

Cross-Over Youth Project

311 Jarvis Court House

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311 JARVIS STREET COURTHOUSE

Toronto has a population of almost 3 million people, the largest city in Canada and the capital of Ontario. The city is multicultural and diverse. There are 140 officially recognized neighbourhoods, there is a wide-variation in the socio-economic conditions between them.

The city is serviced by four children's aid societies, Children's Aid Society of Toronto, Catholic Children's Aid Society of Toronto, Jewish Family and Children's Services and Native Child and Family Services. The Ontario Association of Children's Aid Societies is also located in Toronto.

There are two major school boards, the Toronto District Public School Board and the Toronto Catholic District School Board. The Toronto District Public School Board operates 451 elementary schools, 105 secondary schools and 5 adult education schools. The Toronto Catholic District School Board operates 163 elementary schools, 28 secondary schools, 3 combined schools and 2 alternative education schools.

The city of Toronto is policed by the Toronto Police Service, which employs approximately 5,400 officers and has a total operating budget of more than \$1 billion. There are 17 police detachments located in Toronto and the city is divided into central field command, which encompasses original city of Toronto, the former cities of York and East York and some southern portions of the former City of North York, and the area field command, which encompasses the former cities of North York, Scarborough and Etobicoke.

There are three Ontario Court of Justice youth criminal courts in Toronto. They are located at 2201 Finch Avenue West, 1911 Eglinton Avenue and 311 Jarvis Street. 311 Jarvis is the only court dedicated to youth matters, as 2201 Finch Avenue West and 1911 Eglinton Avenue also deal with adult criminal matters. 311 Jarvis court also handles family and child protection matters and an integrated domestic violence court. In 2022, all three courts will close and be amalgamated into a new mega-court that will handle all criminal matters across the city, which is currently under-construction.

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Most importantly, we are thankful to those young people and stakeholders in the Toronto Site for generously sharing their experiences and helping to inform our recommendations towards greater collaboration and better outcomes for cross-over youth.

Executive Summary

The Cross-over Youth Pilot Project (the Project) was designed as a four-year pilot project, 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 first site was a youth court located in Toronto's downtown core. The intent of Toronto's court-centric site was to develop intersectoral solutions to issues cross-over youth were facing when they entered the justice system. The Toronto site at the 311 Jarvis Street Court House was selected, in part, because the Court was already comprised of two-hatter judges who preside in both child welfare and youth justice courts. These judges had, for several years, been trying to address cross jurisdictional issues by bringing the systems together, when youth enmeshed in both jurisdictions were identified. Toronto was also chosen to capture the large city culture, with its inherent problems of communication and coordination within and across multiple sectors.

Because it was a "Pilot Project", the intention was to provide service to the cross-over youth in Toronto who by definition had a complex range of needs in a multi layered, complicated system of services. The service to be provided by the Project, according to the funded proposal, was case coordination and conferencing. This service provision in Toronto, as in other 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. These preferred practices from Toronto, and across the other sites, would inform the components of a service model for cross-over youth. 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 the other sites when applicable. The two-tiered method of intervention, i.e. case and systemic, was introduced from the onset of the Project. Due to the complexity of the cases within a complicated multi sector service system, the Project had a presence at the 311 Jarvis St site for two years from March 2016 to March 2018.

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 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. Overall, the patterns arising, the lessons learned, and protocols designed to influence practice at the inaugural site, informed the other three sites. An independent evaluation component was also solicited to provide another layer of understanding and insight at the Toronto site (Appendix 1).

The Project at the Toronto site had the advantage of being guided by the Provincial Steering Committee, which was chaired by the Judicial Lead and the Principal Investigator of the Project, and was comprised both of decision makers and local Toronto stakeholders. The Provincial Steering Committee and the Subcommittees had a dual role; first as advisory to the staff at the Toronto site, and more generally to the entire Project. Two case conference facilitators (CCF) were the core staff at the Toronto site. However, they worked alongside the provincial team at Ryerson, which included the Co-chairs, the Resource Coordinator, the Youth Engagement Coordinator, the Administrator and placement students.

It was established early in the life of the Toronto site, that certain values and principles needed to guide the work of the 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 have permission 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 changes 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, perspective and practice. It's only then that they can identify and sustain strategies for implementing youth centered, anti-oppressive and trauma informed practices, and also be clear about the outcomes they are attempting to achieve. For these reasons, it was appreciated, particularly as the Project matured, that these were very difficult principles

to instill within not only entrenched institutional settings, but also forward-thinking community based agencies.

A primary operational expectation of the pilot sites was to form a youth advisory committee to guide and inform the work of the steering committee and the Project team. The Toronto site formed a youth advisory group comprised of young people with lived experience at the beginning of the pilot. Challenges arose among the youth, due to the intensity of the discussions that took place related to the themes arising in the Project. Because of their lived experience, these discussions became uncomfortable, overwhelming, and often triggered historical circumstances or events for the members of the group. The initial advisory group was disbanded for these reasons. A second advisory committee was formed, comprised of 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 some of the newer members of the youth committee, the youth engagement coordinator and the members of the Project team were not aligned, communication became challenging and a rupture took place. As a result, there was a lack of consistent youth voice at the Toronto site. Across all sites, the difficulty in engaging cross-over youth who have lived experience was one of the most significant lessons learned, which is discussed in more detail in the final report.

Youth participants in the Toronto site were identified through referrals from existing court personnel and stakeholders. However, the implementation of a permanent and formal cross-over youth identification and referral process was a challenge for the Project. The presence of the CCF in the courtroom, which was difficult to routinize, resulted in an increase in receptiveness which led to a boost in referrals. Further to this, CCFs recognized that their ongoing presence in the court enhanced their existing connections to stakeholders, and offered opportunities to concentrate on bolstering relationships amongst them in order to nurture a deeper appreciation for the value of intersectoral collaboration. Once achieved, the Project focused on strengthening a youth-centered approach amongst stakeholders and service providers. Intersectoral collaboration and youth centering were crucial to meaningful and productive case conferences. Informal case conferences were used most frequently. However, 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. It was not uncommon for the CCF to facilitate numerous case conferences with various formats over the duration of a young person's involvement.

Conferencing was found to be most fruitful when the youth were able to express their wishes and opinions, which was best facilitated by a Youth Mentor. It was also demonstrated that for case conferences to be successful, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance. One of the challenges was that there is a diverse and complex range of stakeholders across multiple sectors in Toronto. Each case involved a completely unique set of stakeholders. To mitigate 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 stakeholder 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.

Given the scope of the Project, the number of brief and full-service cases were restricted to a total of 50 combined. The CCFs were able to work intensely with only 28 cross-over youth. However, these 28 cases consumed the time and resources over the duration of Project. The other 22 cases were classified as brief-service. Brief-service cases were limited to consultations, advice and guidance to inquirers, or a referral to other resources.

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. Twenty-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 six noteworthy themes emerged. A brief summary of each theme follows:

THE TRAJECTORY FROM FAMILY HOME INTO THE YOUTH JUSTICE SYSTEM

The majority of full-service cases seen by the CCFs in the Toronto site had entered into the child welfare care system as older youth, i.e. 13+ years of age with the predominant age range of 13-15 years. Noteworthy, child welfare did not generally instigate involvement due to protection concerns, but indeed for conflict in the family home. This is understandable given that the youth were in adolescence at the time of the initial child welfare involvement. Recognizing that the average length of service with the Project is seven months, it's interesting that within this short time frame, child welfare engagement with these youth and their families escalated from voluntary involvement to wardship status, meaning that the youth became a ward of the state. When adolescents in particular come into care, they are more likely to be placed into group care than their younger counterparts. Group care is

generally viewed by child welfare placement authorities as more appropriate due to the staff versus family model of care, and perhaps because group care beds are more readily available than those in foster homes. Foster parents also tend to prefer younger children due to perceived manageability.

However, it appears that many of these young people who left their home because of parent/teen conflict between the ages of 13 and 15 years, incur charges while in group care. More often than not, it is their very first charge. This instigates their entry into the youth justice system. The pattern noted by the Project is that, once these young people enter the youth justice system, they are charged with the highest severity of charges when acquiring their first offence, face more time in pre-trial detention, have the longest stay within the youth justice system and have the highest severity of accumulated criminal offences over this time frame, than do their younger or older counterparts. When looking at age of entry into the child welfare system in the court data, it was found that cross-over youth between the ages of 13-15 years penetrated deeper into the youth justice system than young people who were under the age of 12 or over the age of 15 upon their initial involvement in child welfare. This is contrary to evidence presented in recent studies from Australia, that found that the younger the age at entry into child welfare, the deeper the penetration into the youth justice system (Australian Institute of Health and Welfare, 2017). Further exploration is required, as definitions of child welfare involvement, sample sizes and methods of data collection are very different. Nonetheless, the pattern arising from the Project is troublesome. Research demonstrates that young people who experience or witness family conflict replicate those patterns of communication and problem solving in more generalized settings (Finlay, 2009; Ma, 2006). If interactions between caregivers in group homes and these youth are not managed in a trauma-informed, youth-centered, anti-oppressive manner, behaviors could escalate to a point beyond which staff feel in control or safe. This could precipitate a call to the police to intervene and manage the behaviors of these young people, who are already vulnerable having been predisposed to family conflict. Many lessons are learned in understanding these patterns, such as the importance of early intervention into family conflict before young people enter the child welfare system, skill training for group care providers in safe de-escalation strategies, training of police officers to circumvent the laying of charges as a behavioral management strategy with youth in group care, and the facilitation of the provision of children's services as opposed to a reliance on the justice system to access resources.

THE OVER-REPRESENTATION OF INDIGENOUS AND RACIALIZED YOUNG PEOPLE

One of the most compelling patterns identified in the Project's Toronto site wasn't only the overrepresentation of Indigenous and 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 Project found that Black and Indigenous young people were most likely to receive their first charge in group care (as compared to white youth). The experiences of the CCFs also point to Black young people receiving the most charges, in addition to 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, which are 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.

Noteworthy, is the pattern of over-criminalizing the behavior of Black cross-over youth generally. In the Toronto site, these youth acquired more severe charges on average as compared to both white and Indigenous youth. Once charged, it was the findings of the Project that Black young people spent more time in pre-trial detention on average as compared to both white and Indigenous young people. Pretrial detention as stated previously, is often used as a social measure to contain youth when a plan cannot be provided by the child welfare agency (guardian) to keep the young person safe. Remarkably, the best predictor of how long a young person would spend in pre-trial detention was the severity of their charges. The implication being that it may be the charging practices themselves that most greatly contributes to Black youth spending more time in pretrial detention.

All of these patterns identified by the Project are consistent with the literature, and clearly highlight the extreme forms of anti-Black racism that is evidenced in the child welfare and youth justice systems. There continues to be the assumption that Black youth, and Black people in general, are employing hyperbolic statements when speaking about the extent to which they are unfairly targeted in the justice system. However, the experience of the Project illustrates that Black youth receive more charges, more severe charges and the longest time in pre-trial custody than any other group, including Indigenous youth. It is clear that there are specific patterns that are employed when dealing with Black cross-over youth that are embedded in beliefs and practices of anti-Black racism. In effect, the process of removing Black youth from their homes results in significantly more damage than leaving them in their homes and providing additional supports to families. The practices of the various service agencies reinstate and replicate the varying forms of historical separations of Black families,

not unlike the colonial practices of residential schools endured by Indigenous people in Canada. These practices continue today by targeting and treating Black youth more harshly in institutional and community settings that are intended to protect, care for and rehabilitate youth. The policies, practices and the attendant behaviors of workers exercised by these youth serving organizations are demonstrative of this pattern.

OUT OF HOME PLACEMENTS AND CHARGING PRACTICES

As indicated previously, group-care settings serve as a gateway into the YJ system and a pipeline to deeper penetration into that system for cross-over youth. To reiterate, over half (64%) of the young people served in the Toronto site received a charge in out-of-home care. The predominant form of out of home care, group care, is for profit, and an outside paid resource. They tend to provide a more institutional type model of group care which appears to attract young people with a greater complexity of needs (Finlay, Greco & Erbland, 2007). Many young people in these settings are youth in CW care with histories of trauma and loss and subsequent mental health diagnoses that may include addictive behaviors. This model of care, however, provides a more limited clinical capacity and fewer evidence-based outcomes. Typically, staff in group care are young, poorly paid with limited training and insufficient supervision. They often lack the professional qualifications, experience and the judgement required to assume the task of managing the range of behaviours (MCYS, 2016). They frequently do not have the skills to know and understand these young people in their charge.

They may resort to intrusive strategies to exert control over the environment if they lack confidence in their ability to maintain safety (Finlay et al., 2007). These settings are therefore often ill equipped to manage these young people and resort to using the police to manage behaviors that are often replications of patterns of communication they experienced growing up.

The case-notes of CCFs indicated 12 out of 18 young people who had been charged while in group care were charged by staff themselves. It can be predicted that the attachment rupture that took place at the time that these young people were removed from their home and transferred to group care was traumatic and represented an extreme loss of family, home, community, friends and school. When youth move from a place that lacked safety like their family environment, they generalize their feelings of fear, powerlessness and hopelessness to other settings. They are hyper vigilant in anticipation of further violations and may present provocatively with bravado as a strategy to keep themselves safe (Finlay, 2009). Group-home charges by staff discourage youth from feeling safe and erodes any

sense of trust the youth may have placed in staff or the setting. It becomes a repeated cycle of anticipated breaches of safety and trust that precipitate responses that are provocative and non-compliant. If not managed well from a trauma informed lens, it will signal to the youth to respond with rage and self-contempt as a means of self-protection and the cycle intensifies. This may result in the laying of charges.

More discussion about out of home care can be found in the report from the Belleville site. This site was selected due to the preponderance group home settings.

BAIL AND PRE-TRIAL DETENTION

The Project found that full-service cross-over youth were highly likely to be continuously cycling through the courts. These young people predominantly faced administrative charges. This category of offences was 33% higher than the next largest category which was violent offences. The Project's youth required on average 4.6 bail hearings prior to fully resolving all their charges. Furthermore, the Project observed that more often than not, a strong risk management lens pervaded the bail process. Another issue was that bail conditions were often an afterthought in the process. The Project observed that at the end of a bail hearing, conditions of release would be attached without much thought or advocacy. The conditions seemed to be mostly pro-forma or from a standardized list of options. CCFs worked to centre youth voice, both formally and informally at the bail stage. The CCF, sometimes with the Youth Mentor alongside, would build a rapport with the young people and advocate for more thoughtful bail conditions that were more suited to their individual needs and circumstances. It was more likely that young people will comply with bail conditions that are meaningful to them.

Many of these cases took a long time to resolve. In almost 40% of the Project's cases, the youth spent an extended period of time in pre-trial custody which was significantly more time than their non-child welfare involved peers. Also troubling was that Black young people spent the longest periods of time compared to both white and Indigenous young people. Overall the average length of time in pre-trial detention spent by cross-over youth in the Project was 138 days and generally as a social not a justice measure. The Project recommends that overall there should be a movement towards more permissive bail conditions, and global bails where possible. In each case, thoughtful consideration should be taken to ensure the wording of bail conditions is in line with the aims of the YJ system. All stakeholders should receive training in both the YJ and CW legal systems to be more effective advocates for young people. Further to this, stakeholders in Legal Aid should take steps to promote education on

the YJCA to counsel, and fund counsel to engage in preliminary case conferencing. Finally, The Project recommends that all stakeholders adopt a collaborative approach in the form of case conferencing to help resolve matters that crossover between CW and YJ.

MENTAL HEALTH AND TRAUMA

Through case management, the Project engaged with young people who were deeply impacted by complex trauma histories which predisposed them to mental health and addiction needs. In most cases, young people experiencing challenging mental health symptoms did not receive the necessary supports and services until it was too “late”. Indeed, several cases suggested that the criminal charges that the young persons faced were directly related to their untreated mental health needs. Young people replicate or reenact unhealthy family dynamics in the other situations or circumstances that that provoke familiar fears of retraumatization or distrust.

Although collaboration is often an obstacle in delivering wraparound supports to cross-over youth, through advocacy and close partnerships with “two-hatter” judges and counsel, the majority of young people involved with the Toronto site received referrals for comprehensive mental health assessments. The Project believed that has contributed to a positive shift towards a trauma-informed lens that informed judicial proceedings, dispositions and outcomes.

The Project recommends that all stakeholders across service sectors adopt a trauma-informed approach to practice with cross-over youth in order to reduce the amount of time they spend in CW and YJ systems. Unstable placements that take young people away from their community, as well as time spent by young people in YJ settings that emphasizes ‘behaviour management’, are both traumatizing to cross-over youth. The Project recommends that community safety considerations be guided by trauma-informed practice with emphasis on diversion programs that do not include short-term detention-based interventions, but embrace long-term rehabilitative interventions in the lives of cross-over youth.

LACK OF YOUTH CENTERING OR MEETING YOUNG PEOPLE WHERE THEY ARE AT

To interrupt the trajectory for young people in the CW system from entering the YJ system, multiple service providers must work collaboratively to ensure the centering of youth voices. The United Nations Convention on the Rights of the Child states that young people have the right to be meaningfully involved in the decisions that impact their lives, and dually involved

young people are certainly not excluded from this. However, the Project found that youth-centering and meaningful youth participation was observed only in rare cases, and those cases were largely dependent on a single empathic stakeholder who valued this approach.

A youth centering approach seeks to empower young people by recognizing them as the experts of their own lives. This approach goes beyond simply giving young people the space to share their thoughts. Practitioners and stakeholders must be invested in and prepared to act on the recommendations of young people. The CCFs played an integral role in this regard at the Toronto site, especially in ensuring the voices of young people were at the forefront of stakeholder agendas. However, in the absence of the Project there, should be a mechanism to ensure meaningful collaboration with young people in which all stakeholders adopt a youth centering approach as essential to their training programs and practices guidelines. Further, the Project recommends the development of mentorship programs grounded in the principles of youth centering, trauma-informed practice, and anti-oppressive principles. These programs would allow the voices of cross-over youth to be translated and amplified.

In summary, themes were generated by the gathering of the narratives found in the case files and by the subsequent interpretation of the patterns that then emerged. Each theme could not stand alone as they are inextricably intertwined. They served as the basis for understanding the trajectory for cross-over youth from the CW to the YJ system. The Project was able to demonstrate a typical journey for a cross-over youth navigating a complicated, unfriendly, and at times retraumatizing system. It also piloted strategies to interrupt this trajectory, such as approaches to intersectoral collaboration, stakeholder engagement, case conferencing, knowledge exchange and training, protocol development and introduction, mechanisms for youth engagement, peer mentorship, and advocacy tools and approaches. The three pillars which underscored all service provision was trauma informed care, anti-oppressive practice and youth centering. The Project put in place models of practice, protocols, and training initiatives that honored these core principles. However, the most effective strategy utilized by the Project to influence change was the role modelling of relational practice that respected the voice, lived experience, and the inherent agency of cross-over youth. This approach with young people translated to the plans of action which became the vehicles for innovation and change at the broader systemic level.

Preamble

The Cross-over Youth Pilot Project (the Project) was designed as a four-year pilot project 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 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.

In order to develop community-based solutions to the issues faced by cross-over youth, the Project was designed to consist of four distinct sites in Ontario. Each pilot site developed a service model unique to the characteristics of their specific jurisdiction. The first site was a youth court located in Toronto's downtown core located at 311 Jarvis Street. The intent of Toronto's court-centric site was to develop intersectoral solutions to issues cross-over youth were facing when they entered the justice system.

It must be stated from the onset that because it was a "Pilot Project", the intention was to provide service to the cross-over youth in Toronto, who by definition had a complex range of needs in a multi layered, complicated system of services. The service to be provided by the Project, according to the funded proposal, was case coordination and conferencing. This service provision in Toronto, as in other 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. These preferred practices from Toronto and across the other sites would inform the components of a service model for cross-over youth.

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 the other sites when applicable. The two tiered method of intervention, i.e. case and systemic, was introduced from the onset of the Project. Early in the service delivery phase, it was clear that due to the nature and complexity of the system of services for cross-over youth in Toronto, the range of case conference facilitation necessary could not be managed by a single CCF. Upon learning of this dilemma, Justice Canada generously offered resources for a second CCF and this also enabled the Project to have a presence at the 311 Jarvis site for two years from March 2016 to March 2018.

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 was required to better understand these patterns than was intended or proposed when designing the overall Project. Efforts were made to consolidate and analyze the case information beyond what was provided by the simple case management data base 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 patterns arising, the lessons learned and protocols designed to influence practice at the inaugural site informed the other three sites.

Background

The Toronto site at the 311 Jarvis Street Courthouse was selected, in part, because the Court at 311 Jarvis Street was already comprised of two-hatter judges who preside in both child welfare and youth justice courts. These judges had, for several years, been trying to address cross jurisdictional issues by bringing the systems together, when youth enmeshed in both jurisdictions were identified. Toronto was also chosen to capture the large city culture, with its inherent problems of communication and coordination within and across multiple sectors.

The philosophy of the pilot site at the 311 Jarvis St. courthouse was to work with families, children and youth, to help find solutions to the difficulties inherent in family separations due to state intervention. In the family and child welfare matters, the focus is to develop a plan to support the family based on the best interests of the child. Children are only removed from families and placed in the care of the state when the supports available to the family are not sufficient to protect the child. In that event, the child welfare agencies are held accountable by way of a plan of care, which, again, focuses on the best interests of the child. For those young people no longer in their families' care and also involved in youth criminal court, the Project focused on developing a plan that held young people accountable for their criminal behavior, while emphasizing their rehabilitation and reintegration into the community.

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 system and the resultant consequences for these youth. The work of the Committee included undertaking a series of forums that were conducted in the GTA, to identify best practice and the real or perceived barriers to intervening in the patterns related to this trajectory. The first of these forums took place in Toronto in 2014. Child welfare workers from the Catholic Children's Aid Society, Children's Aid Society of Metro Toronto, Jewish Child and Family Services and Native Child and Family Services were invited to participate in a discussion so that their professional knowledge and perspective could be used to provide insight into recommended changes to policy and practice, that may be required to address the circumstances facing cross-over youth. To this end, a panel presentation took place which included members from seven different service sectors who explained their respective roles related to cross-over youth. Seventy six front line and supervisory child welfare workers attended and a lively, interactive discussion ensued. The evaluation of this event revealed that members of the child welfare sector were appreciative of the ability to be enlightened about court processes, and their ability to participate in them on behalf of their clients. For example, the ability to request a conference within the confines of the court, and the encouragement to speak to the Crown who could provide additional information and insight, were two of the most useful pieces of information they received as a child protection practitioner. This knowledge exchange proved extremely valuable, and reinforced the belief of the steering committee that intersectoral 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. A series of forums including focus groups, round-table discussions, dialogues with key informant interviews and surveys were conducted between October 2014 and March 2015. The participant service sectors included: probation officers, defence lawyers, Duty Counsel, Crown Attorneys, Judges, Justices of the Peace, police, child welfare workers, child and youth workers in group homes and youth. Two of the ten key findings of this needs assessment was 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 Project at the Toronto site began its formal implementation with a cross-sectoral training day. The objective was to bring together different service sectors that regularly work with youth in care in the downtown Toronto core, with the goal of facilitating cross-sectoral communication and learning about each other's roles, mandates and practices. The event was attended by over 100 professionals from across the 10 service sectors. There were interactive activities including a mock case scenario with a practice case conference. Panel presentations, which included leaders who represented a number of different roles across the two service systems, took place. Project C, the youth advisory committee with the Project, presented a video and talked about ways of understanding and cooperating with current and former youth in care. Finally, there was an opportunity for participants to provide updates on systemic initiatives related to cross-over youth.

Many participants noted in the evaluation of the event 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. Participants also noted how effective the mock 'mike' 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. However, 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", "not taken seriously", or they were "marginalized" at times during the case conference scenario. By and large, the Information Session was an excellent opportunity for learning, reflection and critical analysis at the onset of the Project.

Aside from the Information Session, being the first pilot site, there were many things to learn. Protocols were developed to address issues of confidentiality for the young person and other stakeholders participating in case conferences. A process to identify cross-over youth without them feeling targeted was developed. Initiatives to promote the participation of criminal defence counsel, duty counsel and child welfare workers were established. Mistakes were made and lessons learned highlighting the need for sub-committees.

A legal sub-committee was formed, comprised of 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 matters related to 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 legal sub-committee was successful in addressing issues pertaining to bail and group home charging practices. They examined the particular vulnerabilities which are presented by cross-over youth who are in detention. Protocols were created that advocated for changes in youth bail and probation orders (see Appendix 2). 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 Attorney General.

With the realization of these changes, Justices of the Peace, Crown Attorneys, criminal defence counsel, parents' counsel and lawyers in the Office of the Children's Lawyer (OCL), were trained by members of the Project team on these issues pertaining to the Youth Criminal Justice Act. Counsel with the child welfare agencies are also committed to instruct and educate their workers so that each sector is aware that bail and probation conditions are not automatic, and exceptions may be sought.

The Children's Aid Societies (CAS) subcommittee was comprised of representatives from CAS agencies across Toronto, a member of the Ontario Association of Children's Aid Societies who Co-chaired the committee along with a member of the Project team and youth representatives. The committee agreed that there were gaps in the knowledge of the typical CAS worker with regards to the youth criminal justice system. The committee met regularly and worked collaboratively, to produce a best practice guide to assist workers to navigate the youth justice system and advocate on behalf of their youth. The subcommittee, the Provincial steering committee, the Brantford and Belleville steering committees and the Thunder Bay youth advisory committee reviewed the best practice guide, provided feedback and endorsed it.

Another 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. The Toronto site formed a youth advisory group comprised of young people with lived experience at the beginning of the 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 comprised of 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 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 more 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 in engaging cross-over youth who have lived experience was one of the most significant lessons learned, which is discussed in more detail in the final report.

Organizational Structure and Team Composition in the Toronto Site

The Project at the Toronto site had the advantage of being guided by the Provincial Steering Committee which was chaired by Justice Brian Scully, the Judicial Lead and Dr. Judy Finlay, the Principal Investigator of the Project. The Provincial Steering Committee was comprised both of decision makers and local Toronto stakeholders. The Provincial Steering Committee and the Subcommittees had a dual role; first as advisory to the staff at the Toronto site and more generally to the entire Project. Two case conference facilitators were the core staff at the Toronto site. However, the case conference facilitators worked alongside the provincial team at Ryerson, which included the Co-chairs, the Resource Coordinator, the Youth Engagement Coordinator, the Administrator and placement students. For short periods of time throughout the life of the Project, there was a Director. Also in the last year of the Project, there was a Communications Coordinator. In addition to receiving guidance and advice from the Provincial Steering Committee, the CCFs received feedback and support from the Youth Advisory Committee (Project C) and members of the Ryerson University community.

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 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 which undermines 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.

The Evolution of Case Facilitation and Conferencing

CASE FACILITATION

The 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 courthouse, the case conferencing model evolved from stakeholder feedback highlighting a need for solutions that would promote cross-sectoral collaboration needed to ensure better outcomes for dually involved young people. Early on in the project, the CCFs identified case conferences as not always a safe place for young people to speak openly about pieces of a plan that they wished to have in place. CCFs often challenged the assumptions made by stakeholders on the “best-interests” of young people in absence of the young person’s voice. Indeed, much of their role was to advocate for the meaningful participation of the youth.

