of communication and coordination between both organizations and sectors results in barriers to services for those young people seeking support (Bala et al., 2015; Laidlaw Foundation, 2019). Addressing these systemic barriers through increased coordination between sectors has the potential to improve outcomes for cross-over youth by providing quality programming, as well as minimize costs over time (Bala et al., 2015). Wraparound services seek to involve youth and their families in the provision of services that address their complex needs, particularly mental health concerns (Pullmann, Kerbs, Koroloff, Veach-White, Gaylor, & Sieler, 2006).

Bala et al. (2015) emphasize the Project's recommendation of case management – a collaborative interagency effort in which all involved are working towards positive outcomes for the community and youth. This approach aptly considers the contemporary reality of aggressive cuts to the social services sector. Increased communication between sectors yields the ability to cultivate early developmental crime-prevention programs that are cost-effective (Koegl & Day, 2017), and more appropriate interventions for cross-over youth. Cross-sectoral communication and collaboration can also act as an informal accountability mechanism to hold stakeholders accountable for their service-delivery and resource allocation.

Several factors contribute to the difficulties professionals may have when supporting these young people. For professionals, inadequate system responses in relation to the needs of cross-over youth and poor inter-agency collaboration exasperate the issue. The intensity of this experience in and of itself is traumatizing (Walsh & Jagers, 2017). Ultimately, staff are working within what McEvaney & Tatlow-Golden (2016) have called a “traumatized and traumatizing system” (p.66). The implications of this bring attention to the needs of frontline staff working with cross-over youth. Minimizing the risk of burn-out or vicarious trauma is a typical institutional response, which neutralizes the experience and the feelings of the frontline staff. As indicated in the Residential Services Review (MCYS, 2016), many direct-service professionals, particularly in residential settings, are under-qualified, under-trained, and inadequately supervised in their work with Ontario's most vulnerable young people. The ramifications of this are significant, and may point to group-care providers' over-reliance

on police interventions to manage the challenging behaviours of young people. However, it is well-known that, for young people with traumatic histories, many of these externalized behaviours are an expression of their trauma and symptomatic of accompanying mental health needs. Challenging behaviours warrant the provision of specialized, trauma-informed interventions and supports delivered by qualified frontline direct-care providers.

Attention to caregiver training and supports is critical. When frontline group care staff are inappropriately trained, there is an inclination to respond to behaviours impulsively, with a need to control, and further escalate the situation, through methods such as physical restraint or contacting the police (Bertazzon, 2018). Alternatively, if staff are able to self-regulate and respond logically and calmly, they can enter into a state of co-regulation with the young person, in which the young person internalizes the staff's ability to remain calm. This provides context for the importance of self-regulation training for frontline staff, as a way to avoid punitive methods for responding to a young person's distress (Bertazzon, 2018).

Stakeholders must have a trauma-informed approach, which consists of important but difficult-to-master concepts. Stakeholders must have an awareness of trauma, and those who work with cross-over youth must recognize the role past trauma can play in current behaviour, and be aware of the youths' many vulnerabilities. Stakeholders should engage in relational practice, which is a method to build strong, healthy, trusting, therapeutic relationships as the most important tool in the healing process. Significant relationships can help build the blueprint so that young people can achieve their potential. Relationships need to be about listening, understanding, and validation. Stakeholders must also provide safety; physical and emotional safety are vital in building connections with cross-over youth.

Self-awareness and self-regulation are fundamental skills for stakeholders working with cross-over youth. It is important not to allow one's own past and/or present traumatic experiences to negatively impact one's responses to the youth. Stakeholders must approach this challenge with restorative thinking, which is the restoration of relationships. This how the victims can heal, how youth with histories of trauma can get the necessary support to be accountable for what they have done, and how the community can feel safe and supported. Restorative thinking is about moving forward for all those impacted (Zehr, 2002).

Stakeholders should also recognize that each youth is unique. Each youth must be seen as a unique individual that needs to be better understood and appreciated for the additional burdens they must carry in their life. Fundamentally, stakeholders must employ an anti-oppression framework and practice. Anti-oppression principles critiques the role of power

and practices of oppression that limit social, educational and economic outcomes for marginalized groups (Hasford, 2019). Without this perspective, stakeholders will have a huge blind spot. The last fundamental component is an emphasis on youth voice. Every youth with a history of trauma has a narrative, and they are the authors of their own story. It is important to find ways to guide and support them in using their voice in order to help them to make meaningful, positive changes in their lives. In order to prevent further trauma, they need a safe, secure, and respectful environment in which to express themselves, and stakeholders should actively assist in cultivating one for them.

Trauma-informed practice is a commitment to provide services in a manner that is welcoming and appropriate to the special needs of those affected by trauma (Harris & Fallot, 2001). Trauma-informed practice helps cross-over youth “develop their capacities for managing distress and for engaging in more effective daily functioning” (Gold, 2001, p60). Trauma-informed services recognize that the core of any service is genuine, authentic, and compassionate (Klinik Community Health Center, 2013).

With cross-over youth, it is important to realize the widespread impact of their trauma, and understand how difficult it might be to recover. Recognize the signs and symptoms of trauma; respond by integrating knowledge about trauma procedures and practices; and resist re-traumatizing. The YJ and CW system need to work together to address the underlying trauma. Cross-sectoral communication and collaboration are the only way to achieve that. If stakeholders simply repeat the same patterns, the results will never change.

Consideration #3:

Curtail the Use of Punitive Consequences for Victims of Trauma (Cross-over Youth)

Criminalization of Trauma

“Sometimes in my group home, when a kid gets arrested on the bail, their support systems are taken away. Something that jeopardizes their family or support contact shouldn’t be taken away.” –COY

When a young person is exposed to trauma, they develop survival skills that are consistent with their environment; however, these behaviours are commonly considered disruptive, and lead to the labeling and stigmatization of young people (van der Kolk, 2005; DeCandia & Guarino, 2015; Oudshoorn, 2015). These episodes are triggered either by a re-enactment of previous trauma, or by a need to combat overwhelming feelings. For young people residing in group care, these typically painful and overwhelming feelings may include:

Grief from losses and abandonment; persistent anxiety about themselves and their situation; fear of or even terror about a disintegrating present and a hopeless future; depression and dispiritedness at a lack of meaning or sense of purpose in their lives; and what could be termed “psychoemotional paralysis,” or a state of numbness and withdrawal from the people and world around them. (Anglin, 2002, p. 109-110)

Cross-over youth have complex needs, which must be considered by court stakeholders when delivering ‘consequences’. Young people who are involved with both the CW and the YJ systems have, by definition, experienced trauma. Youth are only brought into the CW system when they have experienced harm, or the risk of harm. The more deeply involved with the CW system, the more trauma the young person is likely to have experienced. Contemporary literature, clinical experience, and the Project’s experience demonstrate that traumatized individuals need unconditional treatment and long-term, continual relational intervention. It must be emphasized that traumatized youth have a heightened response to unsafe circumstances, whether perceived or real. Therefore, behaviour ‘management’-informed treatment and interventions that favour punishment and/or isolation will not foster positive outcomes for cross-over youth. A regime should be considered similar to the Gladue and Ipeelee sentencing regime for Indigenous offenders, one that formally recognizes the role trauma plays in the offending behaviour of cross-over youth. Section 34 of the YCJA grants authority for this type of regime. Reading Section 34 together with s. 3(1)(b) &(c), the Court should take formal notice of the impact that trauma has on behaviour (diminished individual responsibility), the role the state plays in perpetuating a system that causes trauma, and the deleterious effects custody has rehabilitating youth with histories of trauma.

As such, the Project recommends that diversion programming be implemented more broadly within YJ. Diversion programs should not be limited to first time/minor offences for cross-over youth. The Project advocates that community safety interventions should be guided by trauma-informed practice and away from antiquated notions of punishment, as the latter is a method that proposes short-term solutions. Because a cross-over youth’s development is still very malleable, the Project suggests that these young people are perfectly positioned for

long-term interventions. This approach is compelling, as it is more likely that the underlying issue is addressed, and less likely that it will escalate to an unmanageable degree. Agencies should mandate a more proactive, positive intervention through policy reform. Moreover, all YCJA charges that arise when a young person lives in group care should be considered for diversion, and most should be eligible for diversion, as the system is the underlying cause, or at a minimum is an underlying cause. Conditions in residential care are abhorrent. The YCJA preamble requires that concerned stakeholders take reasonable steps to prevent youth crime by addressing its underlying causes.

Cross-over youth are disproportionately, constructively discriminated against during the bail process. The lack of judicial interim release for many cross-over youth is a form of punishment. *R. v. Antic* requires courts and police to release youth on the least restrictive form of release, as does the YCJA itself, section 29. Courts are specifically prohibited from detaining a young person as a substitute for child protection, mental health or other social measures, including homelessness or lack of family support. Courts should accept non-traditional bail plans, like shelters, “couch surfing”, etc., and reject residential care placements, as they are unsafe. Courts should also recognize that group care, by its nature, is very restrictive. Police should use more promises to appear, as they are required to by law. They must also follow the requirement of least restrictive release, including the conditions of release for the promise to appear.

Cross-over youth should not be charged with or found guilty of an administrative offence. There are recent amendments to the Criminal Code Parliament’s desire to decrease the YJ system’s reliance on these offences. In cases in which there has been no violence or property damage, there are non-criminal mechanisms to employ. Those should be expanded to all administrative charges for youth who have experienced trauma. Where such charges have been laid, Crowns should, as a matter of routine, withdraw the charges or issue a Crown caution, section 8 of the YCJA, as an outcome. Where prosecutors do not withdraw or issue Crown cautions, judges should, as a matter of routine, issue a judicial reprimand, section 42(2)(a) of the YCJA. There should be a recognition that a non-criminal regime is more appropriate due to the number of complex systems they must navigate and difficulties associated with trauma.

Research has demonstrated that youth who have experienced trauma are often stuck at or near the developmental age when they first experienced it. Therefore, the hard distinction under the YCJA at age 18 for youth with histories of trauma should be relaxed. The preamble of the YCJA dictates that there is shared responsibility to address the developmental

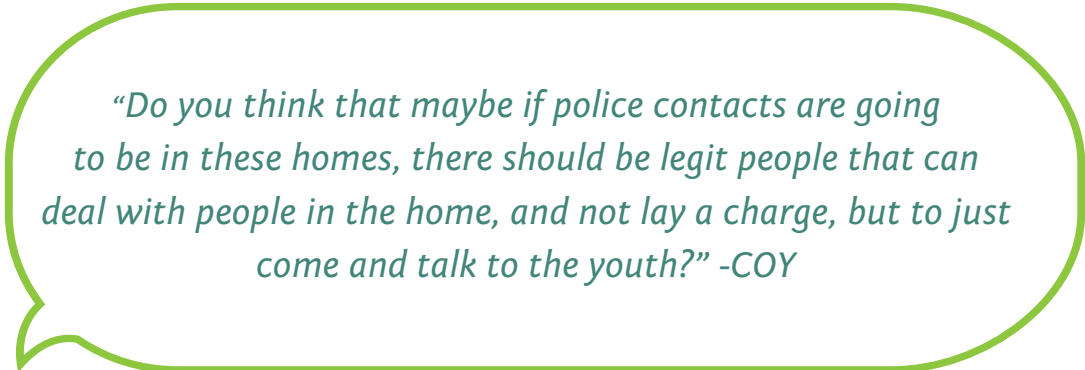
challenges and the needs of young persons, and to guide them into adulthood. Youth with histories of trauma need extended privacy protections in order to catch up developmentally with their peers.

Consideration #4:

Pre-escalation and De-escalation Approaches and Strategies, and Increased use of Discretion in Group Care

In group care, these trauma-related behaviours are frequently referred to as “‘outbursts’, ‘explosions’, or ‘acting out’” (Anglin, 2002). Frontline staff tend to lack the skills and knowledge to perceive these behaviours as expressions of pain, and respond with a behaviour-management rather than a trauma-informed lens. Behaviour-management focuses on a need to control a young person’s behaviour, which results in staff making demands and threatening consequences such as a loss of “privileges” (Anglin, 2002). In the context of group care, fundamental rights are considered to be privileges, and these can include “privacy, community and family access, and recreational opportunity” (Gharabaghi & Phelan, 2011, p.78). The use of punishment on young people who are likely to have differently functioning and complex cognitive and control systems will more often have disastrous effects (Phelan, 2006). The assertion of control further exacerbates behavioural responses to trauma, typically resulting in the contacting of police (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015).

“Residential care has remained a persistent site of criminalisation” in which frontline staff are exhibiting an overreliance on police for behavioural management tactics, and in which even police respondents perceive that these calls do not merit police interaction (Gerard et al., 2019, p.88). This process often leads to a young person being charged and crossing-over into the YJ system, which provides context as to why young people consider group care to be “gateways to jail” (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015). This overreliance on police for behaviour-management needs was clearly evident across the Toronto, Belleville, and Thunder Bay sites. As shown above, through the staggering information on group home charging practices, the Project found that a vast majority of the young people were being charged while in group care. Furthermore, for many young people these were their first charges and entrance into the YJ system.



“Do you think that maybe if police contacts are going to be in these homes, there should be legit people that can deal with people in the home, and not lay a charge, but to just come and talk to the youth?” -COY

Group care staff resort to police resources even for “administrative” charges, which include missing curfew or being away from the home without permission, even if only for a short time (Scully & Finlay, 2015; Bala et al., 2015). This was similarly observed by the Project, in which the Toronto, Thunder Bay and Belleville sites saw an overwhelming amount of administrative charges being laid against the young people served. These were often a result of group care facilities calling the police for breaches of bail or probation conditions.

Young people are being retraumatized by these common practices of stringent rules, emphasis on discipline, and breaches of trust (Bala et al., 2015; DeCandia & Guarino, 2015). They are being “set up for failure” and left with a blatant mistrust of those who are meant to be caring for them (Bala et al., 2015). When the police are called on a young person and charged, most cases result in them being removed from the residence and placed somewhere else. Not only are young people facing difficulties trusting staff in fear of being reprimanded, but for many, they do not get an opportunity to form relationships with staff, because they are forced to leave or are being mistreated, or feel isolated to the point that they want to run away (Kerr & Finlay, 2006; Bala et al., 2015; Scully & Finlay, 2015).

Given the evidence in the literature, and the Project’s experience that group care settings can serve as a pipeline into the YJ system, alternatives to out-of-home placements should be considered. The CW and YJ systems need to embrace an alternative approach to trauma. It is not merely about removing a youth from a point of crisis. Youth with histories of trauma need wraparound supports, especially in-home (Burnside, 2012; Ontario Centre for Excellence for Children and Youth; 2016). Youth Advocate Programs, Inc. (YAP) is an example of a successful nonprofit organization that provides community-based wraparound supports to cross-over youth and their families. YAP is unique in that it combines an advocacy approach with a wraparound philosophy to engage multiple systems in planning processes, while seeking to build resilience among the young people and families accessing their supports (Silva, Petrilla, Matteson, Mannion, & Huggins, 2019).

A Lack of Standards for Quality of Care

When reviewing the activity between 1978 to 2017 of the Ontario Ministry of Community and Social Services, along with other government sectors and the Ontario Child and Family Service Advocacy, it is evident that there was an intent to formulate standards and guidelines for youth residential care facilities. Across this nearly 40-year time frame, many concerning themes arose and persisted, leading up to consistent recommendations for change that have yet to result in any actions towards implementation by the Ontario Ministry of Child and Youth Services (MCYS). These themes are presented as a chart in appendix 3, outlining the direct passages from Ontario government reports created by the Ministry of Community and Social Services, the Ministry of Correctional Services, Canadian Child Welfare Association, the Ontario Child and Family Service Advocacy, and the Ministry of Child and Youth Services. Eight themes emerged, which include staff hiring/training, use of restraints, youth voice and advocacy, accountability, case management and interventions, prevention/family support, culturally sensitive programming, and youth justice.

One of the major issues that contributes to the themes identified is the ambiguity of the standards, which leaves ample opportunity for residential care facilities to develop their own policies that may be neglectful to the rights of the young people under their care. Quality of care standards were a topic of great debate. Many stakeholders were in agreement that these were necessary to ensure the appropriate care was being provided to young people living in group care. However, it was simultaneously perceived that setting stringent guidelines for what constituted quality care was too restrictive, leading to the removal of care standards surrounding staff training and hiring practices (row 1-8). A competency-based strategy for hiring practices was brought forward in the proposed standards of 1978, which outlined specific competencies that potential employees should possess for them to gain employment in group care facilities. When the standards were finalized in 1980, this proposal was removed and left the hiring and training practices up to the discretion of the individual agencies. Since the removal of the standards in 1980, there have been no changes to include a set of quality-of-care standards, though there have been multiple reports published that urge the ministry to establish such guidelines. It was not until 2017 that the Ministry of Child and Youth Services (MCYS) proclaimed that they would define quality-of-care standards, using a framework brought forward by the Residential Services Youth Panel that was presented in 2016; however, to date these promises have not been fulfilled.

This issue persists into the development of programming, as other recurring themes included a need for culturally sensitive programming (row 40-46), case management (row 31-34),

and family support services (row 35-39). Culturally appropriate services was first brought forward in 1990, with respect to Indigenous young people coming into care and their further overrepresentation within the CW system. Consistent recommendations were issued thereafter to the MCYS to create services that were respectful to the Indigenous culture, along with ways to ensure that Indigenous young people were being cared for within their home communities or by services run by Indigenous peoples. As of 2017, the MCYS stated their dedication to reforming an inclusive system for Indigenous, Black, and other racialized young people, as well as young people who identify as LGBTQ+. Similar to the promises for quality-of-care standards, there has yet to be any progress on the implementation of these changes under the new Ministry of Children, Community and Social Services.

That dedication to reform extends to the theme of youth voice and advocacy (row 15-22), as standards indicate that youth voice should be included in program development and complaint procedures, and that facilities must ensure young people are aware of their rights and how to contact the Child Advocates Office. However, the mechanisms and extent to do so are not clearly outlined, leaving many young people unaware of their rights in care and who they can contact. Ultimately, the lack of clarity in standards and responsibility creates a systemic problem for accountability measures (row 23-29). MCYS reports have consistently outlined a need for established standards of care, with specific focus on quality-of-care standards, and a governing body to evaluate and enforce these standards. In 2017, it was announced that the MCYS intends to increase the amount of inspections, including unannounced visits, in accordance with the newly defined quality-of-care framework. No report has been released outlining the new standards of care or the appointed team and the procedures that would be followed.

In consideration to young people in YJ facilities, the major theme that has evolved is the need for an emphasis on support services at the community and family levels, and for a shift away from the tendency to place young people in institutional care (row 47-53). For young people residing in custody facilities, the main concern is that these facilities also be held to a set standard for quality-of-care.

There is a consensus within the group care sector that there is an urgent need for standards to be established for quality-of-care within their facilities (Anglin, 2002; Gharabaghi, 2009; Gharabaghi, 2010; Scully & Finlay, 2015; Gerard et al., 2019). At the forefront of the arguments for quality-of-care to be regulated is the lack of staff qualifications and training. The only required training asked of frontline workers is certification in the “crisis intervention technique”, also referred to as restraints, and other physical safety credentials, including first

aid and workplace health and safety training (Gharabaghi, 2010). The pre-service qualifications and training requirements are entirely put to the hiring agency to determine, and so a large portion of staff come from educational backgrounds unrelated to working with the trauma needs of young people (Anglin, 2002; Gharabaghi, 2010; Gerard et al., 2019).

Specifically, staff lack skills in relational practice and de-escalation techniques, creating an environment heavily focused on behaviour management (Gharabaghi, 2010; Gerard et al., 2019). Even more troubling is that, due to their inexperience, staff are unaware of how to work with young people who may be considered “defiant”, and immediately resort to police, regardless of the fact that neither the staff nor the young person is in danger (Bala et al, 2015). This invariably escalates “behavioural matters” that did not warrant such a severe response (Gerard et al., 2019). Due to the pain and trauma that these young people experience within their daily lives, “it seems imprudent at best, and negligent at worst, to place inexperienced and untrained staff in such a demanding and complex situation” (Anglin, 2002, p.113). Through conversations with the Project’s Belleville steering committee and group care operators, it was confirmed that there is an under-investment in staff. Through casework, it became apparent that many young people placed within group care settings are often punished for being non-compliant with the rules of the home. Attempts to create a culture of trauma-informed care in group care settings are seldom made.

Currently, the only method that the governing bodies utilize to ensure accountability within group care is an annual licensing process (Gharabaghi, 2009). Not only does this process disregard the quality of caring and programming of group care facilities, only focusing on the physical property, documentation and health standards, but there are also issues with inconsistency across licensing specialists.

In 2016, the Residential Services Review Panel outlined their recommendations for developing standards for quality-of-care and a framework for ensuring these standards are upheld (Gharabaghi et al., 2016). The Panel proposed a Quality of Residential Care Division that inspects facilities in “staff qualifications and professional development, supervision standards, the integration of young people’s voices, their engagement and participation in all levels of organizational activity, education and learning supports, family and community engagement activities, cultural competence and measures to embrace multiple identities, and others” (p.42). This division would replace the current licensing process, and in addition to these inspections, they would also begin monitoring the trajectories of young people’s placements in group care (Gharabaghi et al., 2016). The intent is to follow young people through moves both within the care system and across the various systems, including mental health, education, and YJ.

The Project has developed a group care charging protocol to provide suggestions to residential care providers on implementing a series of pre-escalation and de-escalation strategies and interventions to minimize the issue of group home charges. Pre-escalation strategies and interventions are responses to all the behaviours and circumstances that led up to the point of conflict. These can go as far back as when the youth first arrived at the home, and be as recent as mere moments before the conflict. Ensuring high quality-of-care throughout different aspects of a young person's residential care experience can promote pre-escalation approaches and interventions that limit conflict with youth. De-escalation strategies and interventions are alternative strategies to decrease the necessity of police involvement when young people are in crisis.

As discussed in further detail within the Project's 'Group-Care Charging Practice Guide', de-escalation strategies require group-care staff to deal with crises as a team. Furthermore, the guide suggests that individual care-providers consider whether their responses to young people in crisis are coming from a reactive position. The guide recognizes that, if there is a conflict between one service-provider and a young person, it is easy for issues to be clouded by feelings of personal animosity. If protocols are established that responses to conflict with young people have to proactively agreed upon by team members, among other strategies, it may increase the probability of more proactive and less reactive responses.

Placement Instability, Lack of Youth Voice, and Running

Group care placements are often considered a "placement of last resort", meaning that the young people residing in group care facilities have experienced multiple placement moves prior to ending up there (Gharabaghi, 2019). By the time a young person reaches group care they have already faced many losses, including the loss of family and a sense of home from being apprehended, and the further loss of peer and adult attachments from the following placements (Finlay, 2003; Scully & Finlay, 2015; Bala et al., 2015; Gharabaghi, 2019). These variations in placement may include kinship care, foster care, and other family-based care.

One of the major issues with this practice is that, by the time young people reach group care, they have been so institutionalized that they lose sight of the possibility for family life and success (Gharabaghi, 2019). When they are constantly hearing that these placements are a last resort, and they have gone through many breakdowns, a sense of failure becomes ingrained. This is combined with a gradual loss of self, as they're told that they have progressed to "the place of last resort" because of their own actions, framing the young person as the problem (Gharabaghi, 2019).

Throughout each placement move, they experience not only a change in environment, but also changes in those who care for them, the retelling of their life stories, the change of schools, the loss of community connections, and having their mental health and behavioural concerns retold (Crosland, 2015; Gharabaghi, 2019). These perpetuate the sense of failure and encourage a loss of confidence in the system. Furthermore, placement changes impact the development of young people, including “problems with interpersonal skills, emotional regulation, and cognitive information processes” (Chiu, Ryan, & Herz, 2011, p. 859). In turn, these implications on development influence the engagement in risk-taking behaviour and the likelihood of delinquency.

Frequent placement changes within the CW system significantly escalate the risk of juvenile delinquency (Ryan and Testa 2015). It is utterly comprehensible that young people are not eager to move far away from their communities and schools to out-of-region group homes with little information about where they are going. This is especially understandable for racialized and Indigenous young people, who are told they have to move to rural, predominantly white placements and communities, hours away from their support networks. For young people with histories of trauma, particularly older youth, such approaches to care can be counterproductive, especially for young people who have learned self-protective coping strategies that may be viewed as provocative, aggressive, or non-compliant by staff (Finlay, 2009). As a result, youth are continuously displaced, rather than restoring their sense of belonging in a community. This lack of continuity of care is problematic for youth, as a foundational relationship is crucial to their wellbeing in out-of-home placements (Gerard, McGrath, Colvin & McFarlane, 2019).

In agreement with the literature, the Project found congruence between Belleville and Thunder Bay surrounding the severe instability in placements that young people were experiencing. The average rates of placement moves were 6.9 and 14, respectively, with a young person in Thunder Bay enduring a total of 120 placement changes. This information was unavailable at the Toronto site. Additionally, once they became involved with the YJ system, they were only placed in various group care facilities, without any further opportunity for other family-based care. In the case of Belleville, the more instability the young people in the Project faced through recurring placement changes, the greater the number of charges young people were accumulating, along with an increase in the severity of charges in many instances.

Taken together, the negative connotation attributed to the “last resort” placement, along with the experiences of multiple placement breakdowns, increases the risk that these young

people will engage in offending behaviour (Hayden, 2010; Bala et al., 2015; Scully & Finlay, 2015; Gharabaghi, et al., 2016). Add in the controlling nature of not only the group care facility itself, but also the feeling of a loss of control in their life trajectories, and the risk becomes even greater (Hayden, 2010; Gharabaghi, 2019).

These consistent moves are understood as a loss. It is the Project's experience that youth were never offered opportunities to heal; instead, service-providers expected that these young people instantaneously adapt. While many cross-over youth are coping with layers of trauma, a placement move becomes another trauma from which they must heal. Young people must be provided the space and opportunity to have a voice, agency, and time to grieve. They must be offered more discretion when adjusting to new spaces.

Both police and group care staff should utilize increased discretion to disrupt the overcriminalization of cross-over youth. The problem is most acute as it relates to administrative breaches, assault, and mischief. However, it applies to a wide range of charges, including assault on a peace officer, theft, possession, and robbery. Guidelines on the use of discretion should take into consideration the full context of the youth's experience. Training and education should be conducted to ensure that officers fully understand the ramifications of custody on cross-over youth. Procedures surrounding the use of discretion must take into consideration research conducted on trauma and its effects throughout the life course. The frequency of availability to programs for cross-over youth should be modified in relation to their lived reality.

Lack of Youth Voice

...placement decisions are driven by a multitude of considerations other than the needs and wishes of young people, and further, that children, youth, and families have almost no voice in the decision-making process. (Gharabaghi et al., 2016, p. 45)

The decisions made in the "best interests" of these young people are largely made without the input of the young person themselves (Gharabaghi et al., 2016). In many cases the young person is not even informed when this decision is made, and is not given time to prepare themselves for the transition to a new residence. Some young people are not provided a reason as to why they are being moved. This was evidenced by the Project, in which many young people experienced moves in placement without being consulted. Although CW workers repeatedly move these young people, youth have identified that, when they attempt to contact their worker to request a new placement, they are frequently ignored and their voice is shut down (Scully & Finlay, 2015).

A strong example of excluding young people from having a voice in their placement is the use of geographically isolated placements, in which young people are moved to a group care facility that is in another city from which they have lived all their lives (Gharabaghi, 2019). There are multiple purposes for the use of these group care facilities, one of which is related to the cost of operating a facility in a large city versus that of rural locations. On the other end, such placements are frequently used as a means to separate young people from their communities and social networks, under the assumption that it will reduce their engagement in criminal behaviour and the chances of them running away. This forces young people not only to move to an entirely new city, but also to leave their families, peers, school, treatment resources, and completely start over again without opportunity to remain connected to what they left behind (Gharabaghi, 2019).

Regardless of the countless attempts that youth make to stay within their originating city, CW workers claim that the move is for their own safety. These rural facilities physically isolate the young person through programming that does not allow youth to leave, and all outings are supervised to the extent that contact with non-residents is not permitted (Gharabaghi, 2019). Youth are not granted rights for visitors; they are often deemed “unfit” to participate in traditional schools, resulting in on-site school programming; and they are perceived as being potentially “disruptive” to the community to the extent that they are not permitted to engage with it. The depth of isolation that these young people endure is counterproductive to the purpose of the relocation, as these youth are more inclined to run from these facilities (Kerr & Finlay, 2006).

As identified by the CCF in Belleville, many young people expressed a degree of isolation while residing in new placement communities. Some experienced racism and discrimination from community members who are not used to seeing diversity in their community. Most experienced the stigma of being in the CW system. They are labelled as outsiders, disruptive and bad. Many group care settings have responded to this community pressure defensively and with the aim to reduce the conflict that their presence creates. They try to reduce the impact of having placed a group care setting in a certain neighbourhood or jurisdiction by hiding and isolating the youth they serve. For the most part, youth in residential group care did not attend the local schools. It is not clear if they were barred or just strongly encouraged not to enroll. Youth in the CW system must feel welcome in their new home. It is important for group care settings to take a lead role in educating their communities. Communities should be encouraged to integrate their new citizens and embolden them to participate in local activities. Youth will feel more invested and accepted. This will lead to less points of conflict resulting from feelings of rejection and persecution. Reducing those feelings is a vital part of a pre-escalation plan.

