



**Young, in trouble and with
nowhere to go:**
Homeless adolescents' pathways into
and out of detention in NSW

For over 40 years, Yfoundations has served as the NSW peak body representing children and young people at risk of and experiencing homelessness, as well as the services that provide direct support to them. We are backed by a strong board, with over 100 years' combined experience working in youth homelessness.

The Yfoundations' approach focuses on five foundations:



Safety and Stability



Home and Place



Health and Wellness



Connections and Participation



Education and Employment

We believe all five foundations must be present for young people to live flourishing and meaningful lives. For more information, go to: <https://yfoundations.org.au/>

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Glossary

Aboriginal; Aboriginal and Torres Strait Islander

We primarily use the term 'Aboriginal' throughout this report, in recognition of the fact that Aboriginal people are the traditional owners of the land in NSW. However, when using national-level data, we will use the term 'Aboriginal and Torres Strait Islander people'.

Child Protection; Youth Justice

In April 2019, the NSW Government's Department of Family and Community Services (FACS) and Department of Justice merged to become one agency, named the Department of Communities and Justice (DCJ). During this merge, the Juvenile Justice division, which was previously located under the Department of Justice, was renamed Youth Justice. It was then combined with the Child Protection and Out-of-Home Care (OOHC) division, to form a new division within DCJ named 'Child Protection and Permanency, District and Youth Justice Services.' In response to these changes, we have replaced all references to 'Juvenile Justice' with 'Youth Justice,' and all references to 'FACS' with 'Child Protection.'

Children; young people; adolescents

The NSW Children and Young Persons (Care and Protection) Act 1998 classifies those under the age of 16 as 'children' and those aged 16 to 18 as 'young people'. Where appropriate, we use these terms in this report. However, as our comments relate to both children and young people, we will also use the term 'adolescent.'. Following the World Health Organization, we define 'adolescent' as any person between the ages of 10 and 19.

Complex needs

The term 'complex needs' refers to the intersecting needs of young people which extend across health and social issues (Rankin & Regan, 2004). These include mental health issues, physical, cognitive and intellectual disabilities, drug and alcohol issues, behavioural difficulties, family dysfunction, and other social, cultural, educational and economic issues which lead to further disadvantage (Dowse et al., 2014).

Out-of-home care (OOHC); OOHC caseworkers

Under the Children and Young Persons (Care and Protection) Act, out-of-home care (OOHC) is defined as the residential care and control of a child or young person provided by someone other than a parent, in a place other than the child or young person's usual home. In this report, 'OOHC caseworkers' refers to professionals working in non-government organisations (NGOs) contracted by the NSW Government to care for adolescents once in OOHC settings. They are distinct from 'Child Protection caseworkers', which in this report refers to professionals largely employed by DCJ to both triage and then respond to child protection reports, which may or may not involve placing an adolescent in OOHC.

Specialist Homelessness Services (SHS) providers

Under the Specialist Homelessness Services (SHS) program, the NSW Government funds non-government organisations (NGOs) to deliver homelessness services, including youth homelessness services. For convenience, this report uses the term 'SHS providers' to refer to all NGOs who provide youth homelessness services, including those who provide the Homeless Youth Assistance Program (HYAP). However, we acknowledge that the youth homelessness services consulted for this report receive funding from diverse sources and are not solely funded under the SHS program.

Foreword

It has been an honour and an immense privilege to serve as the President of the Children's Court of New South Wales for the past nine years.

I am also incredibly honoured to have been asked to write the foreword for this important report.

I would like to acknowledge the work of Yfoundations in compiling this very thorough report as well as the contributions that Yfoundations have made to our understandings of the criminalisation of homeless adolescents in NSW and the challenges they face.

The Children's Court deals with care and protection matters and criminal matters involving children and young people who are under 18 years of age. Although these are two distinct and separate jurisdictions, significantly, this report highlights the constellation of connections between the Children's Court's twin jurisdictions and reveals the bi-directional links between adolescent homelessness and incarceration. The learnings set out in this report can assist us to better support and understand the lived reality of the vulnerable children and young people involved in Children's Court proceedings.

This report draws upon the invaluable insights of Children's Magistrates, lawyers working with the Aboriginal Legal Service and Legal Aid NSW as well as Youth Justice managers and caseworkers including those who staff the Bail Assistance Line. By presenting these unique perspectives, this report illuminates that interagency collaboration is critical in order to effect positive changes in this area.

This report also discusses a number of pressing issues including section 28 of the Bail Act 2013 (NSW) and the over-representation of Aboriginal children and young people in the homelessness, youth justice and care and protection systems. As such, I would regard it as essential reading for anyone working in child protection or the youth justice space.

