



Victoria Legal Aid welcomes new approach to help keep kids in residential care out of the criminal justice system

A Media release from Legal Aide Victoria



Victoria Legal Aid has today welcomed work underway that will see fewer children being propelled from residential care into the criminal justice system unnecessarily.

The *Care Not Custody* report released today looks at the link between child protection residential care and criminal charges for children.

Executive Director Family, Youth and Children's Law Nicole Rich said: 'Our research has found that almost one in three children who come to us for child protection legal help, and who are placed in out-of-home care, later returns for help with criminal charges – often within months of their placement in care.'

'What is often missing from the attention on Victoria's youth justice system is a more detailed understanding of how this link is formed, and what we can do about it.'

'One clear factor pushing children from care to custody is an over-reliance by at least some residential care facilities on call-outs to police to manage minor behavioural incidents,' Ms Rich said.

'We see too many cases where police are called to residential care facilities to deal with behaviour that would be very unlikely to attract police attention if it happened in a traditional family home – for example, spreading food around a unit or smashing a coffee mug. Charges also often follow unnecessarily.'

Following positive discussions with the Victorian Government, Victoria Legal Aid is now working with others to draft a protocol similar to one recently introduced in New South Wales, which explicitly aims to reduce children's contact with police.

The New South Wales approach, which was developed in partnership with residential care providers and police, provides a clear and consistent framework and better training and support for staff in residential care units to help them manage low-level incidents within the unit, without needing to involve police.

'We are delighted that the Government is taking concrete steps to address the problem by agreeing to develop a protocol for Victoria.'

'Victoria is making great strides in improving the child protection system and has succeeded in getting many children out of residential care units and into family-based care settings,' said Ms Rich.

'A new state-wide framework for dealing with low-level incidents within residential care would further support these efforts and help protect some of Victoria's most vulnerable children.'

The *Care Not Custody* report shows that the 11–17 year olds Victoria Legal Aid assisted over the past five years with child protection matters who were placed in out-of-home care are:

- almost twice as likely to face criminal charges as those who remain with their families (30% in care were charged, compared with 18% not in care)
- more likely than other children to be charged with criminal damage for property-related offending (compared with theft, which is the most common criminal charge for young people generally).

Of those in out-of-home care who were charged:

- 69% were aged 14 or under
- 83% received their first charge within 12 months of being put in care Victoria Legal Aid
- 77% were charged with property offences (the most common charge being criminal damage)
- 9% identified as Aboriginal or Torres Strait Islander.

The *Care Not Custody* report is available at www.legalaid.vic.gov.au/carenotcustody

The experiences of some of our young clients are detailed in the report and online:

Jess's story

Jess grew up exposed to family violence and was placed in out-of-home care when she was 13. She was placed in residential care after being moved through multiple foster homes. Find out what happened to Jess when she became upset and frustrated after being cut off from seeing her mother, with whom she was trying to improve her relationship.

Read Jess' story <http://www.legalaid.vic.gov.au/about-us/research-and-analysis/care-not-custody-new-approach-to-keep-kids-in-residential-care-out-of-criminal-justice-system/jess-story>

Jon's story

Jon was born with multiple difficulties, including autism, an intellectual disability and ADHD. From an early age he displayed a range of challenging behaviours, and his mother on occasion had to seek help from neighbours and local police to help calm him down. Jon was 11 when his doctor expressed concern about his escalating behaviour, and his mother was obliged to place him in residential care on a temporary basis. Find out how Jon received 25 criminal charges during the few months he was there.

<http://www.legalaid.vic.gov.au/about-us/research-and-analysis/care-not-custody-new-approach-to-keep-kids-in-residential-care-out-of-criminal-justice-system/jons-story>

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