On one hand, the presence of CCFs at the Toronto site allowed for the early identification of youth-centering as imperative to ensuring positive outcomes for cross-over youth. However, initially the unfamiliarity of the Project’s presence at the 311 Jarvis St. courthouse, coupled with an advocacy approach to case-management that overtly challenged stakeholders, resulted unintentionally in furthering the reluctance of stakeholders to collaborate in a manner that promotes the best outcomes of young people. As the Project continued to evolve, so did the case-conferencing model. The Project began to focus attention towards strengthening a youth-centered approach amongst stakeholders and service providers. Further to this, 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 intersectoral collaboration.

Further lessons were learned when the 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 Project grew to be more cautious around 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 fully fulfill their role on behalf of the youth they were mandated to serve.

As a pilot project, many lessons were learned and applied that allowed for the continual development and implementation of an effective and sustainable case conferencing model. Through increased familiarity with the services, the Project (Toronto site) was able to develop relationships and delegate responsibilities to the appropriate stakeholders. This allowed the Project to refocus its mandate, and youth-centering and coordination were put at the forefront of the services advertised to stakeholders. This change in focus led to a noticeable shift in stakeholder perception and willingness to participate in collaborative processes. The Project became more comfortably integrated as a functioning stakeholder at the 311 Jarvis Street Courthouse.

CASE CONFERENCING

Once consent had been received, the CCF began engaging the young person in planning for a case conference with stakeholders and service providers in the young person's life. Informal case conferences were used most frequently. 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 cases 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, typically formal court "section 19" conferences 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 were able to express their wishes and opinions. Youth centering has been most successful when a Youth Mentor was involved. The Youth Mentor was very successful in building relationships with the youth. Building trust and understanding is the foundational step to a successful conference. When youth are not engaged and therefore, they typically do not want to be there, it shows in their body language. The stakeholders may read this as a cue to ignore the youth. In ensuring youth-centering at case conferences, the CCFs role was to maintain the lines of communication with the young person. Communication maintenance takes three forms: (1) coordinate with the young person to get them to the conference; (2) plan with the youth for the conference and (3) constantly check in with the youth during the conference to make sure they are voicing 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 has been that there is a diverse and complex range of stakeholders across multiple sectors. Each case involved a completely unique set of stakeholders. The agencies remain the same, but the service providers and caregivers changed with each cross-over youth. It required re-education and familiarization with each new 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, fostering a culture of youth-centering amongst case conference attendees, and ensuring stakeholder 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.

COY Identification and Referral Sources

Youth participants in the Project, Toronto site 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 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 Project. Several factors contributed to the challenge of implementing a sustainable identification and referral process at the 311 Jarvis courthouse 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 add any additional redundancies. Once a Crown Attorney or CAS worker becomes aware 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 the name of counsel, counsel’s contact information and the next return date be filled out. Once the Project, Toronto site was notified of the referral, the CCF 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; CCFs were often required to sit in court to ensure that a cross-over youth was referred.

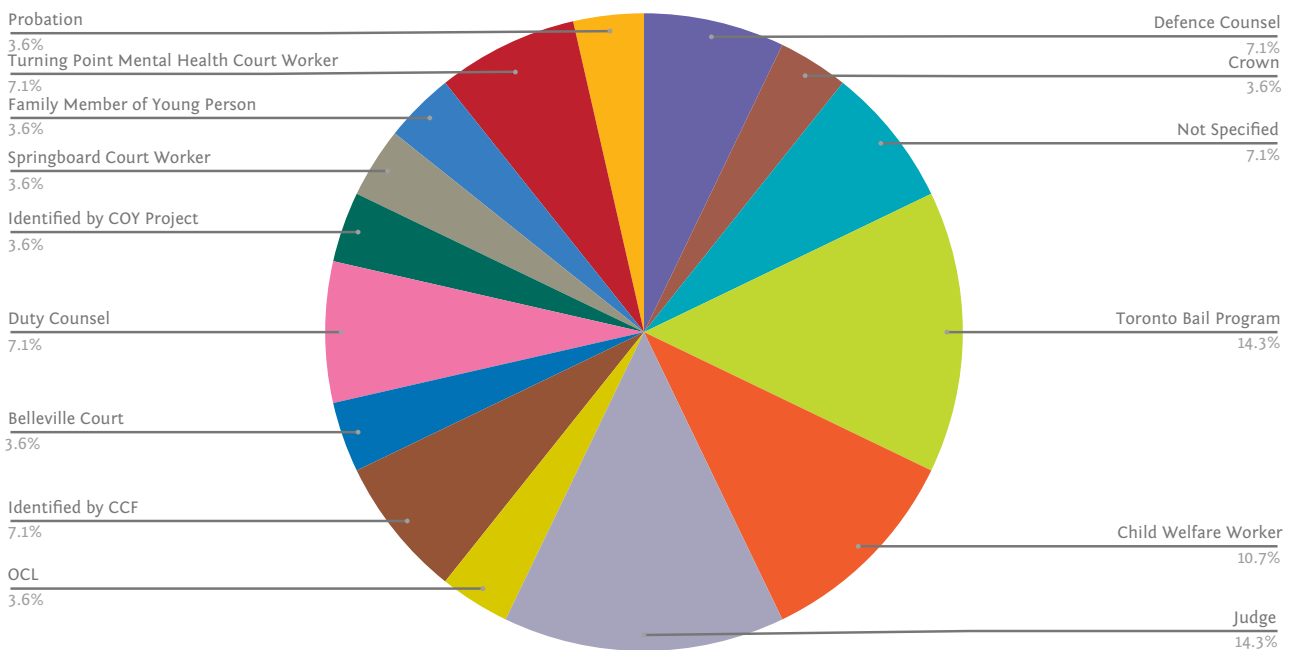
Thirdly, unlike more rural communities with fewer number of court-based stakeholders, the 311 Jarvis courthouse sees a variety of defence lawyers and CAS workers present in the court with limited regularity from day to day. For this reason, stakeholders’ increased awareness of the Project was dependent solely on a presence of CCFs or graduate student in the court. Due

to limited resources and the intensity of the work, CCFs were unable to maintain a presence in the court, and therefore were unable to reach all of the cross-over youth who came through the 311 Jarvis St. courthouse. As a result, the youth reported to the CCFs were not a reliable indication of cross-over youth who attend court during the duration of the Project.

Numerous introduction meetings occurred both on an individual and group basis between the Project and the permanent stakeholders at the 311 Jarvis Courthouse. An outcome of the Project's presence was the increased receptiveness amongst permanent stakeholders, who served as referral sources. Over time there was a boost in awareness of the benefits of identifying cross-over youth amongst stakeholders in terms of own practice.

The table below captures the referral sources for the 28 full-service cases facilitated through the Project at the 311 Jarvis Street site. The majority of referrals were initiated by the two-hatter judges; judges with experience in both child welfare and youth justice. A surprising finding was the number of referrals made by Bail Program. In these cases, Bail Program connected with CCFs to aid young people who were too young to qualify for the Bail program to receive support in the development of appropriate bail plans.

Referral Sources - Full Service Cases (n=28)



The Identification and Understanding of Emergent Themes

GENERATION OF THEMES

Case conferencing promoted an in-depth understanding of the lives of 28 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. Twenty-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 six noteworthy themes emerged as follows:

- Theme One: Trajectory from Family Home into the Youth Criminal Justice System
- Theme Two: Overrepresentation of Indigenous and Racialized Young People
- Theme Three: Bail and Pre-Trial Detention
- Theme Four: Issues with Group Home Placements, Charges, and Charging Practices
- Theme Five: Mental Health and Trauma
- Theme Six: Impact of a Lack of Youth Centering or Meeting Young People Where They are At

TYPES OF CASES

Given the limited scope of the pilot project in Toronto, the number of brief and full-service cases were restricted to a total of 50 combined. The CCFs were able to work intensely with only 28 cross-over youth. However, these 28 cases consumed the time and resources over the duration of Toronto's Cross-Over Youth pilot project. Given the small sample size of 28 young people who accessed supports through the Project, the themes which have emerged demonstrate patterns and trends that may be limited to this site. However, the value of this intensive work and the themes which have subsequently emerged are highly relevant and noteworthy. 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 50 cases encountered by the 311 Jarvis St. court house, 22 are classified as brief-service cases. Brief-service cases are without a consent on file for further involvement by a CCF.

As such, brief-service cases are limited in information to descriptive demographic information only.

The majority of brief-service cases were brought to the attention of the Project through referrals made by Youth Court Workers, Two-Hatter Judges, and other court-centered professionals. A small number of brief-service cases were 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 defence counsel. The most prominent barrier in obtaining consent for full service was 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/ideological reasons. Defence lawyers are the only stakeholders who are 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.

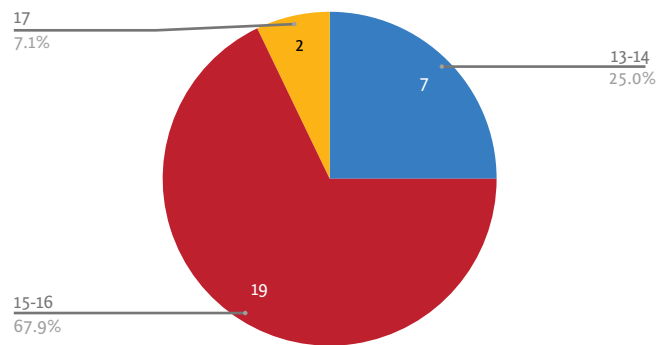
The Project, provided full-service intervention to 28 young people at the 311 Jarvis St. court house. Full-service case intervention entailed the long-term coordination and support of the CCF with the average length of involvement being 7-8 months. However, in several cases the CCF remained involved with the young person for the duration of the Project at the Toronto site.

Demographics

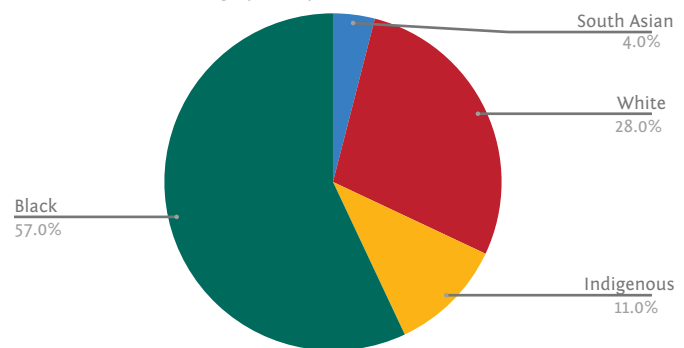
Age and Gender: Of 28 full-service cases, seven cases involved young people between the ages of 13-14, 19 cases involved young people aged 15-16 and 2 cases involved young people aged 17. Males represented 64% of cases and females accounted for 36% of full-service crossover youth cases.

Ethnicity: 70% of the 28 full-service cases encountered at the Toronto site were non-white young people. 11% represented young people who were Indigenous, 4% were South Asian, 28% were white, and 57% of all full-service cross-over youth identified as Black.

Age of Entry to Project (n=28)



Race and Ethnicity (n=28)



Theme One:

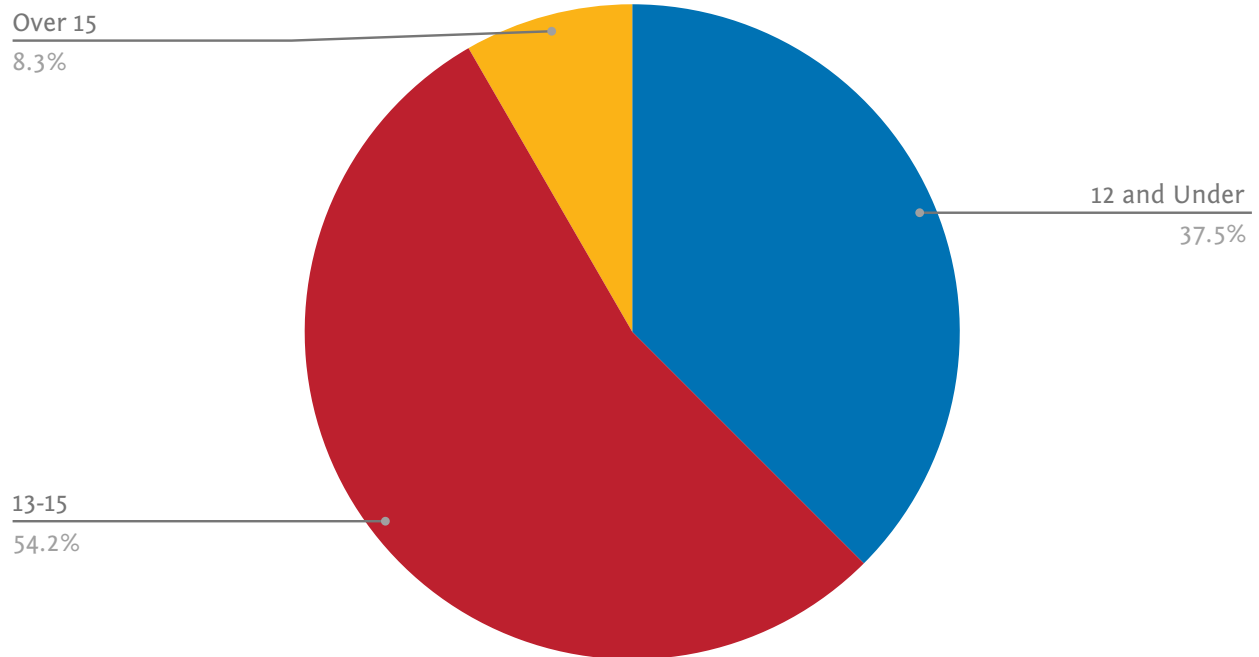
Trajectory from Family Home into the Youth Criminal Justice System

OVERVIEW

Recent international literature examining the experiences of cross-over youth has suggested that the younger a child is upon their entry into the child welfare (CW) system, the more likely they are to deeply penetrate the youth criminal justice system (Australian Institute of Health and Welfare, 2017). Although findings from the Toronto Site, discussed below, do not align with the literature in Australia, they do contribute to the ongoing discussion of how and when young people in the CW system cross into the youth justice system.

A review of 24 of the 28 full service case files in the Toronto Site revealed that the majority of young people (63%) entered the CW system as an older youth (13 and above). Those young people who entered the CW system as children aged 12 and under accounted for the remaining 37.5%. Most of the young people served through the Project entered into the CW system between the ages of 13 and 15 (54%).

Age of Entry into Child Welfare System (n=24)



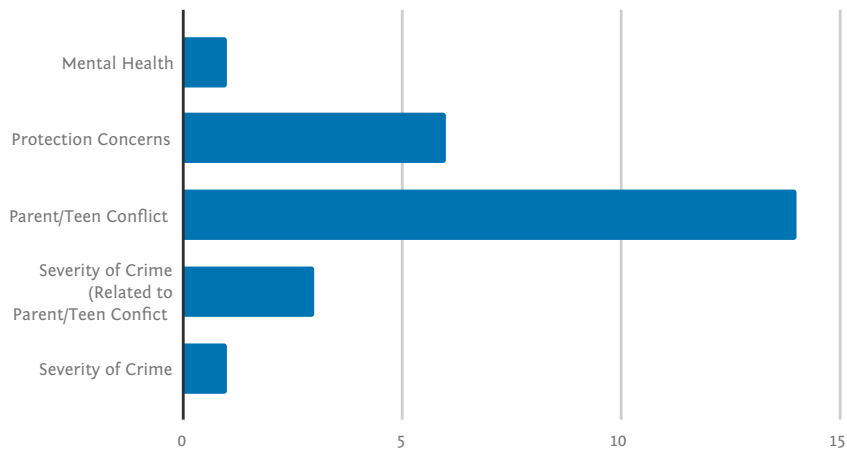
Interestingly, when the Project looked at average age of entry as it relates to several variables measuring penetration into the YJ system, it found no evidence to support the concept that the earlier a young person enters CW, the deeper they tend to penetrate YJ. In fact, the experiences of young people served through the Toronto site revealed the opposite. Compared to other age groups, cross-over youth who began their CW involvement as older youth, specifically between the ages of 13-15, were seen to be penetrating YJ the deepest.

While these findings did not mirror the findings in the Australian study, they did reveal that something unique is happening with cross-over youth aged 13-15 at time of CW involvement which needed further exploration.

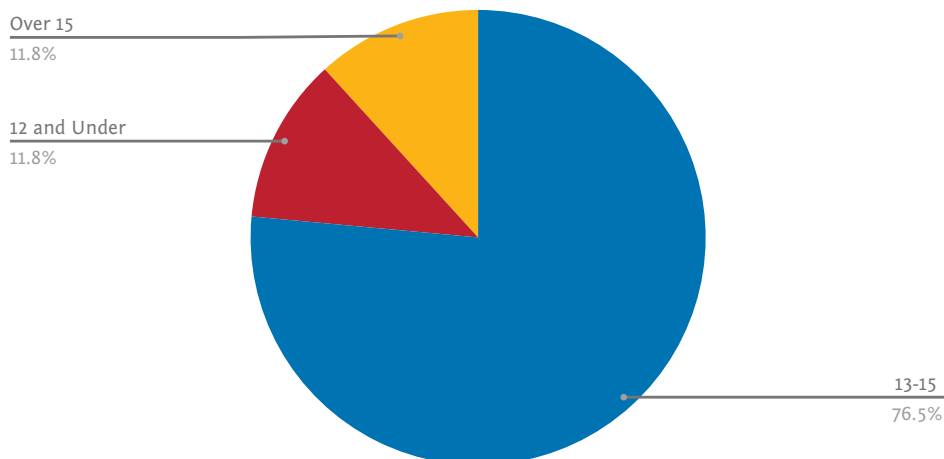
THE BEGINNING OF THE STORY - REASONS FOR CHILD WELFARE INVOLVEMENT AND MOVEMENT THROUGH THE SYSTEM

Surprisingly, the majority of young people from the Toronto Site entered the CW system not due to protection concerns, but because of parent/teen conflict (24% and 56%, respectively). An additional two young people (12%) entered the CW and YJ systems simultaneously due to the severity of family-related altercations (i.e. assault on a family member resulting in a no-contact order and removal from the family home). Combined, 68% of cases began their trajectories within the CW system because of conflict within the family home. Interestingly, 76.5% of these cases involved young people between the ages of 13 and 15.

Reason for Initial Child Welfare Involvement (n=25)

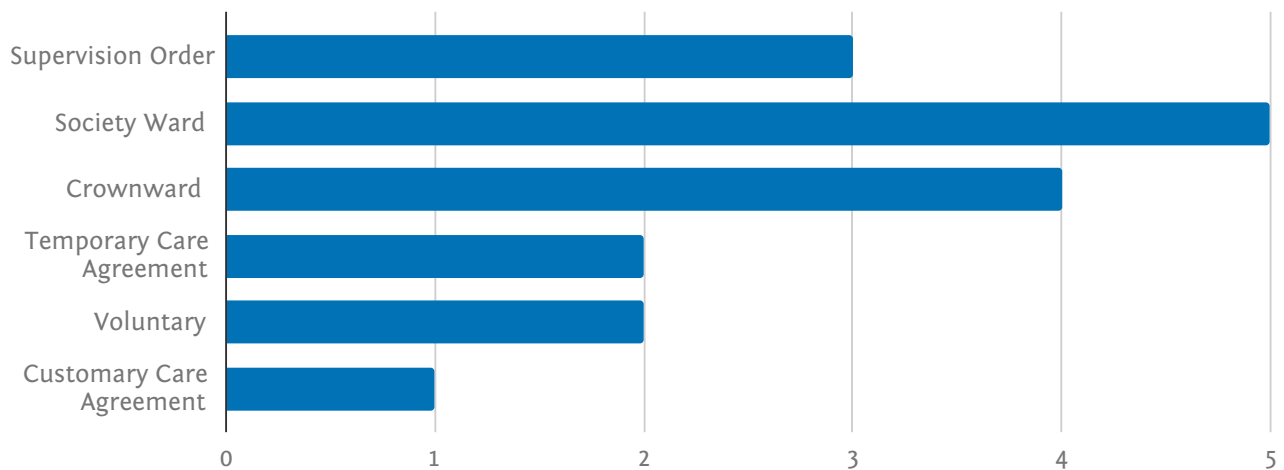


Parent/Teen Conflict - Age of Entry into Child Welfare System (n=17)



Another noteworthy trend emerged when looking at movement through the CW system. By the end of the Project's involvement, 82% of youth who entered into the CW system because of parent/teen conflict had gained Society/Crown wardship status. The Project found that young people who entered into the CW system due to parent/teen conflict quickly moved through that system from the least to the most intrusive form of intervention. While not significant given the Project's small sample size, a cross-over youth's movement through the CW system deserves more attention. Specifically, young people who enter the CW system as older youth which is precipitated by conflict in the family home.

Child Welfare Status at End of COY Project Involvement (Parent/Teen Conflict)

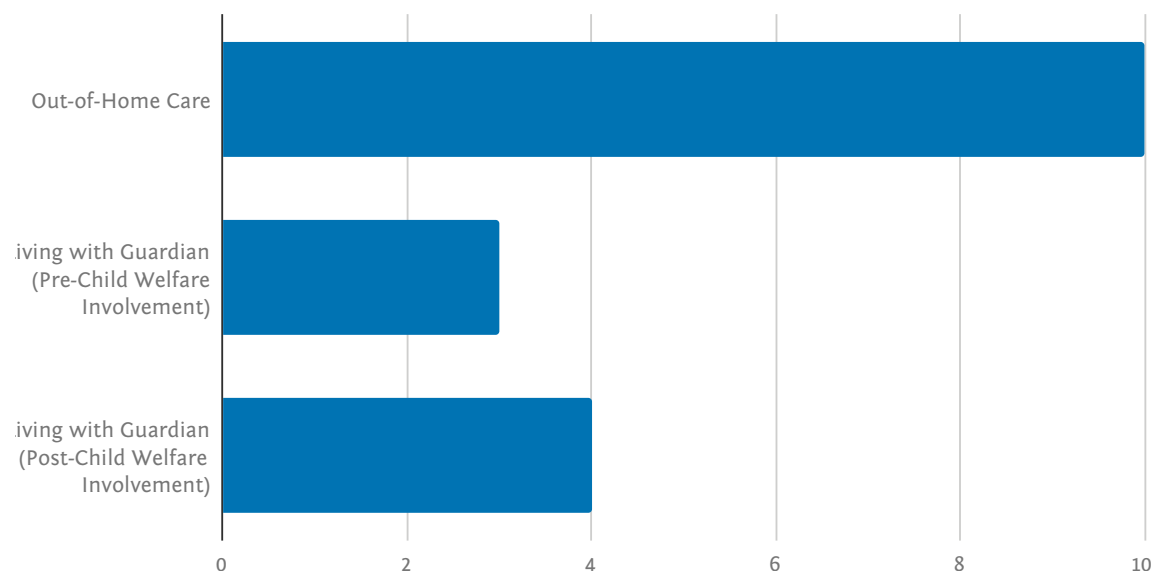


GROUP CARE AND CROSS-OVER YOUTH: THE BEGINNING OF THE STORY

Group care charges were a predominant theme in the lives of cross-over youth served through the Project. An overwhelming majority of youth (77%) who entered into care as older youth and due to parent/teen conflict incurred charges while in group care settings. Interestingly, the remaining 23% of young people who had CW involvement because of parent/teen conflict but did not receive charges in group care settings, held the least intrusive CW statuses (voluntary/customary care agreements), and were not residing in group care placements. This pattern mirrors literature suggesting that 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).

Notably, for many of these youth group care settings served as a pipeline into the youth criminal justice system. Indeed, 59% (N=17) of these youth incurred their very first charge while in group care placements. Comparatively, 17% incurred their first charge prior to CW involvement and the remaining four cases incurred their first charge while living in alternative settings and on supervision orders. Black young people are over-represented in these numbers. They account for 70% of young people involved with CW due to parent/teen conflict who crossed-over into the YJ system due to group care related charges. However, the total percentage of Black young people involved with the Project was less (57%). This emerging pattern suggests that racial disparities exist amongst young people charged in group care settings.

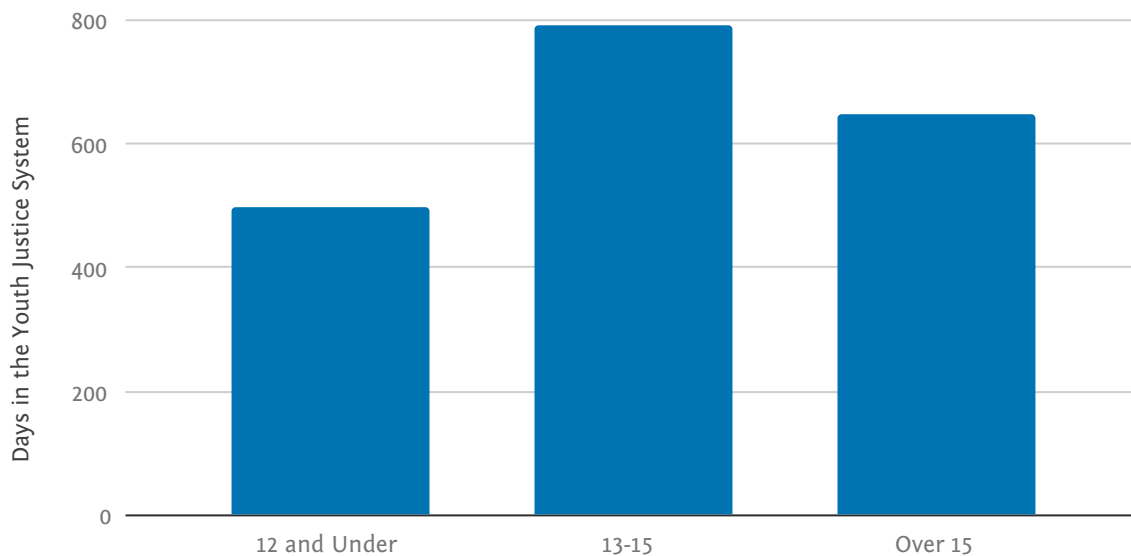
First Charge Setting - Entry into Child Welfare due to Parent/Teen Conflict (n=17)



MOVEMENT THROUGH THE YOUTH CRIMINAL JUSTICE SYSTEM

Young people between the ages of 13-15 at the time of entry into the CW system spent more time in the YJ system than young people who entered the CW system at younger ages. On average, this group of youth spent 800 days within the YJ system comparative to 650 days for cross-over youth over 15, and 500 days for youth 12 and under at the time entry into the CW system.

Average Time Spent in Youth Criminal Justice System (Days)
by Age of Entry into Child Welfare (n=24)



Also, these young people more often than not entered the system due to very serious violent and weapons-related charges. Young people who entered into the CW system between the ages 13 and 15, on average, were charged with first offences of more severity than those youth older or younger at the time of entry into CW.¹ Further to this, these same young people were seen to have more severe charges overall than the other cohorts. Young people between the ages of 13-15 at the time of entry into the CW system accumulated, on average, more severe charges than the young people who were younger or older than 13-15 years when they entered into care.

¹ Weighted severity of charges was calculated as follows: Admin Charges (1 point); Drugs/Sex/Property Charges 2 Points, respectively); Violent and Weapons Charges (3 points, respectively).

These emerging trends and patterns, sometimes validated at other sites, are worthy of further study. As stated earlier, caseloads of CCFs were small due to the complexity of the youth needs and complicated set of systems that served them. For this reason, the Project has developed its understanding of the trends and patterns through qualitative theme analysis of the case files of the CCFs, through the narratives told from the lenses of the resilient young people they encountered and through the analysis of descriptive data. The resultant understanding is that the majority of cross-over youth served through the Project's Toronto site entered into the CW system as older youth and due to conflict within their family homes. The experience of the Project was that these young people moved quickly through the CW system until gaining the most intrusive, and in many cases permanent CW statuses. The Project observed group care placements and subsequent group care related charges as a significant theme in the lives of the cross-over youth served. Discerningly, for many young people group care placements acted as a direct pipeline into the YJ system. Differing from studies suggesting a correlation between early CW involvement and a deeper penetration into the YJ system, young people served by the Project who entered into the CW system at a later age, spent more time, and became more enmeshed in YJ system than youth that entered CW at an earlier age.

