NSW Bureau of Crime
Statistics and Research

Offending by young people with disability
A NSW linkage study

Suzanne Poynton

National Disability Data Asset Pilot
NSW Justice Test Case

BOCSAR

BACKGROUND
What is the National Disability Data Asset Pilot?
METHOD
How did we identify people with disability?
RESULTS
What proportion of young people with disability offend?

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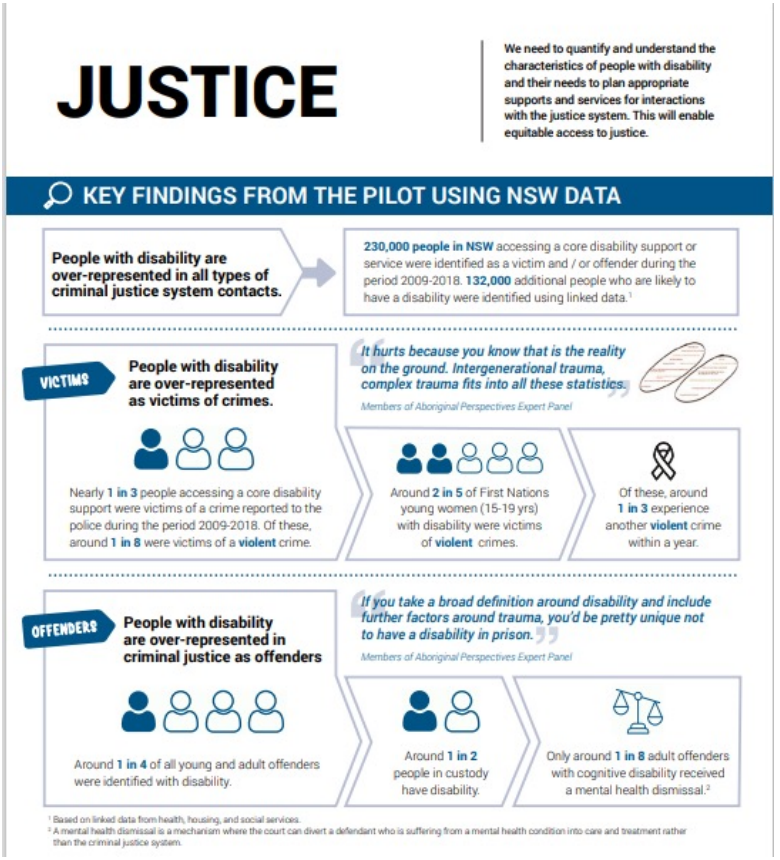
NDDA Pilot Project - Justice Test Case

Jointly led by New South Wales (NSW) and the Australian Government Department of Social Services and using Australian Government and NSW Government data.

WHAT? – to explore the interactions of people with disability with the criminal justice system and their characteristics.

WHY? – people with disability are not readily identifiable in criminal justice system data collections. This information is needed to help governments plan better supports and services.

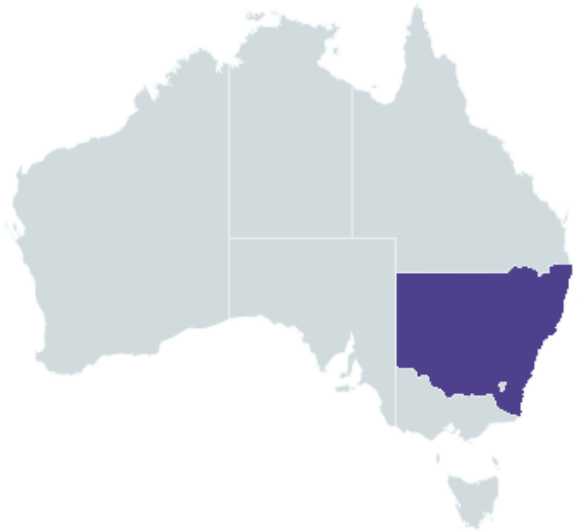
HOW? – linked data across jurisdictions and service systems to identify people with disability in contact with the NSW justice system.