Running

Young people in group care settings are at a greater risk of running from their placements, when compared to youth in family-based care, such as kinship care and foster care (Crosland, 2015). The reasons why young people run from group care placements typically consist of the environment, programming, and structure of the facilities, which have been referred to as “push” factors (Kerr & Finlay, 2006). Young people identify feeling “pushed” to run from group care because of strict rule enforcement, staff, boredom, and not having access to family and friends (Kerr & Finlay, 2006; Crosland, 2015).

Youth voiced that the rules are unrealistic, inconsistent, and strict to the point of feeling like custody (Kerr & Finlay, 2006). The staff are constantly enforcing rules and make youth feel unsafe within the facility. When young people are on the run, it is common for them to engage in substance use, risky sexual behaviour including sex work, and criminal behaviour that often results in arrest (Kerr & Finlay, 2006; Crosland, 2015). The repercussions can include custody or placement disruption, meaning they must go through the process of relocating all over again.

As for staff interactions, young people residing in group care have already experienced significant losses in relationships, yet they are also the ones who crave relationships (Scully & Finlay, 2015; Gharabaghi, 2019). The major issue of building relationships in the context of group care is that, not only are the staff trained to focus on punitive methods of care, but they also lack the skills to form meaningful relationships (Gharabaghi, 2019). Staff that do try to engage meaningfully with young people are often seen by youth as conditional relationships, in which they must earn positive interactions through their behaviour. It is also difficult for young people in group care to allow for relationships to grow, as they have experienced the loss that occurs when staff leave unexpectedly, a frequent occurrence due to the high rate of staff turnover (Gharabaghi et al., 2016).

Consideration #5: Restorative Justice

A restorative justice circle is an opportunity to correct behaviour and offer a satisfactory resolution to issues for the victims outside of the formal criminal justice system. Conferencing is a labour-intensive process, but it offers a more realistic prospect of eliminating recidivism than custody. Restorative justice focuses on relational justice. It requires that the offender understand the impact of their actions, not through arbitrary punishment of social isolation, but through their emotional relationships with those affected

in their community (Lockhart & Zammit, 2005). Although restorative justice circles can be beneficial for both sides of a conflict, it is important that youth understand the purpose of the circle. Language is a key factor in making sure that youth are properly taking away the lessons from the circle. Simple, clear restorative language ensures participation, engagement, and a change of behaviour from youth (Riley & Hayes, 2017). Furthermore, a strength-based approach increases youth's responsiveness and builds confidence and self-worth, which should be the goals of the circle (Riley & Hayes, 2017).

Racism and Colonialism

Like other Canadian institutions, child welfare agencies have evolved within a historical context of white supremacy, colonialism, and anti-Black racism, all of which have been woven into the fabric of child welfare policies and practices, leading to the creation of long-standing disproportionalities and disparities for African-Canadian and Indigenous communities (Turner, 2016, Preamble).

The overrepresentation of Indigenous young people in CW, in both the Canadian and Ontario contexts, is well documented (Barker, Alfred & Kerr, 2014; Ma, Fallon & Richard, 2019). In 2018, the Ontario Human Rights Commission (OHRC) reported that Indigenous young people are overrepresented in 25 out of 27 of the Children's Aid Society agencies they reviewed. According to this report, the number of Indigenous children admitted into care was 2.6 times higher than the child population at large. Although Indigenous children represent only 4.1% of the population of young people under the age of 15 in Ontario, they make up 30% of the children in foster care. These staggering rates of overrepresentation have alluded to the notion that out-of-home placements are being utilized as a modern-day version of the residential school system (de Finney et al., 2011). This is true to the extent that "in the past decade . . . more Indigenous children were placed in out-of-home care than were enrolled in residential schools at the height of its movement".

The disproportionate representation of Black young people in CW has also been well documented in Ontario. In 2008, the OHRC reported that Black children and youth are overrepresented in admissions into care in 30% of agencies examined (eight of 27). The study concluded that the overall proportion of Black children admitted to care was 2.2 times higher than their proportion in the child population (OHRC, 2018). However, in 2013, the Toronto Children's Aid Society reported that 40.8% of children in care were Black. According to information from the Province of Ontario, Black individuals again equal only 8% of the population, yet Black youth make up 65% of the young people living in the care of CW (Turner, 2016).

The group care system is heavily rooted in white supremacy, in which all young people in group care are held to the same standards and expectations, without any considerations for racial identities and cultural differences (Gharabaghi, 2019). Racialized young people are subjected to an environment that is enforced by mainly white staff, and punished if they do not portray a “white identity” and “white accomplishments”. The neocolonial and neoliberal policies and practices put in place within the group care system uphold an agenda of controlling young people so that they fit into the normative standards of minoritization (de Finney et al., 2011). These standards target young people who have been stereotypically categorized as “resistant” or “at risk” as a result of structural inequalities, and aim to depoliticize them so that they can no longer engage in acts of resistance and advocacy. To this effect, the sector is designed “to help colonized populations cope with colonialism, rather than challenging its very premise” (de Finney, 2011, p.372; Phillips & Pon, 2018).

This is especially prominent for the Indigenous young people at the Thunder Bay and Belleville sites, who were removed from their home communities in the far north and sent to areas in Southern Ontario, such as London and Belleville, to live in group care settings in predominantly white communities. The CCF in Belleville identifies that the consequences of placing racialized young people in these communities are increased rates of recidivism, a negative sense of self, the inability to reintegrate, lack of trust, insufficient social bonds, and a higher chance of engaging in risky behaviours. It came to light that Indigenous young people had been living in the same community as their relatives who had been placed in another group care facility close by, but due to their levels of isolation imposed by the facilities, they were unaware of their proximity and were unable to connect with one another.

The Circle of Courage Model

The Project suggests the implementation of family-based, culturally appropriate interventions. Developed by Brendtro and Mitchell (2004), the Circle of Courage offers one example of a model that uses the medicine wheel to frame a holistic approach to “reclaiming youth”. Grounded in resilience science, and drawing on Urie Bronfenbrenner’s bio-ecological model and research on positive youth development, the Circle of Courage model suggests that, in order for young people to thrive, opportunities that cultivate belonging, mastery, independence, and generosity ought to be embedded within programs and services intervening in the lives of young people (Brendtro & Mitchell, 2014). The originators of the

Circle of Courage model contend that its values apply across time and culture, suggesting that unlike more contemporary and behaviourally informed models, the Circle of Courage has evolved from “traditions and practices that deeply cherished children and treated them with dignity and respect” (Brokenleg & Van Bockern, 2003, pg. 22).

SUMMARY

Although all cross-over youth have experienced trauma, given the unique lives of each of the cross-over youth served through the Project’s Toronto and Belleville sites, there is no one way to describe the trajectory of young people who become dually involved with the CW and YJ systems. The Project saw the majority of the youth served at both sites entering the CW system as older youth and due to parent/teen or parent/child conflict. The reason for child welfare involvement was not seen as a predictor of penetration into the youth justice system on the aggregate; however, readers are encouraged to review the Cross-over Youth Project’s Toronto site and Belleville site reports for further reading specific to those sites.

Group care settings at both sites acted as a gateway into the YJ system by criminalizing the trauma of cross-over youth served by the Project. Healing is the restorative process of becoming healthy and whole. It is a central element in recovery from trauma. Cross-over youth need to be given the time, space, and chances to work on restoring and healing themselves. Across both sites, it was found that, regardless of a young person’s reason for entry into care, while residing in out-of-home placement, operators framed the young person within the context of a community’s safety concerns, rather than building upon their existing strengths through therapeutic, rehabilitative intervention. Both sites observed multiple placement breakdowns as a major indicator for a deeper penetration into the YJ system. Strict rules were imposed upon the young persons, resulting in the procurement of administrative breaches, further charges, and placement instability. Often, young people received their very first charge in out-of-home care.

Placement instability ensured that cross-over youth remain involved with the YJ system, and the failure to acknowledge the impacts of multiple placement changes has severe implications on the quality of life that these young people are experiencing. The Project has come to identify the deplorable amount of placement changes that the young people served were subjected to. This is exacerbated for the racialized youth served by the Project, in which Indigenous young people were particularly mistreated by the excessive placement moves. Even further, these placements had a blatant disregard for cultural and racial differences, in which group care practices were heavily entrenched in colonial expectations and practices, thus ensuring that these young people felt isolated and othered within the predominantly

white communities. These punitive practices are setting young people up to fail, as they find themselves with countless charges and no way out. As explored through the findings across both Project sites, young people are senselessly being charged for their expressions of trauma in out-of-home care settings.

It is the Project's hope that a focus on trauma will inform and educate those working with vulnerable cross-over youth. As a service-provider or stakeholder in the YJ or CW system, it is incumbent on participants to take responsibility in helping a youth to a place of stability that will allow them the opportunity to achieve their potential. Shifting thinking to a more trauma-informed approach hopefully encourages frontline staff, managers, supervisors, and decision-makers to examine their current practice and modify it with a view to fully incorporating a trauma-informed lens. The YJ system should employ strategies that are healing and rehabilitative, not re-traumatizing and counter-productive.

The Project recommends early intervention and proactive supports that foster a wraparound approach to help prevent young people from further penetrating CW and potentially crossing over to the YJ system. During instances in which young people are dually involved, the Project recommends restorative justice as a model to combat recidivism. Restorative justice must be culturally appropriate, conducted in partnership with the young person, and operated from strengths-based perspective. Group care practices, beginning with the transition from a colonized bureaucratic culture of punishment and criminalisation, to an anti-oppressive and trauma-informed perspective that reduces the use of police intervention and charging of young people, is necessary. The Project further recommends collaborative approaches between police and group care staff to ensure that young people are not unjustly charged and criminalized.

Theme Two: Movement through the Criminal Justice System

INTRODUCTION

The justice sector is the sector which decides whether a CW youth will enter or remain in the youth justice system. As such it holds tremendous power over the future of youth in care: it is the system that decides whether youth “graduate” from care to youth justice and become cross-over youth.

The police are the point of first contact with wide discretion to charge youth or take no or more informal measures. The Crown Attorney (“Crown”) is the next decision maker with exclusive say in whether charges will proceed. Defence Counsel (“Defense”) play a critical role in trying to influence the Crown to withdraw charges or take a lenient approach, consistent with the needs of youth in care. Any one of these actors in the justice system could profoundly change the course of a youth in care’s life.

Keeping this in mind, the Project played particular attention to these members of the justice system and how they interacted with or served cross-over youth. The Project looked at whether the various decision makers or advocates communicated with each other effectively and whether they understood the complex, trauma-based needs of youth in care. The Project looked for clues as to whether keeping youth in care from becoming cross-over youth was on the radar for each of the police, Crowns and Defence. Further, was this part of their dialogue with each other and were they open to using services such as conferencing to ensure that the appropriate dialogue and problem solving occurred. The Project was concerned with whether there were their gaps in understanding, service delivery, communication or interaction that could be filled.

The Project analyzed the interplay between each of these justice sector actors as well as their interactions with youth coming from care into the world of youth justice. In doing so, the Project used various sources of information, including literature reviews, case shadowing and interviews and consultations with youth involved in the justice sector as well as stakeholders from each of the Police, Crown and Defense. Certain practices stood out-both positive and negative- that warranted exploration in the interests of better serving cross-over youth. The Project then proceeded to prepare the report on this sector to address what was learned, how it was learned and to provide its analysis and considerations. In the end, the Project has recommended considerations to improve the quality of interaction with the sector and to help keep youth out of or reduce the amount of time youth spend in the justice system. These considerations are highlighted at the end of each sub-section and summarized at the end of this report.



311 JARVIS STREET COURTHOUSE, TORONTO

POLICE

Overview

Police are one of the most important intersection points in the trajectory of a cross-over youth through the youth criminal justice system. Police are the primary responders to conflict, and the decisions they make set in motion a cascade of consequences. The use of police discretion is critical to circumventing many of the negative outcomes cross-over youth experience in the YJ system.

Unfortunately, there are many interactions between cross-over youth and police. The extent to which the system relies on the police to regulate the behaviour of youth from the CW system is troubling. It is one of the many features that makes the experience of being a cross-over youth so distinct from other youth.

Infusing trauma-informed practice, anti-oppressive practice, and youth-centering is vital to ensuring that police will be compelled to exercise their discretion. At the moment, the incentive to charge still outweighs the incentive to engage in proactive, relational policing. Instilling an understanding of the context and the systemic challenges that youth from the CW system face should foster a sense of empathy and a desire for a new approach. Greater communication and collaboration will also educate police of the after-effects of a punitive response to trauma.

What Was Learned

The Project documented many interactions between cross-over youth and police. The police were engaged to respond to calls with varying degrees of seriousness. The Project observed that police were engaged in order to:

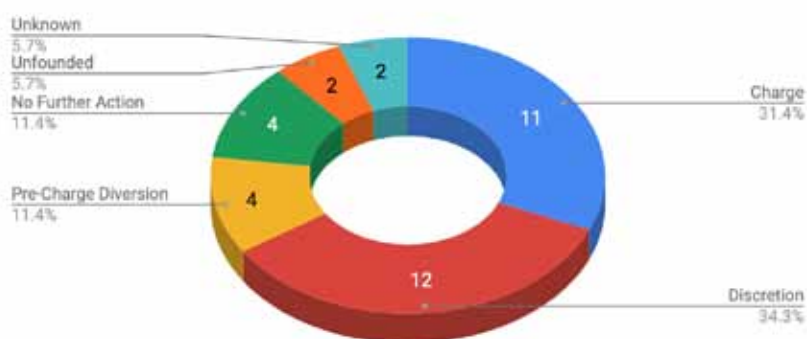
- Report missing persons for the purpose of discharging liability;
- Report property damage for the purpose of insurance claims;
- To have officers mediate disputes;
- To establish the service provider's version for a 'serious occurrence' report by calling first;
 - Many service providers understand the power of framing their version of events first;
 - They use their power imbalance to 'pre-but' the credibility of the youth;
 - To charge a 'troublesome' youth for the purpose of requiring them to move.

Another noteworthy source of charges for cross-over youth was investigative police detentions that escalated to charges of assaulting a peace officer. Trauma has a long-lasting impact on the brain of youth. Youth adapt to survive the sources of trauma and, over time, the stress modifies pathways in the brain. The results vary, but often the youth are hyper-vigilant, in a persistent state of response, and easily triggered into defensive action. Youth with histories of trauma will not respond calmly to dominant and authoritarian approaches. This response invariably conflicts with scene control and officer safety concerns.

Increasingly in many of the above interactions, police officers are choosing to exercise their discretion through a myriad of non-charge options. Police officers are choosing to take no further actions, use their discretion not to charge, or refer the youth to a pre-charge diversion program. During the time the Project was operating, the Project observed, across the pilot sites, an introduction or the expansion of pre-charge diversion programs (sometimes in response to cross-sectoral communication through the local steering committees). Many officers were comfortable giving the youth one warning or one attempt at pre-charge diversion. However, many expressed to the Project that, if they received a call about the youth again after the first chance, the officers would consider it a sign of disrespect that the youth had not used that opportunity to cease the offending behaviour.

Officer Disposition

2018 - Other 195 Calls = Non-criminal



The cross-over youth engaged in the Project still faced a disturbingly high number of administrative charges. Often, group homes would call the police when their youth, on bail or probation, were even a minute late for curfew. Group care operators and staff indicated that they felt bound by the Children's Aid Societies' policy that required them to call the police. They felt they would be held liable if they did not report a 'missing' youth immediately. Police expressed frustration with this policy, but almost always charged the youth when they were

called to respond. They felt bound to enforce orders from judicial officers with no discretion to exercise leniency. When police officers found there were grounds to charge a youth for a breach, the youth was detained in custody and held for a hearing (given the nature of the charge, they were never released with a promise to appear). When the Project brought this issue to justices of the peace and judges, they expressed a desire to have their orders interpreted less rigidly. Court resources are stretched very thin, especially in bail court. Court stakeholders described the burden of many of these new detentions as far outweighing their utility.

Additionally, police officers often expressed to the Project that they felt comfortable exercising their discretion not to charge, or let a youth off with a caution, if they were able to locate a parent who would reasonably discipline the youth. They felt that releasing a cross-over youth to group care staff was not analogous. The youth engaged with the Project also felt that officers were less likely to utilize their discretion if the youth were Indigenous or racialized.

How It Was Learned

The Project engaged with all stakeholders involved in police interactions with cross-over youth, focusing on the impact of police responses. The Project gathered this information through a variety of mechanisms. First, the Project engaged with youth, namely: cross-over youth who had active YJ matters through formal intervention, informal consultations, or observation

youth advisory committees, youth representatives, and youth mentors with lived experience, who shared their encounters to further elucidate this issue.

a series of focus groups and feedback sessions to gather the youths' voices, which included a focus on the subject of policing across all the sites.

The Project probed the experiences of the youth with police, the reasons for police engagement, and the youths' ideas to improve interactions. The Project absorbed the information, barriers, and issues that impacted these interactions.

The Project had the unique opportunity to compare the perspectives of youth who had experience being policed by a diverse range of organizations and officers in several regions. The Project followed the trajectory and outcomes of many cross-over youth and recorded their experiences and intervened where possible. This gave the Project first-hand knowledge of how certain interventions were received in practice.

Second, the Project engaged with police stakeholders through one-on-one interviews at all four sites, informal discussions, and community events. Police stakeholders also provided ongoing feedback and insights into the development of the Project's protocols. The frontline and supervisory officers provided invaluable insight into the realities of policing and structural configurations. The Project was granted access to institutional perspectives and strategies for interacting with youth from the CW system. The police stakeholders that the Project engaged with were transparent, blunt, and detailed in their assessments. The Project also provided the perspective of cross-over youth on the systemic challenges they face, learned by listening to police stakeholders and education seminars, and engaged in a dialogue on the issues and recorded their responses.

Third, the Project focused on ensuring that there was robust representation of not only police stakeholders but stakeholders affected by policing on all steering committees and sub-committees. The Project solicited inter-sectoral insights from stakeholders who understand the circumstances and repercussions of policing CW youth.

Finally, the disparate nature of the Project's geographic locations allowed the Project to compare and contrast the different approaches taken by a variety of police detachments and policing organizations. The Project was able to examine the impact on each, unique community including the youth and youth-serving agencies.

Analysis

Youth survivors of pervasive and/or complex trauma experience a profoundly diverse range of symptoms that are not captured in the current definition of PTSD (Kolk, 2005). In the course of interventions with police, there is a meaningful risk for young people who are healing from treatment to experience re-traumatization rather than rehabilitation. To help alleviate this problem, it is important to change the mindset and culture around the policing of cross-over youth. A trauma-informed approach must be the default.

Currently, there is an institutional culture in policing that prizes personal responsibility. Officers value demonstration of respect and contrition. Absence of these values often results in an escalation of consequences. Officers repeatedly told the Project about the number of strikes they would give a youth before they would charge them. Cross-over youth require more chances to unlearn the lessons their trauma has taught them. Cross-over youth are always trying to protect themselves from re-traumatization. Their offending behaviour is often a defence mechanism against further re-traumatization. They will only cease if they feel they have safety and security. Constantly being detained and incarcerated is counterproductive to that goal.

Police officers are trained to take command of situations for their own safety, the safety of the public, and the safety of the individual causing the disturbance. Due to the physiological impact of trauma, cross-over youth will likely be triggered by dominant exertions of authority. Therefore, as soon as an officer approaching a cross-over youth can determine there are no grave safety risks, they should switch to a de-escalation approach, employing the least intrusive force possible and understanding that detaining a cross-over youth can be triggering and re-traumatizing. Officers should understand that many cross-over youth do not understand the difference between positive and negative attention. They may attempt to elicit a provocative response through disrespectful or provocative behaviour. Officers should recognize those situations for what they are, and not exacerbate the reaction. They should remain calm and measured, even if experiencing a personal affront, and refrain from further provocation. This approach will help reduce attacks against officers.

For many racialized and Indigenous communities, the state represents regression, broken promises, assimilation, abuse, and deception. Cross-over youth are likely to associate the uniform with the intergenerational hardships their communities have experienced. Racialized and Indigenous young people may perceive the uniform as a symbol of violence and force. Officers ought to exercise extra diligence to reverse that perception. An important step is for officers to confront bias, including unconscious bias. Officers must examine their definition of ‘responsible’ parent, and understand how intergenerational racism and colonialism created the conditions that racialized and Indigenous cross-over youth experience. If officers fail to recognize the impact of this history, and refuse to modify their response, then nothing will interrupt the cycle. Officers have a duty to foster more positive associations.

CONSIDERATIONS

The experiences and observations of youth, service providers and police regarding interactions with the police and cross-over youth point to clear considerations for change.

Trauma-informed Training for Police Officers

As noted above, cross-over youth have complex needs, and they respond counter-intuitively to behaviour correction. Police must understand this and be taught alternative tools, in order to prevent them from exacerbating the issues while trying to assist. Trauma is a common theme within the lived realities of many young people served by the Project. Current literature and clinical experience demonstrate that traumatized individuals need unconditional treatment and long-term, continual relational intervention. It must be emphasized that traumatized

youth have a heightened response to unsafe circumstances, whether perceived or real. Therefore, aggressive and authoritative interactions will be greeted poorly. Police should be trained on these issues so that they understand the consequences of the approach they take. Like other mental health response pilots, trained mental health professionals should accompany officers responding to situations involving cross-over youth when possible.

Increase Use of Pre-Charge Diversion or No Further Action

Section 6(1) of the YCJA mandates that, before laying a charge, a police officer consider whether they should take no further action, warn the young person, administer a caution, or refer the youth to pre-charge diversion (in that order). The Project recommends that, in all cross-over cases, there be a generous interpretation of that provision in accordance with the pervasive effects of trauma.

Police should be encouraged to consider pre-charge diversion, a caution, or no further action in cases involving youth in child welfare. They should not be limited to first time/minor offences for cross-over youth. Police officers feel comfortable handing off many of these issues to the responsibility of parents, but it is not the fault of youth involved in child welfare that this resource is lacking. If police have repeated positive interactions with traumatized youth, they can contribute to their healing. If officers take a punitive and negative, consequence-driven approach, the youth will further retreat into their protective (destructive) behaviour. Explicit permission through written directives should be given to junior officers to guide them towards this more effective, relational approach. It may take more time, but it will save the system long-term.

SUMMARY

Police officers are the crucial primary intersection point between the child welfare and youth justice systems. The implementation of a trauma-informed approach by police officers is critical to breaking the cycle of re-traumatizing for cross-over youth. Over-charging youth with histories of trauma has a devastating and long-lasting impact on a very vulnerable population. Seemingly innocuous decisions, such as laying a charge because there is not a suitable disciplinarian, end up having major repercussions. Certain ‘common-sense’ values and principles are uniquely ineffective and inappropriate for youth who have suffered so deeply, regardless of how they have come to the attention of law enforcement. Thus re-learning and re-structuring authoritarian, “accountability” based approaches must be undertaken in a purposive and informed manner that is responsive to the needs of cross-over youth.

CROWN

Overview

The Crown Attorney is in many ways the most powerful stakeholder in the youth justice system. The Crown is the gatekeeper. Some of the greatest successes realized by the Project were made possible, in large part, due to the exercise of Crown discretion. If the Crowns were not open to discussing alternatives to custody, then defence counsel representing cross-over youth would not be interested in discussing resolution. It was invaluable for the Project to engage with Crowns that were well versed in the youth justice system and interested in understanding the child welfare system. It was essential for cross-over youth that the Crowns with carriage of their matters had an understanding of trauma and how it triggers cross-over youth. If Crowns are not open to that understanding, and lack the institutional support for appreciating the impact of the life experiences that these youth have endured, then the Project's model is severely compromised.

What Was Learned

While Crowns are all prosecuting the same laws and are bound by the same procedures, there was tremendous variation in how they chose to exercise their discretion. The negative impact the youth justice system had on cross-over youth was magnified or minimized based primarily on the Crown's approach. The Crowns had sole or primary jurisdiction over crucial decisions that dramatically altered the trajectory of how a youth's charges moved through the system.

The Project observed a general willingness by Crowns to divert youth charges to formal diversion programs, like youth justice committees, as well as to offer informal diversion, especially the first or second time a youth appeared in court. There seemed to be general policy among Crowns that minor, non-violent offences should be moved out of the youth justice system through rehabilitative and non-custodial means. There was understandably more resistance as the severity of the charges increased or the youth had repeated interactions with the youth justice system.

The Project observed that, when the youth's charges were more serious, defence counsel were open to advising their client to engage in the Project's conferencing model only if the Crown signaled openness to non-custodial outcomes. Absent that Crown position, defence counsel had little incentive to avoid taking everything to trial. Mitigation on sentence for cross-over

youth allowed some incentive to engage in some planning and conferencing. However, the possibility of front-end planning was greatly increased if Crowns began by taking a holistic approach to cross-over cases.

Another factor with a substantial impact on Crown discretion was the Crown's years of experience. While not a universal rule, the Project observed that senior Crowns were more willing to offer non-custodial dispositions and diversion. These dispositions were also offered more expediently by veteran Crowns.

The interaction between the Bench, Defence bar, duty counsel and Crown also informed the approach the Crowns employed. For example, Crowns often took different positions on release depending on whether they were in front of a justice of the peace or in front of a judge. The Project observed patterns between communities (local practice). Local practice appeared to have an impact on the role of the Crown. Another influence was local circumstances. If there was an existential force impacting that particular jurisdiction (high volume, high volume of a particular type of charge, etc.), Crowns often adapted their response to assist the court stakeholders to manage the system as a whole. Importantly, Crowns reported to the Project that they had noticed that the Project's core principles were penetrating and informing their local court culture.

There were also jurisdictional barriers to the Crown's role. The Project observed a few, seemingly minor barriers that ultimately had a large impact on cross-over youth. In Toronto, 14 out of 28 youth had charges in more than one jurisdiction. One youth had charges in five jurisdictions. Some Crowns were willing to have charges from their jurisdiction waived into another jurisdiction. However, it was usually only possible if there was a guilty plea to all counts. In some cases, if it was an indictable offence, the Crown would refuse a transfer, even though it was to accommodate a guilty plea (the Project could not explain this). The inability to run a truly global bail hearing, if there was a warrant to hold in another jurisdiction, had a substantial impact on the cross-over youth engaged in the Project (the reason for this barrier goes beyond just the Crown).

Crowns manage a large caseload. Not surprisingly, they respond to results. As the Crown attorneys who worked with the Project and the conferencing model achieved concrete results, they were increasingly comfortable working with the Project and referring cases. Crowns expressed gratitude to the case conference facilitators when they engaged in resource-intensive coordination and collaboration. The conferencing method appeared to greatly expand the ability and motivation of Crowns to exercise their discretion. It did not

appear that other stakeholders had the resource capacity to replicate the work of the case conference facilitators, especially the Crowns themselves. Many Crowns remain open to continuing working within the principles espoused by the Project, where possible.

How We Learned It

The Project had the pleasure of engaging with some truly dedicated and enlightened Crown attorneys, who took risks to do what was in the best interest of youth, society, and justice. Crown attorneys have the unenviable task enforcing punishment in the YJ system. The Project had the invaluable opportunity to engage candidly with YJ stakeholders about the impact of the Crown's gatekeeper function. The Project gathered this information through a variety of mechanisms. First, the Project engaged with youth as follows:

- cross-over youth who had active YJ matters through formal intervention, informal consultations, or observation.
- youth advisory committees, youth representatives, and youth mentors with lived experience who shared their experience in the YJ system, which is largely controlled by Crown attorneys once a youth has been charged.
- a series of focus groups and feedback sessions to gather the youths' voices about their experience in YJ, which included a focus on Crown discretion across all the sites.

The Project probed their experience with Crowns' decision-making, the impact it had, and the youths' ideas for improvement. The Project absorbed the information and analyzed the trajectory of their cases to gather conclusions.

Second, the Project engaged with Crowns through one-on-one interviews at all four sites, informal discussions, and continuing professional development and education events. Crown attorneys also provided ongoing feedback and insights to the development of the Project's protocols. Some very experienced Crowns lent their many years of expertise and experience to the Project in a myriad of ways. The Project was educated by the Crowns about the tools and constraints they face exercising their duties. The Project was also granted access to their institutional and individual perspectives and strategies for interacting with youth from the CW system. The Project also provided the perspective of cross-over youth on the systemic challenges they face, learned through listening to the Crowns and education seminars, both on the systemic and individual case-level, and engaged in a dialogue on the issues and recorded their responses and their level of responsiveness.

The Project focused on ensuring there was robust representation of Crown and Justice stakeholders on all steering committees and subcommittees.

Fourth, the Project solicited inter-sectoral insights from stakeholders who have an understanding of the circumstances and repercussions of the Crown's gatekeeping function and the impact of their discretionary decisions on CW youth.