CASE STUDY

Voided of identifiable information and altered to ensure confidentiality, the case-study below highlights the story of a young person's movement from the CW system into the YJ system. Embedded within this story are several trends and patterns which, unfortunately, were not uncommon amongst the majority of young people who accessed support through Toronto's pilot site.

Sam who identifies as a Black male was 16 years old at the time of the Project's involvement with him. Throughout Sam's early childhood he was sexually abused by his father's ex-boyfriend. When Sam turned eleven, he found the courage to tell his father what was happening. However, Sam's father chose not to believe him and instead suggested that Sam was confused and "just making things up". Sam shared with the Project's CCF that while the sexual abuse had stopped after the disclosure, his 'step-dad' began emotionally and physically abusing him. On one occasion, Sam who believed that this was his fault, stated to the CCF that "[he] should have just kept [his] mouth shut".

Several years had passed following Sam's disclosure before his father ended the relationship with his 'step-dad'. Although Sam's abuser was no longer in the family home, the relationship between Sam and his father began to deteriorate. Sam told the COY Case-Facilitator that he never really "got over" his father's disbelief in him. The tension in the family household continued to grow and arguments between Sam and his father became more frequent and increasingly more explosive.

Simultaneous to the heightening conflict within the family home, Sam began having difficulties at school. On several occasions Sam was suspended for smoking marijuana on school property. Following a series of suspensions, the school principal began noticing a significant decline in Sam's attendance and called his father to discuss her observations. During their conversation, Sam's father expressed his frustration with his son, stating that he could no longer manage Sam's "out of control" behavior. This prompted the school principal to phone the Children's Aid Society (CW) to discuss her concerns regarding changes in Sam's behavior, the decline in his attendance and his tension-filled home situation. Soon thereafter, Sam and his father entered into a voluntary service agreement which entailed a commitment from Sam's father that he would ensure that Sam attended school on a daily basis. Unfortunately, Sam continued to have difficulties maintaining his school attendance, and the tension in the home continued to grow.

Several months later Sam's father "kicked him" out of the house. Sam spent several months couch surfing at different friends' houses before he and his best friend were caught and charged with shoplifting. His friend was bailed out by his parents, however Sam's father refused to act as his surety. In order for Sam to be granted bail, he was told by the CW worker that he would have to move to Belleville and reside in a group home. Without any other options, Sam agreed to this plan. Several weeks following his move to Belleville, Sam breached his release by returning to Toronto without being in the presence of group home staff. This was the first of a series of administrative breaches. Routinely, Sam would run from the group home to Toronto, sometimes staying with friends and sometimes with his father. Each time Sam left the group-home without permission he would be re-arrested, granted bail and returned back to his group home in Belleville under the same conditions that stated that "he will reside where deemed appropriate by Child Welfare, and follow the "rules of the home".

When The Project became involved with Sam following a referral by the Crown Counsel, a case-conference was called to discuss the possibility of creating a plan for Sam to return home. At the case conference Sam's father, for the first time, expressed remorse for not believing his son's sexual

abuse disclosure. While Sam felt validated, he remained guarded. The conference concluded with some success. Sam's father agreed to let him move home, but not until he went several months without breaching his bail conditions. Unfortunately, this was challenging for Sam. Sam continued to incur administrative breaches throughout his stay at the Belleville group home placement. The CCF advocated on behalf of Sam, asking his CW worker to consider different placement options for him in Toronto where he could be closer to his friends and community. However, Sam's CW worker maintained the position that he was better off in Belleville, away from his best friend and co-accused. This resulted in many more breaches. Sam would continue to be found in Toronto, and often with his co-accused. With each subsequent breach, the relationship between Sam and his father further deteriorated. Eventually, Sam's father told him that he could no longer can move home.

Case Study Analysis

Sam's case-study highlights several commonalities amongst the full-service cases in which the young person entered into the CW system as older youth and due to conflict in the family home. Although Sam did not enter the CW system due to child protection concerns, as a child, he was in need of protection. Throughout Sam's childhood, he was a victim of and witness to a significant amount of abuse and violence within his family home. A trauma-informed lens renders greater understanding as to why the relationship between Sam and his father began deteriorating. Sam felt betrayed by the person who was meant to keep him safe, and once his father's boyfriend left the family home, Sam began to demonstrate symptoms of trauma and his feelings of hurt and betrayal through "acting-out" behaviors.

There was a window of opportunity for CW to provide in-home supports when Sam and his father entered into a voluntary service agreement with child welfare. For example, Sam and his father would have benefited significantly from counselling to address the trauma. A parenting program may have helped Sam's father understand that through his behaviors, Sam was communicating the hurt he was feeling by his father's disbelief in his disclosure, and his fears related to a lack of safety he continues to experience due to his history of victimization. Early intervention may have kept Sam from crossing over from the CW system into the YJ system.

DISCUSSION

Children and youth are placed into care for a variety of reasons. However, the majority of young people enter the child welfare system due to protection concerns; including abuse and neglect (Turner, 2016; Burnside, 2012).

The majority of young people involved with the Project's Toronto site, entered into the child welfare system at as older youth and for reasons other than child protection concerns. Of young people ages 13-15 years at the time of initial CW involvement, parent/teen conflict was the most predominant cause of entry into that system. Literature suggests that older youth are much less likely to be removed from their homes due to protection concerns. 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, including criminal involvement (26 per cent), running away (19 per cent) and violence towards others (17 per cent)" (p. 27).

To this end, and further mirroring the experience of young people involved in the Project, Orsi, Lee, Winokur, Pearson (2018) explains that child welfare systems are designed to protect children from child maltreatment, but too many older young people are entering into the systems 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).

Although older youth are entering to the CW system for reasons other than child protection concerns, such as a care-givers inability to manage their behaviours, it is not to say that these "difficult to manage" behaviours are not 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 behavior witnessed at home as a way of keeping themselves safe (Wolfe, Crooks, Lee, McIntyre-Smith & Jaffe, 2003). When youth enter the CW system at an older age, they have already spent considerable time in a hostile home environment. This increases the likelihood of internalizing aggression and hostility as a strategy to cope in that environment, or alternatively presenting with externalized behaviors that also serve as survival strategies. When these youth 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 a 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).

The complexity of needs of older youth entering the CW system (Burnside, 2012) may further explain the trend observed by the Project that these young people penetrate further into the criminal justice than those with early CW involvement. Using data from the Canadian Incidence Study (CIS) of Reported Child Abuse and Neglect to examine the correlation between childhood maltreatment and a young person's presentation in placement settings upon entry into the CW system, 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).

As older youth are entering CW with more severe behavioral 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 the staffing model (Burnside, 2012; Robst, Armstrong, & Dollard, 2011). Unfortunately, the streamlining of older youth into group care settings can have deleterious outcomes.

Trends observed in the Project's Toronto site illustrated that young people who entered into care at a later age due to parent/teen conflict penetrated further into the youth criminal justice system than cross-over youth with earlier CW involvement. The majority of these young people (age 13-15 at point of entry into the YJ system) incurred charges while in group care settings. Many group care settings rely on behavioral management as opposed to therapeutic approaches to care. Finlay (2009) explains that for young people with histories of trauma, especially older youth, such approaches to care can be counterproductive. This is especially true for young people who have learned self-protective coping strategies that may be viewed as provocative, aggressive or non-compliant by staff (Finlay, 2009). These behaviors are typically what lead to charges in group care settings. The Project wonders if this may be a factor in the accumulation of more serious charges amongst young people served at the Toronto site, who entered into the CW system as older youth. Through the emulation of aggressive and hostile behaviors learned at home, these youth are put at a greater risk of incurring charges in group care settings.

The lessons learned by the Project as they pertain to a young person's movement through the CW and YJ systems align with current research indicating that older youth who are placed in group care settings are more likely to acquire criminal charges than those placed in alternative care settings (Bala, De Filippis, Hunter, 2013; Burnside 2012; Robst et al., 2011). These observed patterns raise attention to group care settings serving both as a pipeline into the YJ system and a cause for a young person's deeper penetration into that system. This further underscores the need for proactive family supports and interventions aimed, whenever possible, at keeping young people in their family homes.

CONSIDERATIONS FOR POLICY AND PRACTICE

Early Family Based Intervention

Through the experiences of this Project, it is asserted 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 influences 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 youth justice system (YJS), early intervention and proactive supports that foster a wraparound approach are recommended (Bala, Finlay, De Filippis & Hunter, 2015).

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 Bronfenbrennor'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 behaviorally 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).

Considering that for many young people in the Project the reason for entering into the CW system is parent/child conflict, a culturally sensitive, therapeutic means to understanding the healing needs of youth and their families is necessary. A model such as the Circle of Courage argues that in order to understand a young person's behavior, one must examine the youth embedded in relationships with fundamental others inside their social ecology, such as school, peer groups, community and family/parental figures (Bronfenbrenner & Morris, 2006). If service providers adopted a philosophy similar to the Circle of Courage, they may be better equipped to meaningfully respond and meet the individualized needs of cross-over youth.

The Circle of Courage dimensions of Belonging, Mastery, Independence, and Generosity are essential to well-being and substantiated by extensive research (Brendtro, Brokenleg, & Van Bockern, 2014). The former is a succinct approach that incorporates Ingenious philosophies of childhood development and strength-based approaches to address the needs of young people by creating 'cultures of respect' (Brendtro, Brokenleg, & Van Bockern, 2002). Furthermore, The Circle of Courage fosters post-traumatic growth (Jackson, 2014). Advancing this, it is established that many cross-over youth have traumatic narratives which are intensified by the CW and YJ systems that perpetrate further trauma and loss through increased involvement (Koplin, 2018). Therefore, implementing these principles into practice provides a holistic appreciation of the young person's healing needs.

Vidal, Connell, Prince and Tebes (2019) argue that the unique and complex circumstances of cross-over youth require interventions to focus on their individualized needs and entails service providers who are trauma-informed, culturally competent, and hold a capacity for provision of developmentally appropriate services and supports. In line with this, the Project recommends the adoption of the Circle of Courage model as a therapeutic intervention strategy for cross-over youth and their families.

SUMMARY

Given the unique life experiences of each of the cross-over young people served through the Project's Toronto site, there is no single way to describing the trajectory of young people who become dually-involved within child welfare and youth criminal justice systems. Information captured through the intensity of the case-work at the 311 Jarvis St. Court House site fostered a deeper understanding of the lived experiences of 28 cross-over youth, and revealed interesting trends and patterns that warrant further consideration.

The majority of the youth served by the Project entered the child welfare system as older youth and due to parent/teen conflict. Group home charging practices specific to youth who entered into the CW system between the ages of 13-15 became a noteworthy trend. In many cases, group homes acted as a gateway into the YJ system. This was especially true for Black youth. Furthermore, the case-work uncovered a distinctive pattern that youth who enter the child welfare system at a later age had less-positive criminal outcomes than other age groups; including increased time spent in the YJ justice system and the accumulation of more severe criminal charges. This points to a deeper penetration into the YJ system comparative to youth who entered into the CW system during childhood. This underscores the importance of early intervention and culturally appropriate family supports aimed at keeping young people in home-based settings whenever possible.

Theme Two: Overrepresentation of Indigenous and Racialized Young People

OVERVIEW

The majority of cross-over youth from the Toronto site are Black, Indigenous, and racialized. Of the 28 full-service cases that the Project oversaw, 70% involved non-white young people. Of these young people, 57% identified as Black. These findings mirror existing literature in the United-States and Australia showing the overrepresentation of Black and Indigenous young people in both the child welfare (CW) and youth justice (YJ) systems (Baglivio, Wolff, Piquero & Epps, 2015; Chapin Hall Center for Children, 2008; Tilbury, 2009). Further, they corroborate the Ontario literature showing the overrepresentation of Black young people in these systems (James, 2017; Rankin, Rushowy, & Brown, 2013). Black young people making up 57% of the cases in the Toronto site is striking given that Black individuals make up only 8.5% of the Toronto Population (Statistics Canada, 2017).

OVERREPRESENTATION OF BLACK AND INDIGENOUS YOUNG PEOPLE IN CHILD-WELFARE

The overrepresentation of Indigenous young people in CW in both the Canadian and Ontario contexts have been well documented (Barker, Alfred & Kerr, 2014; Ma, Fallon & Richard, 2019). In 2018, the Ontario Human Rights Commission (OHRC) reported that Indigenous young people are over-represented in 25 out of 27 of the Children's Aid Society (CW) 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.

Similarly, the disproportionate representation of Black young people in CW has been well documented in Ontario. In 2008, the OHRC reported Black children and youth to be overrepresented in admissions into care in 30% of agencies examined (8 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 data 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 Child Welfare (Turner, 2016).

OVER-REPRESENTATION OF BLACK AND INDIGENOUS YOUNG PEOPLE IN THE YOUTH CRIMINAL JUSTICE SYSTEM

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 becomes even more prominent when considering strictly non community-based correctional services. Indigenous youth account for 50% of young people spending time in detention (Statistics Canada, 2017).

For Black young people, there is limited Canadian statistics collected within the YJ system. Statistics Canada categorizes racial data for collection as Indigenous and non-Indigenous, failing to account for other groups of racialized young people. Further complicating this matter, the Integrated Criminal Court Survey (ICCS) does not collect any race data and looks only at age and gender as factors. However, a 2010 report by the Toronto Star identified that Black youth in Ontario were admitted into detention facilities at a rate 4 times higher than white youth. The report further highlighted that Black youth are 2.5 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 (2018) 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 of 5.6% of the overall federal admission to segregation. This is despite young Black adults comprising only 4% of the total Black inmate population.

CONSIDERATIONS

Anti-Oppressive Principles

The Cross-Over Youth Project adopts Anti-Oppression as a key pillar in helping practitioners and organizations understand how to work with Racialized and Indigenous cross-over young people. This is explored further in the *Cross-over Youth: Navigating Quicksand Report*. Anti-Oppression Principles (AOP) critiques 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 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 current training to support them in the application of AOP.

Anti-Black Racism and Colonialism

Critical to the anti-oppressive work of the Cross-Over Youth Project are the theories of anti-Black Racism, and Colonialism. Anti-Black Racism is understood as forms of structural violence directed at Black people. It also refers to Black people's 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 the colonization (Pon, Gosine & Phillips 2011). Similarly, nor can we understand the overrepresentation of Indigenous young people in Canada's YJ system without understanding the ways that policies born of Colonialism disconnected an entire generation of Indigenous young people from their families and communities (Cesaroni, Grol & Fredericks, 2019). Unfortunately, Gharabaghi (2019) explains that historically residential care and treatment in Ontario has all but ignored anti-oppression and its principles in its development. However, there has been some movement towards a reframing of these structures in recent years.

EMERGING FRAMEWORKS OF PRACTICE

In 2010 the Ontario Child Welfare Anti-Oppression Roundtable (AOR) formulated an anti-oppression framework to challenge the current racial disproportionalities within the Ontario Children's Aid Societies (Wong & Yee, 2010). This framework indicates that anti-oppressive practices involve acknowledging the overrepresentation of Indigenous and Black children in care and exploring the concepts of power, privilege, oppression, and social location. More importantly, the framework signifies the need to challenge these concepts at not just the individual level, but the organizational and systemic levels as well.

In recent years, there has been a call out to sectors of an urgent need to incorporate an anti-oppressive framework to address the over-representation of Black and Indigenous children and youth in the Ontario CW system (Government of Ontario, 2017; MCYS, 2016; Turner, 2016). Further, in the recommendations brought forward by the One Vision One Voice Project (Turner, 2016), the African Canadian Advisory Committee called for the removal of these disproportionalities and disparities within the Ontario Association of Children's Aid Societies through the creation and implementation of an anti-racist, anti-colonial, and anti-oppressive framework. The purpose of the inclusion of an anti-oppressive practice is to eliminate the present social injustices visible in the practices of CW workers, which are propagated by societal and systemic inequalities. The recommendation insists that this is done in collaboration with both the African Canadian Advisory Committee and the African Canadian community, by way of ensuring accountability throughout the creation, implementation, evaluation and publication processes.

IMPLICATIONS FOR RACIALIZED AND INDIGENOUS YOUNG PEOPLE AS CROSS-OVER YOUTH AT TORONTO SITE

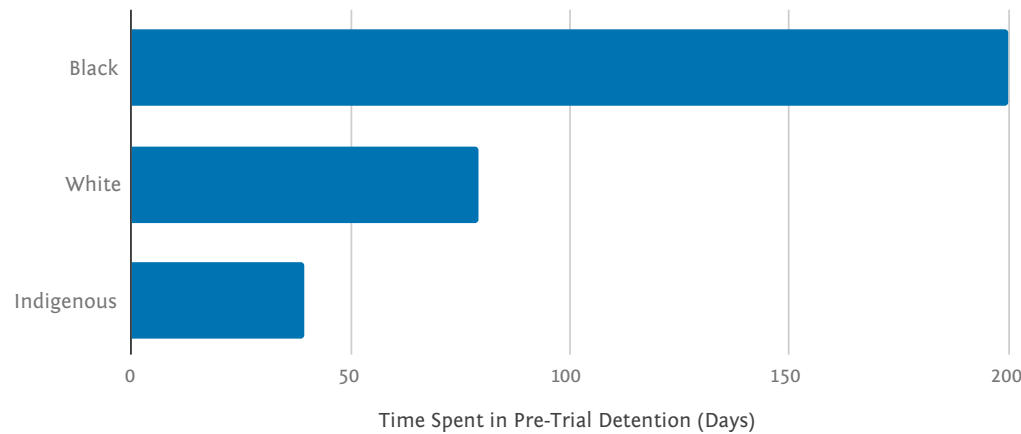
What was learned

The patterns and trends observed by the 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 and Indigenous Canadian young people. Aside from the sheer number of cases involving Black and Indigenous young people served through the Toronto site, mentioned above, these disproportions manifested in the form of greater pre-trial detention and charges within group home settings.

1. Toronto findings are consistent with U.S. evidence of racial disparities faced by African Americans in pretrial detention (Schlesinger, 2005).

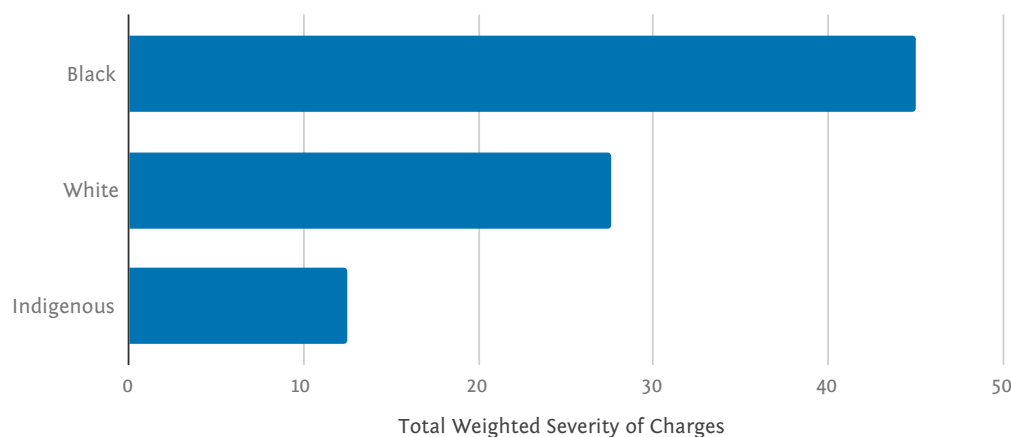
The Project found that Black young people in the Toronto Site trend towards experiencing a larger amount of time in pre-trial detention on average as compared to both white and Indigenous young people. Shockingly, of the youth that spent more than 6 months in pre-trial custody, 7 out of 8, or 87.5% were Black. On average Black youth from the Project, Toronto site spent 200 days in pre-trial detention.

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



Further, The Project found a trend of Black young people served through the Toronto site incurring more severe charges on average as compared to both white and Indigenous youth. However, given the small sample size (n=28), caution must be applied while interpreting this data.

Average Total Weighted Severity of Charges by Race and Ethnicity (n=24)



Interestingly, it was found that the strongest correlation to the days a young person spent in pre-trial detention was the severity of charges ($r = .829, p < .001$).² Meaning, the best predictor of how long a young person would spend in pre-trial detention was the severity of their charges, on average.

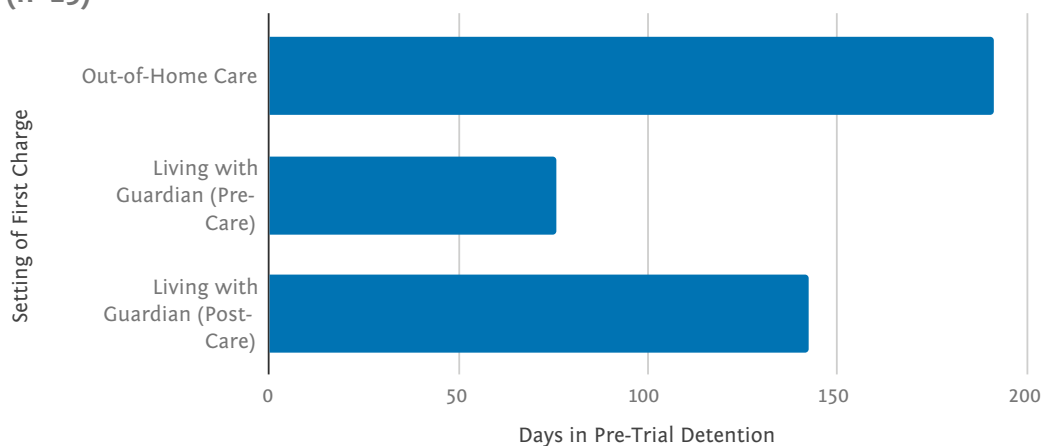
While preliminary, these findings may suggest that charging practices, particularly as they relate to Black young people could be a key factor influencing more time spent in pre-trial detention for Black youth than those who are white and Indigenous. Another question that remains unanswered at present is why Indigenous young people from the Toronto Site experienced the lowest amount of pre-trial detention on average. This could possibly be explained by the small sample size of Indigenous young people or the effects of the Aboriginal Youth Court at the Toronto Site.

- 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 living with a guardian.³ 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)



² Weighted severity of charges was calculated as follows: Admin Charges (1 point); Drugs/Sex/Property Charges (2 Points, respectively); Violent and Weapons Charges (3 points, respectively).

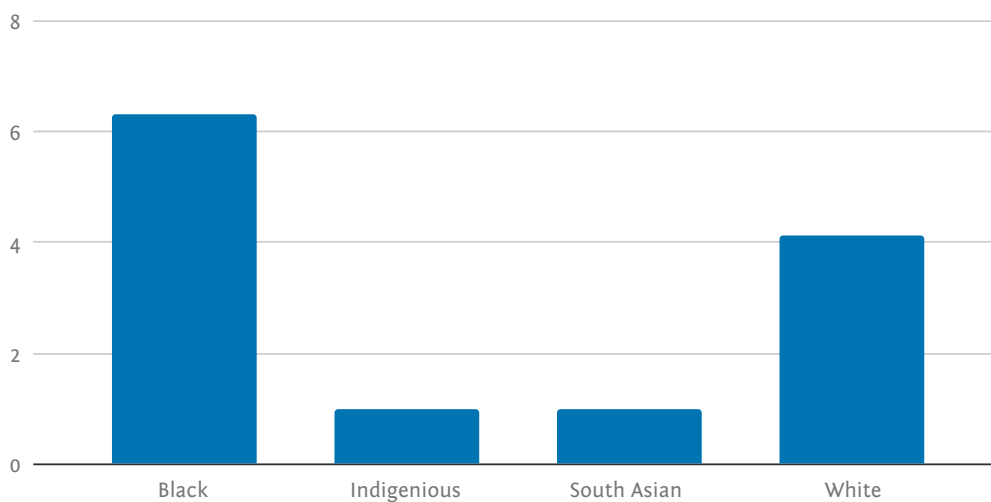
³ Due to small sample size, a nonparametric test was used and found this to be significant ($p = .035$).

Interestingly, the Project found a trend in that Black and Indigenous young people were most likely to receive their first charge in an out-of-home care setting as compared to white youth. Sixty six percent of Indigenous young people and 62.50% of Black young people from the Toronto site receiving their first charge in an out-of-home care setting⁴, as compared to 14.3% of white young people⁵.

Therefore, it does appear as though Black young people were more likely to receive their first charge in out-of-home care settings. Further, given that both Black young people and young people who received their first charge in an out-of-home care setting have the highest rates of pre-trial detention, it would appear that these charges could be directly contributing to the amount of time Black young people are detained; implying that they are often receiving their first charges in an out-of-home care setting, and these charges are serious in nature.

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. These administrative charges represent breaches of a young person's bail or probation conditions. Some examples include: violating curfew, violating the rules of the home, and entering a restricted section of the city. Young people first charged in an out-of-home care setting had on average, eight administrative charges; almost double the average of those young people who received the first charge while under a voluntary or supervision order with child welfare and living in the care of their guardian.

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



⁴ 66% (2 of n=3), 62.50% (10 of n=16), respectively

⁵ 12.3% (1 of n=7)

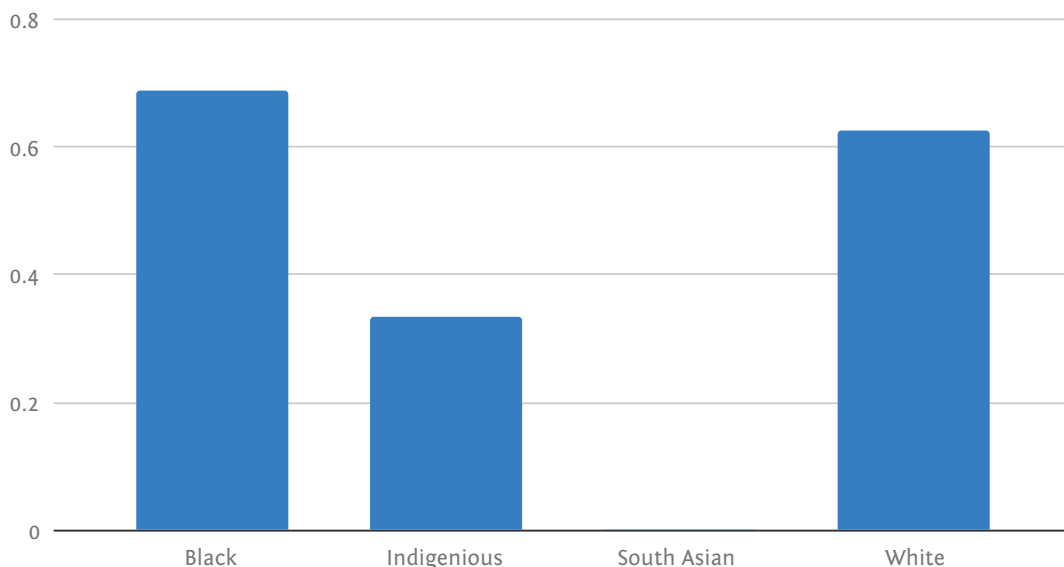
Given this pattern and that the Project saw a trend of Black and Indigenous young people being most likely to receive their first charge in an out-of-home care setting, it is not surprising to see that on average, Black young people experienced the greatest amount of administrative charges.