In scope population for this test case

Justice (NSW/DSS)

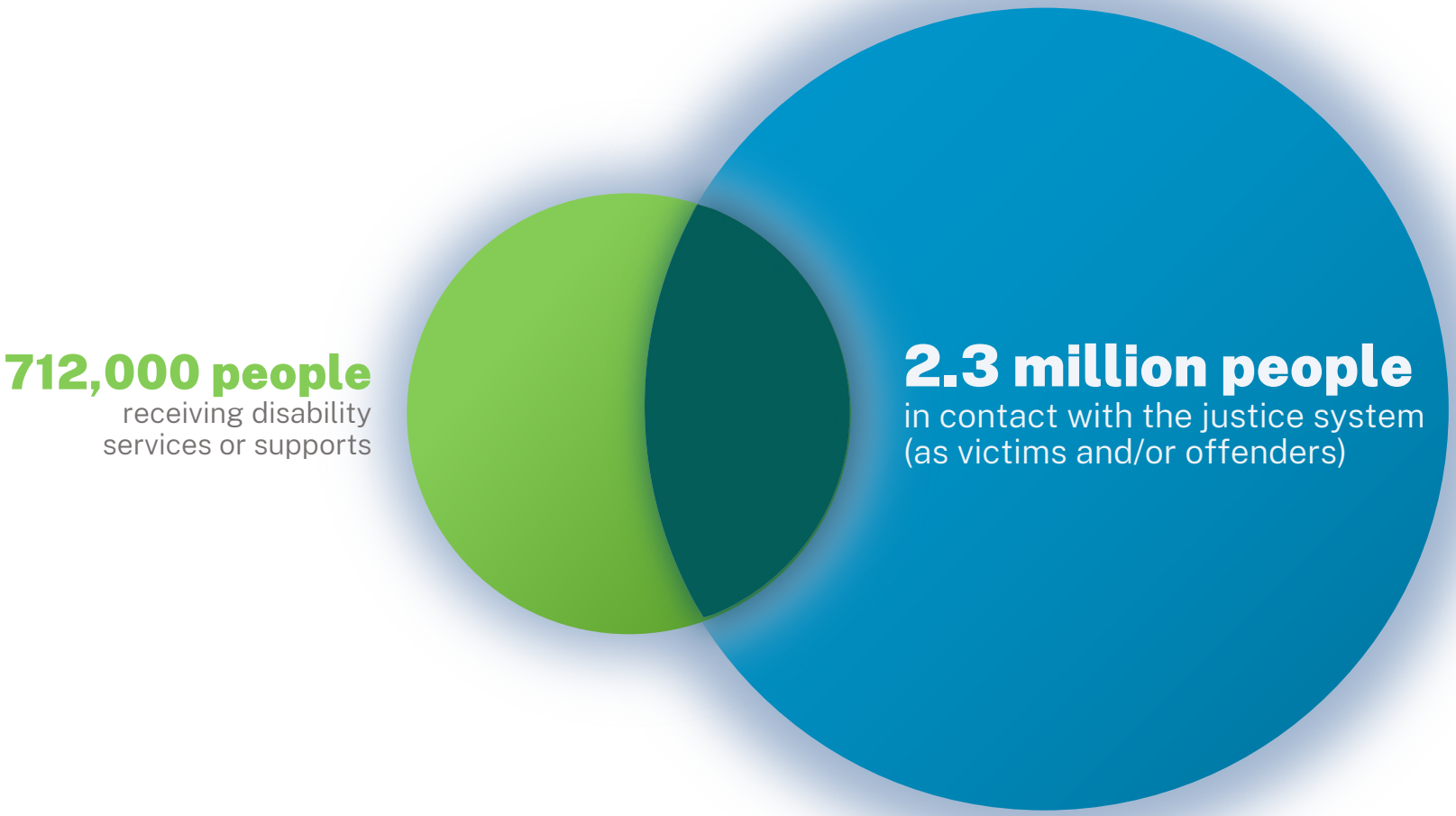
Explores the interaction of People with Disability and the Criminal Justice System.



