# Care not Custody fact sheet

Children placed in out-of-home care (OOHC) are some of the most vulnerable and disadvantaged in the Victorian community. Many have been exposed to multiple traumas from a young age resulting from family violence, substance abuse, neglect or abandonment and/or sexual or physical abuse.

Numerous studies have shown that too many of these children are still ending up involved from a young age – often unnecessarily – in our criminal justice system.

The overrepresentation of children from OOHC in our criminal justice system is a matter of long-standing concern to Victoria Legal Aid. **In 2016, a review of our child protection client data found:**

* **Almost** **1 in 3** young people we assisted with a child protection matter who were placed in OOHC required assistance with a criminal charge, and the **majority required assistance 12 months after placement in OOHC**.
* Young people we assisted with a child protection matter who were placed in OOHC were **almost twice as likely to receive assistance for criminal charges as those who remained with family**.

**Victoria Legal Aid’s practice experience suggested that this problem was particularly acute with respect to children placed in residential care and a formal approach was needed to reduce children’s contact with police.**

**In August 2018, VLA re-reviewed our child protection client data.** We continue to see: 1 in 3 young people we assist with a child protection matter who are placed in OOHC also requiring assistance with a criminal charge (and are twice as likely to receive assistance for criminal charges as those who remain with family. **Criminal damage continues to be the most common charge, with 42 percent of young people we assist with a child protection matter who are placed in OOHC receiving assistance for a charge of this type.** The majority require assistance 12 months after placement in OOHC. **Aboriginal young people are over-represented in this client group (10 percent).**

Since 2016, VLA has consistently collected information on *where* a child receiving a child protection legal service was placed (for example, remained with parent, placed with extended family, foster care, or residential care). While this is a smaller sub-set of VLA data, it is showing us:

* **2 in 3 young people we assist with a child protection matter who are placed in residential care require assistance with a criminal charge**;
* **Children placed in residential care are at least three times more likely to require assistance for criminal charges as children in all other placement types** (in OOHC or when the child remained with family);
* **57 percent** of young people we assist with a child protection matter placed in residential care require assistance with a criminal charge within 12 months of placement in residential care;
* **10 percent** of young people we assist with a child protection matter who are placed in residential care and require assistance with a criminal charge **identify as Aboriginal or Torres Strait Islander when asked**;
* **Criminal damage is the most common criminal charge,** with 47 percent of young people we assist with a child protection matter who were placed in residential care requiring assistance for this type of criminal charge.

In 2016, VLA recommended that the Victorian Government, as part of its reforms to the residential care system, work with relevant stakeholders to develop and implement an inter-agency Protocol to reduce the contact of young people in residential care with police and the criminal justice system. A Protocol has yet to be adopted. More information about VLA’s recommendations is available on our website – <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>.