Although worthy of scrutiny given the small sample size, taken together these findings provide some support for the conceptual premise that Black young people from the Toronto Site had received more charges in an out-of-home care setting than Indigenous and white youth. Additionally, the fact that Black young people from the Toronto site incurred the most administrative charges could point to them facing more onerous bail conditions, living with group home staff that are quick to report them, or both. Further study is recommended to validate this finding.

3. Referrals to mental health for Black young people are not consistent with the literature (see: Spinney et al., 2016; Lee et al., 2017)

Surprisingly, it was found there was no discernable difference between average amount of referrals to Section 34 Assessments by Race and Ethnicity. Section 34 Assessments are psychological reports prepared for youth courts prior to sentencing. These reports are critical because although young people must be held accountable for their behaviour, the court is mandated to also acknowledge the youth's level of maturity, stage of development, level of independence and any mental health issues while coming to a decision.

Average Number of s.34 by Race and Ethnicity (n=28)



These findings are in contrast to the literature in the United States suggesting that Black young people are often funneled into the youth justice system, rather than being referred to mental health services; whereas, the opposite is often seen for white young people (Spinney et al., 2016; Lee, et al., 2017). It is possible these findings are representative of the Project's work with these young people and the Project's close relationships with judges and crowns at the Toronto site. If so, they point to the need for greater collaboration between the youth justice and child welfare systems in regard to mental health referrals.

Equally intriguing is why Indigenous young people received much lower referral rates for Section 34 Assessments on average, as compared to Black and white young people from the Toronto site. Further exploration should be undertaken to understand this.

Interestingly, in a summative evaluation of The Project that explored racial disparities in the experiences and outcomes of the Project (located in Appendix 3), it was found that just under 30% of cases involving Black young people received referrals to mental health support services outside of the scope of a section 34 referral. These services were often mental health-based diversion programs. Stuningly, almost 80% of cases involving white youth were referred to these diversion programs.

CASE STUDY

Below exemplifies how a lack of AOP at both the front line and organization levels can lead to catastrophic outcomes for racialized and Indigenous Cross-over youth.

Background (Note: Details have been changed to protect the identity of the young person)

Will was 14 at the time of the initial referral to the Project, Toronto site. Will identifies as a Black male. Prior to entering CW care, he lived with his father and younger brother. Will has no contact with his mother and Will's father struggles with post-traumatic stress disorder and other associated mental health challenges, including addiction.

Will and his family were involved with the CW agency on a voluntary basis; however, when Will's father expressed concerns for his inability to manage Will's behaviors, Will was relocated into out of home care outside of the city as a society ward in York Region. This placement eventually broke down as Will was charged with a serious offense, did not like living in York Region, and the family he was living with would not take him back due to their belief that he was 'rude and disrespectful'. Will was then placed in a group home in the Peel area.

Will felt that his bail conditions were not fair and ultimately fired his lawyer as a result. Will then ran from this placement and when he was picked up by police, he was charged which led to Will spending several months in pretrial detention. When Will was released from custody he was released back to his father as surety. CW remained involved by request of a supervision order. However, there was a lack of supports put in place by the CW agency, and Will ended up incurring more serious charges and was placed back in pre-trial detention until sentencing. Ultimately, Will ended up in a detention centre.

Case Study Analysis

Will spent a considerable amount of time in pre-trial detention, largely due to defence counsel's and the CW agency's inability to create a suitable plan for release despite the Project's CCF's best efforts to coordinate a plan. In both instances in which Will was detained, there were severe charges leading directly to the pre-trial detention. Additionally, Will received charges while living in an out-of-home care setting.

Will's defence counsel was not youth-centered. Defence Counsel spoke negatively about Will and refused to listen to him about his needs and wants regarding a bail variation. Shortly after these conflicts with counsel, Will ran from his placement in out-of-home care. Despite the best efforts of the Project's CCF, Will was not a collaborator in deciding what type of out-of-home care setting would work best for them and there was no discussion of the types of supports Will would want and need during such a difficult time. The child welfare worker often blamed Will for his struggles and rarely listened to his needs. Anti-Oppressive Principles requires that racialized and Indigenous young people be afforded the opportunity to be involved in all stages of their own case planning. Generally speaking, this is considered to be best practice according to Ontario's CW legislation.

The CW agency did not support Will's family when he was released back to their care. Shortly after Will returned home, conflict continued between Will and his father. Because the CW worker did not wish to address the teen/parent conflict in the home, the father ended up resenting the CW worker. The CCF advocated that a new worker be assigned, but this never happened and the conflict in the home escalated. Will once again was charged for breach of bail conditions. In the end, there were no comprehensive plans of care put in place at any time.

Both defence counsel and the child welfare worker refused to meaningfully collaborate with the CCF and other agencies that could provide substantive culturally and racially relevant supports for Will. All of this resulted in Will moving from the care of his father to a detention centre in just over the span of a year.

DISCUSSION

The Project observed that a review of case work and narratives offered a deeper appreciation of the challenges facing racialized and Indigenous young people that went beyond the empirical data. Despite the previous case study pointing directly to the Project's findings around severity of out-of-home care charges leading to more time in pre-trial detention, it is emblematic of other systemic issues the Project's CFFs' experienced in attempting to create bail plans and how a lack of AOP contributed to the young person travelling further down the "child-welfare-to-prison pipeline."

The Project saw time and time again that Black and Indigenous young people faced greater structural barriers across all systems and at all stages. Stakeholders often lacked the AOP 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. Further, the push back against case conferencing that the Project experienced in the many cases involving racialized and Indigenous 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, for many cross-over youth this resulted in further charges and more time in pre-trial detention.

This disparity in treatment of racialized and Indigenous youth at the Toronto Site reinforces the needs presented in the literature for AOP, informed by anti-Black Racism and Colonialism, to be applied to all points that these young people intersect with the CW and YJ systems. Racialized and Indigenous youth must not be re-traumatized in systems that should be protecting, nurturing, and ultimately keeping them in their communities.

CONSIDERATIONS FOR POLICY AND PRACTICE

Front Line Workers

The Project recommends that front line workers critically evaluate and challenge stereotypes about Black and indigenous families and young people. They must explore those historical factors that shaped youth's experience to better understand the impact oppression, racism, and colonialism has 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, front line workers must endeavor to work collaboratively with community-based programs as to reduce the reliance on the justice system and 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.

Organizations

The Project further recommends 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 and placements of racialized and Indigenous young people with white families must be challenged. As with front-line 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 Project found that racialized and Indigenous young people are overrepresented in both the CW and YJ systems in Toronto. Data gathered from case work with 28 full-service cross-over youth at the Toronto site allowed the Project to contribute to the discussion regarding disparity of outcomes for racialized and Indigenous youth. This was done through an analysis of the amount of time these youth spent in pretrial detention, the accumulation of group home charges, and the disparity in mental health referrals.

The 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 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. Finally, the Project found that Black cross-over youth received on average, roughly the same number of referrals to mental health supports as compared to white cross-over youth. It is suspected this finding is the result of interventions by the Project.

The Project recommends that front-line workers and organizations that engage with racialized and Indigenous cross-over youth 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 recommendations are further discussed in the Cross-over Youth Project: Navigating Quicksand Report.

Theme Three: Bail and Pre-Trial Detention

OVERVIEW

Sentences of incarceration of youth have decreased across Canada since the introduction of the Youth Criminal Justice Act (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 number 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).

For the 28 full service youth seen by the CCFs, 27 youth spent at least 1 day in pre-trial custody and 20 youth spent 4 or more days in pre-trial custody. Despite this rate of pre-trial detention, only 5 youth were sentenced to an additional custodial sentence, including one youth that was sentenced to one day of custody; 2 other youths were sentenced to deferred custody and 2 youths' matters had still not resolved by the final data collection in 2019. At least 11 youth served extended periods of pre-trial custody without a commensurate custodial sentence, including one youth that spent 455 days in pre-trial custody. In total, the youth spent an average of 138 days in pre-trial custody awaiting disposition on 156 informations⁶, containing 416 separate charges.

Detecting and attending to the needs of cross-over youth requires stakeholders' recognition of the multifaceted reasons for their justice involvement. "Behavioral issues" have funneled youth from the CW system to the YJ system. The literature recognizes that this push often results in starker dispositions, less effective and often costly placement options, and lastly, that "one size fits all" approaches are common practice (Office of the Provincial Advocate for Children and Youth, 2019; Orsi et al., 2018). Such approaches have not been effective in promoting rehabilitation. Coupled with mental health needs and/or substance use concerns, the systems confronting cross-over youth are some of the most challenging to navigate (Grisso, 2005; Mcardle & Lambie, 2018). Strategies to reduce recidivism rates and improving the welfare of these youth require change across multiple, complex systems.

⁶ An information is a physical document that list the charge or charges that a person faces. The information will only contain the charges that were temporally connected. Having an information, properly before the court, is what confers jurisdiction over the charge(s) to the court.

Bail and pre-trial detention was a large and challenging aspect of the casework the CCFs engaged in. During that work the youth expressed concern about their ignorance of the process and felt constrained in custody. It was a common occurrence that youth spent time in pre-trial custody because their counsel or their CW worker could not attend court. One youth spent four days in pretrial detention to accommodate his CW worker's schedule. Another youth spent just under 100 days in pretrial detention awaiting bail. From the Projects observations, the rationale for this was because the defence council was not available to address the matter.

STATE OF THE LAW

During the course of the Project's involvement at the Toronto site, the Supreme Court of Canada released *R. v. Antic*, which 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 is reasonably necessary (SCC, 2017). These principles are especially important in youth matters based on the shared responsibility to address young persons developmental challenges found in the Preamble of the YCJA (Youth Criminal Justice Act, 2002).

IMPACT OF CUSTODY ON CROSS-OVER YOUTH

These principles are acutely important for cross-over youth given the unique developmental challenges facing youth with histories of trauma. Youth with histories of trauma are hypervigilant and live in a persistent state of fear. They employ coping strategies like 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 the offending behaviour.

CASE STUDY

One youth accumulated 13 sets of charges, seven of them containing administrative breaches, five containing only allegations of administrative breaches.

This youth had experienced very serious trauma that he had yet to be fully disclosed. Their circle of trust was very limited. It included one of his co-accused who was his best friend and the son of a Crown Attorney in a different jurisdiction. Some of the breaches were for communicating to the co-accused, who was the only person he truly confided in. Moreover, the youth was not allowed to return to the school because of one incident, limiting contact with his other remaining friends. At the bail hearing, the Justice of the Peace expressed concerns on the secondary grounds for detention, which related to whether is a substantial likelihood that the youth will commit further offences while on bail and signaled their intention to detain the youth. The hearing was right before Christmas and the youth exploded with anguish. So much so that the matter was adjourned to the following day but the youth ultimately spent the holidays in custody. The co-accused was never denied bail.

INDICIA OF CROSS-OVER CASES

The Project's full service cross-over youth were overwhelming likely to be cycling through court. Twenty-six out of 28 youth had multiple informations, before the court and 19 of 28 had 3 or more informations before the court. Of the 416 charges the youth faced 151 were administrative charges, which was over 33% higher than the next largest category of violent offences. The Project's youth required on average 4.6 bail hearings prior to fully resolving all their charges.

The court must take into account the mental health needs of the youth during bail and sentencing processes (Koplin, 2018). Yet, prior research suggests that cross-over youth are subjected to onerous, trivial and vague bail conditions (Scully & Finlay, 2015). While the YCJA has had success in removing barriers in minor cases from formal court proceedings (Spratt, 2012), the unintended consequences of bail conditions have developed. Bail conditions are intended to reduce the risk of the young person behaviorally acting out while in the community, however the Project observed that these conditions further exacerbated the chance of recidivism because the administrative charges made the youth disenchanted with the system. 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 was criminalized. Instead of promoting their reintegration into society these charges pushed the youth to feel

the system was unfair and they could never ‘win.’ This pushed them deeper into the YJ system including incurring adult charges. Failing to address these underlying reasons for cross-over youth’s justice involvement is inefficacious.

BAIL

The Project’s experience at the 311 Jarvis St. courthouse was that CW representatives, Justice of the Peace, Crowns and even some Defence Counsel, especially after multiple sets of charges, can be reluctant to work from plans solely because of the circumstances of the youth’s shelter or independent living. Stakeholders often feel more comfortable with plans based on a return home where possible or being sent to a group home.

Furthermore, The Project observed that more often than not, 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. It was a typical experience for a young person to be told that their only option was a group home far outside of Toronto. The option was almost always binary; take responsibility and take the placement in the only group home bed available or stay in custody.

BAIL CONDITIONS

Another issue was that bail conditions were often an afterthought in the process. Bail hearing or negotiations for consent release⁷ were usually detailed, thorough endeavors. The Project observed that at the end of the hearing, conditions of release would be attached without much thought or advocacy. The conditions seemed to be mostly pro-forma. While following the cases, 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 problematic before the youth was released. The disruption caused by bail conditions was an almost universal experience and were rarely considered in great detail when the conditions were agreed to.

At the bail stage, informal conferencing had already occurred as the Crown, Defence Counsel, and often CW workers are required to work together to bring a plan before a Justice of the Peace. An issue the Project observed was a lack of timely attendance for youth matters. Among Defence counsel, there is not a dedicated counsel with specialized knowledge of YCJA proceedings. The custom of counsel sending notice to duty counsel to adjourn a bail when

⁷ *When the Crown and Defence counsel agree on a negotiated release from custody rendering a hearing unnecessary.*

a plan has not been finalized in the adult system is not appropriate in the youth system. However, this occurs with regularity at the 311 Jarvis St. court house. CW workers were usually in attendance, but not universally. When they were in attendance, they did not always have complete information and sometimes lacked a youth-centered focus.

The CCF worked to center youth voice, both formally and informally at the bail stage. The CCF, sometimes with the Youth Mentor alongside, would build a rapport with the youth. It would entail digging below the surface level into what the youth needs and wants. Then the CCF would coordinate Defence Counsel, CW and the other necessary services and individuals that could support the youth. The CCF would ensure they were all present for the bail Hearing.

An illustrative example of how the CCF was able to assist a youth in care was when Defence Counsel did not show up to do a bail variation. The bail variation was needed so the youth could participate in a program without breaching his bail conditions. A case conference was held and out of that conference was a mutually agreeable recommendation. As a result, the bail was varied, and the youth could continue to make positive decisions in the community.

On a systemic level, the Project learned from the casework to ascertain the most challenging elements of the bail stage. The Project has been a part of organizing two committees to look at the issues. Firstly, The Project has helped to constitute 311 Jarvis's Youth Court Advisory Committee Bail Conditions Subcommittee. The Bail Conditions Subcommittee consists of representatives from the Judiciary, Mental Health Court Workers, the Toronto School Board and Defence Counsel. The purpose of the group was to identify any recurring bail condition constructions that are resulting in breaches and to attempt to rectify the situation with alternative wording. Secondly, as indicated earlier, there is a Legal Subcommittee consisting of lawyers representing Defence, Crowns, Office of the Children's Lawyer, Ministry of the Attorney General Indigenous Justice Division, Ministry of Youth & Children Services, Lawyers from CW, Civil Practitioners and lawyers from Justice for Youth and Children, a legal aid clinic for youth.

Through the work of the Project and the Subcommittees, there have been many systemic successes on the issue of bail and pre-trial detention:

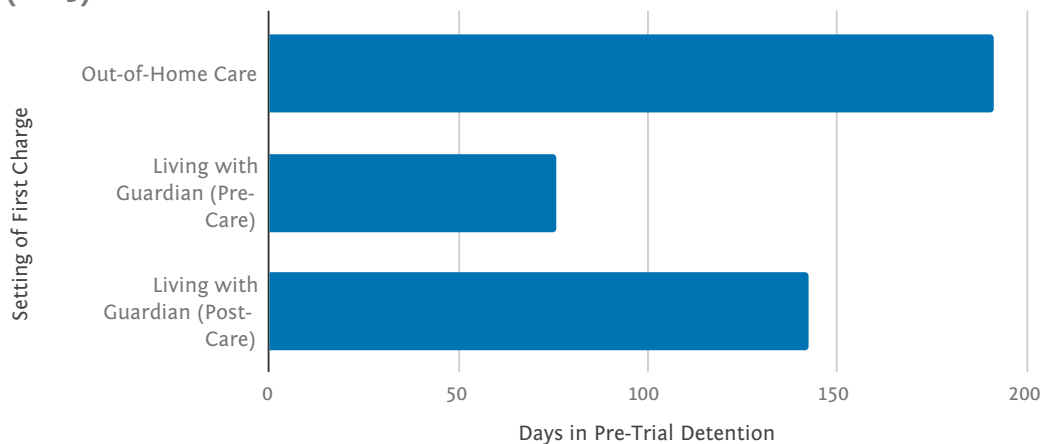
1. The Project negotiated an agreement with the Toronto Bail Program to lower the age of admittance and supervision from 16 years to 15 years if the youth is working with the Project.
2. The Chief Justice of Ontario's Office agreed to modify the E-Jiro form⁸ that must be completed by all Judicial Officers granting a release. The suggestions related to exceptions to non-contact/non-association orders between the co-accused and/or the complainant. The following exceptions were accepted and incorporated into the form:
 - a. Exception for the purpose of the Education Act
 - b. Exception for the purpose of residential placement
 - c. Exception for the purpose of counseling and supervised extracurricular activities and programming
 - d. Exception under the supervision of a specified adult
 - e. Exception for a family court order (if appropriate)
3. The Project created a list of bail conditions to avoid and alternative wording to achieve similar means. Topics covered include:
 - a. Reside – avoid naming a specific address
 - b. Curfew – avoid naming a specific time
 - c. Substance Abuse – avoid naming a specific type of counseling
 - d. Rules of the Home – avoid criminalizing otherwise non-criminal defiance
4. The Project created a guide to the YCJA for Defence Counsel more familiar with the adult system. It contains easily digestible explanations of the tools available under the YCJA that are not found in the Criminal Code.

⁸ *Electronic form that must be completed in all bail and probation orders, it is mandated to be used across Ontario*

CONSTRUCTIVE DISCRIMINATION AT THE BAIL STAGE

The Project also observed constructive discrimination towards youth with intensive CW involvement. This issue was somewhat addressed by *Antic*, as there was a decreased reliance on surety releases. However, as the cases got more serious and complicated the discrepancy re-emerged. Youth that were releasable to a parent acting as a surety or a responsible person would be detained if CW was their guardian. Some of the trend illustrated in the chart below can be explained by an escalation in CW intervention as the charges got more serious. Protection concerns become elevated due to the subject matter of the YJ involvement. However, the Project's observation was that these policies were a barrier and they increased the length of pre-trial detention for cross-over youth.

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



The judicial interim release system for youth is designed to operate most comfortably for young people who have family supports. Repeatedly, cross-over youth faced barriers to release based on the constraints of their non-traditional residential circumstances, like ‘couch surfing’ or a shelter rather than a formal foster care and group care setting. Court stakeholders would often reject non-CW sanctioned residential plans and the youth often would reject the only CW placement offer, usually many hours away from their community. If they accepted the placement, there was a high likelihood the youth would be back in custody for breaching their release. In one case a youth spent 60 days in pre-trial detention as CW did not have viable placement options for them. CW offered group home placements hours away from Toronto, and the youths history showed that the youth does not do well in group-home settings and would incur more charges. Despite the courts insistent 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.

PRE-TRIAL DETENTION

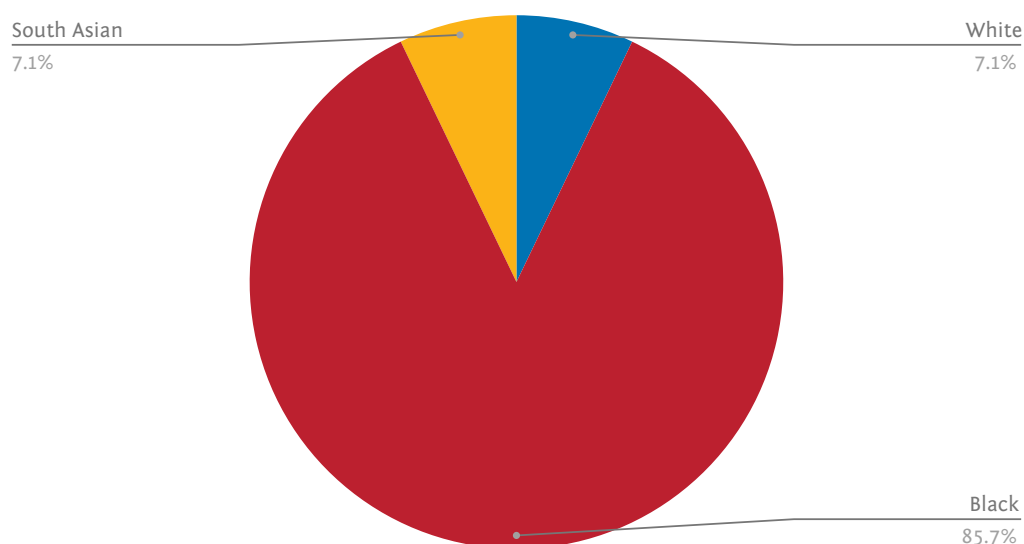
Many of these youths’ cases took a long time to resolve. The average time to resolution was 289.24 days. One case was approaching 1000 days and had still not been resolved by the date the data was collected in 2019. On average, counsel for these youth were required to make over 40 court appearances to resolve all the youth’s outstanding matters or 1,129 court dates for 156 informations.

These cases were also complex. Fourteen out of 28 youth had charges in more than one jurisdiction. One youth had charges in 5 jurisdiction. Having charges in more than one jurisdiction present burdensome challenges. Most acutely it precluded the possibility of a global bail⁹ as the informations were not before the same court. There were also barriers with waiving in charging¹⁰ for resolution. Most Crowns required signed agreements of a guilty plea on all counts to move the charges to one jurisdiction. When there was an indictable offence before the court, some Crowns would not even allow for them to be waived in with a signed agreement to plead guilty. Of the 14 youth with charges in more than 1 jurisdiction, notably 12 were black.

⁹ A global bail would allow the youth to get release on all their charges even if some of those charges were in different jurisdictions.

¹⁰ Charges must be heard in the jurisdiction they occurred in, partially for logistical reasons that requirement can be waived by the Crown if the accused is in agreement.

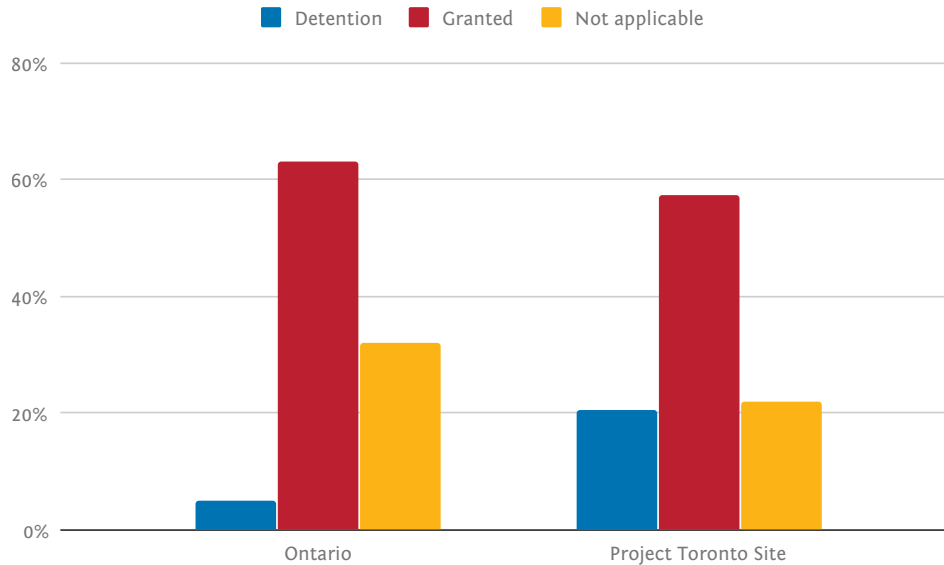
Charges in Multiple Jurisdictions



COMPARATIVE EXPERIENCE OF PRE-TRIAL DETENTION FOR CROSS-OVER YOUTH

Pre-trial detention for youth has been on a downward trend. In Ontario, the official number is about 5% of youth ordered detained (Ontario Court of Justice, 2019). For the Project's Toronto cases, 7 out of 28 youth were eventually ordered detained. At some point in the process there was a detention order noted on 32 of the 156 overlapping informations or 20.5%, well above the Ontario average.

Otherwise, in Ontario bail is granted in about 60% of youth cases. The other approximately 40% fall into a category labeled 'not applicable' (Ontario Court of Justice, 2019). These are cases where 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 for the 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 those cases, the youth's counsel made a strategic choice not to attempt a bail hearing due to an inadequate plan. These youth are not being given the full opportunity to challenge these charges and exercise their rights. There is much more pressure on the youth while they are in custody. Youth will be more amenable to speeding up the process just to get it over with in order to get released out in the community. Given this context for the data the number of youth effectively detained is likely much higher than 5% in Ontario.



Of the youth that languished in pre-trial custody, not only did they risk further traumatization, they also risked further jeopardy. One youth spent several months in pre-trial custody due to delay in creating bail plans. They gained more charges while in custody. Another youth incurred additional charges while in custody 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 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.

CASE STUDY

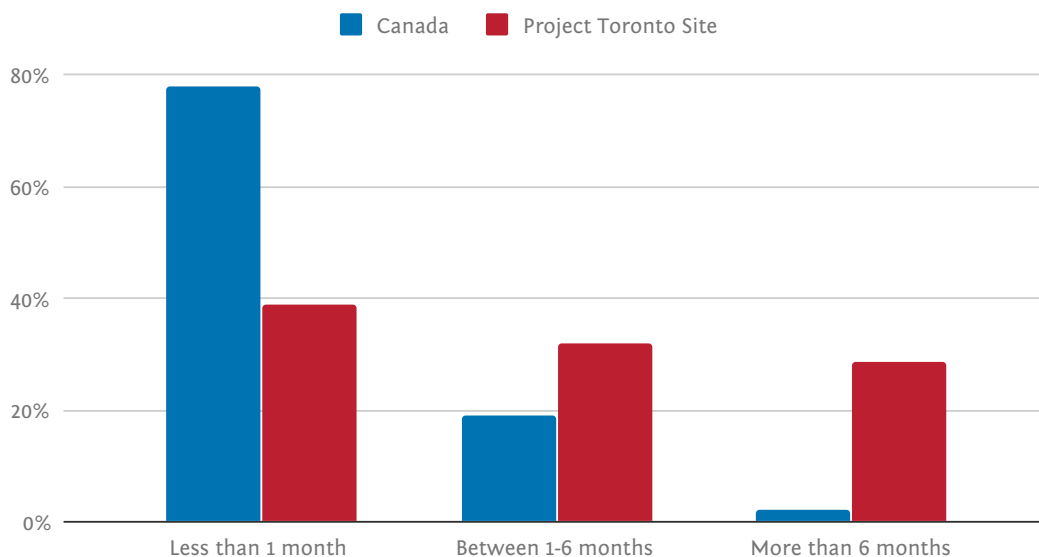
Steven is diagnosed with a “serious” developmental delay. His disability was a significant contributing factor in his charges. While in custody awaiting resolution of his charges Steven was kept in isolation for months due to outbursts that were a direct result of aggressive behaviour management tactics by custody staff. During a case conference staff at the facility agreed to let youth have more time with his peers out of isolation because of good behaviour. However, right after the case conference staff told the youth that they had no plans to follow through with what was promised during the case conference. This quite understandably upset Steven greatly. After the conference he aggressed towards his custody staff who called the police and charged him. The Project advocated for restorative justice and/or police diversion, but staff refused to cooperate with that approach. The social worker assigned to Steven at the facility refused to advocate on behalf of Steven to police and instead sided with custody staff in order to maintain a working relationship with them. Steven was still in a youth facility upon his 18th birthday, thus was charged as an adult and moved to an adult facility. The trajectory for this youth was stark. He would likely continue on an endless cycle of charges, as the system was not equipped to handle his mental health challenges.