Finally, the diverse nature of the Project's geographic locations allowed the Project to examine the different approaches taken by a variety of Crowns and Crown attorney's offices. The Project also had the unique opportunity to compare the perspective of youth who had experienced the YJ system in a diverse range of jurisdictions, overseen by a variety of Crowns. The Project followed the trajectory and outcomes of many cross-over youth, recorded their experiences, and intervened where possible at all four sites. This gave the Project first-hand knowledge of how certain interventions were received in practice at each site. The Project also followed, as diligently as possible, the experience of the Project's youth as they incurred charges in other jurisdictions, to compare and contrast those experiences.

Analysis

Regional culture, historical practice, and local superiors' directives all seemed to have noticeable impacts on Crown discretion. However, the Project observed wide variance in practice, even with all other variables controlled. The Project learned that wide variance in practice can be explained by individuality and personal motivations. Generally, the Project found Crowns personally receptive to the principles and message of the Project. The most effective prong was delivering youth voice through a trauma-informed lens. Practical solutions born from the conferencing model also attracted positive responses from Crowns. However, there were individual ideological and philosophical barriers at times, particularly on the issue of the number of chances youth with histories of trauma deserve, and effective rehabilitation methods.

The most substantial successes the Project realized at the case-level occurred when Crowns expressed openness to non-custodial outcomes for serious charges in exchange for engaging in collaborative, cross-sectoral planning. Crowns who recognized the value of allowing short-term latitude to achieve long-term risk management were invaluable to the cross-over model. The Project's model depended greatly on Crowns who saw the value of treating the underlying causes of offending behavior, rather than simply using the deterrent effect of custody to combat recidivism. Crowns who viewed cross-over cases through a trauma-

informed lens, and recognized that circumstances and systemic causes, rather than a matter of individual personal responsibility, were the main driver of offending actions, helped the Project achieve the most significant interventions.

These successes happened most often when the youth's case was being managed by a senior Crown. The great advantage of working with veteran Crowns was rooted not only in their vast knowledge of the youth justice system, but also in their sense of security in their ability to exercise their judgment and their global perspective. The Project sensed that junior Crowns make risk calculations that, perhaps from a professional advancement perspective, outweigh the downside risk to 'leniency.'

Crowns made strategic decisions about how to utilize their discretion depending on how their choices were received by other court stakeholders. Crowns responded to judicial push-back and in some instances, stakeholder advocacy. Not all positions were fungible, nor were they all absolute; they developed on a case-by-case basis and in relation to court 'culture'. This was both hopeful and concerning for the Project. The concern was based on the wide variance in how a cross-over youth's charges would be handled from jurisdiction to jurisdiction. The impact of this factor on cross-over youth was particularly acute, because the youth were invariably being moved between more lenient jurisdictions and more punitive ones against their will.

A systemic threat to the overall functioning of the court often sharpened the perspective of the Crowns (many were able to see the forest for the trees). Conversely, in low 'crime' jurisdictions, Crowns were more likely to take a punitive approach; the more "abnormal" the criminal behaviour, the more restrictive their responses.

Many factors were at play but primarily, the Crown's own comfort level in taking chances to give the youth more than one chance was key to collaboration and to arriving at a more holistic response.

Considerations

Cross-over youth have complex needs that must be considered by Crowns, especially given their immense power to 'stream' consequences. What the Project learned about the power and practices of Crowns dealing with cross-over youth speaks to the need for system- wide coordination and education.

Trauma-Informed Practice for Crown Attorneys

As noted above, trauma is a common theme in the lived experience of many young people served by the Project. The justice system operates in a manner that is traumatizing in and of itself. The system is based on behaviour correction through punitive isolation, such as detention. The youth justice system prizes personal accountability, escalation of consequences, and positive demonstrations of respect and contrition. Behaviour ‘management’-informed treatment and interventions that favour punishment and/or isolation will not foster positive outcomes for cross-over youth.

Education about trauma, including through experts and literature will help demonstrate the importance of long-term, consistent relational interventions to help youth overcome their heightened response to trauma. Reducing recidivism may take time and Crowns need a better understanding of the conflict between classic criminal justice-even youth justice--goals and trauma. With better education and reinforcement from higher-ups of the trauma informed lens, Crowns can learn to re-frame their actions with a better understanding of the consequences of strict practices.

Increase Use of Diversion Programs and Conferencing

Crowns should be encouraged to consider diversion, as well as cross-sectoral conferencing, as a means of case-managing serious and complex cross-over matters. Diversion programs should not be limited to first time/minor offences for cross-over youth. The COY Project advocates that community safety interventions should be guided by trauma-informed practice and not antiquated notions of punishment, as the latter is a method that proposes short-term solutions. Because a cross-over youth’s development is still very malleable, the Project suggests that these young people are perfectly positioned for long-term interventions. This approach is compelling, as it is more likely to address the underlying issues. Explicit permission should be given to junior Crowns to guide them towards this more effective approach. In this regard, Crown policy and procedures that restrict the types of offences that will be available for diversion should be modified to allow for lenience and alternative approaches for cross-over youth.

Summary

Crowns play a vital gatekeeping function in the youth justice system. Without cooperative and knowledgeable Crowns, the Project’s model has limited effectiveness. Crown openness to the Project’s cross-sectoral conferencing model was dependent on various factors. The Project

recommends that there be a concerted effort undertaken to educate Crowns on trauma, its effects, and the most effective strategies for reversing it. With increased knowledge and guidance, the Project is confident that Crowns will adopt a more comprehensive and proactive approach to cross-over cases.

BAIL

Overview

While the Project was active, the Supreme Court of Canada emphasized the importance of a just bail process to a healthy, functional justice system. In *R. v. Antic*, the Court reaffirmed the right not to be denied reasonable bail without just cause as an essential element of an enlightened criminal justice system. *Antic* emphasizes the ladder principle, which requires that the accused is to be released at the earliest reasonable opportunity and on the least onerous forms of release. Any more restrictive form of release must be justified and must not be more than what is reasonably necessary (SCC, 2017). These principles are especially important in youth matters based on the shared responsibility to address a young person's developmental challenges found in the Preamble of the YCJA (Youth Criminal Justice Act, 2002).

Bail and its ancillary facets were a powerful challenge for the Project. It was time-consuming, resource-intensive, and the primary reason cross-over youth returned to court. The Project worked on reformatory strategies that aligned with the guiding pillars of the Project and the principles of the Court and the YCJA.

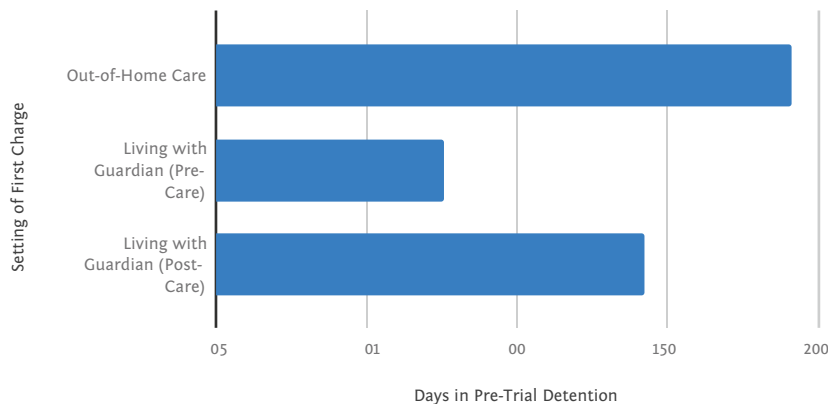
What Was Learned

There is a 'traditional' framework for bail in youth cases. Youth are released to their parents, often with the parents acting as sureties, who promise the court that they will watch over them and ensure the risk to the community is minimized. Across all sites, the Project observed that the 'traditional' model of bail was the one that was generally accepted by the courts. Youth in the child welfare system are automatically at a disadvantage, because their bail plans will rarely conform to that model. As a matter of their internal policy, Children's Aid Society workers and group care employees and operators are not allowed to put themselves forward as named sureties. Cross-over youth are, as a result, regularly and systematically forestalled from one of the mechanisms for being granted bail. The same is true for the 'responsible person' designation, a mechanism whereby the proposed surety can escalate their jeopardy to exposure to a criminal charge rather than just losing the quantum promised

to the court for bail. This mechanism is only available under the YCJA and not does not apply to adult offenders. However, it is not readily available to cross-over youth as they have no one to step forward

The ‘traditional’ bail model for youth with child welfare involvement was a plan that involved a residential group care placement. The Project observed that youth justice and child welfare stakeholders were uncomfortable with plans that involved the youth residing at a youth shelter, ‘couch surfing’, or independent living, especially if the youth had a record or multiple sets of outstanding charges. The Project observed that, more often than not, a strong risk management lens pervaded the bail process. It was a typical experience for a young person to be offered only one placement option. It was almost always far from their home community, and the option was presented as a binary choice; take responsibility for your actions and take the placement in the only group home bed available, or stay in custody.

Average Days in Pre-Trial Detention by Setting of First Charge
(n=23)



The youth the Project followed usually acceded to their circumstances and took the group home placement. However, in one case, a youth spent 60 days in pre-trial detention, as the child welfare system did not have viable placement options for that youth. Group home placements, hours away from Toronto, were the only options presented. The youth’s history revealed that the youth does not do well in group-home settings, and would, predictably, incur more charges, if placed at one of the proposed options. The youth refused to be placed there, and remained in detention although release was intended. Youth that did accept such placements often expressed the incongruity of the bail plan through their actions. Many youth breached their bail “reside” or curfew condition shortly after release. In Toronto, of the 416 charges the youth faced, 151 were administrative charges, which was over 33% higher than the next largest category of violent offences, many related to placement issues.

In Toronto, the Project's youth required on average 4.6 bail hearings prior to fully resolving all their charges. In many of those cases, the Project observed that part of the issue was pro forma bail conditions. Most bail hearings or consent release negotiations were protracted and hard-fought deliberations, each side considering the pros and cons of release and rigorously applying the appropriate tests and considerations. The structure of the bail courts that the Project observed were somewhat chaotic. All defence counsel would show up as court commenced and engage in discussions with the Crown to get a position on release. All counsel would engage in that process sequentially, then there would be jockeying for which matters could be addressed and in what order. Usually simple matters like adjournments of the bail hearing would go first, with consent releases next. Substantive bail hearings would usually not start until the afternoon. Counsel would have to wait around in the courtroom hallways, unpaid for their time. By the time the court and counsel had completed the hearing, everyone was exhausted. However, if the court found that the youth was releasable, there remained the important issue as to under what conditions the youth should be released. There is a formula for conditions, and many judicial officers default to that wording. While following the cases, the Project noticed that many of the youth were re-arrested shortly after for violating those conditions. The disruption caused by bail conditions was an almost universal experience. Yet rarely were the details of the proposed conditions considered before being consented to. Another driver of formulaic bail conditions was found to be police. Police expressed to the Project that they did not like vaguely worded bail conditions, because it was more difficult to charge a youth.

At the Belleville site, the Project observed through case facilitation that many cross-over youth had current charges from multiple jurisdictions. It was not uncommon that they attended bail court for new charges and a breach of their previous charges, meaning they received an additional administrative charge for failing to comply with a previous order. Resolving charges in multiple jurisdictions was described as a "complex and drawn-out process". The challenge is coordinating a combined disposition, as it requires moving charges into the jurisdiction of Belleville. These cases were extremely complex. Having charges in more than one jurisdiction presents burdensome challenges. Most acutely, it precludes the possibility of a global bail¹, as the information was not before the same court without a lot of logical effort from the youth's defence counsel, if it happened at all. It would require the youth to waive the jurisdiction of their charge through paperwork that had to be sent to the Crown in the original jurisdiction. It also required coordination between the Crown in Belleville and the Crown in the originating jurisdiction. Fortunately, the Crowns in Belleville were cooperative with this process. However, there were additional barriers with waiving

1 A global bail would allow the youth to get release on all their charges, even if some of those charges were in different jurisdictions.

the charge² for resolution. Most Crowns in the originating jurisdiction required signed agreements of a guilty plea on all counts to move the charges to one jurisdiction. The process to transverse charges from out-of-jurisdiction before the Belleville court took up to seven months in some instances.

Furthermore, in Belleville, the Project observed that, similarly to the other sites, a strong risk management lens pervaded the bail process. As a matter of policy, CW will not sign on as a surety for any youth under their care. Belleville was often the jurisdiction in which youth who had been told that their only option for bail was to be placed in a group care setting were placed. This brought them far outside of their home community. The youth were not given any real choice but to take responsibility and the group home bed or stay in detention. Stanley (2017) found that the criminalization of young people in care is a clear structural inequality. This is predominantly due to the differential treatment of youth in care by the hands of the YJ system at bail and sentencing stages, as subsequent control orders are endorsed (McGrath, 2016; Richards & Renshaw, 2013). While following the cases in Belleville, as with the other sites, the Project noticed that many of the youth would be re-arrested shortly after for violating those conditions. It was usually foreseeable which conditions would be most difficult for the youth to comply with before the youth was released. The disruption caused by bail conditions was an almost universal experience and was rarely considered in great detail when the conditions were agreed to.

Across all sites, bail was a substantial challenge for cross-over youth. It was time-consuming, resource-intensive, and the primary reason cross-over youth returned to court. Breaching bail conditions was the primary source of recidivism across all sites. Bail was also a process that vacillated between brief moments of intensity and many hours of wasted time. The process runs in largely the same, inefficient manner in all four jurisdictions.

At the bail stage, informal conferencing had often already occurred for cross-over youth as the Crown, defence counsel, and, on occasion, child welfare workers are required to work together to bring a plan before a justice of the peace. The Project learned from and expanded on existing mechanisms for informal conferencing. The Project was cognizant of the impact of being denied bail on the final outcome of cases. The Project observed the difficulty experienced by youth that were detained, sometimes for protracted periods of time. As a result, many of the youth agreed to unnecessary and onerous bail conditions to expedite their release.

The bail process, conditions that did not reflect the reality of cross-over youth and the

² *Charges must be heard in the jurisdiction they occurred in, partially for the logistical reasons that the requirement can be waived by the Crown if the accused is in agreement.*

tendency to charge for breaches of bail all contributed to cross-over youth becoming more enmeshed in the YJ system.

How We Learned It

The Project learned through observation, case consultation, following its own cases, from stakeholders and from youth directly. The Project also learned location specific information from its four unique sites.

Observations: Project staff sat and observed bail court more than any other court process. The case conference facilitators at each site observed the experience and outcomes for both cross-over youth and non-child welfare-involved youth. Unfortunately, a substantial number of cross-over youth were detained and held for bail.

Youth/Cases: The Project engaged with cross-over youth who were held for bail through formal casework, informal consultations, or observation. The intensive cases that the Project followed involved repeated, in-depth bail negotiations and hearings. The Project followed the trajectory and outcomes of many cross-over youth, recorded their experience, and intervened where possible at all four sites. In some instances, the Project participated in the bail process on behalf of the youth. This gave the Project first-hand knowledge of how certain interventions were received in practice. Many of the initial brief or informal consultations that the Project had with a youth and their counsel in and out of jurisdiction was at the bail stage. The Project engaged with youth advisory committees, youth representatives, and youth mentors with lived experience who shared their bail experience. The Project also conducted a series of focus groups and feedback sessions to gather the youths' voices about their experiences with bail across all the sites. The Project examined the narratives of the youth held for bail and those released on a form of recognizance. The Project engaged with these youth through their experience by attending their many bails and bail adjournments. The Project considered the information and analyzed the youths' experiences to draw conclusions.

Stakeholders: The Project engaged with YJ stakeholders through one-on-one interviews at all four sites, informal discussions, and education events. YJ stakeholders also provided ongoing feedback and insights into the development of the Project's protocols on the issue of bail and bail conditions. Some very experienced YJ stakeholders shared the lessons of their many years of expertise and experience on various aspects of these issues. The steering committees and subcommittees comprised YJ stakeholders who worked hard on these issues. The Project was part of organizing two committees to look at the issue of bail. The 311 Jarvis St.'s Youth Court

Advisory Committee assisted the Project by constituting a Bail Conditions Subcommittee. The Bail Conditions Subcommittee consisted of representatives from the judiciary, mental health court workers, a representative from the Toronto School Board, and defence counsel. The purpose of the group was to identify any recurring bail condition constructions that were resulting in breaches, and to attempt to rectify the situation with alternative wording. The Project also constituted and administered a legal subcommittee consisting of lawyers representing defence, Crown, Office of the Children's Lawyer, Ministry of the Attorney General Indigenous Justice Division, Ministry of Youth & Children Services, Children's Aid Societies, Family Law, and Justice for Children and Youth, a legal aid clinic for youth. The Project in turn provided the perspective of cross-over youth, especially in relation to the impact that being denied bail and restrictive bail conditions had on cross-over youth learned through listening to the committees and education seminars, and engaged in a dialogue on the issues.

Cross-Jurisdictional Comparisons: Finally, the divergent nature of the Project's geographic locations allowed the Project to compare and contrast the different approaches taken to bail in different jurisdictions. Youth also shared and contrasted their differing experiences, and relayed the gaps and challenges they faced comparatively. The Project also followed, as diligently as possible, the experience of the Project's youth as they incurred charges in other jurisdictions, in order to compare and contrast those experiences.

Analysis

There was an observable difference to the treatment of bail for cross-over youth pre- and post-*Antic*. At each of the pilot sites, the Project noticed that youth were more likely to be released and that release was more often minimally onerous after *Antic*. However, as the charges got more serious or the situations were more complex, stakeholders reverted to a pre-*Antic* mindset. This reversion was particularly impactful for the cross-over youth engaged with the Project.

The YCJA has been successful in diverting low-level offences from the formal youth court process. However, judicial stakeholders have struggled with keeping administrative offences, a low-level offence often for otherwise non-criminal behaviour, out of the youth justice system (Sprott, 2012). Prior research suggests that cross-over youth are subjected to onerous, trivial, and vague bail conditions (Scully & Finlay, 2015). A study of youth charges in Ontario found that, in 2009, one in every 12 cases in youth court was for an administrative charge, as the most serious charge before the Court. These charges involved behaviours that would not be considered criminal except for the fact that they were contained in a court order (Sprott & Myers, 2011).

Bail conditions are intended to reduce the risk of the young person re-offending while out in the community. However, the Project, in alignment with previous research, observed that these conditions often exacerbated the chance of recidivism. Administrative charges are easier to accumulate, because they often restrict otherwise non-criminal behaviour, such as failure to comply with a curfew order or failure to reside in a place of residence as approved by children's aid society. It was usually foreseeable which conditions would be most problematic before the youth was released, especially when the stakeholders were failing to address the original underlying reasons for cross-over youth's judicial involvement. The accumulation of administrative charges, for otherwise non-criminal behaviour, caused the youth to be disenchanted with the system. Instead of promoting their reintegration into society, these charges resulted in the youth feeling the system was unfair and that they could never 'win', pushing them deeper into the youth justice system.

Through the work of the Project and the subcommittees, the Project identified some of the most common bail conditions that cause difficulty for cross-over youth (see the bail conditions protocol for a detailed discussion of the terms). The Project also had a systemic success when, with the support of the Office of the Chief Justice of the Ontario Court of Justice, the Attorney General's Office agreed to modify the form that all judicial officers in Ontario must complete when they order a release or make a probation order. The form now includes certain exceptions to consider when creating a Bail or Probation Order, as proposed by the Project.

Bail is designed to work in accordance with the ladder principle. The more serious the risk, the higher up the ladder the bail plan needs to be. The Courts and some Crowns at the pilot sites were good at recognizing the need to release a youth to allow for integration into the community and to afford an opportunity to allow the conferencing process the time required to succeed. However, in other instances, youth engaged with the Project were denied bail, as they did not have the same options for release (like a surety).

Another factor challenging release for these youth pertained to the location of the proposed group care placements. Due to the price of real estate in Toronto, group homes are primarily located outside of the city. Belleville is an attractive location for operators due to its low real estate costs. Children's Aid Societies do not make regional adjustments to the *per diem* rate, so operators have every incentive to locate in areas where the cost of living is the cheapest. The courts' preference for group care placements or other residential options for cross-over youth resulted in youth refusing the only placement option provided by child welfare

agencies, due to the distance from their home community. As a result, many cross-over youth remained in detention. These detentions, based solely on the lack of residential placements available for cross-over youth, present a challenge to section 29 of the YCJA, which prohibits youth from being detained as a substitute for appropriate child protection, mental health, or other social measures.

As of the writing of this report, Legal Aid Ontario has cancelled funding for non-duty counsel lawyers to represent their clients for bail. There have been widespread reports of delay and the court running out of time to address even simple bail matters. Duty counsel is overwhelmed. The previous system was not functioning as it should, and this new change will inevitably impact complex cross-over youth matters the most severely.

Considerations

Failure to get bail based on lack of resources and supports is one of the most compelling problems faced by cross-over youth. Bail conditions that set a youth up for failure and further charges, exacerbate this already serious problem. The Project recommends the following to help counter the impact of bail on cross-over youth.

Permissive Bail

The Project recommends the uniform and universal adoption of the principles enunciated in *R. v. Antic*. This decision calls for the least restrictive form of release possible with the least restrictive and least complex conditions feasible. The decision applies to all release decisions, including a police officer's discretion to release on a promise to appear. There should be constant review of the standard wording of bail conditions. The standard E-Jiro form in Ontario has been amended to include exceptions to the non-association and non-contact conditions for bail release and probation orders. These exceptions should be considered in every case involving cross-over youth. All stakeholders must ensure that bail conditions are applied to achieve the aims of the justice system, not simply to particularize them for charging purposes. Administrative breaches were one of the most pervasive and difficult aspects of navigating through the justice system for cross-over youth. The Project also recommends that the Crown's Office and the Courts consider streamlining the process with more global bails and the transfer of charges between jurisdictions for global resolutions.

Make Use of Amendments to the Criminal Code and of the YCJA

The Criminal Code has recently been amended to create alternative, non-criminal mechanisms to deal with breaches of court orders, including not charging. The Code leaves it up to the discretion of judicial gatekeepers as to whether to use them on a case-by-case basis. These alternative mechanisms are only available when failure did not cause a victim physical or emotional harm, property damage, or economic loss. This appears to signal that they should be used when the breach is otherwise non-criminal. There should be universal and swift incorporation by police. Moreover, the YCJA has been amended to codify that extrajudicial sanctions are presumed adequate unless there is repeated failure or the failure caused harm or risk of harm. The Project recommends that, in all cross-over cases, there be a generous interpretation of those provisions in accordance with the pervasive effects of trauma. When breach charges have been laid, prosecutors, pursuant to the new legislation, should consider the withdrawal of the charges or the issuing of a Crown caution (YCAJ s.8).

Summary

The Project observed that, more often than not, a strong risk management lens pervaded the bail process. The tools used by the Courts to manage that risk were often ineffective and increased the likelihood of recidivism and disillusionment. The situation was improved by Antic, but given the complexity of cross-over cases, the youth engaged in the Project often reached the edge of the reforms quickly. The youth the Project worked with experienced constructive discrimination, because certain mechanisms for release were not available to them as a consequence of systemic constraints in the child welfare system. The Project worked to address some of the barriers and to encourage stakeholders, when dealing with cross-over youth, to adopt a more permissive attitude towards bail. This will allow cross-sectoral conferencing to have the greatest chance of success.

PRE-TRIAL DETENTION

Overview

Sentences of incarceration of youth have decreased across Canada since the introduction of the YCJA. Since 2007-2008, the number of youth in pre-trial detention has been greater than the number of youth sentenced to custody. The rate of youth in pre-trial detention was 3.1 per 10,000 youth, compared to 2.5 per 10,000 youth for those sentenced to custody (Statistics Canada, 2015). In Ontario, the rate is 2.4 per 10,000 youth in pre-trial detention, and 1.9 per

10,000 sentenced to custody, as of 2013-2014 (Justice Canada, 2016). In Toronto, 96% of the youth the Project engaged with intensively spent at least one day in pre-trial detention, and 71% spent four or more days in pre-trial detention.

This issue is acutely important for cross-over youth, given the unique developmental challenges facing youth with histories of trauma. Youth with histories of trauma are hyper-vigilant and live in a persistent state of fear. They employ coping strategies, such as violence, to protect themselves from perceived threats. They anticipate their re-victimization and try to take proactive, if sometimes counterproductive, measures. A custodial setting is the perfect combination of environmental factors to perpetuate and deepen the youth's trauma (Finlay, 2009). It increases the chance that the youth will feel betrayed and entrench the psychological factors that lead to offending behaviour.

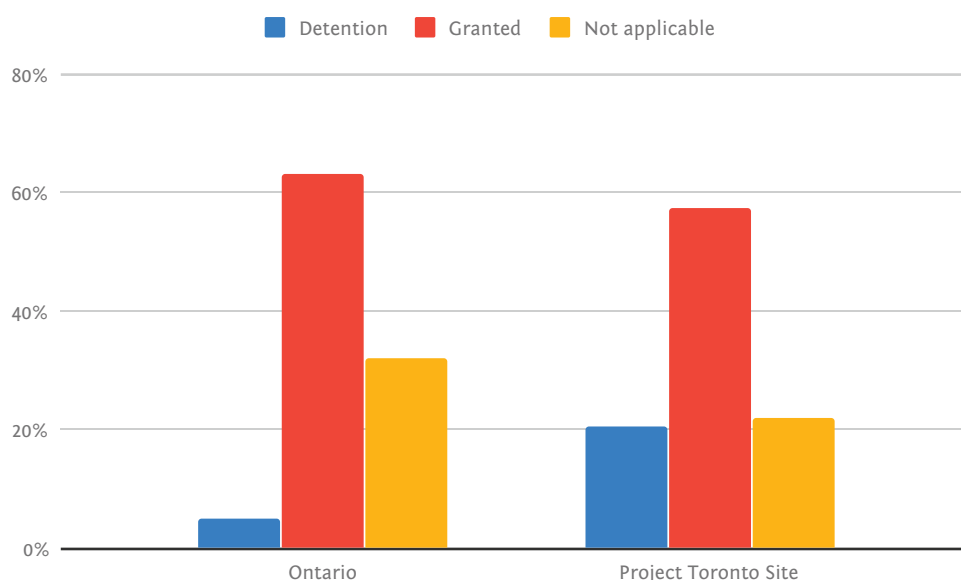
Moreover, in following cross-over youth, the Project observed pre-trial detention patterns that provide greater context to the pretrial detention picture for youth across Canada. While dually involved youth present as some of the most complex cases, the way the system hides the true nature of how their cases are handled is applicable more broadly.

What Was Learned

For the 28 full service youth that the Project intensively engaged in Toronto, 27 youth spent at least one day in pre-trial detention and 20 youth spent four or more days in pre-trial detention. Despite this rate of pre-trial detention, only five youth were sentenced to an additional custodial sentence, including one youth that was sentenced to one day of custody; two other youths were sentenced to deferred custody; and two youths' matters had still not been resolved by the final data collection in 2019. At least 11 youth served extended periods of pre-trial detention without a commensurate custodial sentence, including one youth that spent 455 days in pre-trial detention. In total, the youth engaged in the Project spent an average of 138 days in pre-trial detention awaiting disposition on 156 informations, containing 416 separate charges.

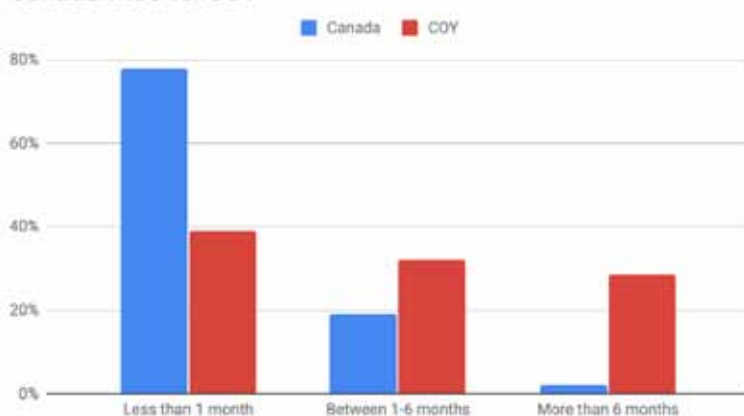
Canada-wide, as of 2013-2014, 56% of youth cases resulted in a guilty plea, and another 41% were disposed of by way of a stay or withdrawal. Of those cases in which there was a guilty plea, 15% resulted in custody, down from a peak of 29% in 2000-2001. In Ontario, the last reported number was 20% (Department of Justice Canada, 2016). In about 30% of cases, the final disposition was probation (Ontario Court of Justice, 2019). In almost 40% of the Project's Toronto cases, the youth spent an extended period of time in pre-trial detention, with the ultimate disposition of their charges being probation or a stay/withdrawal.

In Ontario, only 5% of youth are classified as being detained. Another approximately 60% are granted bail. The other approximately 30% fall into a category labeled 'not applicable' (Ontario Court of Justice, 2019). These are cases in which a decision on bail has not been made. For the cross-over youth, 34 out of the 156 informations, or 22% of the pending matters, were resolved without commencing a bail hearing, despite the youth being held in pre-trial detention. That meant that, for 12 out of 28 youth, or 42% of the youth, at least one information, charge, or set of charges was resolved before commencing a bail hearing.