This compelling report makes a series of important recommendations which challenge us to do better.



Judge Peter Johnstone
President of the Children's Court of NSW

1. Summary

Hundreds of unsentenced adolescents are detained in NSW every year, simply because they are homeless. In 2019/20, 236 highly vulnerable under 18-year-olds were held in youth detention under Section 28 of the Bail Act (NSW), because they couldn't provide an appropriate bail address. In our 2019 position paper, 'Section 28: Criminalising the young and homeless', Yfoundations drew on consultations with 16 Children's Court magistrates and solicitors to help understand and address this alarming injustice.

Expanding on our earlier research, this new report explores the pathways that homeless adolescents - both sentenced and unsentenced - take into and out of detention in NSW. We conducted an additional 127 interviews with caseworkers, managers and organisational leaders who worked in the Youth Justice system, Specialist Homelessness Services (SHS) and other non-government organisations (NGOs). These interviews shed light on the two-way relationship between adolescent homelessness and incarceration in our state.

Prior research suggests the stress of homelessness can exacerbate underlying mental health, behavioural and substance use issues among adolescents, and increase their exposure to negative peer influence. Our interviews reveal that homeless adolescents also struggle to comply with court orders, due to their unstable living situations. This makes it more likely that they will both offend and breach bail conditions, community-based orders or parole, which greatly increases their risk of incarceration.

Our report also reveals that committing offences – particularly violent offences in the home – often leads adolescents to become homeless. Families are often reluctant to have their offending child return to the home. Adolescents may also be prevented from returning by legal orders, such as an Apprehended Domestic Violence Order. These factors help explain why, every year, around 8% of adolescents exit detention to accommodation that NSW Youth Justice caseworkers deem 'unsafe' and 'insecure'.

The NSW Government has made considerable efforts to prevent homeless adolescents from unnecessarily entering detention in the past decade, and from exiting detention into homelessness. This report provides an overview of these efforts, which include the Bail Assistance Line, the Place to Go pilot, and the Memorandum of Understanding (MoU) between the Youth Justice and Child Protection divisions within the Department of Communities and Justice (DCJ). They also include transition planning for adolescents who are being held in long-term remand or sentenced detention.

Yet despite existing inter-agency agreements, our research suggests that there is ongoing confusion about the departmental responsibility for homeless adolescents in detention in NSW. There is also a major shortage of suitable placement options across the SHS and out-of-home care (OOHC) systems, as services struggle to meet the complex needs of this cohort. These obstacles prevent the NSW Government from achieving a necessary goal: that no adolescents in our state are held in detention because they are homeless, and that all adolescents exit detention to safe and secure accommodation.

2. Recommendations

1 The NSW Government should routinely collect and publish detailed information about:

- a) the housing status of adolescents entering and leaving detention
- b) the number of homeless adolescents being detained under Section 28 of the Bail Act and
- c) the length of time young people were detained under this provision.

This will increase the public and political attention paid to homeless adolescents in detention in NSW, and improve understanding and resource allocation for this group.

2 The NSW Government should amend the *Bail Act* to remove the offence of breaching a bail condition for juveniles. This will decrease the number of homeless adolescents entering detention because they lack the necessary support to meet bail conditions.

3 The NSW Government should bring Youth Justice, Child Protection, SHS providers, relevant NGOs, and peak bodies together to:

- a) create an overarching policy for supporting homeless adolescents in sentenced and unsentenced detention, which delegates responsibilities based on accurate assessments of the capacity of each sector
- b) train relevant staff across all sectors in the new inter-agency policy.

This will ensure that homeless adolescents in detention secure the most appropriate housing promptly.

4 The NSW Government should enhance bail support by:

- a) expanding the Bail Assistance Line to become an all-hours service that assists NSW Police and Youth Justice caseworkers
- b) increasing the number of fee-for-service contracts with SHS providers, particularly in rural and regional NSW
- c) funding Aboriginal-specific bail accommodation.

This will prevent adolescents from entering and staying in detention because they are homeless.

5 The NSW Government should increase the availability of and eligibility for intensive, evidence-based family interventions, to support homeless adolescents on community orders and those leaving detention. This will ensure that adolescents can successfully reunify with their families where possible, thereby reducing their risk of homelessness.

6 The NSW Government should increase the availability of and eligibility for evidence-based placements for adolescents with complex needs, including:

- a) therapeutic foster care placements
- b) therapeutic residential care placements
- c) drug and alcohol rehabilitation programs
- d) adapted placements that meet the specific needs of Aboriginal adolescents.

This will ensure that homeless adolescents have the accommodation they need to recover and reunify with their families.




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