PRE-TRIAL DETENTION AS A DISPOSITION¹³

Canada-wide, as of 2013-2014, 56% of youth cases resulted in a guilty plea; the other 41% were disposed of by way of a stay or withdrawal. Of those cases where 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 cases the youth spent an extended period of time in pre-trial custody and the ultimate disposition of their charges were probation or a stay/withdrawal. In those cases that final disposition was informed by the time the youth had already spent in custody. These cases suggests 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 disposition because they had already served their time in pre-trial custody.

In Canada in 2017-2018, 78% of the youth that served pre-trial custody served less than 1 month. The next 19% served between 1 and 6 months and 2% served more than 6 months (Statistics Canada, 2019). For the Project's cases, 39%, or 11 out of 28 youth, served less than 1 month of pre-trial custody, 32%, or 9 out of 28 youth, served between 1 and 6 months and 28.5%, or 8 out of 28 youth served more than 6 months. These youth spent significantly more time in pre-trial custody than average.

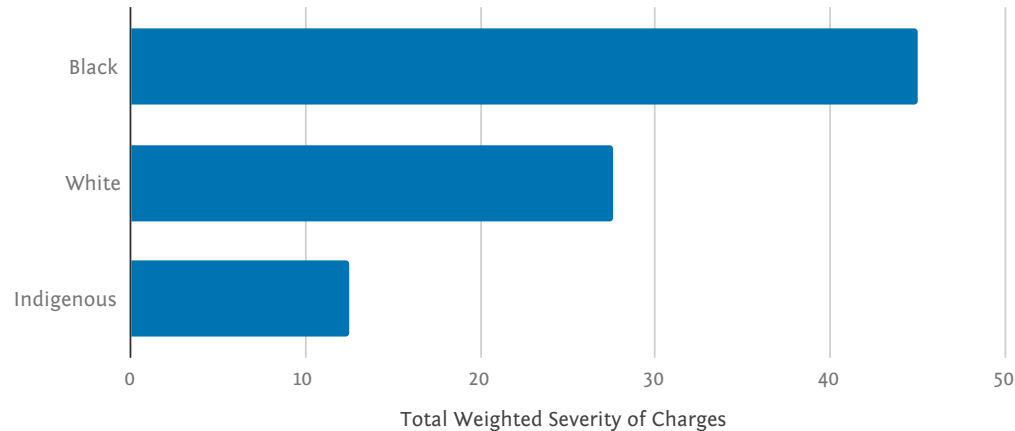
Time in Pre-Trial Detention



¹³ A disposition is the ultimate result of a case (jail, probation, etc.)

This is particularly troubling given the racial breakdown of the youth that spent time in pre-trial custody.

Average Total Weighted Severity of Charges by Race and Ethnicity (n=24)



Of the youth that spent more than 6 months in pre-trial custody, 7 out of 8, or 87.5% were black. Of the Project's youth that spent 4 or more days in pre-trial custody 13 out of 19, or 68% were black. These youth received the brunt of the discriminatory effect of being racialized and involved in the CW system.

DISCUSSION

The matters the Project followed were mostly serious and complex; that made it more likely than average that the youth would spend an extended time in pre-trial custody. That reality meant the system was constructed in a manner that made planning and rehabilitation more difficult and increased the risk the youth's trauma would deepen. The system's answer to risk is to try to control it. When youth have multiple charges or violent charges the seemingly 'safe' thing to do is to leave them in custody until some time has passed with the hopes that things will calm down and the risk will go down. However, custody is really a pressure cooker for the youth with histories of trauma. The more time they spend in custody the more likely their behavior would escalate and they would be charged with further offenses. These youth remain hyper vigilant, ready to protect themselves and disillusioned with the system. Cross-over youth need safety, a sense of control over their environment and support to heal and pre-trial custody is an obstacle to that goal.

Cross-over youth are more likely than other youth charged to spend time in pre-trial custody. There are structural factors that resulted in youth from the CW system being discriminated against in the bail process. Discrimination at this stage was compounded for the racialized youth. Bail and pre-trial custody was an area that required substantial resources to navigate and even with those resources in place, there were many barriers that could not be overcome. Through the Project's observations, there were many lessons learned and inferences to be drawn that speak to bail and pre-trial custody being a larger issue than could be detected through the empirical data. Thematic analysis of case files and narratives offered a richer understanding of the lived experiences of the cross-over youth.

CONSIDERATIONS FOR POLICY AND PRACTICE

Permissive Bail

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 on a Police Officer's discretion to issue a Form 10. 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 release and probation orders. These exceptions should be considered in every case. All stakeholders must ensure that bail conditions are phrased 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 would also recommend the Crown's Office to consider streamlining the process with more global bails and the transferring of charges between jurisdictions for global resolutions.

Better Advocacy by Stakeholders

All the stakeholders should receive basic training to familiarize themselves with both the YJ and CW legal system. It is important that all stakeholders advocate for their youth. They should not be dissuaded by a lack of knowledge in a particular system. CW workers must show up to court and act like their youth's parent not like a professional who is simply obligated to be there. The lack of vigorous advocacy on behalf of cross-over youth is part of the reason they are treated disproportionately harsh. Workers even sometimes encouraged punishment and advocated against releasing their youth without regard for trauma-informed practice.

Specialized Training for YCJA Practice

Stakeholders like Legal Aid Ontario should formally encourage familiarity with the YCJA for counsel wishing to obtain youth certificates. Legal Aid should fund counsel to participate in proactive planning conferences. Preventive measures will save resources in the long-term. Courts should also make local procedures easily understood and widely disseminated where they differ from standard adult court practice. All stakeholders should work together to ensure youth who have yet to have a show cause 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.

Case Conferencing

The Project has identified lengthy pre-trial detention as a major obstacle to progress for the youth the Project served. Planning is a major element of the risk mitigation at the bail stage. In order to achieve this, case conferencing has been used at the bail stage to get youth out of custody faster. Defence counsel does not always have the resources or the institutional knowledge to plan effectively. Case conferencing has been implemented to encourage CW to find more suitable placements for youth. A recent study by Koplín (2018), found that a 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, it is advocated to adapt a more collaborative approach, rather than a punitive one. Our findings on conferencing suggest that this medium is also a suitable setting to gather information about positive progress and ensure accountability of all involved parties. Positive information that arose from conferencing has been used to convince Crowns' to consent to bail variations and decrease the risk of administrative breaches.

SUMMARY

The Project found that full service cross-over youth were overwhelmingly likely to be cycling through court. Youth predominantly faced administrative charges, 33% higher than the next largest category of violent offences. The Project's youth required on average 4.6 bails prior to fully resolving all their charges.

Furthermore, The Project observed that more often than not, a strong risk management lens pervaded the bail process. Another issue was that bail conditions were often an afterthought in the process. Bail hearing or negotiations for consent release were usually detailed, thorough endeavors. The Project observed that at the end of the hearing conditions of release would be attached without much thought or advocacy. The conditions seemed to be mostly pro-forma. CCFs worked to centre youth voice, both formally and informally at the bail stage. The CCF, sometimes with the Youth Mentor alongside, would build a rapport with the youth.

Many of these youths' cases took a long time to resolve. In almost 40% of The Project's cases the youth spent an extended period of time in pre-trial custody. These young people spent significantly more time in pre-trial custody than average. This is particularly troubling given the racial breakdown of the youth that spent time in pre-trial custody.

The Project recommends that overall there should be a movement towards more permissive bail conditions, and global bails where possible. In each case due care should be taken to ensure the wording of bail conditions is in line with the aims of the YJ system. All stakeholders should receive training in both the YJ and CW legal systems so as to be more effective advocates for young people. Further to this, stakeholders in Legal Aid should take steps to promote education on the YJCA to counsel, and fund counsel to engage in preliminary case conferencing. Finally, The Project recommends that all stakeholders adopt a collaborative approach in the form of case conferencing to help resolve matters that crossover between CW and YJ.

Theme Four: Issues with Group Home Placements, Charges, and Charging Practices

OVERVIEW

“The hard to work with youth, are probably the youth who can show you best practice if you just listen. The youth that can throw a chair out the window is probably the youth that you should listen to.”

- CROSS-OVER YOUTH HIGH RISK

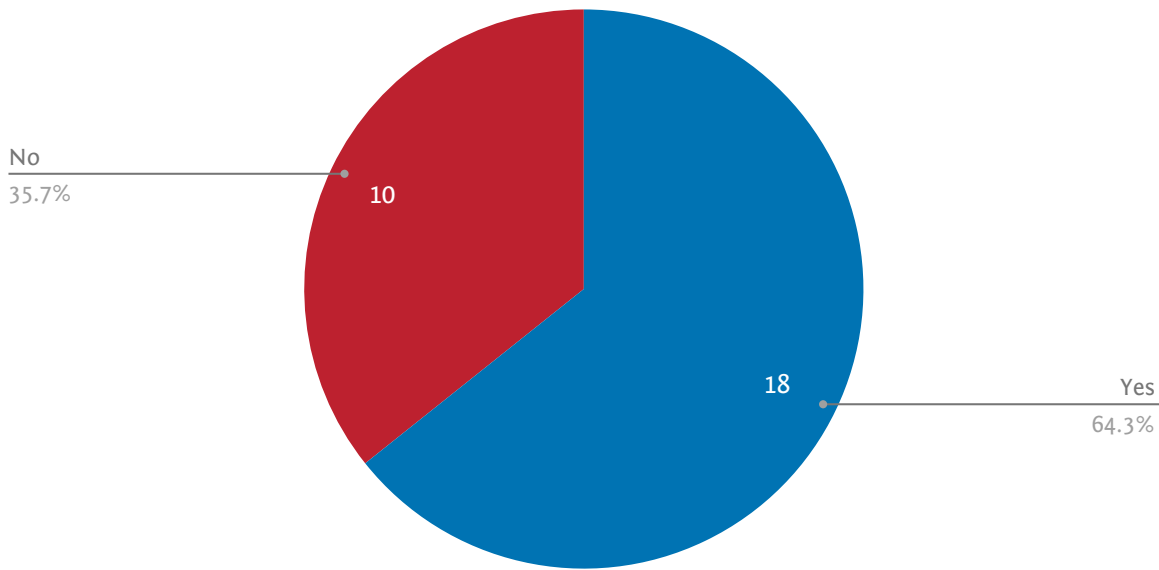
However, CAS was OK with youth residing in a shelter”

- CCF

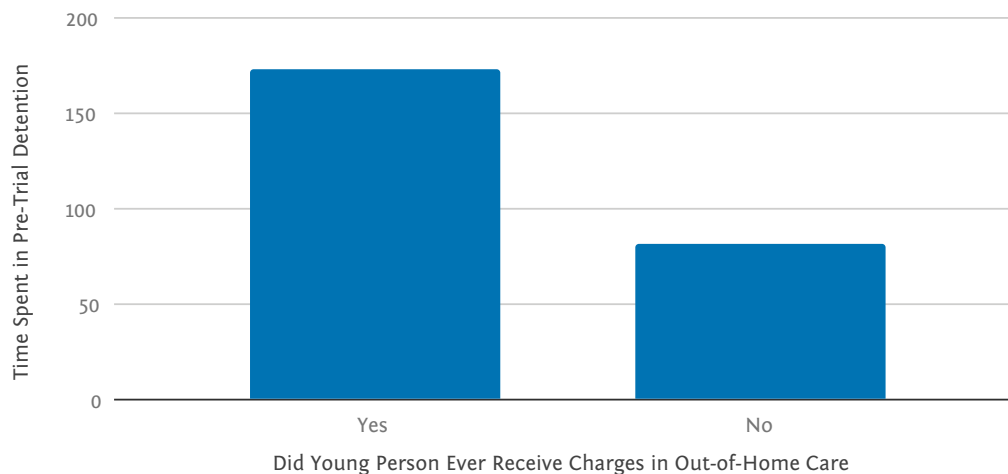
It is well established that cross-over youth represent a unique population of young people, many of whom are deeply impacted by histories of early childhood trauma and neglect. The impact of trauma on young people often presents itself through substance abuse issues, multiple mental health diagnoses and difficulties in developing and maintaining healthy relationships (Oudshoorn, 2015). While not all young people who have histories of maltreatment become involved in the justice system, far too often their externalized expressions of trauma are criminalized. This is especially the case for young people involved with child welfare, particularly youth who are placed in group care settings. This theme highlights the issue of group care placements and related charges as observed by the Project.

What was learned

The out-of-home care experiences of the young people involved with the Project align with the existing literature highlighting the problem of group homes acting as both a gateway into the youth criminal justice system (Finlay & Scully, 2016) and a space that further promotes a young person’s deeper penetration into the YJ system (Robst et al. 2011).

Number of Young People that Received Charges in Out-of-Home Care (n=28)

Over half (64%) of the young people in the Toronto Site received a charge in out-of-home care. Forty-three percent of these young people received their first charge while in group care. Furthermore, young people who incurred group care related charges tended to spend greater amounts of time on average in pre-trial detention than those without group care related charges. Of these with group care charges, the Project was able to identify that out of the 18 cases where a young person received charges while in a group care setting, case-notes explicitly mentioned that 12 young people were charged by staff working in the home.

Average Time Spent in Pre-Trial Detention (Days) by 'Did Young Person Ever Receive Charges in Out-of-Home Care' (n=24)

Additionally, the Project found that having group-care charges tended to push a young person deeper into the YJ system. This is evidenced by young people who incurred charges in group-care settings accumulating more administrative breaches and spending more time in pre-trial detention on average, than those youth with charges unrelated to group-care experiences.

While the Belleville Site report offers a more comprehensive review on the impact of group care charges on young people involved in the CW system, the remainder of this section speaks to the correlation between placement options and group home charges as observed through the casework at the Toronto site.

CASE STUDY

The following case study, voided by identifiable information, highlights several prominent trends observed by The Project as they pertain to group-care related charges. Most significantly, this case-study highlights a lack of youth voice in placement decisions, out of region moves, and punitive attitudes and philosophies of change amongst service providers as observed as significant contributors to group-care related charges, and administrative breaches.

Jaida is 14 years old and identifies as a Black female. Her initial arrest resulted from a physical altercation between her and a friend at school. Following this incident, she was expelled from school and was released to her mother as surety. Several weeks later, Jaida and her mother got into a fight. Jaida stormed out of the house in anger. After several hours, her mother got worried and called the police.

Soon after, an officer found Jaida hanging out in the back of her old school drinking with her friends. During the questioning, the officer discovered that Jaida was violating her conditions of release by associating with her co-accused and being on school property. As the officer went to arrest Jaida, she threw her drink on him and ran. The officer caught her, and she was arrested and charged with assault on a peace officer, failure to comply with no-contact conditions, and failure to comply by attending places she was not allowed to be.

Jaida was released back to her mother's care, and the former pattern continued: conflicts with her mother, followed by her leaving home and incurring further charges. Eventually, Jaida's mother refused to act as a surety and informed the court that she did not want Jaida returning to her home, leading to CW apprehending Jaida and offering her a placement in a group home in London, Ontario. Jaida was apprehensive about living in a group home. She asked to remain in Toronto and

stay a youth shelter. However, the Crown would not consent to her being released with this plan. After pressure from her CW worker and her defence counsel, Jaida reluctantly agreed to be released on the condition that she resides at the group home in London.

At the group home, Jaida had very limited communication with the outside world. She was not allowed a cell-phone and could only use the internet when she was at school. Three weeks had passed before Jaida ran from the group home. The group home filed a missing person report. Jaida returned to the group home three days later and went to bed. At two in the morning, Jaida was awoken by group home staff and a police officer, who arrested and charged her with breach of bail conditions. Jaida remained in custody for two days before she was released on bail under the conditions that she continues to reside in the London group home and follow the house rules. Consequently, Jaida no longer trusted anyone at the group home and would run away as often as she could.

Over a year, the group home staff filed over 100 missing person reports against her. A local police officer, who grew tired of receiving calls from the group home, charged Jaida as often as he could. When Jaida spoke with her CW worker about moving back to Toronto, her worker indicated that Jaida “needed to take responsibility for her actions and engage in the process”. Despite facing a considerable amount of time in pre-trial detention, Jaida expressed that she would “rather be in jail than return back to the London group home”.

Case Study Analysis

Jaida’s story was not uncommon amongst the young people served through the Project. CW agencies hold a responsibility to uphold the rights of children and youth to be involved in decisions that impact their lives. As exemplified in case-note examples, many young people are placed far from their home communities and schools to out of region group-homes with little information about where they are going. The consequences of this are notable. Foremost, isolation is a significant theme in the lives of young people in residential care (Gharabaghi, 2019), and being moved far from their families and communities contributes to this. As explained by Gharabaghi (2019), racialized youth, such as Jaida, are often placed in group-homes in predominantly white communities in which they are visibly identifiable to outsiders (p.31).

DISCUSSION

Group-care settings, particularly in Ontario, are often considered by CW agencies as best placement options when the care needs of young people surpass the capabilities of parents and caregivers (Ontario Centre of Excellence for Child and Youth Mental Health, 2016). Given the complexity of their needs, it is not surprising that the majority of cross-over youth served by the Project have had group-care placements. It was the Project's experience that many cross-over youth, especially those entering into the CW system as older youth were streamlined into group-care settings. For those concerned with preventing CW involved young people from crossing over into the youth criminal justice system, this is problematic for several reasons.

Foremost, evidence has suggested that alternative forms of out-of-home care (i.e. foster home settings) render better treatment outcomes for young people than group-care settings (Robst et al. 2011). Coupled with the understanding that cross-over youth are often young people who enter into the CW system with complex treatment needs, it is interesting that foster-care settings are not consistently prioritized as suitable placement options.

Furthermore, given the rise in youth with complex needs being placed in these settings, it is discerning that young people with group-care experiences have become significantly over-represented within the YJ system (Bala, Finlay, De Filoppis & Hunter, 2015; Colvin, McFarlane, Gerad & McGrath, 2018). 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, 2016). For many cross-over youth, group-care placements serve as a direct pipeline into the YJ system (Finlay, 2003). While disappointing, given the recent attention being paid to Ontario's residential service sector this is not surprising.

In 2016 the Ontario's Ministry of Child and Youth Services (MCYS) participated in a large-scale Residential Services Review which shed light on a fragmented residential care sector. As it relates to the complex needs of dually-involved young people, the Residential Review panel's statement regarding the capacity for the provision of specialized care is particularly problematic. Specifically, the panel expressed deep concern that in its current state, Ontario's residential care sector is ill-equipped to meet the "increasing demands related to the claim of the greater complexity of child and youth profiles in residential settings" (MCYS, 2016, p.62).

A lack of qualifications of direct-care providers (Gharabaghi, 2019) is an overwhelming characteristic of Ontario group-care programs which directly impacts the quality of care a young person receives. This is concerning for several reasons. *Foremost*, cross-over youth are young people with significant trauma histories. The impact of their trauma is presented through the externalization of challenging behaviours, such as hostility and aggression. These behaviours are often demonstrated within new care-giver relationships (i.e relationships with group-care staff), as a way for a young person to protect themselves from being hurt again. For young people with trauma histories, relationships are significant. Fox (2019) emphasizes that relationships are what have hurt young people and will also be what helps them heal. However, when group care staff over rely on police intervention as a way to manage a young person's external expression of their trauma and grief, it deters from a young person's sense of safety both in the group-care setting and in their relationships with group-care staff. This is problematic for the reason that young people must first feel a sense of safety in their environment and in their relationships before they can begin to heal of childhood trauma and maltreatment.

Despite the residential sector having been exposed as systemically ill-equipped to meet the rising complexity of care needs amongst young people entering into the CW sector, group care settings are heavily relied upon as placement options for Ontario's most vulnerable young people. According to the Toronto Star (2015), there is 3,300 youth living throughout approximately 484 group homes across Ontario.

While there are a variety of issues that lead to the overcriminalization of young people living in group care settings, the Project observed that too often a young person's right to a voice in the placement-decision making process was not guaranteed. For many young people living in out of home settings, the consequences of their wishes not being heard by those making decisions on their behalf leads to poor matches between the youth and the placement. This often results in breakdowns in placements resulting in multiple moves (MCYS, 2016), and the incurrence of group home related charges and breaches.

“Youth was unable to return to kinship care, CAS only provided youth with group home option – they refused to support with semi-independent and independent living as they stated youth did not have the life skills and was too high risk. However, CAS was OK with youth residing in a shelter” – CCF

“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

Furthermore, the Project heard stories of young people’s experiences with racism after being forced to relocate from urban to rural communities.

“Youth spoke about how when he was in care and living in a group home, he reported staff were racist and unfair towards him which upset him and resulted in him incurring criminal charges for not following house rules”. – CCF

Unfortunately, experiences of racism are not uncommon amongst young people in Ontario’s CW system. To this end, Ontario’s Residential Services Review (2016) panel reported that young people who identify as Black youth provided clear feedback indicating that they often feel unsafe and unwanted in the “white service culture of residential care” (p.76).

GROUP HOME CHARGING PRACTICES

Ensuring young people feel safe in group-care settings is essential to their growth and well-being. According to Gharabaghi (2019), safety, in a broad sense, is defined through a young person's capacity to meaningfully and consistency exercise their right to develop a sense of autonomy. However, this is often compromised in group-care settings where young people through are over- surveillance are robbed of their privacy (Gharabaghi, 2019).

“While on house-arrest, youth left the group home without permission for 20 mins to get food. Youth was reported to be doing well while in the group home until she left and was re-arrested.” – CCF

Adding further to the issue of a group homes reliance on police to manage challenging behaviours is that it portrays the placement setting to be less like a home and more like an institution. Calling the police on a young person diminishes trust in the relationship. This is problematic because mentors are an exceptional resource to youth in care (Bala et al., 2013).

For young people with histories of trauma, feeling safe is essential for them to begin their healing journeys. This is a challenge in group-care settings that by their very nature are characterized by the negotiation of relationships; both with staff and peers. According to Ludy-Dobson & and Perry (2010), young people with early histories of trauma and neglect rarely feel safe in new caregiver relationships. To minimize the risk of being hurt again, they will often act in ways that deter from forming new relationships. Often this is presented through hostile and aggressive behavior. When a new caregiver's response to this is to call the police, this further perpetuates the young person's feelings of being unsafe and deters from their capacity to begin healing from past trauma.

“When COY first met youth, it appeared that they had trouble self-regulating. The youth had impulsive and angry outbursts. The group home and caregivers struggled to manage this behaviour which resulted in her being charged” – CCF

Both geographically and socially, residential care in Canada is extremely isolating (Gharabaghi, 2019). Rural communities and small towns on the outskirts of larger cities are popular locations for group care facilities for two reasons. Economically, real estate is much cheaper in rural communities making these locations more accessible to potential group-care operators. Secondly, in believing that placing young people in rural locations will minimize the risk of young people running away, CW agencies tend to favour these settings as a way of promoting safety (Gharabaghi, 2010).

Supplementary to the overcriminalization of youth in care, is the pattern of administrative breaches being incurred in group care settings as young people await resolutions to pending charges. Many of these breaches were a result of a young person leaving the residence without permission.

“Group home charges [were a major issue]. There was a lack of follow-through from group home when engaged in planning. 40 missing person reports were filed with police”. - CCF

“While on house-arrest, the youth left the group home without permission for 20 mins to get food. The youth was reported to be doing well while in the group home until she left and was re-arrested. ” - CCF

Adding to the geographical isolation characterizing many of Ontario’s group-care programs, such settings are often socially isolated. Young people have limited access to the internet, friends are rarely allowed to visit and unstructured activities within the community more often than not are “scarce” (Gharabaghi, 2019). “Running Away” was a theme amongst the young people served through the Project, which almost always resulted in police intervention. For young people with prior charges, running away contributed to further administrative breaches (i.e - failure to comply with group home roles).

“Youth enjoyed their first foster home placement and had a good relationship with the foster mother. However, after the foster father called the police on youth for being 35 mins late for curfew, the relationship broke down, and youth was moved to a group home and occurred many breaches” – CCF

“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

As in Jaida’s story, “running away” was directly correlated with further penetration into the YJ system. Subsequently, over 100 missing person reports were filed against her, most of which resulted in further breaches. However, what is less understood by group-care staff and providers, CW workers and criminal justice stakeholders, is that more often than not young people are not running away, but instead they are running too something. More often than not, they are running to a place where they feel the most belonging. For example, they may be running to their home community or to visit friends and family. Yet, like in Jaida’s story, young people in group-care settings are too often criminalized for meeting their need for a sense of belonging and safety (Finlay & Kerr, 2006).

CONSIDERATIONS FOR POLICY AND PRACTICE

Interrupt the Pipeline

Many resources are not employed until a case reaches a crisis point. Many of the families of cross-over youth could 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 to them until they were in crisis. Once in crisis, for many families, group-care settings provided as ‘best placement options’. However, from

these placements it was only a short jump to a young person's first charge. Discerningly, once in the justice system a youth 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 agreeance 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).

Pre-escalation and De-escalation Approaches and Strategies

The Project has developed a group-home charging protocol that asks residential care providers to implement a series of pre-escalation and escalation strategies and interventions to minimize the issue of group-home charges. While these will be thoroughly explained in the Belleville Cross-Over Youth Report, in short, pre-escalation strategies and interventions are responses to all the behaviour and circumstances that led up to the point of conflict. This can go as far back as when the youth first arrived at the home and be as close as 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 suggest that residential care providers consider alternatives to 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, it suggests that individual care providers consider if their responses to young people in crisis are coming from a reactive position. The group home charging practice 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 must be proactively agree upon by team members, it may increase the probability of more proactive and less reactive responses.

Increased Use of Discretion

Both police and group home staff should utilize an increased degree of 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 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 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. Additionally, the use of discretion is ongoing, as tokenistic chances are unsuccessful.

SUMMARY

Increased attention has begun to be paid to the current state of Ontario's Residential Services Sectors. Increasingly, young people, especially older youth, are being placed in group care settings that are ill-equipped to manage the growing complexities of a young person's profile upon entry (MCYC, 2016). The consequences of this are severe. For young people with complex trauma histories and mental health needs, group-homes can act a pipe-line into the YJ system. This was reflective of the Project's experience working with cross-over Youth in the Toronto Site.

Furthermore, greater consideration must be given to the impact of group-care placements in rural communities far from the young person's families and friends. The Project's experience was that administrative charges related to group-care settings were frequent for the young people served through the project. A significant trend observed through the Project was that 'running-away' resulted in many of these administrative breaches. The majority of these administrative charges led to further charges, and thus resulting in deeper penetration into the CW system.

The patterns and trends observed by the Project as it relates to group-home placement and group-care related charges suggest that group-care continues to be a gateway into the YJ system, and a pipeline for further penetration once a young person has crossed over. Greater attention needs to be paid to services and interventions that interrupt this pipeline, such as proactive supports, trauma-informed approaches to care, greater discretion by the court as they pertain to bail programs, and the development of group-home charging practices that aim to limit the over-use of police interventions.