In Canada in 2017-2018, 78% of the youth that experienced pre-trial detention served less than one month. The next 19% served between one and six months, and 2% served more than six months (Statistics Canada, 2019). For the Project's cases, 39%, or 11 out of 28 youth, served less than one month of pre-trial detention, 32%, or nine out of 28 youth, served between one and six months, and 28.5%, or eight out of 28 youth, served more than six months. These youth spent significantly more time in pre-trial detention than average.

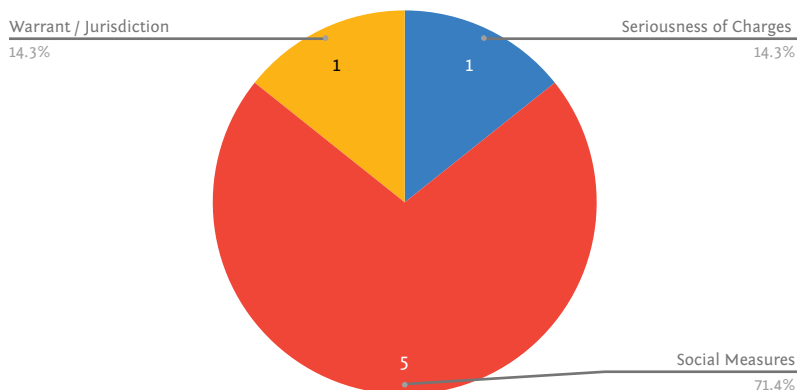
Canada-wide vs. COY



The youth that languished in pre-trial detention were exposed to risk of further traumatization and jeopardy. One youth spent several months in pre-trial detention due to a delay in creating bail plans. More charges were incurred while in detention. Another youth incurred additional charges while in detention due to staff not understanding how to properly care for his mental health needs. Many of these charges were eventually withdrawn, but they decreased the likelihood that the youth would be able to obtain judicial interim release. When a youth has many pending charges before the court, it is less likely they will be granted bail. Many youth also projected an outwardly tough attitude about their experience in detention. However, as the case conference facilitators developed a deeper relationship with the youth, their true negative incarceration experiences, occasioned by their vulnerability, were divulged. In Belleville, the youth who were held in pre-trial custody were often there due to prohibited grounds, namely social measures under 29 of the YCJA.

Count of Reasons for Pre-Trial Detention n=7

Belleville Site



In Belleville, the youth that spent time in pre-trial custody felt pressure. The pressure caused the youth to be more amenable to speeding up the process just to get it over with, in order to get released into the community. Indeed, one youth told their defence counsel to plead guilty for a charge they did not commit, in order to “just get it over with”. While in pre-trial detention, it was reported that their mental health had worsened. In another case, a youth with FASD began to display suicidal ideation and was placed under a strict watch in custody. While waiting for placement in order to be released from custody, they incurred a new charge.

Across all four sites, pre-trial custody was a huge barrier for cross-over youth. Many experienced extended time in pre-trial custody, far above the usual overnight experience of non-cross-over youth with charges. Across all sites, the Project engaged with youth with histories of trauma who, in custody, were hyper-vigilant and lived in a persistent state of

fear. They employ coping strategies, such bravado and aggression to protect themselves from perceived threats. They display outwardly a tough exterior, claiming they were doing 'soft' time, and bragged of their institutional 'gang' involvement. However, quite quickly the Project gained the trust of these youth, and their protection mechanisms cracked. They anticipated their re-victimization, and were emotionally devastated by the prospect. In turn they tried to take proactive, if sometimes counterproductive, measures. In a custodial setting, their trauma was perpetuated and deepened. The youth the Project engaged with who spent extended periods of time in pre-trial custody expressed betrayal, and the Project observed how the longer they remain in custody, the more entrenched the psychological factors that lead to offending behaviour became.

How It Was Learned

Unfortunately, a substantial number of the youth engaged with the Project experienced pre-trial detention. As stated, some served a significant amount. The Project had the invaluable opportunity to engage candidly with stakeholders about the causes and impacts of pre-trial detention on cross-over youth. The Project gathered this information through a variety of mechanisms.

First, the Project engaged with:

- cross-over youth who had active YJ matters through formal intervention, informal consultations, or observation.
- youth advisory committees, youth representatives, and youth mentors with lived experience who shared their pre-trial detention experience in the YJ system and their experience with the custodial system.
- youth in focus groups and feedback sessions to gather the youths' voices about their experiences in pre-trial detention across all the sites.

The Project explored the narratives of the youth that experienced extended pre-trial custody most deeply. The Project engaged with these youth through their experience, often visiting them in detention when no other stakeholders did. The Project absorbed the information and analyzed the youths' journeys to draw conclusions.

Second, the Project engaged with YJ stakeholders through one-on-one interviews at all four sites, informal discussions, and education events. YJ stakeholders also provided ongoing feedback and insights into the development of the Project's protocols on the issue of pre-trial

detention. Some very experienced YJ stakeholders shared the lessons of their many years of expertise and experience on various aspects of this issue. The steering committees and sub-committees comprised youth justice stakeholders, including custodial staff, that offered their perspective. The Project also had the ability to tour some youth justice facilities and interview their staff.

Third, the Project was educated by YJ stakeholders about their perspectives on the causes and impacts of pre-trial detention on youth with histories of trauma. The Project also worked closely with mental health and trauma experts to understand the impact that pre-trial detention has on cross-over youth. The Project in turn provided the perspective of cross-over youth, especially in relation to the impact of pre-trial detention on cross-over youth, learned through listening to YJ stakeholders and education seminars, and engaged in a dialogue on the issue.

Finally, the regional differences of the Project's geographic locations allowed the Project to learn from the different approaches taken to pre-trial detention in different jurisdictions. Youth also shared and contrasted their differing experiences, and relayed the gaps and challenges they faced in one jurisdiction as compared to another.

Analysis

Cross-over youth are susceptible to longer times in pre-trial detention and are pre-disposed because of their histories to be more vulnerable in such a setting.

'Behavioural issues' have consistently funneled youth from the child welfare system to the youth justice system, including pre-trial detention. The literature recognizes that this trajectory often results in starker dispositions, less effective and often costly placement options, and "one size fits all" approaches. (Orsi, Lee, Winokur & Pearson, 2018; Office of the Provincial Advocate for Children and Youth, 2019). Many of the behaviours that were criminalized by the child welfare system were not the type that parents would call the police to manage. This strategy, employed by child welfare stakeholders, has not been effective in promoting rehabilitation. The mental health needs and/or substance use concerns of the youth, almost all of which relate in some way to the trauma that the youth have experienced, present unique challenges to the systems intersecting with cross-over youth (Grisso, 2005; Mcardle & Lambie, 2018).

In cases in which the youth experienced pre-trial detention, their final disposition was informed by the time the youth had already spent in detention. These cases suggest that the

actual number of youth ‘sentenced’ to custody is higher than 20% in Ontario. Some youth sentenced to probation, deferred custody, community sentence orders, and even some of those whose charges were stayed or withdrawn, obtained those dispositions because they had already served their time in pre-trial detention. The numbers of youth noted in custody have consistently decreased since the introduction of the YCJA. However, as the number of youth in pre-trial detention has moved above the number of youth sentenced to custody, the statistic of an overall decline of youth noted as ‘sentenced’ to custody may be unreliable.

The impact of the link between pre-trial detention and ultimate sentence is highlighted when one looks at the increased likelihood that youth in care, who are more likely to be detained, will end up with a custodial sentence. A British Columbia study of youth in the child welfare system found that approximately one-tenth (10.4%) were sentenced to custody, compared to a minuscule 0.5% of non- child welfare-involved youth. In B.C., that meant a greater proportion of youth involved in the child welfare system entered the youth criminal justice system than graduated from high school (Corrado et al., 2011). The Project’s experience at the four pilot sites was consistent with this observed disparity. Youth with child welfare involvement were more likely to languish in pre-trial detention and custody. Their incarceration was occasioned partly because their trauma caused them to offend, and partly because the youth justice system discriminates against youth in the child welfare system (even if unconsciously). To reduce recidivism rates and improve the welfare of these youth requires change across multiple, complex systems. This takes time, as coordinating these services requires focus across vast networks that are challenged to handle large volumes of cases. Getting busy professionals’ schedules and workloads to line up on a particular case is resource-intensive in and of itself. Pre-trial detention was a substantial barrier to allowing for enough time to coordinate cross-sectorally effectively.

Defence counsel made a strategic choice not to attempt a bail hearing when there appeared to be an inadequate plan. Thus, these youth automatically remained in pre-trial detention—even if they met criteria for release. These youth were not being given the full opportunity to challenge their charges and exercise their rights. These and other cross-over youth felt increased pressure, as child welfare youth with complex needs, while in detention. The cross-over youth involved with the Project were much more amenable to speeding up the process “just to get it over with” in order to get released out in the community. Based on the Project’s observations, more than 5% of the youth detained in Ontario are subject to this vulnerability.

Considerations

Pre-trial detention is the next step along the trajectory of the YJ system for cross-over youth. Excessive bail conditions, lack of resources and lack of plans to make bail appealing to the court have all contributed to cross-over youth spending unnecessary time in pre-trial detention. In this custodial setting, their vulnerabilities are heightened as individuals living with trauma and focused on self-preservation. To resolve this profound problem, the Project makes the one clear and obvious recommendation:

End Pre-trial Detention for Cross-over Youth

Rehabilitation is a primary objective of the YCJA. The Project could not find any evidence that time spent in a custodial setting, including pre-trial had a rehabilitative effect, and this was especially true for youth with histories of trauma. The youth engaged in the Project were affected deeply and negatively by their experiences in pre-trial detention. Youth with histories of trauma need to form healthy, stable relationships to heal. That relationship-building requires professional guidance so that the relationship does not erode as the youth tests the boundaries as a protection mechanism. A custodial setting is not an appropriate place to foster that type of relational practice. If there is to be a continued reliance on pre-trial detention as a tool of rehabilitation in any circumstance for cross-over youth, evidence of its efficacy should be presented.

While the same can be said of custody generally, the focus of the work of the Project and the clients it served was on pre-trial detention.

Summary

Pre-trial detention is a cross-over youth's first exposure to incarceration. Custody in general has a harmful effect for youth with histories of trauma. First and foremost, it re-traumatizes the youth. As a result, it makes it more likely that the youth will continue to offend. Pre-trial detention makes it harder for youth to fully exercise their rights, including the opportunity to engage in rehabilitative conferencing and planning to avoid further custody. The vicious cycle of pre-trial detention, custody, release, pre-trial detention (etc.) was a common occurrence for the youth the Project followed. In addition, based on the Project's observations, custody even at the pre-trial level, and its associated negative 'quicksand' effect are likely more common than the un-scrutinized statistics suggest. In this instance, the solution is simple. Without pre-trial detention, more resources and focus can be put into resources and supports for cross-over youth.

DEFENCE COUNSEL

Overview

The role of defence counsel is to protect the privacy and liberty rights of their clients and to minimize criminal justice outcomes. Thus, generally, their perspective is to limit state interference. It was a huge obstacle for the Project to convince defence counsel that conferencing which included state actors such as Crowns and Judges would lead to better outcomes for their clients. The Project developed protocols to ensure that information could be shared in a confidential manner. The protocols required that information could only be used outside of the conferencing setting with direct and explicit authorization. Defence counsel could vet the information coming out of the conference and elicit specific permission from their client for its release before it went to the judge.

Aside from the very real concern about protecting privacy, from the Project's perspective, there were other obstacles that affected the youth's ability to maximize their representation. A large part of it was a lack of funding, but there were also other factors relating to counsel that the Project believes had an impact. These factors included lack of specialized YCJA criminal counsel, the use of adult criminal court practices, pressure from stakeholders on YCJA counsel and the failure to inform or take instructions from youth clients.

What Was Learned

Generally, defence counsels were some of the most loyal and constant stakeholders in the lives of the youth. For many youth, their child welfare worker, who is their de facto parent, changed often. Some youth reported to the Project that they had upwards of 30-40 workers over the course of their involvement with the child welfare system. Conversely, defence counsel often followed their youth to any jurisdiction in which the youth had incurred charges. This happened where feasible even though Legal Aid Ontario does not pay for a lawyer's travel time or expenses. Many defence counsel provided service beyond what was professionally required of them, often for little to no remuneration.

The Project experienced resistance from some defence counsel to the conferencing model. They expressed concern that conferencing had unpredictable elements, and that they could not control how other stakeholders used the information that was shared. They were particularly worried that judicial officers or Crowns would use such information for punitive or restrictive purposes. The OCL had similar concerns that a young person's criminal history

might start appearing in the affidavits of social workers in a child-protection hearing, including against the youth themselves if they had children.

The Project was very cognizant of these concerns, developed protocols to ensure that information could be shared in a confidential manner, and worked hard to ensure that stakeholders would respect the constraints. Stakeholders could only participate in a conference if they promised in writing that information could only be used outside of the conferencing setting with direct and explicit authorization. Defence counsel was also delegated as the gatekeeper of the information and given the right to vet and exclude from dissemination any information that resulted from the conference before it went to a decision-maker. These protocols assuaged the concerns of some defence counsel, as they allowed their clients to participate in the program.

Bail and pre-trial detention were some of the most challenging aspects of the court process for cross-over youth. The Project observed that some defence counsel appeared to use the same approach they use for adult bail when dealing with youth bail. That resulted in a message to duty counsel to adjourn a bail hearing when a plan had not been finalized. This happened regularly. The Project also observed that some defence counsel, who represented primarily adult clients, were also unfamiliar with some of the specialized procedures and statutory provisions in youth matters, especially at the bail stage. The Project only observed a small group of counsel with specialized knowledge of YCJA proceedings.

In some cases involving a dedicated youth bar, there appeared to be some (unspoken) pressure exerted on those defence counsel, from other youth justice stakeholders, to assimilate to local practice. From the Project's perspective, this pressure appeared to succeed in modifying their advocacy, and did not prioritize the young person's rights.

The youth engaged with the Project sometimes expressed concern about their ignorance of the process, and felt constrained in detention. Some youth felt that their counsel did not explain what was going on in language they could understand. Most Defence Counsel observed by the Project acted in the best interest of their clients and listened to them. In some instances, however, it appeared that some defence counsel inserted their own judgment rather than ascertaining the youth's instructions and working towards a feasible plan to achieve the youth's wishes.

The most pervasive issue affecting defence counsel was the fact that they were not properly compensated for the time required to represent youth in such complex matters. The legal aid

tariff did not compensate counsel for the amount of time they spent getting their clients out on bail or attending multiple judicial pre-trials and conferences. Most importantly, it did not compensate counsel for the time required to coordinate and collaborate with all the services and complex systems that interact with a cross-over youth, a function vital to ensure fulsome planning. More recent cuts to bail funding, discussed above, will add even more pressure to duty counsel who may not be able to engage in the level of consultation and advocacy necessary to properly serve this cohort of youth.

How it Was Learned

The Project had the pleasure of engaging with and learning from some brilliant advocates. Their knowledge of the law and the circumstances of their clients was inspiring. The Project had the invaluable opportunity to engage candidly with stakeholders about the impact of defence counsel on the YJ system. The Project gathered this information in several ways. First, the Project:

- engaged with cross-over youth who had active YJ matters through formal intervention, informal consultations, or observation.
- engaged with youth advisory committees, youth representatives, and youth mentors with lived experience who shared their experience in the YJ system and their experience with their representation by defence counsel.
- conducted a series of focus groups and feedback sessions to gather the youths' voices about their experiences in YJ, which included a focus on how the youth felt represented across all the sites.

The Project thoroughly examined the youths' experiences with defence counsels' engagement: the impact it had, and the youths' suggestions for improvement. The Project considered the information and analyzed the youths' voices to reach conclusions.

Second, the Project engaged with defence counsel through one-on-one interviews at all four sites, informal discussions, and continuing professional development and education events. Defence counsel also provided ongoing feedback and insights into the development of the Project's protocols. Some very experienced defence counsel lent their many years of expertise and experience to the Project in a myriad of roles. The Project was granted access to their method and approaches to YJ for cross-over youth. The Project also provided the perspective

of cross-over youth, especially in relation to listening to youth voices, learned through listening to Defence Counsel and education seminars, and engaged in a dialogue on the issue and recorded their responses and their level of responsiveness. The Project also engaged with defence counsel who were understandably wary of an initiative that requires information-sharing. The Project was persistent in demonstrating commitment to confidentiality, and in acting only in the best interest of the youth. The Project was able to convert even some of the most skeptical critics into participants when they saw the Project's protection of privacy and planning results. The Project absorbed the feedback and lessons of all the counsel the Project observed or engaged with, regardless of whether they were a supporter or critic of the pilot. The Project had the ability to observe many defence counsel inside and outside of court, both when they represented youth formally engaged with the Project and those youth the Project only had an outside perspective on. The Project had the honour of many senior defence counsel participating and providing robust contributions to the steering committees, legal sub-committee, training events, and continuing professional development presentations.

Finally, the disparate nature of the Project's geographic locations allowed the Project to compare and contrast the different approaches taken by defence counsel in different jurisdictions in response to a variety of circumstances and environments they experience. Youth also shared their experience, and relayed gaps in their YCJA legal representation in comparative jurisdictions.

Analysis

There was an understandable concern from the defence counsel with regard to state intrusion into the lives of their clients. Lawyers generally sought to limit that state interference. Lawyers are also trained to be particularly risk-averse. For example, many counsel are concerned about the prospect of their client having to testify, and hence they try to avoid it unless it is strictly necessary. Some counsel are also reluctant to have their young person participate in a YCJA section 34 psychological assessment, because they are concerned about the assessors asking questions that elicit broad answers that result in the youth divulging additional criminal activity.

The Project worked hard to ensure defence counsel understood that the single most important concern of the Project was the voice of the youth, an integral aspect of planning in the best interest of the youth. The Project developed procedures, with feedback from counsel, to address privacy issues and ensure that other stakeholders were bound by those procedures. In addressing their caution and concerns, the Project experienced the lawyers for youth as

some of its most insightful partners. The Project's relationship with skeptical counsel was strengthened when those counsel had a chance to observe the case conference facilitators interact with the youth and other stakeholders. When the Project demonstrated commitment to shared principles, counsel usually reciprocated with trust.

The Project found that where family counsel had mentors in the YCJA or YCJA counsel had mentors in CW, there was generally a greater understanding of the dual systems and more willingness to coordinate efforts. Similarly, where experienced, trained "two hatters" represented the youth, this contributed to a more streamlined, informed approach.

The issue of defence counsel assimilating into local practice is a difficult one. The Project is cognizant of how counsel choose a particular path as they have likely observed the result of attempting to deviate from it and believe they are protecting the best interest of the client. Knowledge of local procedures and culture allows lawyers, in the majority of cases, to achieve the best outcome for their client. However, professional familiarity between defence, Crown counsel, and other stakeholders may, on occasion, influence defence counsel to choose the path of least resistance for a particular client. This is not a problem unique to the representation of cross-over youth, but given the particular vulnerability of these young persons, it was noted as a concern in the Project's observations. In certain instances, youth justice stakeholders expressed surprise when certain advantages were not pressed on behalf of the youth.

In some ways, the issue of Defence Counsel adjourning youth bail matters, as they might for adult bail matters, has been solved by Legal Aid Ontario's defunding the attendance of private counsel for bail. However, in its place, a much bigger problem is metastasizing. Duty counsel do not have the capacity to handle the volume of bails previously handled by the private bar. There are already reports of bail courts running out of time to appropriately address the daily volume. The cascading effect is already causing adult remand facilities to exceed their capacity. In response to lower custody numbers, staffing levels have been adjusted commensurately. Youth facilities do not have the staffing capacity to handle a sudden increase in youth pre-trial detentions.

Legal Aid Ontario does allow lawyers to apply for a discretionary increase in the amount of hours they can bill, if the matter is complex and the lawyer writes Legal Aid to justify the additional hours. However, that process is a black box. At the end of the process, lawyers are paid an amount, almost always less than requested, with no explanation of how the amount was determined. Moreover, it appears that the discretionary funding system is under serious

threat by the latest cutbacks to Legal Aid. The incentive structure at Legal Aid pushes lawyers towards setting everything for trial. While that is far superior to a system that rewarded lawyers for cursory guilty pleas, this system of incentives does not always align the lawyer and their client. Certainly, in cross-over youth cases, Legal Aid is underfunding coordinating and conferencing, procedures that in many of the cases the Project followed were a much more effective way to reduce the youth's jeopardy. There were instances in which the misalignment of incentives for counsel was the most plausible explanation for the decisions that were being made, and the impact was borne by the youth.

Summary

As advocates for the youth, the role of defence counsel cannot be understated. Counsel should be informed and committed to youth justice and to understanding the complex needs of cross-over youth. For them to achieve the level of understanding needed to translate into strong advocacy, they need the resources to properly represent their clients. The Project saw many such advocates operate above and beyond the resources available but also saw the cracks in a system that works within the comfort of the status quo.

Considerations

To help better equip defence counsel and lead to better outcomes for cross-over youth, the Project sees the need for specialized training and funding.

Specialized Training for YCJA Practice

It is recommended that Legal Aid Ontario formally encourage familiarity with the YCJA for counsel wishing to obtain youth certificates. Legal Aid should fund counsel to participate in proactive planning conferences. Where possible, YCJA counsel should have access to mentors who practice in the area of CW and vice versa. Further, Legal Aid should facilitate and encourage the use of “two hatter” counsel who are appropriately trained in both the YCJA and CW. Such proactive measures will save resources in the long-term. Courts should also make local procedures easily understood and widely disseminated, especially where they differ from standard adult court practice. All stakeholders should work together to ensure cases for youth who have yet to have a bail hearing are not adjourned for any significant period of time without a justifiable cause. As part of a Legal Aid Ontario Youth Panel, counsel should be required to review material pertaining to youth-centering, trauma-informed practice, and anti-oppressive practice.

Funding for Case Conferencing for Cross-over Youth

Case Conferencing for cross-over youth should be viewed as a tool to help the youth and thus to help defence counsel serve their client, through coordinated planning. Planning is a major element of risk-mitigation at the bail stage. Case-conferencing has been used at the bail stage to get youth out of custody faster, avoiding the burden of pre-trial detention. Defence counsel do not always have the resources or the institutional knowledge to plan effectively. Multi-disciplinary approaches can bring knowledge, insight and solutions to the table. The Project has utilized case-conferencing to encourage child welfare workers to find more suitable placements for youth, which in turn, assists defence counsel in presenting a plan. A recent study by Koplin (2018) found that youth partnership is beneficial, and should be established when determining plans of release and making decisions in regard to instituting bail. Similar to these findings, the Project observed that youth-centering at the placement stage led to a decrease in breach charges. Therefore, the Project is advocating for funding a more collaborative approach, rather than simply a combative one. The Project's experience with conferencing suggests that this medium is also a suitable setting to gather information about positive progress, and to ensure the accountability of all involved parties. Conferences also provide a meaningful opportunity for the youth to be heard by those planning or trying to impose a plan on them. During the Project, positive information that arose from conferencing was used to convince Crowns to consent to bail variations, decrease the risk of administrative breaches, and ultimately agree to non-custodial positions. Funding this approach is in the best interest of the youth and will save the system resources.

Summary

Cross-over youth present the youth justice and child welfare systems with a significant challenge. The cross-sectoral conferencing model usually offers an alternative to custody in cases otherwise not eligible for non-custodial dispositions. There is tremendous benefit to both the system and the youth to attempt this holistic and rehabilitative approach, especially since there is no evidence that custody works as a rehabilitative tool for youth with histories of trauma. Counsel representing these vulnerable youth ought to be reassured with privacy commitments, educated and properly funded to support their clients to participate in, and benefit from, the conference model.

Conclusion

The report on the Justice sector found that the culture within each component of the system contributed to increased involvement of CW youth in the justice system. Despite specific statutory direction, police and Crowns were reluctant to use discretion to divert matters away from the justice system when youth engaged in reactive or ongoing behaviours, which were often linked to trauma. Discretion was most likely to be exercised on “first” time “offenders”. Police had difficulty shifting from the “safety” mentality to a more trauma-informed approach. Crowns who were more senior were more likely to have the confidence and understanding to give youth consecutive “chances”, recognizing the complexity of their underlying needs. Defence counsel who had knowledge of the child welfare system or a mentor within that system, could advocate more effectively for their clients. Crown and Defence who could arrive at a point of mutual trust within an adversarial system, based on built in protections and who engaged in conferencing, saw its benefits in terms of holistic, front end planning for youth. Problems consistently arose with respect to standard, restrictive bail conditions that set up youth --who react based on trauma-- to re-offend, leading to further entrenchment in the system. Lack of appropriate placements influenced decisions by Crown to vary bail and decisions by Defence to seek bail--contrary to the YCJA which prohibits the use of detention as an alternative to child welfare. This and related factors contributed to youth spending unnecessary time in pre-trial detention, an environment which is counter-intuitive and without any proven benefit for youth living with trauma. Regional differences and the lack of province wide directives supporting a less-restrictive approach contributed to inequities in the system, particularly for racialized and Indigenous youth.

The above noted negative practices led to increased vulnerability of CW youth and further, unnecessary entrenchment into the justice system. The positive practices such as conferencing and cross-sectoral knowledge with appropriate safeguards helped break down some of the existing silos and gained some traction with some Crowns and Defence.

In light of the Project’s work relating to the justice sector, the Project offers the following considerations:

Police

Provide Trauma Informed Training for all Police Officers

Trained Mental Health Professionals should accompany officers responding to situations involving cross-over youth

Implement Increased Use of Pre-Charge Diversion or No Further Action

Provide Explicit Written Directives to encourage increased use of pre-charge diversion or no further action.

Crown

Provide Training in Trauma-Informed Practice for Crown Attorneys

Increase the use of Diversion Programs

Increase the use of Cross-Sectoral Conferencing

Revise Centralized Crown Policy and Procedure Accordingly to support and direct the above

Bail

The adoption across the system of the principles in R.v. Antic, which mandate the least restrictive forms of release and conditions at all stages of the process-police release, justice of the peace and judicial bails.

Make use of the provisions of the Criminal Code and the YCJA that mandate consideration of non-criminalizing approaches, including for breaches of bail conditions. Consistent with this, provide clear directives that lack of placement options should not lead to failure to hold bail hearings.

Streamline the process to favour more global bails and the transfer of charges between jurisdictions for global resolutions.

Review and Revise standard bail conditions to reflect the above principles

Pre-Trial Detention.

Put an End to the use of Pre-Trial Detention for cross-over youth

All decision makers should implement the above as a matter of best practice and follow up with amendments to the Criminal Code and the YCJA.

Until these recommendations are implemented, provide clear directives that lack of placement options should never lead to time in pre-trial detention.

Defence

Provide specialized training for YCJA counsel including in relation to trauma-based awareness, child welfare systems and YCJA principles as distinct from adult criminal justice principles.

Provide YCJA counsel with CW counsel mentors with knowledge of the child welfare system and vice versa.

Encourage the use of “two hatter” counsel who have undertaken the requisite training in both CW and YCJA.

Provide funding for Case Conferencing for cross-over youth



Theme 3: Indigenous Youth

OVERVIEW

The overrepresentation of Indigenous young people in both the Canadian and Ontario CW systems has been well documented (Barker, et al., 2014; Ma, et al., 2019). In 2018, the Ontario Human Rights Commission reported that Indigenous young people are overrepresented in 25 out of 27 CAS agencies they reviewed. The number of Indigenous children admitted into care was 2.6 times higher than in the child population at large. Although Indigenous children represent only 4.1% of the population of young people under the age of 15 in Ontario, they make up 30% of the children in CW. The COY Project's observations aligned with these findings.

Furthermore, Indigenous young people represent only 8% of the youth population in Canada (Malakieh, 2018). Yet in 2017, Statistics Canada reported that Indigenous young people account for 46% of admissions into correctional services, including both supervised probation within the community and detention. The overrepresentation of Indigenous young people in the YJ system becomes even more prominent when considering non-community-based alternatives in correctional services. Indigenous youth account for 50% of young people spending time in detention (Statistics Canada, 2017).

Even more troubling were the COY Project's observations in regards to how the Indigenous youth were treated once they entered the residential care system after being removed from their First Nation. This had implications for their experience in the YJ system. The conditions they had to endure conjured images of residential schools. The Indigenous youth the Project engaged with were disconnected from their communities while experiencing complex and historical trauma. The YJ system in all four sites, but especially Thunder Bay, made efforts to counteract the effects of being dislocated from their community through culturally appropriate Indigenous programming and approaches. However, by virtue of systemic constraints, the services and programs that are meant to help the youth often were positioned to exacerbate historical and lived experiences.

It's important to acknowledge that the harsh realities for youth living in remote northern First Nations influenced the ability of the COY Project to implement or sustain changes needed in CW, YJ and mental health services. These systems and institutions were structurally ill equipped to care adequately or appropriately for these youth. The majority of youth described as cross over in Thunder Bay were from geographically isolated, fly in communities.