Theme Five: Mental Health and Trauma

OVERVIEW

The correlation between child maltreatment, trauma and a young person's involvement within the youth criminal justice system is well-documented throughout literature. Young people who are involved in the child welfare and youth justice systems are likely to carry with them experiences of trauma, many of which can be referred to as complex trauma due to the persistence and pervasiveness of these traumatic experiences (Bath, 2008; Hanauer, 2015; Oudshoorn, 2015). The depth of such traumas impacts young people in every facet of their lives, including brain development and function, worldview interpretations, emotion regulation, bodily responses, and behaviours (Bath, 2008; Freeman, 2015; Hanauer, 2015; Oudshoorn, 2015). In addition to being more likely to have CW involvement and substance abuse issues, as cited by Oudshoorn (2015), as many as 90% of young people involved within the youth criminal justice 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).

The CW and YJ systems further 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 are young people feeling abused by the systems and a blatant mistrust of service providers. This punitive culture is failing young people through the practice of inflicting pain through punishment, which prevents young people from developing an awareness of the implications of their actions and accountability (Oudshoorn, 2015). This is exacerbated in the context of residential care, in which behavioural responses to trauma typically result in the contacting of police (Bala et al., 2015; Finlay, 2003; Scully & Finlay, 2015). The 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" (Bala et al., 2015; Finlay, 2003; Scully & Finlay, 2015).

These systems continue to fail young people through the misdiagnosis of trauma-related behaviours as various behavioural disorders:

Traumatized children and youth may seem emotionally out of control, avoid taking responsibility, and appear disruptive or withdrawn. Providers may label these children as “oppositional” or “spacey”, or misdiagnose them as having ADHD, bipolar, or oppositional-defiant disorders. (DeCandia & Guarino, 2015, p.15)

Similarly, these disruptive behavioural disorders are commonly used to label young people who have an underlying developmental disorder (Oudshoorn, 2015). One such disorder is fetal alcohol spectrum disorder (FASD), which is characterized by impairments in “memory, judgement, abstract reasoning, and adaptive functioning.” Young people with diagnoses such as FASD or disruptive behavioural disorders are at a higher likelihood of being involved in the youth justice system (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 system or neither system (Gordeyko, 2017). However, cross-over youth are also the least likely to receive treatment for these mental health concerns due to their dual involvement of the child welfare and youth justice systems, when compared to their single system and non-involved counterparts (Gordeyko, 2017). In consideration of the unique challenges faced by cross-over young people dually involved in CW and YJ systems, a trauma informed lens awards greater empathy to the unique challenges these youth are facing:

from domestic violence to neglect, to poverty, to sexual abuse, to colonization [in the case of Indigenous young people] ... these youth are struggling to cope with overwhelming experiences. The impact of trauma on young people often include mental health, substance abuse, and relational challenges, which at times bring them into conflict with the law (Oudshoorn, 2015, n.p).

WHAT WAS LEARNED

Cross-over youth are young people with trauma histories that manifest, in many cases, multiple mental health diagnoses. The experience of the Project was that every young person had experienced some form of trauma or loss in their childhood. Many of the young people CCFs supported 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. In many cases, the CCF recognized that criminal charges and breaches to be significantly influenced by mental health instabilities. For this reason, section 34 reports¹¹ became a valuable resource for the Project. These reports ensured that young people's criminal offences were being considered next to their unique challenges and needs.

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 which contributed to their criminal justice involvement. Indeed, in some instances CCFs played a significant role in advocating for young people to be ordered a Section 34 Report. However, it cannot be understated how critical "two-hatter" judges and counsel proved to be in this process. These legal professionals work in both CW and YJ courtrooms, with the same young people, and are able to see more clearly the necessity of a section 34 report.

To this end, 64% of full-service cross-over youth had obtained section 34 assessments which were used in the court to better understand the unique needs they were facing. The Project suggests that this furthered the growth of a trauma-informed culture within Toronto's 311 Jarvis Street court-house.

COMPLEX HISTORIES OF TRAUMA AMONG YOUNG PEOPLE IN THE YOUTH JUSTICE SYSTEM

There is a growing body of literature surrounding the interrelatedness of adverse childhood experiences and its impact on adolescent development and increased risk of a young person's criminal justice involvement. (Baglivo et al., 2016; Hirsch, Dierkhising & Herz, 2018). Frequently, a trauma history influences a range of mental health concerns and addictions.

¹¹ A section 34 report is a court-ordered assessment of the young person's psychological, psychiatric, cognitive and psycho-educational needs. They provide the court with more information to assist in decision making at any stage of the process.

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 heightened levels of stress, which presents itself through externalized behaviours of which impact a young person’s choices (Oudshoorn, 2015).

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 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). This is largely due to inadequate interagency 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).

A LACK OF 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. Given the evidence that group-care settings can serve as a pipeline into the YJ system, alternatives to out-of-home placements should be considered. To this end, wrap-around supports are cited as a possible in-home support for young people with complex needs who are involved within multiple systems (Burnside, 2012; Ontario Centre for Excellence for Children and Youth; 2016). Based in Florida, USA, Youth Advocate Programs, Inc. (YAP) is an example of a successful nonprofit organization that provides community-based wraparound supports to cross-over young people and their families. YAP is unique in that it combines an advocacy approach with a wrap-around philosophy to engage multiple systems in planning processes while seeking to build resilience amongst the young people and families who are accessing their supports (Silva, Petrilla, Matteson, Mannion, & Huggins, 2019).

Wraparound services for cross-over youth are currently uncommon, especially within the Greater Toronto Area, 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 through 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 these complex needs, particularly mental health concerns (Pullmann, Kerbs, Koroloff, Veach-White, Gaylor, & Sieler, 2006).

Bala et al. (2015) emphasizes the Project's recommendation of case management – a collaborative interagency effort, where all involved are working towards positive outcomes for the community and youth. This approach aptly considers our contemporary reality of aggressive cuts made 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.

EXPERIENCES OF PROFESSIONALS

In addition to stakeholder accountability and need for wraparound service delivery models, researchers have also focused on the professionals' experience in working with young people with complex trauma histories and mental health needs. They have concluded that professionals express frustration and helplessness similar to the young people they are supporting (Walsh & Jaggars, 2017). These findings mirror the Project's experience of working with cross-over youth. Case after case, the Project witnessed and experienced the frustration of working in multiple systems that do not effectively interact in support of young people with significant and complex needs.

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 interagency collaboration exasperate the issue. The intensity of this experience in and of itself is traumatizing (Walsh & Jaggars, 2017). Ultimately, staff are working within, what McEvaney & Tatlow-Golden (2016) have coined, a “traumatized and traumatizing system” (p.66). The implications of this brings attention to the needs of front-line 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

front line staff. As indicated in the Residential Services Review (MCYS, 2016), many direct-service professionals, particularly in residential settings, are under-qualified, under-trained, and not adequately supervised in their work with Ontario's most vulnerable young people. The ramifications of this are significant, and may point to, for example, 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 trauma 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 front-line direct-care providers.

Attention to caregiver training and supports is critical. When front-line group-care staff are inappropriately trained, there is the inclination for them 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 front-line staff as a way to evade punitive methods for responding to a young person's distress (Bertazzon, 2018).

EXPERIENCES OF YOUNG PEOPLE

More often than not, the young people served through the Project were attending court without a parent to act as a strong advocate. For many of the young people served through the Project, CCFs filled this role. However, in the absence a CCF to substitute for the role of a guardian as a young person's greatest advocate, greater empathy is needed amongst YJ stakeholders. For young people with trauma histories, the ramifications of feelings of helplessness and powerlessness deter from the sense of safety that is needed to begin healing.

The literature reveals that young people who experience adverse childhood experiences, such as, trauma, neglect and exposure to violence are at a higher risk for recidivism (Bala et al., 2015; Dean, 2011; Gordeyko, 2017). Yet, a lack of preventive mental health supports was well documented as a concern for young people served through the Project. In several cases, the young person only gained access to services once having entered the YJ system:

*“CAS did not provide proactive mental health supports. Youth only received support after having incurred charges”
– CCF*

“Youths issues related to mental health and the family’s inability to manage and their lack of access to resources or supports. Youth and family were connected to mental health services only once youth entered the criminal justice system even though the family was involved with child welfare on a voluntary basis for many years” – CCF

“The pattern of youth living in and out of shelters and custody went on for over one year. During this period the youth’s mental health deteriorated quickly” – CCF

The Project believes that the provision of proactive mental health services would have significantly decreased the probability of young people with trauma histories and complex mental health needs from entering into the CW system, let alone crossing over into YJ system.

CASE STUDY

The following case study, voided of identifiable information, offers one example of a young person served through the Project, who had significant mental health needs that directly correlated with their criminal charges. This case study points to opportunities for proactive intervention and highlights the consequences of not hearing a family’s pleas for supports and resources until “too late”.

Jane, who identifies as a Black female, was 15 at the time of referral to the Project. Jane's mother died in a car accident when she was two years old. Recently, her father's addiction led to a serious decline in his mental health which prompted her older brother to seek help from a mental health agency. When the Project became involved with Jane, her family was working with CW on a voluntary basis. As concerns for her father's mental health continued to increase, she went to live with another family member under a Kinship Service Agreement. Soon after, concerns for Jane's mental health began to surface. Her kinship parents expressed that they were no longer able to care for her and Jane was apprehended and brought into care.

At the time of the Project's involvement, Jane had serious charges pending before the court. Defence counsel's plan was not to resolve their criminal charges but rather to allow the Project's case conference process to unfold in order to support Jane and her family with their CW involvement. CW was not overly helpful in supporting the family's plan – failing to provide financial support to cover Jane's medical costs. Concerns for Jane's mental health were raised very early on during the first case conference; however, she did not obtain the support she needed until it was too late. Jane was eventually formed under the mental health act for pulling a razor on her brother. With much advocacy from the CCF, it was recognized that she was suffering from a significant mental health breakdown. Fortunately, in this case, Jane was not criminally charged.

Case Study Analysis

A significant issue in this case was the CW worker was not transparent with Jane's family in terms of their role and level of support. The family was upset when they read the affidavit from CW raising concerns about her sibling's ability to look after Jane, leading to her being taken from their care. The Project was successful in connecting Jane with a two-hatter Lawyer with the Office of the Children's Lawyer (OCL) and the judge who oversaw both her criminal and family proceedings. This was crucial given how intertwined both matters were.

“Two-hatter” judges, like the one in this case, have a wealth of knowledge that facilitates better outcomes. A Judge who specialize in dealing with child protection matters and who are familiar with what a youth in care has an understanding of the resources and limitations in the system and can inform decision making. Two-hatter judges were able to engage in effective conferencing and help facilitate plans that would address things like the need for a placement change, mental health or educational supports. An experienced two-hatter judge will know what information is needed and when and will use care in managing the flow of appropriate, helpful information.

On one hand, this case was successful in that eventually Jane's criminal charges were resolved without her spending any further time in custody but not without the risk of re-traumatization through the court process, and the unfortunate impact of unnecessarily removing Jane, a Black Youth, away from her family home. The Ontario Association of Children's Aid Societies' (OACAS) One Vision One Voice Project, reports that Black youth, being placed in-out-of-home settings, for even a short period of time, can significantly impact the relationship between young people and their families, as well as deepen a young person's feelings of alienation and isolation and contribute to a loss of connection to their culture (Turner, 2016). This underscores the need for proactive supports being provided to young people at the front end of CW involvement, especially when resources can be provided in the family home. As Ontario's Ministry of Child and Youth Services' (MCYS) Residential Services Review (2016) highlights that young people should not have to enter into care in order to receive treatment and resources that could be offered in the family home.

CONSIDERATIONS FOR POLICY AND PRACTICE

Trauma-Informed Practice

Cross-over youth have complex needs, which must be considered by court stakeholders when delivering 'consequences'. Trauma is a common theme within the lived realities of many young people served through the Project. This underscores the recommendation that all parties adopt trauma-informed practice models when being with cross-over youth. 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 YJ system prizes personal accountability, escalation of consequences and positive demonstrations of respect and contrition. 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, behaviour 'management' informed treatment and interventions that favour punishment and/or isolation will not foster positive outcomes for cross-over youth. As such, the Project recommends that stakeholders diversion programming be implemented more broadly within YJ.

Diversion Programs

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 propositions short-term solutions. Because a cross-over youth's development is still very malleable, the Project advocates 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 will unlikely escalate to an unmanageable degree. Agencies should mandate a more proactive, positive intervention through policy reform. The Project has developed best-practice guidelines for trauma-informed care as a practical resource tool. All stakeholders should provide meaningful trauma-informed training and must be held accountable for ensuring it is implemented into practice.

SUMMARY

Through case management, the Project engaged with young people who were deeply impacted by complex trauma histories and living with substantial mental health and addiction needs. In several cases, young people experiencing challenging mental health symptoms did not receive supports and services until it was too "late". Several cases suggested that the criminal charges were directly related to untreated mental health needs.

Although collaboration is often an obstacle in delivering wraparound supports to cross-over youth, through advocacy and close partnerships with "two-hatter" judges and counsel, the majority of young people involved with the Toronto Site received referrals for section 34 assessments. The Project believed this contributed to a positive shift towards a trauma-informed lens informing proceedings in the courthouse.

The Project recommends that all stakeholders adopt a trauma-informed approach to practice with cross-over youth that works to reduce the amount of time they spend in CW and YJ systems. Unstable placements that take young people away from their community, as well as time in YJ that emphasizes 'behaviour management', are both traumatizing to cross-over youth. The Project recommends that community safety considerations be guided by trauma-informed practice and focus on diversion programs that focus not on short-term detention-based interventions, but on long-term interventions in cross-over youth's lives.

Theme Six: Youth-Voice, Youth Centering and Meeting Young People Where They are At

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 and service providers (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 youth are not an exception to this, yet it was the experience of the Project that far too often their voices are silenced by the many stakeholders and service providers involved within their lives. Seeking to address this, the Project’s early identification of youth-centering was established as a framework to support dually-involved young people. As both a pillar and best practice, youth-centering is informed by the United Nations Convention on the Rights of the Child’s (1989) proclamation that young people have the right to be listened to and be heard, especially regarding decisions that impact their lives.

YOUTH VOICE TO YOUTH-CENTERING

Across many institutions and system levels there exists a culture of youth oppression, leaving young people feeling powerless, and their voices suppressed (Dupuis & Mann-Feder, 2013; Nybell, 2013). As stated by Dupuis, 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 structured to discourage youth participation. Treating young people as passive service users emphasizes the likelihood for young people to resist the decisions being made for them (Crowe, 2007). The typical responses to resistance by these systems involves the use of labeling:

Historically, professionals have responded with attaching the label of “resistant” to these youth, in effect, blaming the youth for their reluctance to participate in a system in which they had no voice. (Crowe, 2007, p.144)

This practice is even more significant for justice-involved youth, who are frequently sequestered into being labeled as dangerous or vulnerable children (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 which result in a loss of voice and control (Dupuis & Mann-Feder, 2013; Tilton, 2013).

Centering the voices of cross-over youth seeks to address this. 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 taking action on what they have heard does not always translate into practice. Participation aids in the development of advocacy skills in young people, 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 accountability and transparency of governments (UNICEF, 2014).

It can be said that the identity of the developing young person is founded upon participation: how integrated they are within mainstream society; how included or excluded they are from aspects of society that concern them; how able they feel to exert power about issues that matter to them” (Race & O’Keefe, 2017).

The notion of child and youth participation extends beyond individual societies, and was developed as a fundamental right for all young people by the United Nations Convention on the Rights of the Child (UNCRC; UNICEF, 2014). Article 12 of the UNCRC declares “the right of every child to freely express her or his views, in all matters affecting her or him, and the subsequent right for those views to be given due weight, according to the child’s age and maturity”, in which:

The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children’s lives. (UNCRC, 2009, p.7)

Youth centering involves the assurance that young people are represented, respected, listened to, and most importantly, that their recommendations are put into action (Ma, Office of Child and Family Service Advocacy, & Voices for Children, 2004). This process begins with ensuring that young people are informed about opportunities for engagement at all levels, including the community, agency, and government policy domains.

Often youth initiatives aren't taken seriously. We join committees, or work for agencies and then are relegated to positions of little or no authority; this allows the adults in power to ignore our voice and view our opinions as irrelevant, invalid, or unimportant. (Ma et al., 2004, p.16)

This is especially relevant in the context of child welfare and youth justice, as the inclusion of youth voice and partnership increases the likelihood for program involvement and reduces the risk of resistance (Crowe, 2007). When young people in child welfare 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).

In order to bring about positive change for young people, it is vital for youth to be centered at both the micro and macro levels (Crowe, 2007). This refers to inclusion of youth voice at the case, service design and systemic levels, whereby young people inform best practices for programming, service delivery, as well as policy reforms (Crowe, 2007; Dupuis & Mann-Feder, 2013). It is critical that a commitment to partnering with young people is established for youth voice to truly be amplified, as a lack of implementation of their recommendations leads to the tokenism of young people (Dupuis & Mann-Feder, 2013). When partnering with young people at the macro level, it becomes the responsibility of the professionals to ensure youth are not being used, but rather provided fair compensation and support for their consultation (Crowe, 2007). Equally significant is the need to ensure that all young people are being centred, rather than only allowing for young people who are already successfully navigating the system to be heard (Dupuis & Mann-Feder, 2013).

Cross-over youth are young people with unique experiences and challenges and not one of their stories will be exact same. For this reason, a one size fits all approach is not helpful when interacting with or intervening in the lives of cross-over youth. For example, "group interventions where every [young person] receives the same consequences for similar behaviours make little sense" (Garfat & Fulcher, 2011, p.17). 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.

YOUTH-CENTERING WITH COY 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 larger Cross-Over Youth Report: Navigating Quicksand, 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 don'ts of supporting cross-over youth.

CASE-STUDY

Over the course of The Project, CCFs frequently observed the ramifications of service providers failure to meaningfully centre, listen to, and act upon, the voices of young people. Voided of identifiable information, the following case-study offers portrays what a lack of youth-centering looks like in the life of a cross-over youth. The case-study concludes by highlighting the ramifications, and at times, lasting consequences of not listening to and acting upon the need and wishes of cross-over youth.

Janelle is a 16-year-old Black young person from Toronto. She identifies as a Black Muslim, is a crown ward, and has a young child also in the care of child welfare. At the time of involvement, Janelle has been released on bail for a charge she received in her prior group home placement after an altercation with a peer. Following her release, she was residing in a downtown youth shelter. Janelle had goals of getting her own apartment and working towards regaining custody over her child. After much self-advocacy, she was granted approval for independent living.

Soon after, Janelle entered into a relationship with an older male who she met through a friend at the shelter. Soon into their relationship, he had begun abusing her. Child welfare was made aware of this relationship after she had called the police on him following an assault. While this led to his arrest, she later stopped cooperating with law enforcement and the charges were withdrawn. Janelle attempted to leave her boyfriend on numerous occasions. She expressed to the CW worker

that in order to get away from him, she needed to move out of the shelter. She wanted to use her independent living money to rent an apartment outside of the downtown area. However, due to concerns that her boyfriend would take allowance, CAS refused to issue Janelle monthly cheques, and instead, she was given four smaller cheques on a weekly basis.

This made it impossible for Janelle to save enough money to secure stable housing. As a result, Janelle spent several months homeless. When she was not staying with her boyfriend, she was moving across the city from shelter to shelter.

In the absence of secure income and housing, Janelle's dependency on her boyfriend continued to grow. During this time, it became more and more difficult to stay connected with Janelle, often weeks would pass before Janelle would respond to the text messages and calls from the CCF. Eventually, the CCF lost contact with Janelle. Over a year had passed since the last contact with Janelle before she once again appeared in Bail court after having been picked up by police on sex-trafficking and possession charges.

Case Study Analysis

This case offers an example of a young person who attempted to access their right to be meaningfully involved in the decisions that would substantially impact her life. In this case, Janelle repeatedly expressed her desire to live independently so that she can regain custody of her young child. As a consequence of not being heard or supported with goals of independent living, Janelle's dependency on her boyfriend continued to grow and the Projects suspicion that she was being groomed into sex-trafficking were confirmed. Had Janelle's voice been centered, she may have accomplished her goal of leaving her boyfriend, securing stable housing and regaining custody of her child. Instead, she was lured into sex trafficking leading to further penetration into the youth criminal justice system.

DISCUSSION

Young people need loving, unconditional and supportive relationships with adults in their lives to help guide them through difficult times and to support them in "developing the resilience required to deal with life's adversities" (Office of the Provincial Health Officer, 2009, pg. 12). However, unlike most non- CW involved young people who have parents and caregivers supporting them, cross-over youth are often without a consistent and caring adult in their lives.

In the case of Janelle, it was clear that she did not have a stable adult in her life, which held significant consequences for. As stated by Bala et al. (2013), “without a stable adult relationship, [cross-over] youth are left to navigate the legal system and independence on their own. This [sometimes] leads youth to find the “wrong” type of mentor, either negative peers or adults involved in criminal or gang activities” (p.33).

When a young person has entered into the care of CW, the agency is expected to assume the role of the young person’s ‘parent’. However, there were many instances where CCFs 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 basic needs and necessities of cross-over youth; including bus tokens, medication transfers and clothing allowances. CCFs played an integral role in the lives of cross-over youth, especially when neither the young person’s defence counsel or CW workers were present at court or meaningfully engaged with the youth’s needs and wishes. In over half of all cases, CCFs explicitly mention issues with youth centering, including lack of involvement on behalf of stakeholders, lack of presence during court dates, and an overall lack of support and advocacy from defence counsel and CW workers.

*“CAS advocated for youth’s detention.
There were many times youth was not heard”
– CCF*

*“Defence counsel was not youth centered. They spoke
negative of youth and refused to listen to youth about
their needs and wants regarding a bail variation.
Shortly after youth went missing” – CCF*

Meaningful Participation

Ensuring the meaningful participation of young people entails a fundamental shift in the ideologies of stakeholders and service providers. To value the meaningful participation of young people encompasses the development of new attitudes, and requires that ideas and beliefs that young people are in need of 'being fixed' be reframed to seeing young people as valuable resources and equal contributors and decision-makers. Hart's (1992) ladder of youth participation is commonly used by service providers as a tool for reflecting on what meaningful youth participation looks like within their own practices.

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". 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).

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, individually, and systemically, their sense of agency is increased (Bala, De Filippis, & Hunter (2013), and this in and of itself is a positive outcome. However, too often cross-over youth are not valued as collaborative decision-makers, even when these decisions are substantially impacting their lives.

Ensuring young people are included as equal partners in placement decisions is a practical example of being youth-centered with cross-over youth that holds many benefits. As Dupuis & Mann-Feder (2013) explain, "this, in turn, will lead to a higher likelihood that they will follow the rules they helped to establish, and will further contribute to their experience of being respected and empowered" (p.378). However, most frequently observed by The Project was a young person's lack of voice in placement options, which held significant consequences for many.

In one case 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 friends house. Ultimately a Child Protection Warrant was issued and when law enforcement sought to enforce the protection order the young person resisted arrest and received his first charge. In another case, the young person expressed not wanting to be moved to a group home out of the city. However, she was not listened to and on the day of the move, her CW worker arrived to drive her 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.

Further to this example, CCFs often referenced a lack of understanding and support of young people's CW workers;

“Youth often complained [not being] able to get in touch with their [CW] worker and goes months without talking to them. They stated that all they wanted was to move to a foster home because they did not like the group home setting [...] but the workers never listened, and no changes happen” – CCF

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

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

“Youth expressed that he never felt supported by [CW worker]. They never listened or understood their situation.” – CCF

Meeting Cross-Over Youth Where They Are At

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

Meeting cross-over youth “where they are at” requires an empathetic understanding of their unique circumstances. For the CCFs, this meant not taking it personally when a cross-over youth misses a meeting, forgets a case-conference, or does not respond to text messages or emails for days or even weeks at a time. The Project understands that many cross-over young people are living day to day just trying to survive.

Being entrenched in multiple systems is exhausting for young people and often entails adult responsibilities that extend beyond their capacities. Developmental responsibilities for non- CW system involved young people are to attend school, participate in extracurricular activities, and perhaps maintain a part-time job. On the other hand, cross-over youth are expected to maintain strict bail conditions, attend multiple weekly meetings and counselling appointments, follow ridged rules of residential settings and bail conditions, and much more. One young person was required to attend so many weekly courts ordered meetings and appointments 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, highlights reasons for stakeholders to be accommodating and flexible in meeting cross-over youth where they are at.

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. Case-notes reflect formal and informal meetings with cross-over youth in schools, jail cells, group homes, shelters and coffee shops. There were many times when maintaining connections with young people was difficult for CCFs, especially with young people who were constantly moving, or with young people who did not have regular access to phones or computers. In this regard, texting was a frequent modality of communication and often extended well beyond the 9-5 work of most stakeholders. Although there were cases where 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.’

CONSIDERATION FOR POLICY AND PRACTICE

Youth Centering

The principles of youth-centering have to be adopted by all stakeholders. This will require education and training of service providers across sectors. Any training program must be of sufficient intensity to break long-standing habitual behaviours. There are many stakeholders with well-meaning intentions that are exacerbating the problem of a lack of youth voice through paternalistic interactions. This is pervasive in the system and will take a collective effort to rectify. The Project has developed a statement of principles on youth centering to act as a start point. Above all, youth-centering must be based on the inherent truth that the youth are the experts in their own lives. They must be listened to and stakeholders should help the youth work towards their expressed preferences. The Project’s Child Welfare Subcommittee has also developed a best practice model for CW workers, which includes a component of best practice to further support the implementation of youth-centering models.

Youth Mentorship Program

There should be 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 so mentors, older youth with lived experience, can follow along with the judicial proceeding. The mentees should be matched with culturally analogous mentors. This will allow for an easier rapport to develop and ensure a smooth transition and coordination with other services. The mentorship program should be given enough autonomy to ensure 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.

Reflections on the Toronto 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 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 youth's 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 the Mentor could pause the conference at any time when the youth felt overwhelmed or needed some 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 where 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 when the stakeholders would push back against the Mentor 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 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 were 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 were 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 best, 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 the youth have experienced that have brought them to this situation. 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.

SUMMARY

To break the cycle for youth in the CW system, multiple service providers must work collaboratively to ensure the centering of their youth voices. The United Nations Convention on the Rights of the Child states that young people have the right to be meaningfully involved in the decisions that impact their lives, and dually-involved young people are certainly not excluded from this. However, the Project found that youth-centering and meaningful youth participation was observed only in rare cases, and those cases were largely dependent on a single empathic stakeholder who valued this approach.

A youth centering approach seeks to give young people power over their own lives, recognizing them as experts. This approach goes beyond simply giving young people the space to share their thoughts, practitioners and organizations must be invested in and prepared to act on the recommendations of young people. The CCFs played an integral role in the lives of young people at the Toronto site, especially in ensuring the voices of young people were at the forefront of stakeholder agendas. However, in the absence of The Project there should be mechanisms put in place to ensure meaningful collaboration with young people.

The Project recommends that all stakeholders adopt a youth centering approach as an essential component to their trainings programs and practices. Further, The Project recommends that development of mentorship programs grounded in the principles of youth centering, trauma-informed practice, and anti-oppression. These programs would ensure the voices of or cross-over youth are both translated and amplified.

Summary

The intention of the Project from the onset was to provide service to the cross-over youth in Toronto who had a complex range of needs in a multi layered, complicated system of services. The service to be provided was case coordination and conferencing and as a “pilot”, it was created to potentially learn a range of preferred practices from the experiences of the CCFs, the youth themselves and the service providers. These preferred practices from Toronto and across the other sites would inform the components of a service model for cross-over youth.

However, 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. 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. Overall, the patterns arising, the lessons learned, and protocols designed to influence practice at the inaugural site informed the other three sites.

The themes were generated from the gathering of the narratives in the case files and the interpretation of the patterns that then emerged. The fusion of the themes was inevitable because one bled into the other when considering the basis for the trajectory from CW to YJ systems.

A typical journey for a cross-over youth summarized:

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 ww— 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 defence 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.

Interrupting the Trajectory:

The Project at the Toronto site invested in strategies to keep youth out of the YJ system. If young people became involved with the courts, the Project worked to facilitate getting them out of the YJ system, including detention, as soon as possible and it attempted to facilitate the provision of children's services as opposed to reliance on the YJ system top access resources.

Clearly, no one agency can manage effectively the complex needs of cross-over youth within a complicated, multi sector, myriad of resources and services. Practitioners and stakeholders expressed frustration in the limited availability of resources and the subsequent inadequate service response to these young people. It was acknowledged through the Project that the experience of working with these young people under these circumstances is traumatizing. These youth have deep histories of trauma and loss and they act out this pain and grief behaviorally. These young people demonstrated to the Project that they had a total lack of trust and in fact overt animosity towards institutions, workers, group care providers and those with any kind of authority. They were defiantly provocative in expectation of retraumatization in the institutions they interacted with. The Project provided training in trauma informed practice and supported meaningful collaboration across sectors through training and workshops as an attempt to tackle some of these challenges.

The case conferencing model was effective in supporting interagency collaboration, particularly when all agencies bought into the process. For successful outcomes, all the stakeholders, in a coordinated partnership, had to take a dedicated role in communication maintenance and youth centering. One of the challenges had been the diverse and complex range of stakeholders across multiple sectors in Toronto. 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 stakeholder 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.

Protocols were developed and implemented regarding: the role of CW workers with cross-over youth; meaningful bail conditions; maintaining confidentiality; identification and referral processes; and charging practices. These alleviated, in some cases, the overuse of YJ services and in particular detention, and a deeper penetration into that system. The three pillars which underscored all service provision was trauma informed care, anti-oppressive practice and youth centering. The Project put in place models of practice, protocols and training initiatives that honored these core principles. The most effective strategy or tool utilized by the Project to influence change aside from knowledge exchange and training, consultation, stakeholder engagement, case conferencing and mechanisms for meaningful youth participation was the role modelling of relational practice that respected the voice, lived experience and the inherent agency of cross-over youth. This required considerable advocacy on the part of CCFs in various forums and settings. 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.

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Appendices

Appendix 1:

Excerpts from Amy E. Beaudry MA Thesis

Represents finding from independent evaluation of the Cross-over Youth Project by David Day, Arla Good and Amy E. Beaudry

Appendix 2:

Legal Aid Subcommittee Protocols

Appendix 3:

Racial Disparities in the Experiences and Outcomes of the Cross-over Youth Project

Julian Hasford, Arla Good, Amy E. Beaudry, & David Day

Appendix 1

Excerpts from Amy E. Beaudry MA Thesis

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Overview

In order to examine the impact of the COYP on services for crossover youth, stakeholders were interviewed at two timepoints, one at the end of the program (Time 1, from December 2017 to April 2018) and one nine months later (Time 2, from November 2018 to February 2019). At Time 1, 18 interviews were conducted with 19 different stakeholders. At Time 2, 13 interviews were conducted with 15 different stakeholders. Overall, there were 22 stakeholders interviewed, with 12 represented in both Time 1 and Time 2 interviews. Participants were predominantly from legal or social work backgrounds. Interviews were transcribed with the assistance of undergraduate level transcriptionists, which were then checked for accuracy by the research assistant. The research coordinator and research assistant analyzed the data qualitatively using thematic analysis, which involves the identification of repetitive themes in the data (i.e., codes) that are used to explain the overall findings. NVivo software was used to facilitate this analysis. Supplementary questionnaires assessing the integration of services and stakeholders’ perceptions of their own concern and efficacy, as well as the complexity of the tasks at hand, compatibility with their current mandate, and relative advantage over existing practice were also completed by the interviewees.

Results

Themes identified in stakeholder interviews were separated into five categories: 1) systemic barriers for youth, which involved any barriers to care or rights-based issues faced by crossover youth; 2) program implementation, including any activities by the *COYP* that stakeholders had observed; 3) barriers to program implementation, as in any barriers to a full and complete implementation; 4) program outcomes, including any benefits the program had imparted; 5) recommendations for the future; and 6) miscellaneous, including any themes that were unexpected and not easy to categorize.

Table 1. Themes relevant to systemic barriers for youth.

Theme	Description	Example Quotations
<i>Siloed systems</i>	Those who provided services to crossover youth had little opportunity to connect and coordinate.	<p>“I would just say that it was people kind of still stuck in their silo and not really understanding how to kind of branch out from that.”</p> <p>“The youth’s YJ counsel would never be invited. [...] Probation is never invited. [...] You might be seeing around a table of 10 people, and eight of them are from the Children’s Aid Society.”</p>
<i>Confidentiality</i>	When service providers did connect, confidentiality was a concern. At times there was	<p>“Historically, they were more linked and then there was a divide and that divide came because people thought that they were different proceedings and one shouldn’t impact the other. Like the young person’s family court proceedings really</p>

	information sharing without the explicit consent of the youth, and information was showing up in files where it should not appear (e.g., youth justice information in child welfare files).	shouldn't have any impact on their youth criminal involvement and vice versa." "There is a laundry list of kind of individuals who may receive YJ information, but those individuals are then prohibited from further disclosing that information, and that's where I think the system breaks down."
<i>Complex and transient</i>	The population of crossover youth was described as having high needs, but sometimes little interest in services. They were occasionally difficult to communicate with or arrange meetings with.	"Then they don't show up, for whatever reason right? Hard to get a hold of, cellphones in and out of service, or they don't have access to cell phones." "I mean these are youth, right? They have difficulty getting to the lawyer's office, they may miss the meeting. They might disappear and not be in touch." "They're a very hard group of people to provide services to because they've had so much experience with people trying to help them and impose help on them and counselling them that by the time we get them they're pretty jaded and reluctant to engage."
<i>Stigma</i>	Some service providers viewed the crossover youth themselves as the problem, rather than the systems they were operating in and their history of trauma.	"Often in child welfare and specifically with the criminal pieces, they're blamed, it's like "you're the problem." "I've heard CAS workers say well you know maybe he just has to spend some time in custody. Which is just sort of antithetical to the whole sort of project of crossover youth but then although youth criminal justice system as a whole." "Some of the barriers that I often face with young people who are involved in child welfare is just the workers' perspective on the young people, and it really being the young person's fault."
<i>Racialization</i>	Racialized youth (i.e., black and Indigenous) were overrepresented in crossover populations, yet underrepresented in certain programming such as the mental health court.	"We have far too many indigenous and racialized youth in our youth system general. And certainly it's representative in the COY project." "In terms of diversion to like a mental health court, it's less racialized youth actually make it to that component."
<i>Bail conditions</i>	Crossover youth were described as facing discriminatory and restrictive bail conditions compared to non-welfare involved youth that affected	"Non-compliance in terms of their constantly getting fail to complies for behaviour that if they were living in a private home would not occur. "Don't associate with the co-accuser of the victim, don't contact them, obviously threats and things like that, make sure that they are in by a certain hour of the day,
	their ability to successfully reintegrate into the community.	keep them off of drugs or alcohol and whatever, be amenable to the rules of the house. All of those things were immediately the reasons why they come back in a week or something."
<i>Placement issues</i>	Many resources were invested in finding placements for the youth, but they were often placements that the youth did not want to live at, or that the youth were unable to return to as a result of restrictive conditions, such as no contact orders.	"It's always way out of the city, it's always a place where the youth don't want to go, and but the CAS ticks that as a box. They go, we have provided our placement, that's our legal requirement." "The difficulty that arises for a young person is that they're then often either kicked out of that placement, or not welcome to return, or their bail conditions will make it difficult for them to return."
<i>Continuity of care</i>	Because of staff turn-over, service providers around the youth were frequently changing and sometimes the role of each service provider was unclear.	"There have been cases where, as you probably know, a lot of times whether it's the child and youth worker or the children's aid worker, sometimes they change like twice a year, three times a year and that's so horrible for these kids." "When it's piecemeal, is we have a court case in criminal law, then 3 months later, 2 months later they're at 47 Sheppard in front of a whole different judge with a whole different set of lawyers with a whole different agenda, rules, policies, practices, and outcomes and the disconnect is - I think that kids get caught in the disconnect." "Workers changing, so how do you keep up, keep everybody in the know, people kind of coming and going."

Table 2. Themes relevant to program implementation.

Theme	Description	Example Quotations
<i>Case coordinator as a resource</i>	The case coordinator employed by the project was considered an information resource for the stakeholders and was critical to their learning about the population and available resources. Mentioned by 12 out of 19 stakeholders at Time 1.	<p>“Just being a resource, someone to call, to say I'm really stuck what do I do? Do you have an idea? And usually [the case coordinator] has ideas, right?”</p> <p>“I mean, even when [they're] not in the building I could call [them]. If I have a question say “what about this? When can you be here [...]?” and just a general reference if I have some questions about CAS in particular and the project.”</p> <p>“As well as it was nice to have someone accompanying me and sharing their</p>
		thoughts and opinions around what my work was and what it wasn't, because if you work in isolation for a long time, it can be nice to have other people's perspective.”
<i>Case conferencing</i>	The case coordinator was also responsible for facilitating and arranging the stakeholders for case conferences to develop coordinated plans for the youth.	<p>Interviewer: And this didn't exist before the COYP?</p> <p>“Well no, no. There were case conferences for sure but much more rare [...] I mean those things were always in the legislation but nobody did them, none, it was weird.”</p> <p>“Child welfare, defense, maybe the crown or like the bench, so like judge or justice of the peace, any mental health or outside resources, education. Just whoever is involved in the young person's life, could even be family or friends. Any culturally specific, so an elder, whoever the young person wants at the table.”</p> <p>“Just [the case coordinator] having the resources and being able to identify the different players, like who is the CAS worker for this youth? What's her contact information? I mean [the coordinator] has resources that I don't know about and can't access, so that was very helpful.”</p> <p>“I think it was that first case when we were meeting monthly for several months. Maybe 3 or 4 times.”</p>
<i>Facilitated communication</i>	The case coordinator made it easier for different service providers to connect and share information appropriately in the context of case conferences.	<p>“Having conversations about what the young person wants, or what they need, or if they're AWOL, like how are we gonna – like things like that. It definitely helped with the communication piece.”</p> <p>“All with proper consent, there can be a sharing of information or a giving of information, depending on the kind of consent you have, that enables for me the ability to have a much better understanding of what services are in place and to do some advocacy”.</p> <p>“The exchanging of information with both parts – like the crown and duty counsel - as well as keeping the young person's youth justice counsel up to date, as well as the group home staff.”</p>
<i>Advocacy by staff</i>	The coordinator played a unique role in advocating for crossover youth in the program, both within and outside case conferences.	<p>“She was very fundamental in a case conference that we did for a judge for one of our clients, so she spoke for the young person at the case conference and related some information about the background and the needs and wants of the client.”</p> <p>“I think the case coordinator that was at court kind of knew the right ways to make</p>
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<i>Relationship building</i>	The case coordinator also played a unique role in the youth’s care, taking more time to build relationships than other service providers.	<p>sure that the right people were listening to what the youth wanted. “</p> <p>“Somebody that the young person can go to in more of like an informal way. So not like a traditional kind of social work role, that type of professional role, but more of just kind of checking in with them and touching base with them, and getting to know them, building that rapport.”</p> <p>“I think it really had an impact on this guy. He will remember [the case coordinator and the peer mentor] for a long time.”</p> <p>“What was really great about Jessica as a case conference facilitator was being able to have the patience to sit and listen, and <i>really</i> listen to what the youth was saying, especially given their capacity, give them the time to air it out, think about it, and also have it be done in a space where it builds a little trust.”</p>
<i>Education and outreach</i>	The project staff conducted a number of education and outreach events, such as cross-sectoral education days.	<p>“We did round tables with youth who shared scenarios and talked about, “here was my experience” and the group kind of had to problem solve the experience of the youth.”</p> <p>“At the beginning of the project there were seminars, I mean there was like one where it lasted from like about one in the afternoon to almost nine at night at the children’s aid office.”</p>
<i>Training of two-hatter counsel</i>	The project led the training of more than six two-hatter counsel, who were able to provide care in both the child welfare and youth justice systems.	<p>“The plan was to identify some youth criminal lawyers who wanted to become children’s lawyers to do this kind of work, and another lawyer I knew, a children’s lawyer...indicated interest from the children’s lawyer child protection piece to being trained in the criminal piece.”</p> <p>“[They] can actually explain things to the society because [they] have the youth criminal justice background. So the society actually didn’t understand – because they don’t do youth criminal work, so they didn’t actually understand how to navigate through the youth criminal system.”</p>
<i>Trauma-informed</i>	The program also specifically provided education around trauma-informed care and its importance in caring for	<p>“They are responding inappropriately, but responding to their trauma, and so we need to help them figure out how to manage all that trauma, because we can’t take it away.”</p>
	crossover youth.	<p>“He is already the victim of neglect or abuse, he is already facing these traumas, we really need to think about what the impact is going to be on him if he were for example to stay in a longer term in a locked facility, that type of thing, because he is vulnerable, right?”</p>

<i>Peer mentorship</i>	The program was also credited with the creation of a peer mentorship program that stakeholders recognized as valuable; however, stakeholders were generally unable to explain whether it still existed.	<p>"I can't say I've lived the way my clients have been raised, right? I just can't. So I think that's also really important to maintain that youth or peer mentor type thing; I think that's invaluable."</p> <p>"I don't know what happened to [the peer mentor]."</p> <p>"I know we had a couple of youth in particular where they really found that really helpful, and I think probably wouldn't have agreed to the service had it not be for her engaging with them."</p>
<i>Youth advisory (Project C)</i>	Initially the program implemented a youth advisory committee; however, stakeholders were unclear on why this had not been sustained for the duration of the project.	<p>"They were really cool kids too[...]I don't know what happened to them."</p> <p>"I know that there was the youth engagement project, and I know there were some bumps in the road along that. So I know there was at least an effort to engage youth. But I think that there were some serious challenges around there. I don't know enough about it to speak to it."</p>
<i>Voice of the youth</i>	Overall, stakeholders viewed the project as elevating the voices of the youth, in the context of case conferencing in particular, but also in all of their care. The project's commitment to youth participation as a pillar served as a reminder to stakeholders to do so in their own service provision. 16 out of 22 interviewees brought up voice of the youth.	<p>"I know that there is a push in the project to really hear the voice of the young person."</p> <p>"I would say through the conferences, and that is the one thing that I am a little bit concerned about losing, once we lose the structure, because I believe that that has been one of the key pieces in terms of ensuring that the young person's voice is heard. And not just heard, but you know, that their views are given due weight, and consideration."</p> <p>"I think that there has been a cultural impact here at the court about that, where youth voices are being taken a little bit more seriously now."</p>
<i>Loss of case coordinator</i>	Related to all the positive effects of the case coordinator, stakeholders viewed the withdrawal of the case coordinator with the closure of the Toronto pilot as a major loss. They missed having the case coordinator as a personal resource in their work and felt that case conferencing only occurred minimally after their removal.	<p>"I think there was a lot of day-to-day logistical things um time-consuming work that a, that a case conference facilitator did – relational work that they did, that just doesn't fall within the purview of other stakeholders."</p> <p>"We've lost some of that ability to facilitate this integration by not having a formalized structure actually at the court who can facilitate that."</p> <p>"Without the case coordinator role, there's a risk of losing that really strong case management, or case coordination function, because who does that fall to if there's not a dedicated person there, who's trying to get everybody in a room."</p> <p>"Without a case conference coordinator I haven't seen a lot of case conferencing going on."</p>

Table 3. Themes relevant to barriers to implementation.

Theme	Description	Example Quotations
<i>Buy-in</i>	Though the interviewed stakeholders were confident in the program, they recognized that not all stakeholders had been receptive to the COYP's philosophy and advice. Defense counsel were identified as particularly resistant.	<p>"There's some people, and I'm going to say a lot of defense lawyers and frankly I think some duty counsel too that just don't really get it."</p> <p>"There are people at the table that you know were part of the problem. And had those philosophies and that kind of culture embedded in them."</p> <p>"You get somebody who has done it for a long time, their instinct, their gut, tells them to do it one way, it's so difficult to have someone to unlearn that, even if it is the exact opposite of what they should be doing. They look at themselves as having a successful career and doing successful work."</p>
<i>Involvement in multiple jurisdictions</i>	Given that most crossover youth were housed outside of the City of Toronto, many had outstanding charges in other jurisdictions. However, only 311 Jarvis employed a full-time case coordinator, limiting the ability to affect the care of these youth.	<p>"A kid who had YJ matters in three different jurisdictions [...]that was the biggest challenge - making sure that everyone was working together to resolve that and the conferencing really helped in terms of knowing what was going on with that."</p> <p>"Many of the youth who we work with are not actually at that court, they are at a number of other courts."</p> <p>"It was a challenge because workers would have youth that were appearing at other courthouses. So they would say, 'well this doesn't relate to me. I don't have youth that are going to 311 Jarvis.'"</p>

<i>Site/Size of Toronto</i>	Several stakeholders expressed concern that Toronto, with an	“Especially in Toronto, there’s just so many different individual players and stakeholders that, y’know like I see a new person like every time we have – there are
	ever-changing cast of service providers, was too large for the project to make a lasting impact.	some who are very constant but there’s others that are not.” “It would be easier within smaller communities.”
<i>Human resources issues</i>	Stakeholders were keenly aware that the program had issues with leadership. In addition to being a problem that slowed the project’s progress, some articulated that the issues had led them to question the integrity of the program itself.	“I think they went through three or four senior people while I was here [...] I got you know emails with very volatile things being said, so that whole side of things that I wasn’t really involved in seemed to be very chaotic and I didn’t really understand what was really going on.” “The staff turnover I think caused a little bit of concern around the stability of the program and maybe even the integrity of the program.”
<i>Lack of time and resources</i>	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.	“CAS workers are--they’re all overworked.” “Funding is an issue. So I can say lawyers aren’t interested, but it could also be that lawyers like “I can’t show up to 5 things and not get paid for them.” “Well, there is only one of me, and sometimes there’s 20 of them.”
<i>What is COYP?</i>	Three stakeholders indicated that they themselves were unclear on the project’s objectives; furthermore, two stakeholders were unclear on what the term crossover meant.	“I can talk it up, and I do talk it up, with peers whatever people want to know about it. But some people have never heard of it still, even though they’re kind of in this world.” “Youth justice lawyers are saying “what about crossover?” and I’m kind of going “it’s not taking place anymore”, and they are going like “yes it is” so it has created a bit of confusion that it is no longer available in this jurisdiction.” “I’m not sure that many people even know what it is.”
<i>Identification of the youth</i>	Stakeholders complained that it was difficult to identify crossover youth. This limited the ability of two-hatter lawyers to be assigned. Often, when it became clear that a youth was crossover, they had already obtained non-	“It seems difficult for the program to identify the youth uh who have criminal justice problems before they’ve already gotten a lawyer.” “The chance of synchronicity of both a child hitting the welfare system and the criminal system at the same time, is really slim.”
	two-hatter counsel.	
<i>Length of the program</i>	Stakeholders thought that the program was too short.	“Another thing is just longevity; the longer the project is here, the greater the reputation it will have, the more referrals it will get and the more trust in the process.” “Now people that have crossover youth in other court houses are saying “oh, I hear about this project, what does this mean for my kid?” I say well actually the project is - you missed the boat!”

Table 4. Themes relevant to program outcomes.

Theme	Description	Example Quotations
<i>Bail conditions</i>	Changes to bail conditions and sensitivity to how these impact crossover youth were largely considered a success of the program. Related activities included a bail protocol for Justices of the Peace.	<p>“Now there will be more updated forms for justice of the peace to consider when dealing with issues of bail and crossover issues.”</p> <p>“A great template for youth bail conditions because we had a real issue with kids being released on conditions that were so onerous they couldn’t fulfill any of the other obligations of the court.”</p>
<i>Sensitization/Culture shift</i>	Many stakeholders recognized a change in the overall culture at their courthouse. They described seeing people turn their minds to crossover issues in their day-to-day practice. Brought up by 11 out of 22 interviewees.	<p>“I think the presence of the cross over project has brought just more awareness to the court of these young people who are in both systems and trying to see how involvement in both systems can be really complicated for young people.”</p> <p>“It has opened the door for people to think differently.”</p> <p>“I think that once we identify somebody who is crossover, it turns everybody’s mind to the issues that impact crossover youth specifically. So that has been one of the key components is that awareness of criminal judicial actors and what that means to be child welfare-involved.”</p>
<i>Collaboration</i>	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.	<p>“You got how many brains at a table and to say oh well we can do this, we can do that, we can do this. Or, you know, pointing them to the mental health court worker, pointing them to other different organizations that can help. Maybe some things that weren’t always on the radar. So I think, you know, obviously the more people the more brain storming can happen.”</p>
		<p>“You would gather whoever was involved together and you have a little scrum as to what you hope will happen, what the plan is, and whether there’s a role for the mental health worker to chip in, and what other information might we need and who can help get it. So they would be a part of that as well.”</p> <p>“When everyone was coordinated properly, there wasn’t duplication, there wasn’t having the kid do the same thing in different spheres, and them not knowing about it. And, I think you had more...maybe there was more deliberate plan, like they are going to do this first and then this.”</p> <p>“Overall, I do think that there is a lot more collaboration, just people coming together to case conferences and more discussions between the project and lawyers and things like that, so things are moving forward.”</p>
<i>Psychological impact on the youth</i>	Involvement in the COYP was viewed as having psychological benefits for the youth. First, they had an additional, neutral support person in the case coordinator, and second, case conferencing was a way to illustrate the number of people willing to support them.	<p>“The young person kind of has--once they sort of see all these people at the table I think they feel more valued.”</p> <p>“They suddenly walk into a court room and everybody is there. And so I think it has a psychological impact on the young people that hasn’t been measured but I see it in their faces, you can see it, and their behaviours.”</p>
<i>Impact on youth’s criminal case</i>	Stakeholders viewed the project as benefitting the youth’s criminal case in the justice system. This was reflected in both a greater speed of resolution, but also in allowing stakeholders to understand cases from all sides, come up with better plans and to better advocate for the youth.	<p>“[All charge were withdrawn.] I don’t know if that goal would have been achieved if he hadn’t had an advocate who was looking at the problem and kind of reminding the crown that, y’know, he is already the victim of neglect or abuse.”</p> <p>“All with proper consent, there can be a sharing of information or a giving of information, depending on the kind of consent you have, that enables for me the ability to have a much better understanding of what services are in place and to do some advocacy for him.”</p> <p>“The cases have moved <i>faster</i> because there is an additional set of hands.”</p>

<i>Personal skills, knowledge and attitudes</i>	Largely, stakeholders described their participation as increasing their knowledge, skill-building, and benefitting their attitudes towards crossover youth. Specifically, they reported learning how to view youth from a trauma-informed lens, greater ability to advocate for youth, and a greater understanding of the roles of other players in the child welfare and youth justice systems.	<p>"I think I gained a more--a deeper understanding of how to interact and how to appreciate young people who've gone through serious, serious trauma."</p> <p>"I've learned a lot, you know, and it was again like I attribute that to [...] my work with the youth, seeing what the real issues are and it being very clear to be like as kind of like a reality check for me."</p> <p>"You can see it, you can just see the struggles."</p> <p>"Being an advocate and being an ally can be similar, but they're also different, and I think, I wanna, I hope that I'm developing skills to be both for the young people. I think being part of the crossover project, being involved in it, has helped me to build on that."</p> <p>"I think there's some things that people have learned from that experience that they've been able to now continue using since there isn't a case coordinator in court anymore. So that they're still able to use some of those principles."</p>
<i>Reach beyond 311</i>	Stakeholders reported that they felt the reach of the crossover philosophy had expanded past the 311 Jarvis courthouse, and was affecting service providers at other courthouses. Stakeholders reported that 1) they were sharing crossover materials and information with other service providers at other locations; and 2) they were being asked for more information from service providers outside of 311 Jarvis.	<p>"Having that conversation with a Crown who's at another courthouse that doesn't know of- isn't a project site - to be able to talk to them about, "well here are the things that are sort of unique about this young person as a result of their experiences," and maybe has changed outcomes for other clients as a result, even though they're not directly engaged in the project itself."</p> <p>"Anecdotally hearing from my colleagues at 2201 Finch court or in Brampton, where there's been a little bit of uptake there too."</p>

Table 5. Stakeholder recommendations.

Theme	Description	Example Quotations
<i>More education</i>	Despite their recognition of educational events occurring, stakeholders expressed that more education was required to reach those who had not bought into the project. They also recommended a stronger marketing of the project at the outset.	<p>"Clarification around like what...what are you...what are you looking to do and what are you hoping to achieve."</p> <p>"Something around the whole stakeholder engagement - how do we get all of those groups understanding better that are having to serve these youth? It seemed like there were really key champions, which is important, but how do we get everybody who is working with these youth to understand it?"</p> <p>"There needs to be a much better marketing of the concept of crossover youth."</p>
<i>Need for full-time case coordinator, everywhere</i>	Stakeholders were adamant that the case coordinator had a unique role in the courthouse, and that services such as case conferencing had decreased in frequency and quality since their removal. Several recommended having a case coordinator in all jurisdictions. Brought up by 13/22 stakeholders.	<p>"Well absolutely we definitely need somebody to be on every site."</p> <p>"In terms of knowledge and sharing knowledge - there are rules against it. So it wouldn't be appropriate for somebody, individually, to start running around and calling people, that's an issue. So there has to be a worker in every courthouse."</p> <p>"Keep [the case coordinator] here. Don't let [them] go!"</p>
<i>Peer mentorship</i>	Stakeholders had heard promising feedback about crossover youth's responses to a peer mentor who had previously had system-involvement. They were disappointed that the mentorship had been short-lived in Toronto, and wanted it returned.	<p>"Maybe a little bit older than the young person who can help follow them around especially if they have to go from court to court, every kid should have a mentor."</p> <p>"I think that's a piece that maybe could've been developed more, or utilized more, maybe not developed but utilized more, in terms of helping meet young people where they're at, as a way to help facilitate service too."</p>

<i>Systematic identification/ assignment procedure</i>	Both the referral process to the program and the referral process to two-hatter lawyers was cited as a component of the COYP that needed better development. It was recommended that the referral process to lawyers for crossover youth be reviewed to examine opportunities for two-hatter counsel to be assigned.	<p>“One of the reasons it’s very important to be able to identify these cases early so we can get the two-hatters involved because of course once the youth has a criminal lawyer, typically the lawyer would not be inclined to give up the case to someone else just because they’re not a two-hatter, right?”</p> <p>“If the court maintained a list – if – if legal aid maintained a list of two-hatters lawyers so that when a kid hits the system from the criminal side, if somebody like [the case coordinator] is there who can identify them and then go to that list...”</p>
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Table 6. Miscellaneous themes.