Youth from these communities lived in impoverished circumstances with poor housing conditions which included overcrowding, mold that contributed to respiratory problems, insulation that was inadequate for the harsh winters, the reliance on wood stoves as the only source of heat, poor wiring and other fire hazards. These young people typically have to leave their First Nation after grade 8 to attend high school in a non-Indigenous urban community with which they were unfamiliar, knowing that they were on average four years behind in their education due to the poor quality of education provided in their community. Clean drinking water and food security are rarely available in most northern communities. Furthermore, poor sewage infrastructure leads to seepage into the water systems. These result in skin rashes, vulnerability to diseases, diabetes and other health conditions. The rate of unemployment is on average 90 per cent. Because of these impoverished, deprived circumstances and conditions, there was a high rate of mental health concerns, substance abuse, violence and suicide. The foundation from which this deprivation evolved of course was the history of colonialism, residential schools, forced relocation and an imposed governance structure. This eroded the ability to maintain ties to their land, language and culture. This traumatic historical evolution has undermined rights and entitlements, self-determination and self-mastery and the identity and wellbeing of the young people identified in the COY Project.

The Indigenous young people anxiously enter urban settings, ill prepared for the racism that exists particularly but not exclusively, in Thunder Bay (dialogue at the Provincial Steering Committee meeting by members of the COY Thunder Bay Project, May 2019). The recent, unexplained deaths of 7 youth from remote First Nations in Thunder Bay has these already vulnerable young people fearful for their own wellbeing (T. Talaga, 2017).

The dilemma for these young people is that they are necessarily making a choice. They can either remain in their impoverished First Nation with limited hope of improvement because they don't have access to adequate secondary education or they can travel to an urban setting that is unfamiliar, far from home and community and fraught with racism in order to fulfill their education. Ultimately just surviving in either environment is extremely challenging (Finlay & Akbar, 2016). If youth choose to leave their First Nation, they typically end up in the Thunder Bay area. The patchwork of services and resources offered to these young people as they enter Thunder Bay do not target or address this dilemma or the challenges they face. Until the underlying causes or causes of the causes are confronted, change efforts will garner limited meaningful outcomes.

What Was learned:

The Project was located in Thunder Bay due to its status as a transitional hub for residents from remote Indigenous communities. The Thunder Bay community has been fraught with racial tension. Youth from the remote Indigenous reserves are often sent to Thunder Bay either to attend high school, as there are no high schools on their remote First Nations, or in a few instances because they have been banished from their community for disruptive behaviour. As indicated previously, the racial tension has led to multiple deaths of Indigenous youth and other pervasive negative outcomes.

The Project was also located in Belleville due to the extremely high number of residential care placements settings. There was a wide-array of placements, including group homes with six-to-eight youth, treatment foster homes with four youth, group care campus with multiple group homes effectively joined together, mental health treatment homes, foster care placements, and quasi ‘boarding schools’, group care placements only licensed under the Ministry of Education. The licensing and regulations of these placements was a patchwork. Many operators engaged in regulatory arbitrage to classify their operations in a manner that would result in the lightest regulatory requirements.

Over the course of the Project’s involvement, a pattern emerged. There were many Indigenous youth from remote, northern Ontario First Nations being placed in Belleville (Hastings and Prince Edward counties). The issue was a primary concern of both the Belleville and Thunder Bay local steering committees. The Project also engaged Indigenous young persons and other stakeholders with a particular connection to this issue to solicit their experience and perspective. The issue of repatriating youth back to their home community became a major focus of the Project.

Through the local steering committees, stakeholders formed relationships with one another, as well as between the Belleville and Thunder Bay steering committees. These relationships formed the foundation of the action taken to begin to address this issue. The local children’s aid society in Belleville, deepened its relationship with one of the children’s aid societies with jurisdiction in the far northwest in Ontario. They worked together to share information about the conditions Indigenous youth from the far north should expect to face when moving to southern location placements. Another northern Indigenous children’s aid society, undertook to open and operate more residential group care facilities in Thunder Bay to reduce the number of youth they would need to send further south. In response to the dwindling number of placements from northern Ontario, group care operators moved on to market their services to Nunavut. The Project noticed a dramatic increase in youth placed

from Nunavut in Belleville and the surrounding area, as the numbers from remote northern Ontario communities fell.

In Thunder Bay, a consistent theme was the mental health crisis among Indigenous youth in their community and from the remote northern First Nations that was evidenced in high rates of substance use and suicidality. Equally concerning is the dearth of local resources to deal with the crisis. The Thunder Bay steering committee and community stakeholders worked together on a proposal to convert existing and under-utilized youth justice residential beds into mental health treatment beds. The idea was to provide a model of care from qualified, trauma-informed, experienced, and trained staff sharing a unifying theoretical framework. The staff would establish a culture within the residence that is conducive to youth in mental health crisis. The proposal built heavily on existing community resources, partnerships, collaboration and coordination of a cross-sectoral network of services, some of which was built at the Project's steering committee table. The purpose of the model was to provide supportive housing-intensive treatment/care, education and skills development, reintegration, and aftercare to youth with complex mental health needs. The beds would be reserved for youth who have complex needs involving any or all of the following: psychiatric diagnoses, emotions regulation, substance use, youth justice, education challenges, trauma, and family dynamics. The community was adamant that this proposal was the minimum required to start addressing this issue, and that many further steps were needed before there would be a noticeable impact.

In Thunder Bay, YJ stakeholders report that the overall number of youth in custody was significantly lower than during the YOA era and the years immediately following. In fact, some of the juvenile justice facilities are under review for possible closure due to their persistent under-use. However, while the overall numbers of youth in custody (either as a sentence or pre-trial custody) are down, almost all the youth in custody are Indigenous. Youth justice staff report that, in closed custody for girls, open custody for girls and open custody for boys, there has not been a non-Indigenous youth in over a decade. Other staff report that they have not had a white youth in custody within their memory (there was very low staff turnover at the facility).

How it Was Learned

The COY Project located its pilot sites in locations that serviced high populations of Indigenous cross-over youth. In particular, Thunder Bay, Belleville, and Brantford have large Indigenous reserve territories adjacent to their jurisdiction. The Project engaged with

stakeholders through interactive presentations, one-on-one interviews, consultations, and informal discussion. The engagement was meant to facilitate the exchange of ideas and deepening the Project's understanding of the issues and circumstances facing Indigenous youth within the jurisdiction. The Project engaged with Indigenous youth during workshops, steering committee and youth advisory meetings, informal discussions, integration of peer mentors with lived experience, and community events. The youth provided invaluable insights into their lived experiences and the circumstances that contributed to their current circumstances. The Project conducted a series of focus groups and feedback sessions to gather the youths' voices across all the sites. The Project was granted access into group care settings and youth justice facilities to meet with youth and gather information. The Project engaged with representatives and experts from and who work with Indigenous communities to ensure that the Project had a more complete understanding of the systemic issues facing Indigenous youth. Finally, the disparate nature of the Project's geographic locations allowed for a unique opportunity to observe the trajectory of Indigenous youth as they were removed from their communities and moved from the north to the south. The Project followed the journey of many Indigenous youth as they crossed jurisdictions. The youth were transferred between stakeholders, and many times fell through the cracks for a period of time. The Project was able to observe and, in some instances, intervene when that happened.

The Project attended and participated in many events that laid bare the challenges faced by Indigenous youth in Ontario. The Project saw up-close how inter-generational trauma impacts the present. Where possible, the Project attempted to support those affected by this extremely difficult problem. The experiences solidified just how deep and vast the systemic issues are.

Analysis

The YCJA explicitly acknowledges the special status of Indigenous youth in response to their overrepresentation in the justice system and recognition of the state's contributory role. Research has shown that Indigenous youth are also more likely to receive longer sentences than their non-Indigenous counterparts, regardless of their criminal history and offence severity (Corrado et al., 2014).

Critical to the discussion of Indigenous overrepresentation in the YJ and CW systems is the context of the tragic, multi-century history of colonialism and its negative impact on Indigenous families and communities. The process of colonization is one that has and continues to impact the lives of Indigenous people and youth. Understanding the impact

of colonization and collective trauma in the lives of the Indigenous Peoples leads to the acknowledgement of how it directly contributes to the overrepresentation of Indigenous children and youth within the child welfare and youth justice systems. Furthermore, oppression, colonialism and anti-Native racism continue to disadvantage Indigenous young people both informally and formally through our institutions (Corrado et al., 2014).

For example, rather than working proactively to remedy the impact of residential schools, Indigenous youth are still removed by child welfare authorities from their families, their communities, and their land, language and culture and placed in residential settings in urban areas not attuned to their circumstances, culture or needs (Baskin, 2016; Barker et al., 2019). They are then criminalized and punished for any normative behavioral deviations caused by this attachment rupture and dislocation. This is exemplified by the Indigenous cross-over youth's experiences in Thunder Bay, who were removed from their home communities in the far north and sent to areas in Southern Ontario like London and Belleville to live in group care settings in majority white communities. They are unable to speak their own language because no one would understand them, and it is difficult for them to maintain cultural ties as they cannot partake in traditional rites and ceremonies. In effect, Indigenous youth are still currently removed from their home communities and sent to residential schools in the south, only now they are smaller and even more hidden from society.

The lack of northern investment drives some well-meaning stakeholders to search for a southern solution to the acute crisis facing the youth they serve. Both the Belleville and Thunder Bay Steering Committees report that a disproportionate number of northwestern Ontario Indigenous youth are being sent to southern Ontario for treatment that is unavailable in the North. They relocated to southern Ontario as there are no medium to long term crisis beds for youth. The financial cost for these residential placement resources is extraordinary. This short-term solution is diverting much-needed resources from the home communities of the vulnerable youth. This strategy ensures that it is not possible to get ahead of the problem. Worse still, many of the resources are being expended on counterproductive approaches. This can be seen plainly by the resulting criminal charges and incarceration of the Indigenous youth with whom the Project engaged. This well-recognized trajectory is occurring despite the strong advocacy efforts by Indigenous communities, leaders and service providers for enhanced investment, resources and equal treatment.

Research has shown that youth justice conferencing is an effective alternative to reduce juvenile detention and divert Indigenous young offenders away from the formal criminal justice system while holding them accountable for their actions (Corrado et al., 2014). The

Project's experience aligns with this research. The conferencing process allowed Indigenous youth to achieve otherwise unlikely results, such as returning to their home community or simply being able to speak with family on the phone. Most importantly, the conferencing process gave YJ stakeholders an alternative mechanism to custody. It is a first step in decolonizing the YJ system's approach to Indigenous youth.

The increased cross-sectoral communication between community stakeholders and local steering committees led to increased cross-sectoral collaboration on the issue of Indigenous youth being sent to the south from the far north. The collaboration and communication in and across communities was an overwhelming positive development which culminated in the proposal to convert under-utilized YJ facilities to mental health crisis beds by the Project's local Thunder Bay steering committee. It was in that forum that some stakeholders collaborated together for the first time in many years. Unfortunately, further positive steps were stalled by a lack of interest by senior decision-makers.

CONSIDERATIONS

Adopt Anti-Oppressive Lens

The Cross-Over Youth Project adopted anti-oppression as a key pillar necessary for practitioners and organizations understand how to work with racialized and Indigenous cross-over young people. Anti-Oppression Principles (AOP) critique the role of power and practices of oppression that limit social, educational, and economic outcomes for marginalized groups. Anti-oppression theories and practices guide practitioners in understanding how to address issues of power imbalances that negatively affect the experiences of racialized and marginalized populations, while supporting service users in accessing necessary social resources. Further, the impacts of systemic oppression, anti-Indigenous racism and colonialism must be considered a factor when evaluating, analyzing, and implementing interventions for service users who are impacted by practices of marginalization. An AOP approach requires that front-line staff and management acknowledge systemic power imbalances, and receive ongoing and up-to-date training to support them in the application of AOP.

Increase Local Resources for Indigenous Youth and First Nations

The Indigenous youth the Project interacted with all came from under-served and under-resourced communities. Allowing the costed, community-driven proposal to increase the

number of youth mental health placements in Thunder Bay is only a start. Indigenous communities are desperately lacking resources. When that desperation is manifested by young people, the solution is to spend resources in the south. The proposed solution to Indigenous suffering always seems to result in colonial profit. Improving conditions in Indigenous communities would improve the lives of Indigenous youth, but it would also reduce the complexity of the required response and bring down costs across the system. The proposal to convert under-utilized YJ facilities to mental health crisis beds by the Thunder Bay steering committee should be reinstated and renegotiated with local and provincial governments and philanthropic foundations. This is an important initial step to remedying the unnecessary relocation of youth to non-Indigenous residential settings far from their First Nations.

SUMMARY

Indigenous youth were overrepresented in the YJ system because the current response lacks foresight and thoughtful planning that is appropriate to the needs of these young people. CW's solution to the crisis in Indigenous communities, of sending the youth south, is costly, and needlessly complicated, and results in institutional re-traumatization. Attention needs to be given to the lessons learned historically and action taken to disrupt current practices that reactively repeat colonialism or risk being the source of future opprobrium.



Theme 4: Black and Racialized Youth

Overview

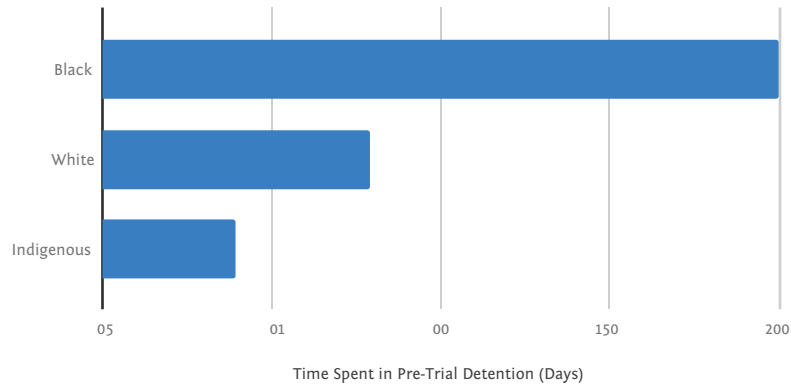
The Black youth that the COY Project engaged with experienced overrepresentation and had a disproportionately harsh trajectory through the YJ system. At the COY Project's Toronto site, 57% of the youth the COY Project serviced identified as Black, while only 8% of Toronto's population identifies as Black. The demographic identity of the youth the Project serviced mirrored the findings of the overrepresentation of Black youth in the YJ system found in the literature (Chapin Hall Center for Children, 2008; James, 2017; Rankin, Rushowy & Brown, 2013). The Black youth that the Project engaged with experienced structural barriers and embedded systemic oppression. The Project's findings reinforce the need for anti-oppressive practice and the redoubling of efforts to reverse the effect of anti-Black racism and colonialism. The system as currently constructed still perpetuates this historical trauma and magnifies it in present-day trauma.

What Was Learned

The patterns and trends observed by the COY Project in the Toronto site suggest that institutional anti-Black racism and colonialism within CW and YJ systems intersect to intensify disproportionalities experienced by Black youth. Aside from the sheer number of cases (16 out of the 28 youth the Project engaged with identified as Black), they were treated more harshly in the form of greater pre-trial detention, more administrative charges, charges in more jurisdictions, and more charges within group home settings. This was consistent with the findings in international literature (Herz et al., 2010).

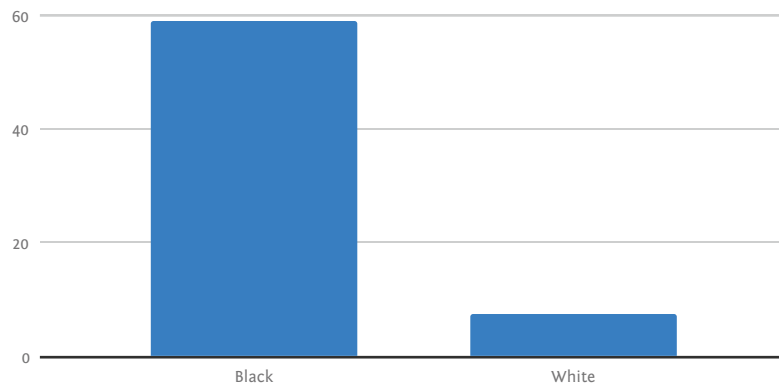
In Toronto, the Project's findings were consistent with U.S. evidence of racial disparities faced by African Americans in pre-trial detention (Schlesinger, 2005). The Project found that Black young people at the Toronto Site trend towards experiencing a larger amount of time in pre-trial detention on average, as compared to both white and Indigenous young people. Of the Project's youth that spent four or more days in pre-trial custody, 13 out of 19 (68%) were Black. These youth received the brunt of the discriminatory effect of being racialized and involved in the CW system. Shockingly, of the youth that spent more than six months in pre-trial custody, seven out of eight (87.5%) were Black. On average, Black youth from the Project's Toronto site spent 200 days in pre-trial detention. In the Belleville site, the average time spent in pre-trial detention was significantly higher for those two Black youth served by the Project in the region. These youth spent, on average, 59 days in pre-trial detention, as compared to 7.5 days for white youth.



Average Time Spent in Pre-Trial Detention by Race and Ethnicity (n=24)

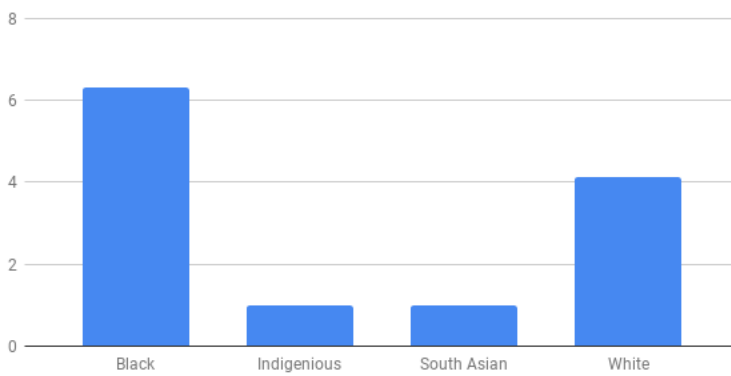
Average Time in PTD by Race and Ethnicity (n=14)

Belleville Site

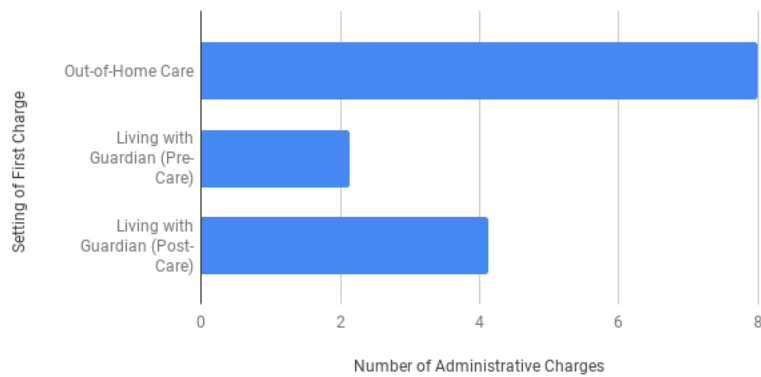


In Toronto, the Black young people that the Project engaged with experienced the greatest amount of administrative charges. The Project found that, on average, young people who received their first charge in an out-of-home care setting received more administrative charges, as compared to youth receiving their first charge while living with a guardian. Given this pattern, and that the Project saw a trend of Black young people being most likely to receive their first charge in an out-of-home care setting, it is not surprising to see that, on average, Black young people experienced the greatest amount of administrative charges.

Average Number of Administrative Charges by Race and Ethnicity (n=28)

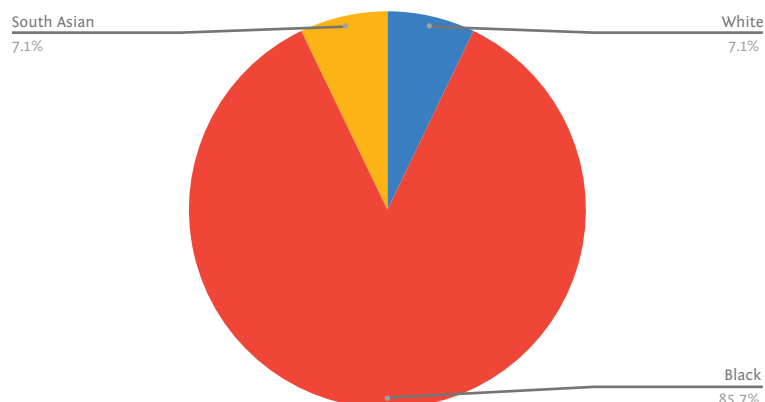


Average Number of Administrative Charges by Setting of First Charge (n=23)



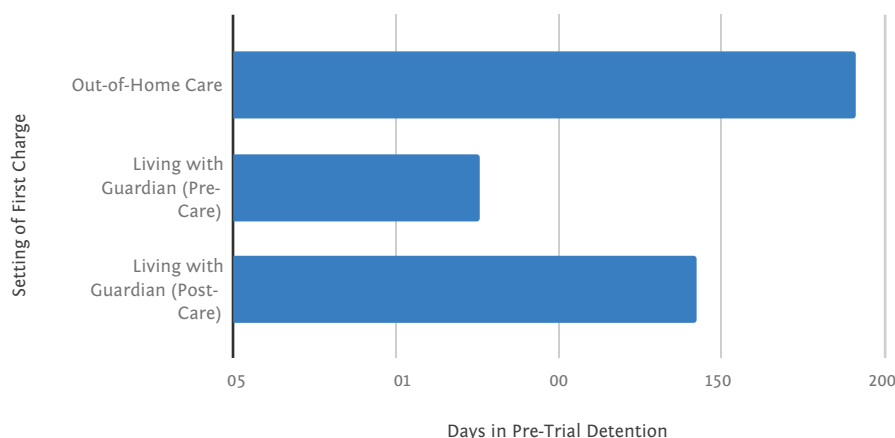
In Toronto, of the 14 youth the Project engaged with that had charges in more than one jurisdiction, notably 12 were Black.

Charges in Multiple Jurisdictions



Many of the Black youth the Project engaged with experienced the classic “child-welfare-to-prison pipeline.” The Project also observed first-hand how the seemingly innocuous CW decisions that failed to incorporate AOP accelerated that pipeline. Information from the Toronto site contributes to a growing conversation around racial disparities within the child welfare system (e.g., Tilbury & Thoburn, 2009) by uncovering evidence of racially biased group home charging practices. The Project found that, on average, young people who received their first charge in out-of-home care spend more time in pre-trial detention than those youth that received their first charge while living with a guardian. Young people who were initially charged in out-of-home care spent, on average, 191 days in pre-trial detention.

Average Days in Pre-Trial Detention by Setting of First Charge (n=23)



The Black youth that the Project engaged with were most likely to receive their first charge in an out-of-home care setting, as compared to the other youth. At the Toronto site, 62.50% of Black young people received their first charge in an out-of-home care setting, as compared to 14.3% of white young people.

The literature also suggests that Black youth use the YJ system to access mental health services (Spinney et al., 2016; Lee et al., 2017). A section 34 Assessment is a psychological report prepared by mental health professionals. They are expensive, and the court will only order them when there is an identifiable need. The court ordering a section 34 is a strong signal that there was at least one—but likely multiple—serious mental health concerns affecting the youth. Of the Project’s 16 black youth, the Project engaged with 11, or 69% percent of them needed the YJ system to help them address their mental health issues. A review of case notes revealed, however, that Black youth in Toronto Site were referred to community mental health services at a far lesser rate than white youth (see: Appendix 4).

How it Was Learned

Unfortunately, Black youth were vastly overrepresented in the courts that the COY Project observed and participated in. The sheer disproportionality was staggering, both in the number of cross-over youth and youth in general. The COY Project observed their experiences and engaged with them directly to probe deeper into the impact. First, the COY Project engaged with Black cross-over youth who had active YJ matters through formal intervention, informal consultations, or observation. Second, the COY Project engaged with Black youth during workshops, steering committee and youth advisory meetings, informal discussions, integration of peer mentors with lived experience, and community events. The youth provided invaluable insights into their lived experiences and the conditions that lead to their current circumstances. The COY Project was also invited to participate in listening and education seminars with Black cross-over youth, both current and former, that provided valuable insight into the current systemic challenges they face. The COY Project engaged with representatives and experts from Black communities to ensure that the Project had an understanding of anti-oppressive practice and systemic bias. They provided feedback at the steering committees, subcommittees, training, and outreach events, and reviewed the Project’s materials and analysis. Finally, the disparate nature of the Project’s geographic locations allowed for a unique opportunity to observe the trajectory of Black youth as they were removed from their communities and moved to unfamiliar communities. The COY Project followed the journey of many Black youth as they crossed jurisdictions. The youth were transferred between stakeholders, and many times fell through the cracks for a period of time. The Project was able to observe and, in some instances, intervene when that happened.

Analysis

For Black young people, there are limited Canadian statistics collected within the YJ system. However, a 2010 report by the Toronto Star identified that Black youth in Ontario were admitted into detention facilities at a rate four-times higher than white youth. The report further highlighted that Black youth are 2.5 times more likely to be stopped by police than white peers of the same age. Despite the dearth of information on Black young people in YJ, there is some concrete data pertaining to young Black adults. “Missed Opportunities: The Experience of Young Adults Incarcerated in Federal Penitentiaries” (Zinger & Elman, 2017) provides the most current information collected on Black young adults between the ages of 18 and 21. This report found that Black young adults accounted for 12% of the federal young adult inmate population, and were also seen to be overrepresented in admissions to segregation (solitary confinement), comprising 5.6% of the overall federal admission to segregation. This is despite young Black adults comprising only 4% of the total Black inmate population.

Time and time again, the Project saw that Black young people faced greater structural barriers across all systems and at all stages. Stakeholders often lacked the AOP lens needed to engage with the complex trauma of these young people, rooted in anti-Black racism and colonialism. Too often, stakeholders did not support youth to remain connected to their communities through either placements or community-based programming. In the many cases, stakeholders discounted Black youth’s voices in a way that perpetuated the structural discrimination. The YJ system has many seemingly racially neutral elements that in practice have a disproportionate impact on Black youth.

The disparity in treatment and outcome for Black youth at the Toronto site reinforces the need to scrutinize practice with an anti-oppressive lens, and reform the remnant elements of the system that preserve the effects of anti-Black racism and colonialism. The Black youth that the Project worked experienced the brunt of these effects, and were left discouraged and defeated. They had little reason for hope, and their behaviour reflected that.

Considerations

Anti-Black Racism and Colonialism

Critical to the anti-oppressive work of the COY Project are the theories of anti-Black racism and colonialism. Anti-Black racism is understood as forms of structural violence directed at

Black people, and contextualizes their resistance to these oppressions. It is rooted in Canada's oppressive history of slavery and operates today through mechanisms such as implicit bias (Phillips & Pon, 2018). Colonialism is "a worldview and processes that embrace dominion, self-righteousness and greed, and affects all levels of Indigenous peoples' lives . . . including their spiritual practices, emotional well-being, physical health and knowledge" (Hart, p.26-27, 2009). Colonialism continues to operate today to dispossess Indigenous peoples of their self-determination through social structures (Simpson, James & Mack, 2011). The understanding of the disproportional representation of Black and Indigenous young people in CW in Canada today cannot be separated from the history of colonization (Pon, Gosine & Phillips 2011). Overrepresentation of Black people in custody is a tool of oppression used to justify modern-day colonialism.

Frontline Workers

The COY Project suggests that frontline workers critically evaluate and challenge stereotypes about Black and Indigenous families and young people. They must explore those historical factors that shaped youth's experiences to better understand the impact that oppression, racism, and colonialism have on the presenting behaviours of young people. Workers should give young people opportunities to direct their own case-planning. Their recommendations must be given full consideration at all stages, including case-conferencing. Every effort should be made to support the youth in maintaining a connection to their communities through culturally and racially relevant placements options, such as kinship placements. Workers should strive to identify opportunities to return a young person to their family at all stages. Additionally, frontline workers must endeavour to work collaboratively with community-based programs, in order to reduce the reliance on the justice system and to receive additional perspectives on the youth from racial and cultural organizations. Finally, the Project recommends that workers develop clear and attainable goals in cooperation with youth and families. YJ stakeholders should support these goals at all levels.

Organizations

The COY Project further suggests that stakeholder organizations ensure that their leaders are trained in AOP, and are able to support staff in applying AOP in their daily practices. New interventions based in AOP should be implemented in the placements of racialized and Indigenous young people. As with frontline workers, organizations should work to build networks with community-based organizations to help develop and guide new case management approaches. Finally, the Project recommends that organizations develop

accountability measures and feedback mechanisms to assess the impact of new staff hiring and training, and program implementation.

Summary

Consistent with current literature, the COY Project found that racialized youth are overrepresented in the YJ system. Colonialism (explicit and implicit bias) played a devastating role in the disproportionately negative experiences and outcomes that Black cross-over youth had in the YJ system.