Theme	Description	Example Quotations
<i>System changes (outside of the COYP)</i>	Outside of the COYP, stakeholders cited a number of other system-wide changes that benefitted youth, such as a Supreme Court ruling on bail conditions (<i>R v. Antic</i>) and the new rights-focused <i>Children, Youth and Family Services Act</i> . COYP was described as consistent with these changes, but also made it difficult to ascribe learning and culture shift to the project’s activities.	<p>“We have the new child youth, child youth--family services act, which actually is very cool because it puts the voice of the young person really majorly in front of the court. Whereas in past best interest used to be the child’s views and preferences if they could be ascertained.”</p> <p>“I don’t know if it’s a crossover youth, so much as VYSAs. The VYSA – that’s been a huge change in the CYFSA. VYSAs have really changed the landscape.”</p> <p>“I think that the bail stage has changed, right? Now obviously that’s a supreme court decision that said you know, you need to be letting these youth out.”</p>
<i>Program champions</i>	Throughout interviews, a number of stakeholders stood out who had taken on the project as their own, and really made it their personal mission to educate others about its philosophy. These people were likely critical to the program’s successes.	[No quotations due to potential for identification.]
<i>311 Jarvis as special and unique</i>	Stakeholders described 311 Jarvis as the exception to the rule, and likely to be a courthouse that was more receptive to COYP ideas than others.	“311 Jarvis in general has very good services available to young people who are experiencing various types of challenges.”
		“This court is better than most, because it is a youth court, and they’re all aware that if someone is coming this way, then there could be potentially other things going on for them.”



Use of s.34 Assessments

Crossover Youth Project

Youth involved in the criminal justice system have a heightened expectation of privacy:

“...privacy is worthy of constitutional protection because it is “grounded in man’s physical and moral autonomy”, is “essential for the well-being of the individual,” and is “at the heart of liberty in a modern state.” These considerations apply equally if not more strongly in the case of young persons.”

A. B. v. Bragg Communications, 2012 SCC 46 at para 18 [quoting from *Toronto Star Newspapers v. Ontario*, 2012 ONCJ 27]

“[young persons are entitled to] a higher expectation of privacy”

R v K.M. 2011 ONCA 252 at para 97

Section 34 of the YCJA

A section 34 assessment is a medical, psychological or psychiatric report ordered by the court. It is to be conducted by a qualified expert. In order for the assessment to be useful the process requires an extraordinary invasion of a youth’s privacy. The youth is questioned about intimate details and observations are made about deeply ingrained behaviours.

A youth also opens themselves up to legal jeopardy by participating. While section 147(1) limits the use of these reports, section 147(2) allows the report to be admissible in court in certain circumstances.

The information contained in a section 34 is sensitive. A section 34 report has an even higher privacy standard attached to it than the rest of the YCJA records.

“...particularly sensitive records such as medical reports are available only in limited circumstances to specifically identified persons or groups.”

L.(S) v B. (N.), (2005), 195 C.C.C. (3d) 481 (C.A.) at para 24

These reports are marked confidential. However, many times the page marked confidential is ripped off or simply ignored. This is reckless and impermissible.

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People who can Access

Section 34(7)(a) allows the following people to access the report:

- (i) the young person;
- (ii) any parent of the young person who is in attendance at the proceedings against the young person;
- (iii) any counsel representing the young person; and
- (iv) the prosecutor.

This provision allows CAS access to the report if they are the legal guardians of the youth.

Statutory Access Period

The access period for the s.34 report is found in s.119(2):

Extrajudicial sanction – 2 years

Acquitted – 3 months

Withdrawn – 2 months

Dismissed – 2 months

Reprimand – 2 months

Stay – 1 year

Absolute Discharge – 1 year

Conditional Discharge – 3 years

Summary Conviction – 3 years*

Indictable Conviction – 5 years *

*Calculated from the end of the sentence imposed

Use

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A young person has access to their own report during the prescribed period, as would their legal guardian. However, it is illegal for them to distribute the report to anyone else without a court order.

Section 129 of the YCJA:

“No person who is given access to a record or to whom information is disclosed under this Act shall disclose that information to any other person unless the disclosure is authorized under this Act.”

Only a youth justice court judge can order a s. 34 report to be released. Any distribution of a section 34 without an order from a youth court judge is illegal.

Example:

Some s.34 assessments include a psycho-educational assessment. That portion can be used outside of a courtroom for special accommodation, in a school for example. It is important that if that portion of the assessment is used by the youth in that setting that it is separated from the rest of the report.

Out of the abundance of caution an order should be sought from a youth criminal court judge to distribute any section of the report.

Things to Remember

1. This material is confidential
2. Only shared with an order from youth court judge
3. Authorized distribution should be done in most minimally invasive manner
4. Youth must be educated on the sensitivity of the content



Probation

Crossover Youth: young persons who are subject to child protection intervention with unresolved Youth Criminal Justice Act charges.

Issue: Our aim is reduce the number of youth from the child welfare system that end up in the adult criminal justice system. Onerous probation conditions can be a major obstacle to crossover youth trying graduating out of the criminal justice system.

Conditional Discharge vs. Probation order: for crossover youth an extra careful analysis should be undertaken as to whether a conditional discharge can satisfy sentencing principles.

The main differences between a conditional discharge and a probation order that increase the risk a crossover youth falls into the adult system are:

- The length of the retention period
 - Conditional discharge – 3 years from finding of guilt YCJA s 119(2)(f)
 - Probation order – 3 years after the sentence is complete, or 5 years if by indictment YCJA s 119(2)(g), (h)
- A further finding of guilt under the YCJA can extended the access period for a probation order YCJA s 119(2)(i)
- A discharge will not be converted into a conviction if there is an adult conviction during the access period YCJA s 119(9)

Inquiry: It is important for both Crown and Defence Counsel to understand what they are requiring of the youth. Probation conditions should be informed by the full context of the youth's individual situation. For example, if the youth has already been on probation seek to comprehend the youth's relationship with their probation officer. If they are strict don't impose rigid requirements.

Conditions: should be tailored to the youth and the sentencing goals and not simply attached *pro forma*. Each condition should be individually considered and crafted as



narrowly and least restrictive as possible.

Reporting

Crossover youth have significant challenges related to transportation and capacity to maintain appointments. Our casework has demonstrated that one of the most important factors in reaching crossover youth is whether professionals involved in the youth's life are willing to meet the youth where they are. Reporting conditions should be flexible to accommodate for the high potential for chaotic factors to prevent the youth from reporting on time.

Moreover, inquiries should be made about what kind of accommodations the youth's probation officer is willing to make to reach the youth in the community. If there is no flexibility possible and creative uses of modern technology are not contemplated than a stringent reporting requirement will only lead to more unnecessary charges.

Curfew

A curfew may be one of the most difficult conditions for a youth to follow. Attaching criminal sanctions to not following a curfew should not be done unless absolutely necessary. If a curfew is necessary it should be left up to the guardian or institution. There should be an understanding of the relationship between the youth and the person in charge of setting the curfew. If the relationship is strained or the individual is likely to want or have to contact the police or the probation officer if the curfew is missed slightly than they should not be given the power to set a curfew. A specific time should not be enumerated as a formal probation condition.

There is often pressure from enforcement officials to clearly specify the exact hour. However, that is merely for the purpose of making charging easier and their job easier. Crossover cases are highly complex and require a nuanced response. Flattening the response to these youth should be avoided.

Reside

Due to the tendency for Children's Aid Societies to have difficulty placing youth with YCJA charges, it is our strong position that, at a minimum, the reside condition should not indicate a specific address but instead read "as directed by CAS". It is also important to note how disruptive CAS placements can be in the life of a crossover youth. As a result of limited placement options, youth are often sent a considerable distance away from their home communities, separating them from their friends and support systems. Naturally, youth travel back to their home communities and do not return on



time or at all and are subsequently considered AWOL by their placement – which results in another criminal charge. The safety and missing persons concerns of the CAS should not be criminalized. We recommend an approach to residency that is driven by the input of the youth. Where possible there should be no specific direction to the youth of where to reside or who has the power to direct them on the probation order.

Controlled Substances and Alcohol

Youth who have experienced trauma will often self-medicate with controlled substances. If there is a question of substance abuse issues it is our recommendation that a qualified professional make that determination. Any related treatment should also be prescribed a qualified professional. Probation conditions related to substance abuse and counseling should be drafted to give maximum flexibility to the trained professionals. Treatment and counseling is most effective when there is genuine buy-in from the youth. A harsh reaction self-medication will only exacerbate the feelings and emotions evoked by the youth's trauma.

House arrest

A probation condition to require a crossover youth to remain in their residence at all times should be avoided unless in the rarest of circumstances. Crossover youth often have less than ideal housing circumstances. Group homes are rarely nice places to live. Other crossover youth have unstable housing situations. Requiring crossover youth to remain in a specific residence at all times is far more restrictive and burdensome to other comparable youth. If house arrest is required the condition should be worded to give allowances for professional assistance. The assessment that assistance is required can change at any time and the probation condition should allow for flexibility.

Remain in your residence at all times

EXCEPT

For the purpose of travelling directly to, from and while at counseling, programming or services, which have been arranged and directed in advance of departure by your court worker or surety.

Non-Association/Non-contact

Many crossover youth commit offences with one or more co-accused.

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Non-association/non-communication with the co-accused and/or the complainant should be avoided in probation orders where the conditions do not warrant it. This condition causes several problems that are particularly discriminatory to crossover youth. It may mean that they cannot return to residential placement or their school causing further disruption to their stability. Crossover youth are often co-accused with classmates, group home peers and trusted friends. This type of restriction can have an undue burden on crossover youth, as trusting relationships are often more difficult for them to form.

It is understandable that there are public safety concerns with regards to association with co-accused. However, it is our recommendation that exceptions can be crafted in appropriate circumstances to decrease the burden if this clause is necessary under the circumstances.

1. Exception for the purpose of the *Education Act*
2. Exception for the purpose of residential placement
3. Exception for the purpose of counseling and supervised extracurricular activities and programming
4. Exception under the supervision of a specified adult
5. Exception for a family court order (if appropriate)

Rules of the Home/Institution

Probation orders should not be used to criminalize discipline issues. Crossover youth may not have a straightforward trajectory towards rehabilitation. This task should not be made more difficult by amplifying the consequences of non-criminal anti-social behaviour. Working from a trauma-informed perspective with an emphasis on the youth establishing a feeling of safety and trustworthiness, punishing youth who have experienced trauma for 'breaking rules' is not a helpful nor therapeutic approach to building capacity with a crossover youth. It is much better for guardians to rely on the natural or homegrown consequences of breaking "house" rules than to use custody or the threat of custody.

Intensive Support and Supervision Program (ISSP): for crossover youth, some of whom struggle with serious mental health issues and specialized needs, an ISSP should be explored if custody is seriously being contemplated. An ISSP can be an alternative to an open custody sentence, which is less disruptive and destabilizing in most cases. The program is intended to provide an individualized and clinical program to address the underlying issues that contributed to the offence.



The youth's eligibility for the program is assessed by probation. A good precursory to determining whether it might be useful is through a s 34 assessment.

The program may not be available in some jurisdictions.

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Crossover Youth Project Bail Condition Recommendations

Crossover Youth: young persons who are subject to child protection intervention with unresolved Youth Criminal Justice Act charges.

Young persons who have experienced trauma face criminal charges at exponentially higher rates. Trauma negatively impacts these youth's ability to self-regulate, build their core capacities, and relate to others. They are also at a much higher risk of experiencing further trauma. The current system inadequately addresses their needs. Solutions to this systemic disparity require a system-wide approach.

Issue: Through our casework the Crossover Youth Project has identified onerous bail conditions as a major obstacle to progress for crossover youth.

Section 11 (e) of the *Charter* guarantees both the right not to be denied bail without just cause and the right to bail on reasonable terms.

In *R. v. Antic*, 2017 SCC 27, Wagner J, for the court reaffirmed that save for exceptions an unconditional release on an undertaking is the default position when granting release.

Considerations of release must be organized by the ladder principle. Each rung of the ladder must be considered individually and must be rejected before moving to a more restrictive form of release. The guiding mantra of the ladder approach is that:

Release is favoured at the earliest reasonable opportunity and on the least onerous grounds.

A recognizance with sureties is one of the most onerous forms of release. A surety should not be imposed unless all the less onerous forms of release have been considered and rejected as inappropriate.

Joint proposals must be premised on the statutory criteria for detention and the legal framework for release.

Recommended Bail Conditions



Non-Association/Non-contact

Many crossover youth have charges with one or more co-accused. It is standard practice to include a non-association/non-communication with the co-accused and/or the complainant clause in their release order. This condition causes several problems that are particularly discriminatory to these vulnerable youth. It can result in the youth being moved out of their residential placement or their school causing further disruption to their stability. Crossover youth are often co-accused with classmates, group home peers and trusted friends. This type of restriction can have an undue burden on crossover youth, as trusting relationships are often more difficult for them to form.

It is understandable that there are public safety concerns with regards to association with co-accused. However, it is our recommendation that exceptions can be crafted in appropriate circumstances to decrease the burden of this clause.

1. Exception for the purpose of the *Education Act*
2. Exception for the purpose of residential placement
3. Exception for the purpose of counseling and supervised extracurricular activities and programming
4. Exception under the supervision of a specified adult
5. Exception for a family court order (if appropriate)

Reside

Due to the tendency for Children's Aid Societies to have difficulty placing youth with YCJA charges, it is our strong position that, at a minimum, the reside condition should not indicate a specific address but instead read "as directed by CAS". It is also important to note how disruptive CAS placements can be in the life of a crossover youth. As a result of limited placement options, youth are often sent a considerable distance away from their home communities, separating them from their friends and support systems. Naturally, youth travel back to their home communities and do not return on time or at all and are subsequently considered AWOL by their placement – which results in another criminal charge. The safety and missing persons concerns of the CAS should not be criminalized. We recommend an approach to residency that is driven by the input of the youth so that, where possible, the youth should be released on their own recognizance with no court ordered directive as to where to reside.

Curfew

It is our position that curfew can be set by the guardian or institution and thus it is not necessary to make curfew a formal condition of release. Those who want clarity in enforcement often desire curfews; however, by their nature, crossover youth often have complex cases with a high degree of nuance.

Like any teenager, crossover youth may find it difficult to meet a stringent curfew. However, while a parent or guardian is likely to provide some leniency to a youth missing curfew, crossover youth are more likely to be breached for missing a curfew. The homes that crossover youth are placed in, such as group homes, may have strict rules. Therefore, this condition may set up a crossover youth for a breach. Curfew should be left up to the judgment of the individuals who know the youth best, and in communication with the youth, and should not have criminal sanctions attached.

Controlled Substances and Alcohol

Controlled substances and alcohol are illegal for minors to possess and so it is redundant to prohibit their possession or consumption as a condition of release. If there is a question of substance abuse issues it is our recommendation that a qualified professional determine the appropriate remedy. It is our recommendation that, at a minimum, conditions of release with regards to substance misuse counseling be drafted broadly to allow for maximum flexibility. Counseling is most effective when there is genuine buy-in from the youth, and so it would be our preference that there be no formal condition attach to a release order. In the alternative, it should be worded broadly, such as:

1. Take counseling as directed by the Children's Aid Society/Guardian

Rules of the Home/Institution

It is understandable for a parent or guardian to feel that they have lost control of a youth if they are before the court. However, it is our position that, at a minimum, the court should refrain from using its power to criminalize non-adherence to household rules. In *R. v. K.(R.)*, 2014 ONCJ 566, Justice of the Peace Cuthbertson found:

“...the condition ‘be amenable to the routine and discipline of the residence’ is vague and unnecessary. It is therefore, unreasonable and arbitrary.”

Para 28, R. v. K.(R.), 2014 ONCJ 566 (CanLII)

Working from a trauma-informed perspective with an emphasis on the youth establishing a feeling of safety and trustworthiness, punishing youth who have experienced trauma for ‘breaking rules’ is not a helpful nor therapeutic approach to building capacity with a crossover youth. Providing guardians with criminal sanctions for not following household rules is unlikely to result in an increase in cooperation from the youth. Instead of this type of condition leading to more order, in practice it only leads to more criminal charges. Our shared goal should be to reduce criminal proceedings against crossover youth.

House arrest

After the SCC ruling in R. v. Antic it seems unlikely that house arrest for a youth would be justifiable in many cases. However, in the rare case in which it could be justified on the secondary or tertiary ground the restriction should not infer with pre-trial developmental endeavors. The condition should be worded to give allowances for professional assistance. The exception should be included every time house arrest is ordered even if it is not anticipated that the youth is in need of professional assistance at the time of release. The assessment that assistance is required can change at any time and should not be delayed until a variation can be organized and executed.

Remain in your residence at all times

EXCEPT

For the purpose of travelling directly to, from and while at counseling, programming or services, which have been arranged and directed in advance of departure by your court worker or surety.

Breaches

It is our position that a counter-intuitive approach should be taken with youth who repeatedly breach their bail conditions. In our experience, cases with multiple breach charges are often a result of how the original conditions were drafted as well as the

young person not being consulted. An administrative breach is a sign of the system failing to provide the youth the proper supports and the youth should not be punished for this failure. Enforcing multiple breach charges is not likely to impact the behaviour of the youth and will likely send them further along the path into the adult system.

Use of Youth Records in Child Protection Proceedings
Guideline for Children's Aid Society Employees
Crossover Youth Project

There may be situations where a youth who is a candidate for child protection intervention has a pre-existing youth criminal justice record.

Young persons are not to be held to the same expectations of responsibility and moral blameworthiness as adults. Their records are not meant to follow them in the same way as for adults. The YCJA has provisions to protect records made in the course of YCJA proceedings. These records are meant, with a few exceptions, to stay private once the youth has reached the age of maturity.

“...privacy is worthy of constitutional protection because it is “grounded in man’s physical and moral autonomy”, is “essential for the well-being of the individual,” and is “at the heart of liberty in a modern state.” These considerations apply equally if not more strongly in the case of young persons.”

A. B. v. Bragg Communications, 2012 SCC 46 at para 18 [quoting from *Toronto Star Newspapers v. Ontario*, 2012 ONCJ 27]

“[young persons are entitled to] a higher expectation of privacy”

R v K.M. 2011 ONCA 252 at para 97

A trail to their record can be constructed unwittingly. When these records leave controlled YCJA proceedings and enter child protection proceedings there are less automatic procedural safeguards that ensure compliance with the privacy principles in the YCJA.

Protecting a youth does not just mean winning a protection hearing. Maintaining a youth’s privacy in YCJA matters can protect a youth’s future potential. It offers the best chance to foster the youth’s rehabilitative process.

YCJA

118 (1) Except as authorized or required by this Act, no person shall be given access to a record kept under sections 114 to 116, and no information contained in it may be given to any person, where to do so would identify the young person to whom it relates as a young person dealt with under this Act.

Jurisdiction

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A superior court judge **does not** have the jurisdiction to order a youth record released. This is important for child protection proceedings occurring in unified family court. Only a youth justice court judge acting under the authority of the YCJA has the jurisdiction to grant access to records made under the Act.

“...Parliament in “clear and unambiguous terms” has placed the responsibility for determining access to records on the shoulders of the youth justice court judges.”

S.L. v. N.B., 2005 CanLII 11391 (ON CA), para 54

Statutory Access Period

S.119(2):

Extrajudicial sanction – 2 years

Acquitted – 3 months

Withdrawn – 2 months

Dismissed – 2 months

Reprimand – 2 months

Stay – 1 year

Absolute Discharge – 1 year

Conditional Discharge – 3 years

Summary Conviction – 3 years*

Indictable Conviction – 5 years *

*Calculated from the end of the sentence imposed

Record Keeping

It is illegal to breach a youth’s privacy and keep a record detailing their criminal justice involvement past the permissible statutory access period without a s.123(1) order from a youth criminal justice judge. You are not allowed to keep any record with this information. This prohibition includes historical records; all reference to their criminal justice involvement must be redacted.



Use

Section 129 of the YCJA:

“No person who is given access to a record or to whom information is disclosed under this Act shall disclose that information to any other person unless the disclosure is authorized under this Act.”

An example of a prohibited use:

A youth is convicted of a summary offence at 13 years old. They are sentenced to 6 months of custody. The youth has not been subsequently charged with any other offences. They are now 19 years old turning 20. They have a child and CAS is investigating with the possibility of apprehension of the newborn.

In that case, it would be impermissible for there to be any record of the youth's conviction in the CAS system. The investigator cannot rely on that information to advance their investigations or even allow the fact of the conviction to raise their suspicions.

Maintaining that record without a s.123(1) order is illegal and counter to the principles of privacy enshrined in the YCJA.

CAS employees should be mindful of what records they seek to have added to the court record before submitting documents. The use of an expired record is also impermissible in court and cannot be used as evidence. No inferences can be drawn and it should never be tendered. The privacy interests contained in the YCJA are based on the principle that individuals under 18 years of age should not be burdened with a public record of their criminal behaviour.

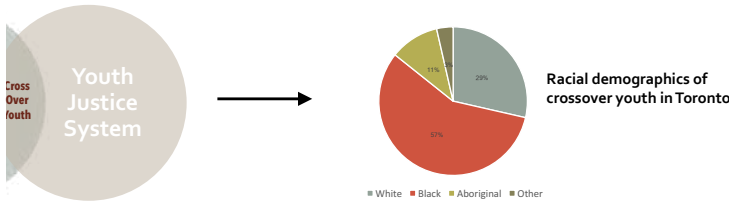
In family court proceedings when submissions are struck from the record a line is drawn through the middle of the information. This process is not as impenetrable as a redaction. It is often possible to discern what was originally written.

Caution should be exercised before the court proceedings to ensure the access period has not expired.

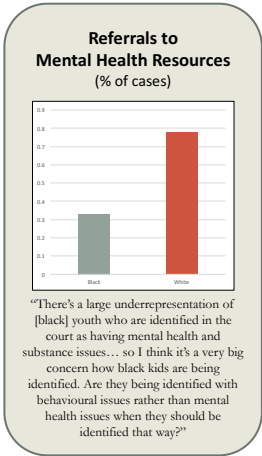
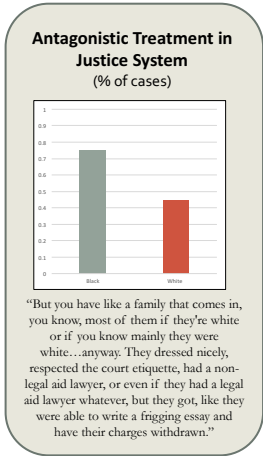
Findings and Outcomes of the Crossover Youth Project

FINDINGS

Quality among Crossover Youth



Disparities among Crossover Youth



Impacts of Systemic Racism

Impact of Diversity

...that counselling deal with racial appropriately. That in care and none e providers reflect racial, background identity crisis.”

Implicit Bias

“There is no question in my mind that there is systemic racism within Children’s Aid Societies - and I worked for one for [over 10] years. So I mean I think we all have to acknowledge our biases and our racism.”

Denial and Unawareness

“I haven’t seen a problem.”

“...but I don’t really feel that I am in a position to comment on that.”

DISCUSSION

- Findings suggest that institutional anti-Black racism within child welfare and youth justice systems intersect to intensify disproportionalities experienced by African Canadian youth
- Findings are consistent with U.S. evidence of racial disparities faced by African Americans in pretrial detention (Schlesinger, 2005), and mental health referrals (Spinney et al., 2016)
- Findings contribute 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.
- Disparities are influenced by broader structural inequalities, such as racialized poverty, and bias in the perception of mental health challenges experienced by people of African descent (Snowden, 2003)
- Although there is increasing awareness of systemic racism among child welfare and youth justice service providers, colourblindness appears to remain an influential ideology in both systems.

CONCLUSIONS & RECOMMENDATIONS

“We needed more outreach, more education on what we were doing, what are the issues, what are some of our recommendations. And to have that kind of like dialogue, I think dialogue is the piece because you want...to have that conversation right?”

- This study contributes to a significant gap in research evidence regarding the dynamics of systemic anti-Black racism in Canadian youth justice and child welfare systems.
- Future research and action should center the needs and experiences of crossover youth, and involve systematic comparative analysis of youth experiences at various decision points in child welfare and youth justice systems. There is a strong need for improved anti-racism training and advocacy for improved system monitoring.



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Acknowledgments

Appendix 3



Racial Disparities in the Experiences

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INTRODUCTION

- Youth who are dually involved in the child welfare and youth justice systems (known as **crossover youth**) face a variety of personal, relational, and systemic issues (Bala et al., 2015).
- The **Crossover Youth (COY) Project** was a four-year pilot project aimed at providing specialized community and legal support and services for these young people, in four communities in Ontario, Canada.
- Although evidence indicates a significant overrepresentation of African Canadian youth in child welfare (OHRC, 2018) and youth justice systems (Owusu-Bempah & Wortley, 2014), **little research has examined the processes of systemic racism in the context of crossover youth**, especially in Canada.
- **Critical Race Theory** (Delgado & Stafancic, 2017) is an interdisciplinary framework for analyzing the dynamics of systemic racism, which is based on core tenets that recognize the permanence of racism as an embedded and often invisible phenomena within all Western institutions, critiques notions of colourblind and meritocratic ideologies, and views the phenomena of race (including Whiteness) as a social construction.

RESEARCH QUESTIONS

- Q1. . What are the racial disproportionalities and disparities in the experiences and outcomes of crossover youth in Toronto?
- Q2. How do service providers perceive the processes of systemic racism in the child welfare and youth justice systems?



METHODS

Design

This analysis is based on a two-year, mixed method, summative evaluation of the COY Project in Toronto, Ontario.

Analysis

Q1. A comparative analysis was used to assess racial disparities on variables reported in case notes

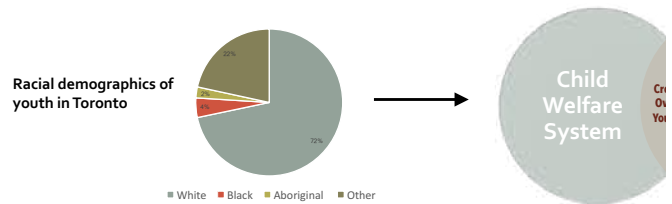
Q2. A thematic qualitative analysis was used to examine patterns within the service provider interviews

Sample and Data Collection

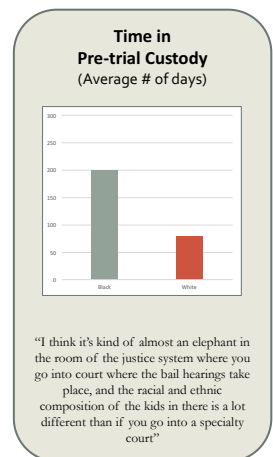
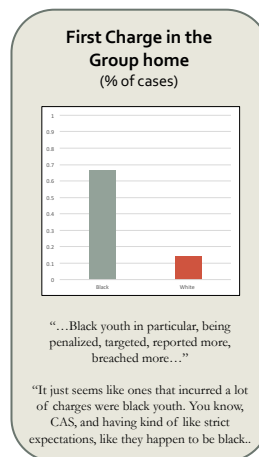
Youth	
Data Source	Case Notes
Total N	28
Gender - Males (Females)	18 (10)
Age - Average (Range)	15.3 (13-17)
Service Providers	
Data Source	Interviews
Total N	19
Sectors	
Legal sector	9
Child Welfare sector	3
Group home sector	1
Mental health sector	3
Other	3

FIN

(Q1a) Racial Disproportionality



(Q1b) Racial Disparities



(Q2) Processes



Punitive Institutional Practices

“But I always found it - and again this may be my own issue that I need to work out -but, I found it challenging to like challenge defence or probation on racism. Like, I found it hard because it wasn’t obvious. It was more embedded in the kind of work that they did like so it wasn’t like an individual worker specifically what they said.”



Lack of Legal Representation

“...if you had money, if you dressed well, if you had like a proper lawyer--not proper but a non-legal aid lawyer, like I just feel like you were privileged--you were treated differently. So yeah, racism exists.”



Lack of Systemic Support

“I’m not sure t programs de identity apprc when you are ir of your service - your cultural rac you have an i