The COY Project found that Black cross-over youth served through the Toronto site faced larger pre-trial detention times on average as compared to white and Indigenous young people. It is suspected that this is a result of Black youth served through the Toronto site incurring more severe charges on average as compared to white and Indigenous cross-over youth served through the Toronto Site. Additionally, the COY Project uncovered evidence pointing to a trend that Black young people in the Toronto site were receiving more severe charges in out-of-home care and more administrative charges than white and Indigenous cross-over youth. Further learnings can be found in Appendix 4.

The findings of the Project fortify the need to devote substantial resources reconsidering the CW and YJ system through an AOP lens. Front-line workers and organizations that engage with Black and racialized cross-over youth must implement Anti-Oppressive Principles that promote practices and policies that confront systemic barriers resulting from Anti-Black Racism and Colonialism that directly impact these Young People's lives. These are explicated in Appendix 5.



Theme Five: The Impact of a Lack of Youth Centering

OVERVIEW

*“We are the evidence, the topic of choice,
but we are never the architects.” – Cross-over Youth*

Current literature (Spencer, Gowdy, Drew, & Rhodes, 2019), government strategic plans (MCYS, 2014), and youth-serving agencies (Turning Point, 2019) have established the importance of youth centering as a catalyst for ensuring positive outcomes for ‘at risk’ youth. The voices of cross-over young people are not an exception to this, yet it was the experience of the Project that, far too often, their voices were lost amongst the many stakeholders and service-providers involved with their lives. Seeking to address this, the Project’s early identification of youth centering was established as a framework for supporting dually involved young people.

As both a COY pillar and best practice, youth centering is informed by the United Nations Convention on the Rights of the Child’s (UNCRC, 1989) proclamation that young people have the right to be listened to and heard, and to be full participants in decisions that impact their lives. Specifically, the UNCRC (1989) states that:

1. Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

To this end, the concept of participation emphasizes that including children ought not simply to be a momentary act, but that meaningful youth participation involves an intense exchange between young people and adults towards the development of policies, programs, and measures in all relevant contexts of children’s lives.

A youth-centred model of best-practice is embedded within a positive youth development framework and recognizes meaningful participation as a precursor for youth empowerment. While conversations regarding the need for a systemic shift in service-provision to more youth-centred models of practice are a promising trend amid youth-serving services and programs, the systemic and cross-sectoral oppression of young people is still very present among the cultures informing CW and YJ institutions.

As stated by Dupuis and Mann-Feder (2013), “young people in care often feel powerless over their own lives and feel as though their thoughts, desires, and opinions are neither valued nor welcomed” (p.387). The child welfare and youth justice systems operate as large bureaucracies that practice power and control over young people, and are inherently structured to discourage youth participation (Dupuis & Mann-Feder, 2013). This remains problematic for CW-involved young people for several reasons. Most significantly, as it pertains to disrupting the trajectories of cross-over youth and the likelihood of their deeper penetration within the YJ system, Crowe (2007) explains that the continued treatment of young people as passive service users rather than active participants emphasizes the likelihood for young people to “resist” the decisions being made for them.

Commonly, when young people do not conform to the agendas created for them, in which their voices were not included, a common response of service-providers is deficit-based labelling. In effect, young people are far too often blamed for their reluctance to participate in systems in which they have little voice (Crowe, 2007). This practice is even more significant for justice-involved young people, who by the very nature of their involvement in that system are already labelled as dangerous, delinquent, and vulnerable (Tilton, 2013). “Dangerous” young people are viewed as needing discipline and higher degrees of control, while vulnerable children are portrayed as needing to be protected. Both of these labels perpetuate the diminishment of youth voice and contribute to a subsequent lack of control over their lives (Dupuis & Mann-Feder, 2013; Tilton, 2013).

This is especially relevant in the context of the CW and YJ systems, as the inclusion of youth voices and partnership increases the likelihood for program involvement and reduces the risk of resistance (Crowe, 2007). When young people in CW are given back control of their lives, they gain a sense of empowerment, which ultimately impacts their mental health, school performance, justice involvement, substance use, and levels of self-awareness and positive socialization (Dupuis & Mann-Feder, 2013). Furthermore, participation aids in the development of advocacy skills, and leads to fully informed decision-making; protects young people through the establishment of mechanisms that challenge violence; ensures a peaceful and civil society; and increases the accountability and transparency of governments (UNICEF, 2014).

YOUTH PARTICIPATION THROUGH PARTNERSHIP

As stated above, article 12 contends that young people must be provided with opportunities to be “heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or appropriate body, in a manner consistent with the procedural rules of national law” (UNICEF, 2011, pg. 1). To this end, a youth-centred model of practice ensures that young people are included as active partners in all levels of decision-making pertaining to their lives. Meaningful participation ensures that opportunities for engagement occur beyond a young person’s right to participate in decisions that impact them on a micro level—for example, their right to be heard and listened to in case conferences—but also their right to participate in the community, government, and policy domains of decision-making. For this right to be truly upheld, partnerships between youth-serving organizations and the young people who they serve must be established.

Hart’s (1992) ladder of youth participation is a seminal tool, commonly used by service-providers to reflect on what meaningful youth participation looks like in practice. Beginning with tokenism as the lowest level of youth participation, the highest level of meaningful youth participation is described as “youth initiated and shared decision-making with adults”. It is critical that a commitment to partnering with young people is established for youth voice to truly be amplified, because a lack of implementation of their recommendations leads to their tokenism (Dupuis & Mann-Feder, 2013). Critical to reaching meaningful youth participation, as defined in Hart’s (1992) ladder, is youth/adult partnerships. Being meaningfully involved with service-providers and stakeholders as full participants in processes of decision-making “[empowers] young people while simultaneously enabling them to access and learn from the life experience and expertise of adults” (Registered Nurses’ Association of Ontario, 2016, n.p).

The COY Project’s Approach to Youth Centering from the Onset

The COY Project’s early identification of youth-centering as a pillar and a best practice propelled the inception of both the Youth Advisory Committees and Peer Mentorship programs. Both of these ways of ensuring the inclusion of youth voice contributed significantly to an increased understanding of youth-centering in the context of cross-over youth. The Belleville and Toronto sites intensively engaged a select group of young people with lived experience as both Youth Advisors and Peer Mentors, and the other two sites drew on a variety of community resources to provide youth advice as needed.

Furthermore, many lessons were learned about youth-centering and the impact of a lack of youth-centering through the COY Project's case-facilitation and -conferencing model. The partnerships between young people and CCF's as adult allies have been paramount to the COY Project's learned understanding of youth-centering as a best-practice.

Overall, the lessons learned regarding youth-centering are attributed to the voices of young people as partners, who many times served as guides in navigating the complexities of ensuring the voices of cross-over youth are amplified and centered in and throughout the Project.

What Was Learned Across All Sites

The following highlights lessons learned across-sites. They are both case- and system-specific, and draw on a thematic analysis of case-notes, reflections from CCF's, and the narratives of young people, both as colleagues and service-users.

Youth-Adult Partnerships

Many lessons were learned from experiences of the COY Project about youth-adult partnerships. The following is a description of the context and history of these partnerships. Each individual site report discusses youth-adult partnerships from a localized perspective.

When the COY project was in the early stages of discussion, before funding was secured, a newly formed group of young people from care was engaged at Ryerson University to explore ways of documenting narratives from CW-involved youth. Through negotiations, this group became the inaugural advisory youth group to the provincial steering committee, once funding was secured. Members went on a weekend retreat with the new executive director of the COY Project and one of the co-chairs of the steering committee early in the Project's development. The goal of the retreat was to establish terms of reference for the youth advisory committee, and to begin to form meaningful relationships between adult allies and youth advisors. This was a promising start. After the retreat, the advisory group, met routinely to establish structure and process for the group. COY team members took the lead from the advisors and entered their meetings at the beginning to offer project updates and guidance, but then withdrew and were available when requested. The team member was also available for debriefing after the meeting took place. This pattern of engagement remained consistent for a number of months.

It was the perception of the COY Project team, and was evidenced in the literature, that the development of meaningful relationships between young people with lived experience and adult allies seemed to trigger anger and hurt in the young people that led to irreparable conflict. These youth who crossed systems have histories of trauma and loss in their family backgrounds, and necessarily act out this grief and pain, particularly when confronted with traumatizing systems that do not provide safe environments. Coupled with this, more often than not, cross-over youth are racialized young people with lengthy histories of systemic oppression and racism at the hands of systems and institutions embedded within cultures of colonial and anti-Black practices.

Challenges arose among the members of the advisory group due to the intensity of the discussions that took place related to themes arising in the COY Project. Due to their lived experience, these discussions became uncomfortable, overwhelming, and at times triggered historical circumstances or events for the members of the group. The group itself, by choice, was led by a peer, which added to the tension and complexity.

The initial advisory group was disbanded for these reasons. The youth facilitator was given employment as part of the team to provide advice and consultation and, to develop and implement the peer mentorship program in Toronto. A second advisory committee was then formed, comprising a combination of youth with and without lived experience in both the YJ and CW systems. The age range of the youth members also increased with the involvement of older youth from the university community. The COY Project's experience was that expectations of members of the new youth committee, the youth engagement coordinator, and the members of the team were not aligned, and communication became challenging. Not enough attention was given to finding meaningful remedies that would bridge the conflict. When the leadership of the COY Project changed, the relationship between the team and the youth advisory committee became increasingly more strained and volatile. As a result, there was a lack of consistent youth voice, which contradicted the foundational principles of the COY Project.

Regardless of the variations in the structure, membership, and communication strategies, as well as rising tensions, the advisory group, guided by the youth engagement facilitator, had a number of forums to bring youth from the care or justice systems together. These forums gave opportunities for the youth to learn and provide advice about new government policies or legislation, to discuss concerns about their interface with institutions, to explore strategies for safety and self-care, and to commune among their peers. These forums were particularly successful. The peer mentorship program also was initiated by the advisory group. The youth

engagement facilitator provided leadership, consultation, and mentorship with the youth from the other three sites.

At the outset, and throughout its development, the COY Project saw significant changes in leadership, team membership, organizational structure, and processes. This was particularly evident at the Toronto site, but was not limited to that site. These changes can be attributed, to some extent, to the complex and challenging nature of the work at both the case and systemic levels. What was understood from the literature about the experience of professionals in a “traumatized and traumatizing system” was clearly replicated in the COY Project.

Expectations of team and steering committee members were tied to the principles, values, and goals of the COY Project, as articulated in the proposal: to create, explore, and “pilot” unique approaches to intercept the trajectory of youth from CW to YJ systems. Those affiliated with the COY Project, each of whom had deep experience in institutionalized systems, were cautiously optimistic about this possibility. It is important to acknowledge that there was no road map or guideline for team members or youth advisors to follow. Considerable flexibility, comfort with ambiguity, drive, investment, and an ability to think both critically and outside the “box” were required. Members of the project had to anticipate resistance, and have the capacity to navigate through institutional cultures that had a level of comfort and security in maintaining the status quo. Negotiating change at any level was challenging, particularly when the impact of even minimal change in practice had a direct and immediate impact on workload or resources. It was difficult for team members to accommodate these expectations, as well as the lack of structure and ever-changing direction, but it was even more taxing for the youth advisors with lived experience.

In retrospect, youth-adult partnerships were most effective when the adults were able to provide a range of resources to the young people serving as members of the advisory group. These resources included the securing of housing, status cards, transportation, food, bedding, furniture, employment, income security, legal advice, and therapeutic supports. Ongoing support, advocacy, and life-coaching were primary requirements of these young people to survive on a day-to-day basis. Initially, when it was apparent that there were no case managers or children’s service workers available to provide this level of support, team members felt compelled to step in as case managers. Soon, however, it became clear that the small team of two did not have the capacity to do this, and also that providing this level of intrusive support to advisory group members crossed professional boundaries. Efforts were made to locate more appropriate supports, but these efforts were mostly unsuccessful. In

undertaking youth-adult partnerships in the future, more planning is required to ensure that youth advisors have the practical resources required to survive on a day-to-day basis before expecting that they can contribute their time and emotional resources in a meaningful way.

The level of involvement of adult allies with youth advisors also requires a transparent, candid dialogue from the outset. Expectations need to be negotiated respectfully and frankly, with deference to the voice of the youth in these decisions. Regular and continual review of these expectations is necessary, with the opportunity for modifications to improve effectiveness, as identified by the advisors. Resources need to be appropriately applied to these relationships from the outset.

One of the most significant lessons learned was that the young people express their feelings in the most powerful way available to them in order to demonstrate their experience of being a cross-over youth. They use this expression as a means to regain control and feel safe in relationships with adult allies that are approaching closeness. Adult allies need to engage these young people from a trauma-informed perspective. These reflections are reiterated in the words of the youth advisors themselves.

Perspective from Youth Advisory Committee Members (Toronto)

The COY Project invited several members to participate in a focus group in which they could provide feedback for the purpose of informing this report. To this end, four young people attended the focus group. Signed consent was received, and participants were offered monetary compensation in the form of an honorarium for their time and valuable insight and feedback.

The former members of the youth advisory group were asked to provide feedback on what would have made their experience with the COY Project more helpful. The young people suggested the following:

“COY should have someone available to these young people as a form of support. Emotionally, but also, if you have someone who’s facing gender-based violence, [or] housing issues. Who can these people go to so that they can come and do work? Not come and burn out. How can we connect these youth to Ryerson? What resources can we offer them?”

“Whenever you’re having young people or engaging young people there needs to be a set-in-stone feedback system to help create safety.”

In addition to the proactive provision of resources to support young people with lived expertise who are facing current challenges in their lives, former Youth Advisory members spoke about how more direction from members of the team and the steering committee would have made their experience more positive. To this end, participants suggested the need for:

“A framework of what the larger committee wanted would [have been] helpful. A little bit more direction”;

“I would say it was awfully draining. We had no guidance; we didn’t have much support.”

Furthermore, youth participants spoke about a need for flexibility and openness towards the work they are embarking on. As one participant stated:

“If the [Youth Advisory] Group has ideas, then give them the opportunities. [Projects could say], ‘Here are the guidelines of the mandate.’ Envision it within and outside of the borders, and whatever is on the outside . . . how [can] we fill in the gaps?”

Issues pertaining to race, identity, and intersectionality were a theme within the reflections of the former advisory group members.

“The stuff we were doing, [reclaiming self and identity] maybe wouldn’t fit in the mandate, but it was needed.”

“Fear of rocky communication with police and Black Lives Matter in the same room” (in reference to participation within Provincial Steering Committee meetings).

“Basic principles [such as] liberation, comobilization, [and] anti-Black racism [needed to be adopted].”

Foremost, members expressed a lack of guidance and support as having a significant impact on their overall experience.

“Honesty, transparency, openness to critical thought, and engagement [was needed]. I don’t think the project was ready to bring on this group of young people. [It] would have functioned well if they had a bunch of young people who didn’t have the same competencies as us.”

In summary, since the onset of the COY Project, significant energy was directed to the provision of youth-centering as a pillar of practice. To this end, young people were invited to the project as partners. The intention was for young people with lived experience to inform the direction of the Project, both through their capacity as a Youth Advisory Committee and through the founding and facilitation of peer mentorship programs. However, the forging of youth/adult partnerships did not occur in the absence of challenges. While each site developed its own way of dealing with issues as they arose, the experience of the Toronto site was that young people with lived experience demonstrated a lack of trust and overt animosity towards those representing these institutions, systems, or for that matter any kind of authority. Some of these challenges and recommendations for future programs are further captured in the reflection of the Youth Mentorship Project, Toronto site.

PEER MENTORSHIP PROGRAMS

Reflections on the Toronto-based Peer Mentorship Program: Written in collaboration with the Project’s Peer Mentor

With funding from the Laidlaw Foundation, the Project piloted a youth-mentoring project. Our youth mentor was supposed to partner with four youth with active COY case files. The pilot ended up including at least six. All of the youth except for one were racialized. The primary purpose of having a youth mentor was to ensure the youth’s voice was centered. The CCF selected the youth to be connected to the youth mentor. The selection criteria were based on need and compatibility. The introductions were made through the CCF. During that introduction, the parameters of the mentoring program were explained to the youth. The program was based on consent, and would not go forward without the youth expressing interest. The youth mentor was very diligent in ensuring that the youth had a fulsome understanding of the consent.

The youth mentor would then meet alone with the youth in order to establish an open line of communication. The youth mentor had lived experience similar to the youth they were mentoring. They also had a similar Afro-Caribbean cultural background to most of the youth they mentored. The youth mentor sought to break down the language barrier between the

youth and the stakeholders. The mentor had an understanding of the YJ and CW systems, and could translate that into a digestible form for the youth. The mentor also had a cultural understanding of their background and neighbourhoods. They were also well versed in youth vernacular and 'street' politics. The aim of this communication was to ensure the youths' voice could be properly translated and centered.

The youth mentor would then develop a communication plan with the youth in preparation for the case conference. The communication plan was dual purpose. First, it was important to establish what information was going to be relayed to the stakeholders involved in the case conference. Second, a safety plan was developed for the case conference, so the youth felt comfortable and secure. A signal was agreed upon so that the mentor could pause the conference at any time when the youth felt overwhelmed or needed space. The main role of the youth mentor during the conference was to ensure that the youth's voice was centered. To ensure that, the youth mentor would check in with the youth and translate what the stakeholders were saying. The youth mentor would also keep the discussion in-check, in instances in which it was straying too far from the youth's needs.

There was also sometimes a misunderstanding by stakeholders about what the program was meant to accomplish. Simply having a conversation with the youth is not youth-centering. There were instances in which the stakeholders would push back against the mentor's demanding they provide them with more information. Similarly, some stakeholders would try to use the mentor to try to convince the youth to do something they do not want to do. The mentor felt that they need more case-management training to deal with situations like that.

The youth mentor would also pass along their institutional knowledge about the system. If the youth was placed at a group home, the youth mentor would ensure that the youth knew what that would entail. They made sure the youth knew what the day-to-day would be like and what was expected of them. If the youth was in custody, the youth mentor would visit with them and speak with them on the phone for support. The mentor would also in some cases develop a relationship with the youth's family. They would act as a buffer between the two. Families would not always listen to what the youth was saying, but at least the youth knew their message had been delivered.

The pilot project demonstrated that the youth-mentoring program was most effective as a voice amplifying, advocacy role. The youth were more honest with the mentor, and trusted that they would only communicate the information that was necessary in a manner as minimally invasive as possible. The similarity in background was key to ensuring that trust

was developed. Some stakeholders were also more open to speaking with the mentor, because they recognized the positive relationship between the youth and their mentor. The stakeholders knew they were speaking with someone the youth trusted, and it made them more open to communication. The youth also felt very supported by the visits and phone calls in custody, where applicable. The mentorship program was a powerful resource that the Project offered the youth in the program.

In moving forward, the youth mentor believed that, due to the seriousness and complexity of the cases, the mentor risked experiencing minimally an emotional toll, if not secondary trauma. The mentor needed more formal training, especially on issues like trauma-informed practice and youth-centering strategies with professionals. It was also felt that, for this program to work optimally, it should be run by a separate organization. The program needs to be consistent and invested in the youth for a long-term period. If the youth's involvement is short, it will only replicate the attachment disruptions that have brought the youth to this situation in the first place. The mentor suggested that the organization should have a multitude of mentors and a supervisor. The organization should be connected to the court like other court services. The mentor felt it was important that the court understand what is going on with the youth. The current stakeholders are not always able to properly translate what is going on with youth to the court and assist the court with what the youth is trying to say. The organization should also have a close relationship with group care and foster care. However, it should not be run by CW agencies in order to ensure there are no barriers to gaining the youth's trust.

Belleville Peer Mentorship Program

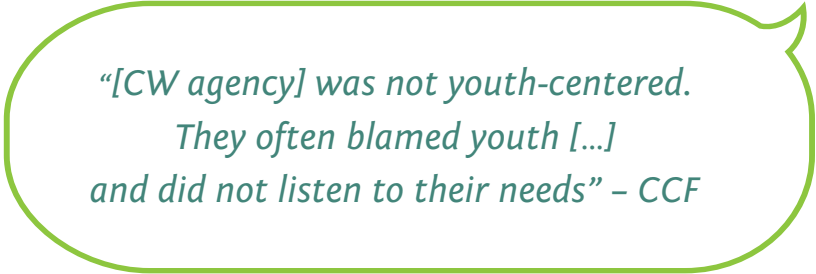
The Belleville site offered a Peer Mentorship Program that provided ample opportunities for young people with lived experience to participate in Youth Advisory Committee meetings. Belleville young people expressed that it was within this space that youth felt they were active participants, rather than “a vulnerable youth”. Young people who are invited to participate in meetings, conferences, and initiatives involving paid professionals need to receive an honorarium or other incentives that value their involvement and contribution. To this end, youth who participated in the Project as partners received honoraria for participation. In addition, the COY Project recognized that, in addition to amplifying youth-voices—for example, having young people participate in steering committee meetings—a commitment must be made to ensure that the recommendations provided by young people are implemented. Therefore, it was important for the COY Project to capture the peer mentors' work, expert insight, and valuable recommendations for change in a narrative format that could be widely disseminated. For this reason, the Belleville Peer Mentors and members of the

Belleville Youth Advisory Committee were supported in creating a zine as a way to share their unique insights. Monetary compensation was provided to the youth to support this generous sharing of both time and insight.

The following outlines the purpose of the zine:

“Building on the discussion of youth-centering, and to better enable service and stakeholders to understand the unique experiences of cross-over young people, the COY Youth Mentors from the Belleville Pilot Site have created a zine. Drawing on the lived expertise of young people, the zine, which can be found in the appendix 6, captures the evolution of Belleville’s COY Peer-Mentorship Model, discusses what ‘real youth engagement’ looks like, and offers suggestions to adult allies regarding the do’s and do not’s of supporting cross-over youth.”

Silencing Youth Voice as a Systemic Dilemma



*“[CW agency] was not youth-centered.
They often blamed youth [...] and did not listen to their needs” – CCF*

As identified in the literature, the oppression of young people across systems is a problematic reality facing young people growing up in North America (Dupis & Mann-Feder, 2013; Snow, 2006). When young people are not valued as contributing members of society, their voices become further diminished, and their wishes and desires further suppressed. The probability of this is higher for cross-over youth who, by the very nature of their YJ involvement, are already deemed “delinquent” and in need of protection.

Across sites, the systemic oppression of children and youth was frequently observed in both the YJ and CW institutions. For example, bail-conditions were often based on the interests of the community, geared towards consequences and accountability, and more often than not lacked the best interest of the young people. A common theme observed throughout the entirety of the Project was that of young people being frequently subjected to bail conditions that were not in their best interest and that did not take their voices or individualized

circumstances into account. Most commonly, young people were faced with bail conditions that limited their decision-making capacity in placement options, restricted their access to friends and family members, and required following the often subjective rules of their group care placement settings. The issue with such bail conditions is demonstrated across sites through the overwhelming number of administrative breaches acquired by young people served by the Project.

Most-discussed within the Belleville region, group home settings were often characterized by ideologies that diminished the voices cross-over youth. It was the overall experience of CCF's and peer mentors that, far too often, the behaviour and attitudes of group care staff reflected more correctional, deficit- and consequence-based approaches to interventions, rather than a youth-centered and trauma-informed focus on care.

For example, CCF's reported that, for young people in Belleville, it was not uncommon to use outings (restricting or allowing outings) as a way of disciplining cross-over youth. Considering many young people in rural Belleville already have limited positive connections to the community, and are already isolated from developing peer relationships outside the group care setting, this approach is non-conducive to a young person's growth and wellbeing. Instead, it exasperates feelings of worthlessness and contributes to anger. A trauma-informed lens cautions against the reliance of consequence-based discipline for young people with complex trauma histories, as punitive methods of intervening with young people deter from building positive and trusting relationships, which are needed to begin to heal and are imperative to youth-centering.

Beyond Listening: From Youth Voice to Youth Centering

A youth-centered approach contends that young people are experts of their own realities and are fully capable of informing others about what their needs are. When cross-over youth are meaningfully involved in the decisions that impact their lives, their sense of agency is increased (Bala, De Filippis, & Hunter, 2013). In and of itself, this is a positive outcome; however, it was the COY Project's experience that, too often, cross-over youth were not valued as collaborative decision-makers, even when these decisions are substantially impacting their lives. Most frequently observed across sites was a young person's lack of voice in placement options, which held significant consequences for many. For example, a young person pleaded to his CW worker not to be moved to a group home. When he was not listened to, he fled to a family friend's house. Ultimately a warrant was issued, and when law enforcement sought to enforce it, the young person resisted arrest and received their first charge. In another case, the young person expressed not wanting to be moved to a group home out of the

city. However, the young person was not listened to, and on the day of the move, the CW worker arrived to drive them the new group home. In protest, the young person spit on the CW worker, who then called the police. The youth was arrested and charged with assault. Unfortunately, there are many more similar cases. As indicated previously, a lack of youth voice in decisions that impact their lives exemplifies the trajectories of young people from CW into the YJ system.

Case-conferencing and the Amplification of Youth Voice

COY case conferences served as a platform for the amplification of youth voice by offering a space in which young people could express their wishes and opinions in the presence of the many stakeholders and service-providers involved within their lives. Across sites, young people were most engaged in case conferences when their peer mentor was present. The Project observed that the pre-existing relationship between the young person and the peer mentor served as a safe-guard for cross-over youth, and aided in their full participation within the conference. In ensuring youth-centering at case conferences, the CCF's role was to maintain the lines of communication with the young person. Communication maintenance took three forms: (1) coordinating with the young person to get them to the conference; (2) planning with the youth for the conference; and (3) constantly checking in with the youth during the conference to make sure they had voiced their wants and needs.

It was demonstrated to the CCFs that, for case conferences to be successful, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance and youth-centering. One of the challenges, especially at the Toronto site, was the diverse and complex range of stakeholders across multiple sectors involved within the conferences. While the agencies often remained the same, the service-providers and caregivers changed with each case, and often with each case conference. This required a significant amount of re-education in order to familiarize the new parties involved with each case. To mitigate this, the CCFs spent a significant amount of time before, during, and after case conferences scaffolding relationships between stakeholders and service-providers. Prior to each case conference, CCFs worked to foster a culture of youth-centering amongst case conference attendees, and worked to ensure that stakeholders followed through on agreed-upon action items, both in preparation for and following case conferences. Although time- and resource-intensive, this process remained a necessary part of the CCF's role, in order to ensure case conferences were a safe space that would foster the meaningful participation of cross-over youth.

Meeting Cross-Over Youth Where They Are At

“The CCF was often the only support youth had at bail hearings. If CW workers did attend, they often left before the bail commenced. When released on bail, it was only the CCF there to greet youth and assist with finding a shelter for the night. Youth had no consistent support other than COY.” – CCF

Further to meaningful participation and adult/youth partnerships, youth centering encompasses ‘meeting young people where they are at’. Beyond its literal meaning, meeting young people where they are at (Kruegar, 2000) involves accepting young people for “how they are and who they are” (Garfat, Freeman, Gharabaghi, & Fulcher 2018). This requires that stakeholders, service-providers, and adult allies recognize and have empathy for the unique and often traumatizing circumstances that have led them to the places and spaces where they are (Garfat et al., 2018).

For case conference facilitators, meeting cross-over youth ‘where they are at’ encompassed an empathetic understanding of their unique circumstances. The Project saw that being entrenched in multiple systems was exhausting for cross-over youth, and oftentimes entailed adult responsibilities that extended beyond normative developmental expectations of young people. Developmental responsibilities for non-CW-involved young people are to attend school, participate in extracurricular activities, and maintain a part-time job. Cross-over youth, on the other hand, are expected to maintain strict bail conditions, and attend multiple weekly meetings and counselling appointments, while simultaneously following rigid rules of residential settings and maintaining bail conditions. One young person served through the Project was required to attend so many weekly court-ordered meetings and appointments that it became unmanageable for them to attend school. These additional responsibilities, coupled with fighting to have their basic needs met, and in many cases having to manage mental health diagnoses and avoid breaching bail conditions, are reasons for stakeholders to be accommodating and flexible in meeting cross-over youth where they are at. For COY CCFs, this meant not taking it personally when a cross-over youth missed a meeting, forgot about a case conference, or did not respond to text messages or emails for days or even weeks at a

time. Having empathy towards the impact of the multiple-system involvement of cross-over youth contributed significantly to the development of trusting relationships between young people and adults.

Further to figuratively meeting young people where they are at is its literal meaning. During the course of the Project, CCFs frequently met young people in the places where they live their daily lives. Across sites, case-notes reflected formal and informal meetings with young people in schools, jail cells, group homes, shelters, and coffee shops. CCFs acknowledged that maintaining connections with young people was often a challenge, especially with young people who were constantly moving, or with young people who did not have regular access to phones or computers. To mitigate this, meeting young people where they are at meant that texting became a frequent mode of communication, and often communicating with young people extended past the nine-to-five workday of CCFs. Although there were cases in which CCFs lost contact with young people, either for an extended amount of time or indefinitely, without having a commitment for meeting young people where they were at, many more cross-over young people would have ‘fallen through the cracks’.

Furthermore, Black and Indigenous young people are significantly overrepresented as cross-over youth. To this end, meeting young people where they are at must take into consideration and then act upon how socio-contextual determinants, such as race, ethnicity, culture, and poverty, as well as placements directly influence a young person’s way of being in the world. In the absence of a young person’s social location being considered at the forefront of the planning and interventions of stakeholders and service-providers, the capacity to meaningfully respond to and meet their individualized needs is significantly reduced.

Meeting young people where they are at is inseparable from anti-oppressive practices, and requires that significant efforts be made to connect racialized and Indigenous young people to adult allies, mentors, and services and programs that reflect their cultural identities. The Thunder Bay pilot site was predominantly representative of Indigenous young people who highlighted how meaningful cultural programs are to their personal and spiritual growth.

Cross-over Youth and the Role of an Advocate

“Everyone young person needs someone who is absolutely crazy about them.” – Bronfenbrenor (1978)

When a young person enters into the care of CW, the agency is expected to assume the role of the young person's 'parent'. However, a common theme across sites was that COY staff were present when CW workers were not. CCFs met young people in jail cells, assisted young people in finding emergency shelters, moved young people across regions, and often had to advocate for the basic necessities of cross-over youth, including bus tokens, medication transfers, and clothing allowances. CCFs played an integral role in the lives of crossover youth, especially when the young person's defence counsel and/or CW workers were present at court or meaningfully engaged with the youth's needs and wishes.

The most effective tool that the Project used to influence change was the role-modelling of relational practice that respected the voice, lived experience, and inherent agency of cross-over youth. This required considerable advocacy on the part of CCFs in various forums and settings. CCFs acted as allies to cross-over youth, and the relationships formed between the CCFs and the young people they served were pre-requisites to ensuring that their voices were being heard and acted upon. Through advocacy, youth engagement, youth mentoring, and a commitment to the centering of the youth voice at all times, the CCF worked to ensure that the needs of the youth were being met and their rights upheld. The CCFs offered unconditional support, respectful conversations, met youth where they were at emotionally and physically, navigated and negotiated through complex systems with them or on their behalf, spoke their language, answered their questions with appropriate explanations, set mutually agreeable expectations, listened with undivided attention, and offered hope. The relational approach with young people translated to the plans of action that became the vehicles for innovation and change at the systemic level.

Young people in Thunder Bay reiterated the importance of having an advocate. Through a series of focus groups with young people in Thunder Bay, they further highlighted the characteristics of supportive adults. They told the Project that supportive adults are those who listened to them and allowed them freedom and responsibility. In addition to these characteristics, young people expressed that supportive adults in their lives included those who provided structure and held them accountable.

Considerations

Youth-centering is based on the foundation that young people are the experts of their own lives. They should drive the decisions that impact them. Professionals and service-providers who are youth-centered will help facilitate voice and meaningful participation. A youth-centered process incorporates safety, supportive resources, and capacity-building to maximize

the youth's agency. A pre-requisite to a youth-centered approach is an understanding of anti-oppressive and trauma-informed practice. Young people told the COY Project that, while the professional experience is valuable, it must not overwhelm or undermine the voices of the youth.

Action-oriented Youth-centering

As Gharabaghi (2019) explains, for young people, having a voice is not synonymous with having an impact. To this end, valuing youth voice must extend beyond giving young people a space to share their thoughts, for example when awarding them time to speak during a case conference. A youth-centered approach asks service-providers across programs and sectors to be open to hearing the voice of young people, but more so to be prepared to act on what they have heard. It is one thing for service-providers to say that they care about the voices of young people, but it is another to translate what they have heard into practice.

Youth Mentorship Program

There should a separate youth-mentoring program that works to help translate youth voice. The mentorship program should be based on the same guiding pillars as the Project: trauma-informed, youth-centering, and anti-oppressive practice. Furthermore, the program should include training regarding relevant facets of the judicial system. The mentees should be matched with culturally analogous mentors. This will allow for an easier rapport to develop, and will ensure a smooth transition and coordination with other services. The mentorship program should be given enough autonomy to ensure that there are no barriers to gaining the young person's trust. The program needs to be consistent and invested in the youth for a long-term period. A peer mentorship program's primary aim should be to give the youth the best chance to advocate for what they decide is in their best interest. Adult allyship should be negotiated with mentors and mentees to ensure that appropriate supports and resources are available to facilitate successful outcomes.

Healing Relationships

Cross-over youth are young people with traumatic histories that, for many, have manifested into multiple mental health concerns. Safe relationships with peers and adults are significant to the healing of trauma. More often than not, however, young people were without a consistent and caring advocate in their lives. For many of the young people, CCFs filled this role. However, in the absence of a CCF, greater empathy is needed amongst YJ stakeholders.

When meeting cross-over youth, stakeholders and service-providers should question whether or not each young person has a consistent person in their life who will act as the young person's greatest advocate. If not, stakeholders and service providers should work towards connecting young people to a youth mentor or adult ally within their community.

Trauma-informed Lens to Practice

Cross-over young people are a population characterized by long-standing histories of childhood trauma and neglect. When supporting cross-over young people, a commitment to youth-centering cannot occur in the absence of a trauma-informed lens. The justice system operates in a manner that is traumatizing in and of itself. The system is based on behavior correction through punitive isolation, such as detention. The YJ system prizes personal accountability, escalation of consequences, and positive demonstrations of respect and contrition. However, this experience contradicts theories that recognize relational and restorative approaches to practice as most helpful for young people healing from trauma. It must be emphasized that youth with histories of trauma often have a heightened response to real and perceived circumstances. Behavior 'management'-informed approaches that favour consequences and/or isolation are said to deter from the feelings of safety that young people need before healing from trauma can begin. A trauma-informed lens correlates with youth-centering because of the value it places on relationships.

Individuality and Flexibility

To be concerned with centering the voices of cross-over youth entails individuality and flexibility on the part of stakeholders and service-providers. Be it CW workers, defence lawyers, judges, or group care providers, in order to see young people as individuals and develop plans and interventions that respond to their unique needs, a commitment has to be made to connect with the young person on a personal level. Curiosity and empathetic listening can serve as a starting point to learning more about the cross-over young person who is standing in front of you.

SUMMARY

Positioning youth-centering within a children's rights framework contributes to an understanding of its significance both as a pillar of the COY Project and as a recommendation for best practice when supporting system-involved children and youth. For the COY Project, youth-centering as a model was grounded within the United Nations Convention on the

Rights of the Child, and included youth-adult partnerships, peer mentorship, and the amplification of youth-voices through allyship and advocacy. Overarching each of these components is the concept of meaningful youth participation.

Partnerships between young people, youth-serving organization, and the adults who are employed within them that are grounded within a culture of allyship and advocacy are essential to upholding the rights of young people as equal participants in decision-making processes. For the COY Project, the most valuable lessons about youth-centering came from such partnerships.

To break the cycle for youth in the CW system, multiple service-providers must work collaboratively to ensure the centering of their youth voices. However, the Project found that youth-centering and meaningful youth participation was observed only in rare cases, and that those cases were largely dependent on a single empathetic stakeholder who valued this approach.

Youth advisory committees are an excellent platform for amplifying youth voices. However, further to the inclusion of young people as advisors to youth-serving organizations and programs, mechanisms need to be put in place at the front end of such initiatives, to ensure that young people are adequately equipped and feel adequately supported to fulfill these roles.

Because of their insight and unique capacity to form mentorship relationships with other cross-over youth grounded in trust and mutuality, it is essential that future programs and projects continue to partner with young people who hold lived experience. It is hoped that other organizations and programs can learn from the experiences of the COY Project as a pilot. Moving forward, the most important lesson would be the insurance that safeguards are put in place at the front-end of engagement with cross-over youth as partners. In order to accomplish the shared vision of better outcomes for cross-over youth, all efforts must be exhausted to continue strengthening the relationship between youth-serving organizations, adult allies, and cross-over young people as partners. These relationships are imperative to a better future for cross-over young people.

Summary

The best way to summarize the experience of those involved or working across the four COY Project sites is to list the significant lessons learned. It is through these teachings that conclusions and outcomes can be drawn by the reader. It is hoped that in so doing, a dialogue will be generated that will trigger meaningful change in policy and practice. The lessons learned are not mutually exclusive, nor are they listed in order of relevance. Individually and combined, they tell a story about dually involved, traumatized young people and those committed to supporting them as they make their way through a complicated maze of institutions. They are indeed navigating quicksand.

1. Effective intervention and support with cross-over youth cannot be managed by one single agency or service-provider, due to the intense needs of the young person and the complicated nature of the service system. When workers from multiple agencies who interface with cross-over youth do not collaborate when making decisions about these youth, the impact is far-reaching and detrimental in terms of youths' existing life circumstances and their trajectory forward. These young people "fall through the cracks". For this reason, open channels of communication and inter-agency coordination are recognized as the paramount prerequisites to disrupt pathways to poor outcomes for these young people. In those instances in which partnerships and meaningful collaboration were achieved, there was consistent acknowledgement that this led to improved responsiveness and better outcomes for cross-over youth. The component of the project that was viewed uniformly across all sites as producing the most successful outcomes at the case and systemic levels was the opportunity for collaboration. However, it was this same COY Project expectation that faced the most resistance.
2. The primary intention of the COY Project was to set in motion mechanisms for meaningful collaboration across service sectors in all four sites to better serve cross-over youth. Partnerships require taking risks, working differently, and a commitment of resources. This was exceptionally challenging at each site. Conferencing was the proposed model. For conferencing to be successful, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance and youth-centering. Case conference facilitators were acknowledged as responsible for facilitating and arranging the stakeholders for case conferences to develop coordinated plans that led to successful outcomes for youth. The resistance on the part of the primary stakeholders was that participation was time and resource-

intensive. However, after a period of time and experience in case conferences, the stakeholders recognized that, when the responsibilities for case planning and the provision of resources were shared among service-providers, the outcomes were more successful, which indeed led to a reduced workload.

3. Cross-over youth do not represent a significant portion of the CW or YJ populations, but they absorb the most resources in their management. They uniformly have histories of trauma and loss in their family backgrounds, and necessarily act out this grief and pain, particularly when confronted with traumatizing systems that do not provide safe environments. Youth demonstrated their total lack of trust and overt animosity towards those representing these institutions, systems, or for that matter any kind of authority. They express their feelings of pain, frustration, betrayal, and powerlessness through provocation and aggression in order to regain control and feel safe. They are simultaneously hyper-vigilant and hyper-critical of those around them. They often interact in a manner that replicates the patterns of communication in their family homes. The role of adult ally in these circumstances is fraught with challenges, and requires the ally's ability to provide unconditional support, a trauma-informed lens, the respectful pacing of relationships, an anti-oppressive approach, and an acceptance of each young person for their unique abilities and perspectives. This was without a doubt the greatest lesson learned in the COY Project by all.

4. Patterns were identified that confirmed the nature of the trajectory for cross-over youth from their family home into the youth justice system. The literature has theorized that there is not a direct link between a youth's involvement with the child welfare system and a subsequent involvement in the youth criminal justice system. Alternatively, the causal link is considered to be a past history of trauma that leads to involvement with the child welfare system and also leads to behaviour that brings the youth into conflict with the law and involvement in the youth justice system. When a young person is exposed to trauma, they develop coping skills that are consistent with what they learn in their environment and are usually demonstrated through disruptive behaviours. In group care, these behavioural outbursts are often triggered either by staff engagement of youth in ways that represent a re-enactment of previous traumatic familial interactions, or by a need for the youth to combat overwhelming feelings that they experience when they are removed from their family home, community and peers. Frontline staff tend to lack the skills and knowledge to perceive these behaviours as expressions of pain, and respond with a behaviour-management rather than a trauma-informed lens. This approach emphasizes community safety over rehabilitation and the need for youth to conform to strict rules. This assertion

of control by staff further exacerbates behavioural responses to trauma, typically resulting in the contacting of police. This precipitates the young person's involvement in the justice system, often for the first time. The trajectory is therefore confirmed. Whereas trauma may precipitate their behaviours, it is the ill equipped care system that propels these youth into the justice system. The cross over journey is therefore from family home generally for conflict with parents to group care where they revisit that conflict with staff who are perceived to be in a position of parental authority. This conflict triggers police involvement and entry into the youth justice system. Group care settings at both the Belleville and the Toronto sites therefore were criminalizing the behavior of youth that was in response to their traumatic histories and this acted as a gateway into the YJ system.

5. Placement instability ensured that cross-over youth remained involved within the YJ system, and the failure to acknowledge the impacts of multiple placement changes had severe implications on the youths' quality of life. The COY Project has come to identify the extraordinary number of placement changes to which the young people were subjected. Black and Indigenous cross-over youth served by the COY Project more frequently were subject to excessive placement moves. Even further, these placements had a blatant disregard for cultural and racial differences. Group care practices were heavily entrenched in mainstream expectations and practices, thus ensuring that the young people felt isolated and othered within these predominantly white communities. Such punitive practices set young people up to fail, as they find themselves with countless charges and no way out. As explored through the findings across the Belleville and Toronto sites, young people are being charged for their expressions of trauma in out-of-home care settings.
6. The COY Project saw the majority of the youth served at the Belleville and Toronto sites entering the CW system as older youth and due to parent/teen or parent/child conflict. However, the reason for child welfare involvement was not seen as a predictor of penetration into the youth justice system on the aggregate. It is nonetheless important for readers to review the COY Project's Toronto and Belleville site reports for further reading specific to those sites concerning the impact of parent/teen conflict, and the lack of early intervention's collateral effect on deeper penetration into the YJ system. Early intervention and proactive supports that foster a wraparound approach are required to help prevent young people from entering CW and potentially crossing over to the YJ system.

7. As a service-provider or stakeholder in the YJ or CW system, it is necessary to take responsibility for helping youth to a place of stability that will allow them the opportunity to achieve their potential. Shifting thinking to a more trauma-informed approach hopefully encourages frontline staff, managers, supervisors, and decision-makers to examine their current practice, and modify it with a view to fully incorporating a trauma-informed lens. The YJ system should employ strategies that are healing and rehabilitative, not re-traumatizing and counter-productive.
8. One of the most compelling patterns identified in the COY Project wasn't only the overrepresentation of racialized young people dually involved in the child welfare and the youth justice system, but the harsher treatment experienced by these youth, particularly the Black youth, when they crossed into the youth justice system. For example, the COY Project found that Black young people were most likely to receive their first charge in group care (as compared to white youth). Findings also point to Black young people receiving the most charges, as well as the most severe charges in group care, compared to their non-racialized peers. Black cross-over youth also face, on average, the greatest number of administrative charges, typically breaches of bail or police conditions related to charges that they had accumulated in their time in group care, such as running away, missing curfew, or conversing with a co-accused. This pattern of over-criminalizing the behavior of Black cross-over youth is striking. These youth acquired more severe charges on average, as compared to both white and Indigenous youth. Once charged, Black cross-over youth spent on average more time in pre-trial detention than their white peers. Pre-trial detention is often used a social measure to contain youth, when a plan cannot be provided by the child welfare agency (guardian) to keep the young person safe. It is evident that there are specific patterns of practice that are employed when dealing with Black cross-over youth that are embedded in beliefs and practices of anti-Black racism. These practices target and treat Black youth more harshly in institutional and community settings that are intended to protect, care for, and rehabilitate youth.
9. Over the course of the COY Project's involvement at the Belleville and Thunder Bay sites, a pattern emerged. There were many Indigenous youth from remote, northern Ontario First Nations being placed in residential care programs in Belleville (Hastings and Prince Edward counties). This issue was a primary concern of both the Belleville and Thunder Bay local steering committees. The COY Project also engaged Indigenous

young persons and other stakeholders with a particular connection to this issue to solicit their experience and perspective. The issue of repatriating youth back to their home community became a major focus of the two sites. Another concern in Thunder Bay was that, while the overall number of youth in custody is significantly lower due to the introduction of the YCJA, almost all the youth in custody are Indigenous. Youth justice staff report that, in closed and open custody, there has not been a non-Indigenous youth in over a decade. Entry into the youth justice system for these youth is often a result of a history of trauma and loss. These two phenomena are troubling realities for Indigenous youth. These young people are being disconnected from their communities, families, peers, Elders, land, language, and culture while experiencing complex and historical trauma. Residential schools are spoken of as a historical injustice; however, the practices of removing youth from their First Nation, as is currently happening, are functionally analogous, as is the trauma they cause. One initiative to address this grew out of the increased cross-sectoral communication. The Thunder Bay steering committee and community stakeholders worked together on a proposal to convert existing and under-utilized youth justice facilities into mental health treatment beds. Many of the Indigenous youth relocated to residential treatment programs in the south, and youth currently in custody in the north would be candidates for admission. Further steps are required by senior government decision-makers to realize this plan.

10. Cross-over youth experience significant periods of pre-trial custody and/or detention. Typically, defence counsel make a strategic choice not to attempt a bail hearing when there appears to be an inadequate plan, or none at all, available if the youth is released to the community. This is largely due to a lack of consistent inter-agency communication, particularly between CW and YJ systems and the lawyers representing these young people. When both sectors were involved with a young person, there was a reluctance to take responsibility for case management, and each deferred to the other. These bureaucratic struggles and conflicting goals and mandates often put the youth at risk of entering detention and being unduly incarcerated for extended periods of time. This was noted in every site report. There is much more pressure on the youth while they are in custody, and they are apt to be more amenable to speeding up the process just to get it over with in order to get released out in the community. For these reasons, the youth are not being given the full opportunity to challenge their charges

and exercise their rights. In some instances, youth remained in detention because they refused to go to a group home setting that was far away from their community, family, or peers. Therefore, despite the court's insistence that these detentions complied with section 29 of the YCJA, which prohibits youth from being detained as a substitute for appropriate child protection, mental health, or other social measures, that was not the case.

11. Cross-over youth are subjected to onerous, trivial, and vague bail conditions. The majority of charges faced by these youth were administrative and related to a failure to comply to bail conditions. Bail conditions are intended to reduce the risk of the young person re-offending while in the community; however, the COY Project, in alignment with previous research, observed that these conditions further exacerbated the chance of recidivism. Administrative charges are easier to accumulate, because they are related to non-criminal behaviour, such as a failure to comply with a curfew order or failure to reside in a place of residence as approved by CW. It was usually foreseeable which conditions would be most problematic before the youth was released, especially when the stakeholders were failing to address the original, underlying reasons for the cross-over youth's judicial involvement. An additional serious concern was that the administrative charges made the youth disenchanted with the system. Instead of promoting their reintegration into society, these charges pushed the youth to feel that the system was unfair and they could never 'win'. This pushed them deeper into the YJ system, including incurring adult charges.
12. Police are one of the most important intersection points in the trajectory of a cross-over youth through the youth criminal justice system. Police are the primary responders to conflict, and the decisions they make set in motion a cascade of consequences. The use of police discretion is critical to circumventing many of the negative outcomes cross-over youth experience in the YJ system. At the moment, incentives to charge still outweigh incentives to engage in proactive, relational policing. Police officers often expressed to the COY Project that they felt comfortable exercising their discretion not to charge or let a youth off with a caution, if they were able to locate a parent who would reasonably discipline the youth. They felt that releasing a cross-over youth to group care staff was not analogous. In speaking with the group care operators and staff, they indicated that they felt bound by the CW policy that required them to call the police. They felt that they would be held liable if they did not report a 'missing' youth immediately. Police expressed frustration with this policy, and acknowledged the ethical dilemma they faced. Nonetheless, they almost always charged the youth when they were called to respond, because they

felt bound to enforce orders from judicial officers and that they had no discretion to exercise leniency. Greater communication and inter-sectoral collaboration instilled an understanding of the context and the systemic challenges faced by youth from the CW system. Increasingly, police officers were choosing to exercise their discretion through a myriad of non-charge options. During the time the COY Project was operating across the pilot sites, it observed an introduction or the expansion of pre-charge diversion programs (sometimes in response to cross-sectoral communication through the local steering committees).

13. Further to the inclusion of young people as advisors to youth-serving organizations and programs, mechanisms need to be put in place at the front end of such initiatives to ensure that young people are adequately equipped and feel adequately supported to fulfill these roles. Extensive planning is required to ensure that youth serving as advisors have the practical resources to survive on a day-to-day basis before expecting that they can contribute their time and emotional resources in a meaningful way. The level of involvement of adult allies with youth advisors also requires a transparent, candid dialogue from the outset. Expectations need to be negotiated respectfully and frankly with deference to the voice of the youth in these decisions. Regular and continual review of these expectations is necessary with the opportunity for modifications to improve effectiveness, as identified by the advisors. Resources need to be appropriately applied to these relationships from the outset.
14. Case conference facilitators across the COY Project sites acted as allies to cross-over youth, and the relationships formed between the CCFs and the young people they served were pre-requisites to ensuring that their voices were being heard and acted upon. Through advocacy, youth engagement, youth mentoring, and a commitment to the centering of the youth voice at all times, the CCF worked to ensure that the needs of the youth were being met and their rights upheld. The CCFs offered unconditional support, respectful conversations, met youth where they were at emotionally and physically, navigated and negotiated through complex systems with them or on their behalf, spoke their language, answered their questions with appropriate explanations, set mutually agreeable expectations, listened with undivided attention, and offered hope. The relational approach with young people translated to the plans of action, which became the vehicles for innovation and change at the systemic level. COY Project case conferences served as a platform for the amplification of youth voice by offering a space in which young people could express their wishes and opinions in the presence of the many stakeholders and service-providers involved with their

lives. It was demonstrated to the CCFs that, for case conferences to be successful, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance and youth-centering.

15. Across sites, young people were most engaged in case conferences when a peer mentor was present. The COY Project observed that the relationship with the peer mentor served as a safe-guard for cross-over youth, and aided in their full participation in the conference. The youth mentor would also pass along their institutional knowledge about the system. If the youth were placed at a group home or in custody, the youth mentor would ensure that the youth knew what that would entail. They made sure that the youth knew what the day-to-day would be like, and what was expected of them. The COY Project demonstrated that the youth-mentoring program was most effective in a voice amplifying, advocacy role. The youth were more honest with the mentor. The similarity in background was key to ensuring that trust was developed. Peer mentorship also provided opportunities for young people with lived experience to participate in Youth Advisory Committee meetings. It was within this space that youth felt they were active participants, rather than “a vulnerable youth”. Because of their insight and unique capacity to form mentor relationships with other cross-over youth grounded in trust and mutuality, it is essential that future programs and projects continue to partner with young people who hold lived experience. Peer-mentoring was a vehicle to ensure the centering of youth voice and participation, and gave hope to cross-over youth.
16. Youth participants in the COY Project were identified through referrals from existing court personnel and stakeholders, including judges, Crowns, Children’s Aid Society (CAS) workers, lawyers, and other service-providers, and the majority of these referrals were the outcome of the continual presence of the COY Project in the courthouse. Despite several successes in this regard, the implementation of a permanent and formal cross-over youth identification and referral process remained a challenge for the COY Project at all sites. Several factors contributed to the challenge of implementing a sustainable identification and referral process for cross-over youth. First and foremost, there are four primary databases maintained by the Government of Ontario that track a youth as they progress through the process of “crossing-over”. At present, none of these four databases offers a complete picture of the youth’s progress across both systems at any one moment. None of these databases has the capacity to “speak” to each other, so identifying young people who cross systems is not possible. Secondly, there remains a steady resistance towards implementing a referral process

through a permanent CCF in the court. Eventually, following lengthy negotiations, the COY Project coordinated a province-wide referral process through Legal Aid. As an initial step, a referral form was introduced that required that the name of counsel, counsel's contact information, and the next return date be filled out. Once the COY Project's Toronto and Belleville sites were notified of the referral, the CCFs followed up regarding the case through the young person's lawyer. A significant benefit of this method was ensuring the confidentiality and privacy of the young person. However, ensuring consistency in the application of the agreement was problematic. Referral forms were infrequently filled out, and CCFs were often required to sit in court to ensure that a cross-over youth was referred.

In each of the themes, considerations for how to change practice and policy are identified.

References

- Australian Institute of Health and Welfare. (2017). *Young people in child protection and under youth justice supervision 2015–16*. Retrieved from <https://www.aihw.gov.au/reports/youth-justice/young-people-in-youth-justice-supervision-2015-16/contents/table-of-contents>
- Baglivio, M. T., Wolff, K. T., Piquero, A. R., & Epps, N. (2015). The relationship between adverse childhood experiences (ACE) and juvenile offending trajectories in a juvenile offender sample. *Journal of Criminal Justice*, 43(3), 229-241. doi:10.1016/j.jcrimjus.2015.04.012
- Baglivio, M. T., Wolff, K. T., Piquero, A. R., Bilchik, S., Jackowski, K., Greenwald, M. A., & Epps, N. (2016). Maltreatment, child welfare, and recidivism in a sample of deep-end crossover youth. *Journal of youth and adolescence*, 45(4), 625-654.
- Bai, Y., Wells, R., & Hillemeier, M. M. (2009). Coordination between child welfare agencies and mental health service providers, children's service use, and outcomes. *Child abuse & neglect*, 33(6), 372-381.
- Bala, N., De Filippis, R., & Hunter, K. (2013). *Crossover youth: Improving Ontario's responses*. Ontario Chapter of the Association of Family & Conciliation Courts.
- Bala, N., Finlay, J., De Filippis, R., & Hunter, K. (2015). Child welfare adolescents and the youth justice system: Failing to respond effectively to crossover youth. *Canadian Criminal Law Review*, 19(1), 129-151.
- Barker, B., Alfred, G. T., & Kerr, T. (2014). An uncaring state? The overrepresentation of First Nations children in the Canadian child welfare system. *Canadian Medical Association Journal*, 186(14), 533-534. doi:10.1503/cmaj.131465
- Bath, H. (2008). The three pillars of trauma-informed care. *Reclaiming Children and Youth*, 17(3), 17-21.
- Bergman, J. D. (2018). *The systemic failure to protect children with mental health issues: An analysis of the failings of the family law and criminal justice systems* (Order No. 10931496). Available from ProQuest Dissertations & Theses A&I

Bertazzon, D. (2018). *Putting your oxygen mask on first: CYC practitioner self-regulation*. (Master's thesis). Retrieved from RULA Digital Repository. Ryerson University, Ontario, Canada.

Berrick, J. D., Young, E. W., Cohen, E., & Anthony, E. (2011). 'I am the face of success': Peer mentors in child welfare. *Child and Family Social Work*, 16, 179-191.

Brendtro, L., Brokenleg, M., & Van Bockern, S. (2002). *Reclaiming youth at risk: Our hope for the future* (rev. ed.). Bloomington, IN: National Educational Service.

Brendtro, L. K., Brokenleg, M., & Van Bockern, S. (2014). Environments where children thrive: The circle of courage model. *Reclaiming Children and Youth*, 23(3), 10.

Brendtro, L. K., & Mitchell, M. L. (2014). Powerful outcomes: Delivering what works. *Reclaiming Children and Youth*, 22(4), 5-11.

Brokenleg, M., & Van Bockern, S. (2003). The science of raising courageous kids. *Reclaiming Children and Youth*, 12(1), 22-26.

Bronfenbrenner, U., & Morris, P. A. (2006). The Bioecological Model of Human Development. In R. M. Lerner & W. Damon (Eds.), *Handbook of child psychology: Theoretical models of human development* (pp. 793-828). Hoboken, NJ, US: John Wiley & Sons Inc.

Buckley, J. (2006). *Canadian youth and children condemn violence in society*. Toronto, ON: The Canadian Council of Provincial Child and Youth Advocates and Office of Child and Family Service Advocacy.

Burke, J. D., Mulvey, E. P., Schubert, C. A., & Garbin, S. R. (2014). The challenge and opportunity of parental involvement in juvenile justice services. *Children and Youth Services Review*, 39, 39-47

Burnside, L. (2012). *Youth in care with complex needs*. Manitoba Office of the Children's Advocate.

Cashmore, J. (2011). The link between child maltreatment and adolescent offending: Systems neglect of adolescents. *Family Matters*, 89, 31-41.

Cesaroni, C., Grol, C., & Fredericks, K. (2019). Overrepresentation of Indigenous youth in Canada's Criminal Justice System: Perspectives of Indigenous young people. *Australian & New Zealand Journal of Criminology*, 52(1), 111–128.

Chapin Hall Center for Children. (2008). Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice. *Chicago: Chapin Hall Center for Children at the University of Chicago*

Chapin Hall. (2009). Racial and ethnic disparity and disproportionality in child welfare and juvenile justice: A compendium. *Policy & Practice*, 67(2), 28.

Chatterley-Gonzalez, A. (2010). *The experiences and needs of young people with FASD: Silenced voices from youth in care* (Order No. MR69644). Available from ProQuest Dissertations & Theses A&I; ProQuest Dissertations & Theses Global. (848602014). Retrieved from <http://ezproxy.lib.ryerson.ca/login?url=https://search-proquest-com.ezproxy.lib.ryerson.ca/docview/848602014?accountid=13631>

Chiu, Y., Ryan, J.P., & Herz, D.C. (2011). Allegations of maltreatment and delinquency: Does risk of juvenile arrest vary substantiation status? *Children and Youth Services Review*, 33(6), 855-860

Chor, K. H. B. (2011). *Placement decision-making and outcomes among children and youth in Illinois child welfare: A comparison of a decision support algorithm and a team consensus approach* (Order No. 3469702). Available from ProQuest Dissertations & Theses A&I; ProQuest Dissertations & Theses Global. (893842926). Retrieved from <http://ezproxy.lib.ryerson.ca/login?url=https://search-proquest-com.ezproxy.lib.ryerson.ca/docview/893842926?accountid=13631>

Chuang, E., & Wells, R. (2010). The role of inter-agency collaboration in facilitating receipt of behavioral health services for youth involved with child welfare and juvenile justice. *Children and Youth Services Review*, 32(12), 1814-1822. doi:10.1016/j.childyouth.2010.08.002.

Colvin, E., McFarlane, K., Gerard, A., & McGrath, A. (2018). 'We don't do measure and quotes': How agency responses criminalise and endanger the safety of children missing in care in New South Wales, Australia. *The Howard Journal of Crime and Justice*, 57(2), 231-49.

Contenta, S., Monsebraaten, L., Rankin, J. (2015, July 3). Shedding light on the troubles facing kids in group homes. *The Toronto Star*. Retrieved from <https://www.thestar.com/news/insight/2015/07/03/kids-in-toronto-group-homes-can-be-arrested-for-being-kids.html>

Cross-Over Youth Project. (2015). *Cross-Over Youth: Care to Custody*. Ryerson University, Toronto, Ontario: Finlay J., & Justice Scully, B.

Cross-Over Youth Project. (2015). *Summary Report: Justice of the Peace Service Sector*. Ryerson University, Toronto, Ontario: Finlay, J., & Justice Scully, B.

Crowe, K. (2007). Using youth expertise at all levels: The essential resource for effective child welfare practice. *New Directions for Youth Development*, 113, 139–150.

Dean, C. M. (2011). *Cross over youth recidivism and abuse prevention program*. Retrieved from ProQuest Dissertations & Theses Full Text. (Order No. 1499148).

DeCandia, C. J., & Guarino, K. (2015). Trauma-informed care: An ecological response. *Journal of Child and Youth Care Work*, 25, 7-32.

Dembo, R., Wareham, J., & Schmeidler, J. (2005). Evaluation of the impact of a policy change on diversion program recidivism. *Journal of Offender Rehabilitation*, 41(3), 29-61. doi:10.1300/J076v41n03_02

Department of Justice Canada. (2016). Youth Criminal Justice in Canada: A compendium of statistics. Retrieved from http://publications.gc.ca/collections/collection_2018/jus/J4-58-2016-eng.pdf

Dierkhising, C. B., Ko, S. J., Woods-Jaeger, B., Briggs, E. C., Lee, R., & Pynoos, R. S. (2013). Trauma histories among justice-involved youth: Findings from the National Child Traumatic Stress Network. *European journal of psychotraumatology*, 4(1), 20274.

Dupuis, J. & Mann-Feder, V. (2013). Moving towards emancipatory practice: Conditions for meaningful youth empowerment in child welfare. *International Journal of Child, Youth and Family Studies*, 4(3), 371.

DuRoss, C., Fallon, B. & Black, T. (2010). Group home and residential treatment placements in child welfare: Analyzing the 2003 Canadian incidence study of reported child abuse and neglect (CIS-2003). *Canada's Children*, 16(3), 67 - 71.

Finlay, J. (2003). *Crossover kids: Care to Custody*. Toronto, ON: Ministry of Children and Youth Services and Office of Child and Family Service Advocacy.

Finlay, J. & Kerr, J. (2006). *Youth Running from Residential Care: The Push and the Pull*. Office of Child and Family Service Advocacy (OCFSA). Ontario.

Finlay, J., Greco, K., Erbland, J. (2007). *We are your sons and daughters: The Child Advocate's report on the quality of care of 3 Children's Aid Societies*.

Finlay, J. (2009). *Keeping kids safe in custody: Youths' perceptions of safety while incarcerated in Canada* (Doctoral dissertation). Retrieved from Scholars Commons. Wilfrid Laurier University, Ontario, Canada.

Finlay, J., & Justice Scully, B. (2015). *Cross-Over Youth: Care to Custody*. Ryerson University, Toronto, Ontario: The Cross-Over Youth Project

Finlay, J. & Akbar, L. (2016). Caught Between Two Worlds: The Voices of Youth from Four First Nations in Northern Ontario, *Canadian Journal of Children's Rights, Special Issue: Indigenous Children's Rights, Vol 3, No.1*, 68-99.

Finlay, J. & Pearson, L. (2019). *Does Our Voice Stick? Shaking the Movers, a Decade Later*. In T. Waddock (ED.) *The Status of Children in Canada: A Children's Right's Analysis*. Canadian Scholars Press. (in press)

Ford, M., & Boo, M. (2005). *A family for every child: strategies to achieve permanence for older foster children and youth*. MD: The Annie E. Casey Foundation

Fox, L. E. (2019). *Compassionate caring: Using our heads and hearts in work with troubled children and youth*. Cape Town, South Africa: The CYC-Net Press

Frame, L., Conley, A., & Berrick, J. D. (2006). "The real work is what they do together": Peer support and birth parent change. *Families in Society: The Journal of Contemporary Social Services*, 87 (4), 509-520.

Fuchs, D., Burnside, L., Marchenski, S., & Mudry, A. (2010). Children with FASD - related disabilities receiving services from child welfare agencies in Manitoba. *International Journal of Mental Health and Addiction*, 8(2), 232-244. doi:10.1007/s11469-009-9258-5

Freeman, J. (2015). Trauma and relational care: Integrating an awareness of trauma into the characteristics of relational child and youth care. *Journal of Child and Youth Care Work*, 25, 120-132.

Garfat, T., & Fulcher, L. (2011). Characteristics of a child and youth care approach. *Relational Child and Youth Care Practice*, 24(1-2), 7-28.

Garfat, T., Freeman, J., Gharabaghi K., & Fulcher, L. (2018). Characteristics of a relational child and youth care approach revisited. CYC-Online.

Gerard, A., McGrath, A., Colvin, E., & McFarlane, K. (2019). 'I'm not getting out of bed!' The criminalisation of young people in residential care. *Australian & New Zealand Journal of Criminology*, 52(1), 76-93. <https://doi.org/10.1177/0004865818778739>

Gharabaghi, K. (2019). *A Hard Place to Call Home: A Canadian Perspective on Residential Care and Treatment for Children and Youth*. Canadian Scholars' Press.

Goodkind, S., Shook, J. J., Kim, K. H., Pohlig, R. T., & Herring, D. J. (2012). From child welfare to juvenile justice: Race, gender, and system experiences. *Youth Violence and Juvenile Justice*,. doi:10.1177/1541204012463409

Gordeyko, M. A. (2017). *Examining the needs of crossover youth: Individual and system level factors*. (Doctoral thesis). University of Toronto.

Government of Canada. (2018). Family violence: How big is the problem in Canada? Retrieved from <https://www.canada.ca/en/public-health/services/health-promotion/stop-family-violence/problem-canada.html>

Government of Ontario. (2017). Anti-Black Racism Strategy. Retrieved from https://files.ontario.ca/ar-2002_anti-black_racism_strategy_en.pdf

Grisso, T. (2005). Why we need mental health screening and assessment in juvenile justice programs. In *Mental Health Screening and Assessment in Juvenile Justice* (pp. 3-21). New York, NY: Guilford Publications.

- Guerra, N., & Bradshaw, C. P. (2008). Linking the prevention of problem behaviors and positive youth development: Core competencies for positive youth development and risk prevention. *New Directions for Child and Adolescent Development*, 2008(122), 1-17. doi:10.1002/cd.225
- Hanauer, S. (2015). Trauma-informed out-of-home care. *Journal of Child and Youth Care Work*, 25, 66-84.
- Hart, M. A. (2009). Anti-colonial Indigenous social work: Reflections on an Aboriginal approach. *Wicihitowin: Aboriginal social work in Canada*, 25-41.
- Hart, M. A., Straka, S., & Rowe, G. (2017). Working across contexts: Practical considerations of doing Indigenist/Anti-colonial research. *Qualitative Inquiry*, 23(5), 332-342.
- Hart, R. A., & UNICEF. International Child Development Centre. (1992). *Children's participation: From tokenism to citizenship*. UNICEF International Child Development Centre.
- Herz, D.C., Lee, P., Lutz, L., Stewart, M., Tuell, J., Wiig, J. (2012). Addressing the needs of multi-system youth: Strengthening the connection between child welfare and juvenile justice. Washington, DC: Center for Juvenile Justice Reform.
- Herz, D.C., Ryan, J. P., & Bilchik, S. (2010). Challenges facing crossover youth: An examination of juvenile-justice decision making and recidivism. *Family Court Review*, 48(2), 305-321.
- Hirsch, R. A., Dierkhising, C. B., & Herz, D. C. (2018). Educational risk, recidivism, and service access among youth involved in both the child welfare and juvenile justice systems. *Children and Youth Services Review*, 85, 72-80.
- Jackson, W. C. (2014). The circle of courage: The socialization of youth 21st century. *Reclaiming Children and Youth* 23.3 (2014): 16.
- James, C.E., & Turner, T. (2017). Towards race equity in education: The schooling of Black students in the greater Toronto area. *Toronto, ON: York University*.
- Johns, D. F., Williams, K., & Haines, K. (2017). Ecological youth justice: Understanding the social ecology of young people's prolific offending. *Youth justice*, 17(1), 3-21.

Jones, B. (2014). Youth Criminal Justice Act Section 34: Medical and Psychological Reports. Retrieved from http://carrieresantementale.ca/Resource%20Library/Children%20and%20Youth/BJones_Best%20Practices%20Guidelines%20-%20YCJA%20Section%2034%20Reports%20-%20Dec%209%202014.pdf

Jonson-Reid, M., & Barth, R. P. (2000). From placement to prison: The path to adolescent incarceration from child welfare supervised foster or group care. *Children and Youth Services Review*, 22(7), 493-516. doi:10.1016/S0190-7409(00)00100-6.

Kerr, J., & Finlay, J. (2006). Youth running from residential care: “The push” and “the pull”. *RCYCP Vol.19 No.1*

Koegl, C. J., & Day, D. M. (2017). The monetary costs of crime for a sample of offenders in Ontario. *Canadian Journal of Criminology and Criminal Justice*.

Kolpin, H. (2018). *Post-traumatic stress disorder in crossover youth: The pathway to development and the relationship with life-time offending* (Master's thesis). Retrieved from Electronic Thesis and Dissertation Repository. Western University, Ontario, Canada.

Kolivoski, K. M., Goodkind, S., & Shook, J. J. (2017). Social justice for crossover youth: The intersection of the child welfare and juvenile justice systems. *Social Work*, 62(4), 313-321.

Krohn, M.D., & Lane, J. (2015) *The handbook of juvenile delinquency and juvenile justice*. John Wiley & Sons, Inc.

Krueger, M. (2000). Presence, fear, curiosity, and other themes in community youth work. *Applied Developmental Science*, 4(S1), 21-27.

Laidlaw Foundation. (2019). Making wraparound supports available to incarcerated youth in Ontario. Retrieved from <https://laidlawfdn.org/youth/making-wraparound-supports-available-to-incarcerated-youth-in-ontario/>

Lee, L. H., Goodkind, S., & Shook, J. J. (2017). Racial/ethnic disparities in prior mental health service use among incarcerated adolescents. *Children and Youth Services Review*, 78, 23-31.

Lenhoff, C., Jones-Kelly, H., & Abbott, S. (2017). The Crossover Youth Practice Model (CYPM).

Ludy-Dobson, C. R., & Perry, B. D. (2010). *The role of healthy relational interactions in buffering the impact of childhood trauma*. Working with children to heal interpersonal trauma: The power of play. (pp. 26-43).

Ma, J., Fallon, B., & Richard, K. (2019). The overrepresentation of First Nations children and families involved with child welfare: Findings from the Ontario incidence study of reported child abuse and neglect 2013. *Child Abuse & Neglect*, 90, 52-65.

Ma, S. J., Office of Child and Family Service Advocacy, & Voices for Children. (2004). *Just listen to me: Youth voices on violence*. Toronto, ON: Office of Child and Family Service Advocacy & Voices for Children.

Malakieh, J. (2018). Adult and youth correctional statistics in Canada, 2016/2017. Retrieved from <https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54972-eng.htm>

Mark, M. (2017). *A peer mentorship program for youth transitioning out of foster care: A grant proposal*. (Master's thesis). California State University.

Malvaso, C., & Delfabbro, P. (2015). Offending behaviour among young people with complex needs in the Australian out-of-home care system. *Journal of Child and Family Studies*, 24(12), 3561-3569. doi:10.1007/s10826-015-0157-z

Marshall, J. M., & Haight, W. L. (2014). Understanding racial disproportionality affecting African American youth who cross over from the child welfare to the juvenile justice system: Communication, power, race and social class. *Children and Youth Services Review*, 42, 82-90. doi:10.1016/j.childyouth.2014.03.017

McAra, L., & McVie, S. (2010). Youth crime and justice: Key messages from the Edinburgh Study of Youth Transitions and Crime. *Criminology & Criminal Justice*, 102, 179-209. doi:10.1177/1748895809360971

McArdle, S., & Lambie, I. (2018). Screening for mental health needs of New Zealand youth in secure care facilities using the MAYSI-2. *Criminal Behaviour and Mental Health*, 28 (3), 239-254.

McElvaney, R., & Tatlow-Golden, M. (2016). A traumatised and traumatising system: Professionals' experiences in meeting the mental health needs of young people in the care and youth justice systems in Ireland. *Children and Youth Services Review*, 65, 62-69.

McFarlane, K. (2016). *Care-criminalisation: The involvement of children in out of home care in the NSW criminal justice system*. Thesis/dissertation UNSW. Sydney, Australia.

McFarlane, K. (2018). Care-criminalisation: The involvement of children in out-of-home care in the New South Wales criminal justice system. *Australian & New Zealand Journal of Criminology*, 51(3), 412-433. <https://doi.org/10.1177/0004865817723954>

McGrath, A. (2016). Intersections of Indigenous status, sex and age in sentencing decisions in the New South Wales Children's Court. *Australian & New Zealand Journal of Criminology*, 49(1), 90-112. doi:10.1177/0004865814551614D--.

Ministry of Children and Youth Services. (2016). *Because young people matter: Report of the residential services review panel*. Ontario: Ministry of Children and Youth Services.

Mirwaldt, J., Thomas, S., & Perron, J. (2004). *Review of the Operation of the Winnipeg Child & Family Services Emergency Assessment Placement Department (EAPD) Shelter System*. Manitoba Office of the Children's Advocate.

Moore, E., Gaskin, C., & Indig, D. (2013). Childhood maltreatment and post-traumatic stress disorder among incarcerated young offenders. *Child Abuse & Neglect*, 37(10), 861-870. doi:10.1016/j.chiabu.2013.07.012

Nunez, R. (2012). *Resilience in foster youth: A peer mentorship program that promotes academic and life long success*. (Master's thesis). California State University.

Nybell, L. (2013). Locating "youth voice:" Considering the contexts of speaking in foster care. *Child and Youth Services Review*, 35, 1227-1235.

Office of the Provincial Advocate for Children and Youth. (2012) *My Real Life Book: Report from the Youth Leaving Care Hearings*. Office of the Provincial Advocate for Children and Youth: Toronto, ON.

Office of the Provincial Advocate for Children and Youth. (2019). *Hairstory rooted: A firm foundation for the future of black youth in Ontario's systems of care.*

Ontario Centre of Excellence for Child and Youth Mental Health. (2016). Residential care for young people with complex needs. *Evidence In-Sight*. Retrieved from <http://www.excellenceforchildandyouth.ca/resourcehub/evidence-in-sight-database>.

Ontario Court of Justice. (2019). Bail Outcomes 2006-2015. Retrieved from <http://www.ontariocourts.ca/ocj/stats-crim/>

Ontario Human Rights Commission. (2018). Interrupted childhoods: Over-representation of Indigenous and Black children in Ontario child welfare. Retrieved from <http://www.ohrc.on.ca/en/interrupted-childhoods>

Orsi, R., Lee, C., Winokur, M., & Pearson, A. (2018). Who's been served and how?: Permanency outcomes for children and youth involved in child welfare and youth corrections. *Youth Violence and Juvenile Justice*, 16(1).

Osborn, A., Delfabbro, P.H. & Barber, J.G. (2008) 'The psychosocial functioning and family background of children experiencing significant placement instability in Australian out-of-home care', *Children and Youth Services Review*, 30, 447-460

Oudshoorn, J. (2015). *Trauma-informed youth justice in Canada: A new framework toward a kinder future*. Toronto, Ontario: Canadian Scholars' Press.

Paul, S. (2008) 'Reducing offending in residential child care', *Scottish Journal of Residential Child Care: In Residence*, 9.

Pelech, W., Badry, D., & Daoust, G. (2013). It takes a team: Improving placement stability among children and youth with fetal alcohol spectrum disorder in care in Canada. *Children and Youth Services Review*, 35(1), 120-127

Perry, B., & Szalavitz, M. (2006). *The boy who was raised by a dog and other stories from a child psychiatrists notebook*. New York, Basic Book.

Petro, J. (2010). *Increasing Collaboration and Coordination of the Child Welfare and Juvenile Justice Systems to Better Serve Dual Jurisdiction Youth: A Literature Review*. Washington, DC: Child Welfare League of America.

Petro, J. (2010). *Juvenile Justice and Child Welfare Agencies: Collaborating to Serve Dual Jurisdiction Youth Survey Report*. Washington, DC: Child Welfare League of America.

Phillips, D., & Pon, G. (2018). Anti-black racism, bio-power, and governmentality: Deconstructing the suffering of black families involved with child welfare (Part I). *Journal of Law and Social Policy*, 28, 81-100. Retrieved from <https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1298&context=jlsp>

Pitts, J. (2004). Youth justice. *Research Matters*, (17), 79. Retrieved from <http://ezproxy.lib.ryerson.ca/login?url=https://search-proquest-com.ezproxy.lib.ryerson.ca/docview/274700164?accountid=13631>

Pon, G., Gosine, K., & Phillips, D. (2011). Immediate response: Addressing anti-Native and anti-Black racism in child welfare. *International Journal of Child, Youth and Family Studies*, 2(3/4).

Pullmann, M. D., Kerbs, J., Koroloff, N., Veach-White, E., Gaylor, R., & Sieler, D. (2006). Juvenile offenders with mental health needs: Reducing recidivism using wraparound. *Crime & Delinquency*, 52(3), 375-397.

Race, T., & O'Keefe, R. (2017). *Child-centred practice: A handbook for social work*. London: Palgrave.

Rankin, J., Rushowy, K., & Brown, L. (2013, March 22). Toronto school suspension rates highest for Black and Aboriginal students. *The Toronto Star*. Retrieved from https://www.thestar.com/news/gta/2013/03/22/toronto_school_suspension_rates_highest_for_black_and_aboriginal_students.html

R. v. Antic, 2017 SCC 27, [2017] 1 S.C.R. 509

Registered Nurses' Association of Ontario (2016). *Youth mental health and addictions champions (YMHAC) Initiative: Hart's ladder of youth participation*. Toronto, ON: Youth Research and Evaluation eXchange (YouthREX).

Riley, M., & Hayes, H. (2017). Youth restorative justice conferencing: Facilitator's language—help or hindrance? *Contemporary Justice Review*, 21, 99–113.

Robst, J., Armstrong, M., & Dollard, N. (2011). Comparing outcomes for youth served in treatment foster care and treatment group care. *Journal of Child and Family Studies*, 20(5), 696–705. doi:10.1007/s10826-011-9447-2

Robst, J., Armstrong, M., & Dollard, N. (2017). The association between type of out-of-home mental health treatment and juvenile justice recidivism for youth with trauma exposure. *Criminal Behaviour and Mental Health*, 27(5), 501–513. doi:10.1002/cbm.2024

Rollo, T. (2018). The Color of Childhood: The Role of the Child/Human Binary in the Production of Anti-Black Racism. *Journal of Black Studies*, 49(4), 307–329. <https://doi.org/10.1177/0021934718760769>

Ryan, J. P., & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27, 227–249.

Ryan, J.P., Marshall, J. M., Herz, D. C., & Hernandez, P. M. (2008). Juvenile delinquency in child welfare: Investigating group home effects. *Child and Youth Services Review*, 30(2008), 1088–1099. doi:10.1016/j.childyouth.2008.02.004.

Schlesinger, T. (2005). Racial and ethnic disparity in pretrial criminal processing. *Justice Quarterly*, 22(2), 170–192. doi:10.1080/07418820500088929

Schlesinger, T. (2018). Decriminalizing racialized youth through juvenile diversion. *The Future of Children*, 28(1), 59–81. doi:10.1353/foc.2018.0003

Shaw, J. (2017) 'Residential care and criminalisation: the impact of system abuse', *Safer Communities*, 16, 112–21.

Shipe, S. L., Shaw, T. V., Betsinger, S., & Farrell, J. L. (2017). Expanding the conceptualization of re-entry: The inter-play between child welfare and juvenile services. *Children and Youth Services Review*, 79(Complete), 256-262.

Silva, D. J., Petrilla, C. M., Matteson, D., Mannion, S., & Huggins, S. L. (2019). Increasing Resilience in Youth and Families: YAP's Wraparound Advocate Service Model. *Child & Youth Services*, 1-32.

Simpson, J. S., James, C. E., & Mack, J. (2011). Multiculturalism, colonialism, and racialization: Conceptual starting points. *Review of Education, Pedagogy, and Cultural Studies*, 33(4), 285-305.

Snow, K., & Mann-Feder, V. (2013). Peer-centred practice: A theoretical framework for intervention with young people in and from care. *Child Welfare*, 92 (4), 75-93.

Spencer, R., Gowdy, G., Drew, A. L., & Rhodes, J. E. (2019). "Who knows me the best and can encourage me the most?": Matching and early relationship development in youth-initiated mentoring relationships with system-involved youth. *Journal of Adolescent Research*, 34(1), 3-29.

Spinney, E., Yeide, M., Feyerherm, W., Cohen, M., Stephenson, R., & Thomas, C. (2016). Racial disparities in referrals to mental health and substance abuse services from the juvenile justice system: A review of the literature. *Journal of Crime and Justice*, 39(1), 153-173.

Sprott, J.B., & Myers, N.M. (2011). Set up to fail: The unintended consequences of multiple bail conditions. *Canadian Journal of Criminology and Criminal Justice*, 53(4), 404-423. University of Toronto Press. doi:10.3138/cjccj.53.4.404.

Sprott, J.B. (2012). The persistence of status offences in the youth justice system. *Canadian Journal of Criminology and Criminal Justice*, 54(3), 309-332. University of Toronto Press.

Staines, J. (2015) *Risk, Adverse Influence and Criminalisation: Understanding the Over-representation of Looked After Children in the Youth Justice System*, London: Prison Reform Trust.

Stanley, E. (2017). From care to custody: Trajectories of children in post-war New Zealand. *Youth Justice*, 17, 57–72. doi:10.1177/1473225416669145

Statistics Canada. (2015). Youth correctional statistics in Canada, 2014/2015. Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14317-eng.htm>

Statistics Canada. (2017). Census Profile, 2016 Census: Toronto, City [Census subdivision], Ontario [Province].

Retrieved from <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=3520005&Geo2=PR&Code2=35&Data=Count&SearchText=Toronto&SearchType=Begins&SearchPR=01&B1=Visible%20minority&TABID=1>

Statistics Canada. (2019). Adult and youth correctional statistics in Canada, 2017/2018.

Retrieved from

<https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00010-eng.htm>

Stewart, S., Leschied, A., Dunnen, W., Zalmanowitz, S., & Baiden, P. (2013). Treating mental health disorders for children in child welfare care: Evaluating the outcome literature. *Child & Youth Care Forum*, 42(2), 131-154. doi:10.1007/s10566-012-9192-8

Suzuki, M., & Wood, W. (2017). Is restorative justice conferencing appropriate for youth offenders? (2017). *Criminology & Criminal Justice*, doi: 10.1177/1748895817722188. Available at SSRN: <https://ssrn.com/abstract=3158796>

Talaga, T. (2017). *Seven Fallen Feathers: Racism, Death and Hard Truths in a Northern City*. House of Anansi Press Inc. Canada.

Tilbury, C. (2009). The over-representation of Indigenous children in the Australian child welfare system. *International Journal of Social Welfare*, 18(1), 57-64. doi:10.1111/j.1468-2397.2008.00577.x

Tilbury, C., & Thoburn, J. (2009). Using racial disproportionality and disparity indicators to measure child welfare outcomes. *Children and Youth Services Review*, 31(10), 1101-1106. doi:10.1016/j.childyouth.2009.07.004

Tilton, J. (2013). Rethinking youth voice and institutional power: Reflections from inside a service learning partnership in a california juvenile hall. *Children and Youth Services Review*, 35, 1189-1196.

Toronto Star. (2010). Toronto Star analysis of Toronto police service data: Advanced findings.

Toronto, ON: Toronto Star. Retrieved from
https://www.thestar.com/content/dam/thestar/static_images/advancedfindings2010.pdf

Turner, T. (2016). *One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians. Practice Framework Part 1: Research Report*. Toronto, ON: Ontario Association of Children's Aid Societies.

Turner, T. (2016). *One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians. Practice Framework Part 2: Race Equity Practices*. Toronto, ON: Ontario Association of Children's Aid Societies.

Turning Point Youth Services. (n.d.). Programs. Retrieved from
<https://turningpoint.ca/programs/>

Turpel-Lafond, M. (2009). Kids, crime and care: Health and well-being of children in care – Youth justice experiences and outcomes. *Victoria, British Columbia: Ministry of Children and Family Development*.

United Nations Convention on the Rights of the Child (2009). *General comment no.12: The right of the child to be heard*. Geneva: United Nations.

UNICEF (2014). *Child rights toolkit: Integrating child rights in development cooperation*. United States, NY: UNICEF.

Unrau, Y. A., Seita, J. R., & Putney, K. S. (2008). Former foster youth remember multiple placement moves: A journey of loss and hope. *Children and Youth Service Review*. doi:10.1016/j.childyouth.2008.03.010.

van der Kolk, B. A. (2005). Developmental trauma disorders: Toward a rational diagnosis for children with complex trauma histories. *Psychiatric Annals*, 35 (5), 401-408.

Vidal, S., Connell, C. M., Prince, D. M., & Tebes, J. K. (2019). Multisystem-involved youth: A developmental framework and implications for research, policy, and practice. *Adolescent Research Review*, 4(1).

- Walsh, M. A., & Jagers, J. W. (2017). Addressing the needs crossover youth: What key professionals are saying. *Children and Youth Services Review*, 75, 110-115
- Wilson, A., & Hoge, R. (2013). "The Effect of Youth Diversion Programs on Recidivism." *Criminal Justice and Behavior* 40(5):497-518.
- Wolfe, D. A., Crooks, C. V., Lee, V., McIntyre-Smith, A., & Jaffe, P. G. (2003). The effects of children's exposure to domestic violence: A meta-analysis and critique. *Clinical Child and Family Psychology Review*, 6(3), 171-187.
- Wong, H., & Yee, J. Y. (2010). *An anti-oppression framework for child welfare in Ontario*. Toronto, ON: Ontario Association of Children's Aid Societies.
- Wortley, S., & Owusu-Bempah, A. (2011). The usual suspects: Police stop and search practices in Canada. *Policing and Society*, 21(4), 395-407. doi:10.1080/10439463.2011.610198
- Youth Criminal Justice Act, S.C. 2002, c. 1
- Yampolskaya, S., & Chuang, E. (2012). Effects of mental health disorders on the risk of juvenile justice system involvement and recidivism among children placed in out-of-home care. *American Journal of Orthopsychiatry*, 82(4), 585-593. doi:10.1111/j.1939-0025.2012.01184.
- Zinger, I., & Elman, I. (2017). *Missed opportunities: The experience of young adults incarcerated in federal penitentiaries*. Retrieved from <http://publications.gc.ca/site/eng/9.840989/publication.html>

Appendices

Appendix 1: Intersection Points

Appendix 2: Site Evaluations

Toronto Site Evaluation

Belleville Site Evaluation (Ongoing)

Appendix 3: History of Residential Review Standards and Guidelines

Appendix 4: Racial Disparities in the Experiences and Outcomes of the Cross-over Youth Project
Julian Hasford, Arla Good, Amy E. Beaudry, & David Day

Appendix 5: Pillars

Anti-Oppressive Principles and Practices

Importance of Youth Centering

Trauma-Informed Lens: Guideline for Practical Implementation

Appendix 6: Protocols

Use of s.34 assessments

Use of Records in Child Protection Proceedings

Bail Condition Recommendations

Probation

Case Conferencing Terms and Guidelines

Conferencing Model

Appendix 7: Best Practice Model for Child Welfare in Working with Cross-Over Youth

Appendix 8: Access Denied! The Case of Crossover Youth in Ontario

David M. Day, Mathew Eaton-Kent, Amy Beaudry, & Arla Good

Department of Psychology, Ryerson University, Toronto, Ontario