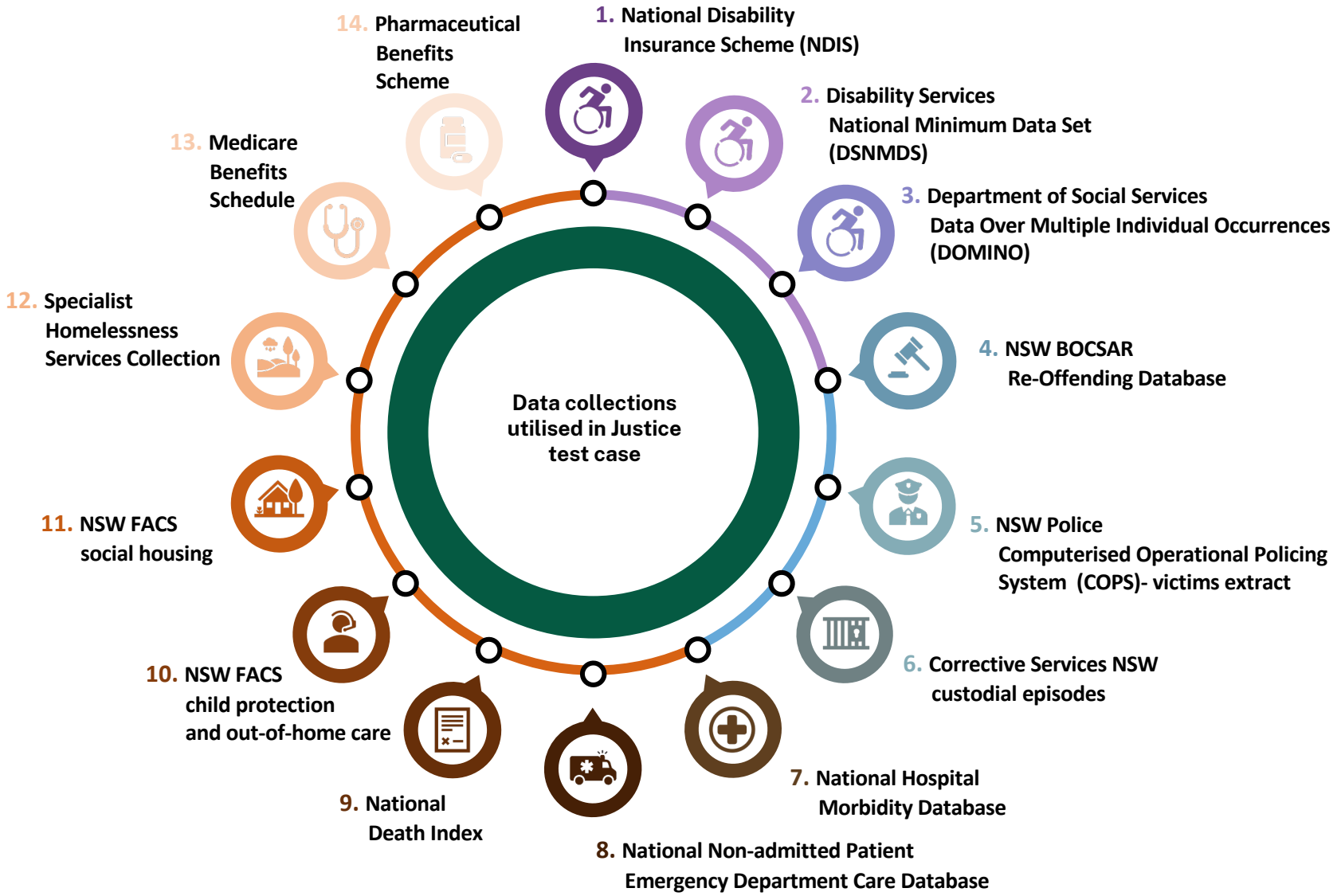
In-scope population for this test case

- **Residents of NSW** at any time during **2009-2018**
- Aged **10 years or older**
- **In contact with criminal justice system** as victim or offender, **OR** recipients of **core disability services** or supports (i.e., NDIS, Disability Support Pension & state-based Specialist Disability Services)

The linked dataset covers **2.8 million individuals:**



The linked data collection for this test case was composed of 14 main datasets.



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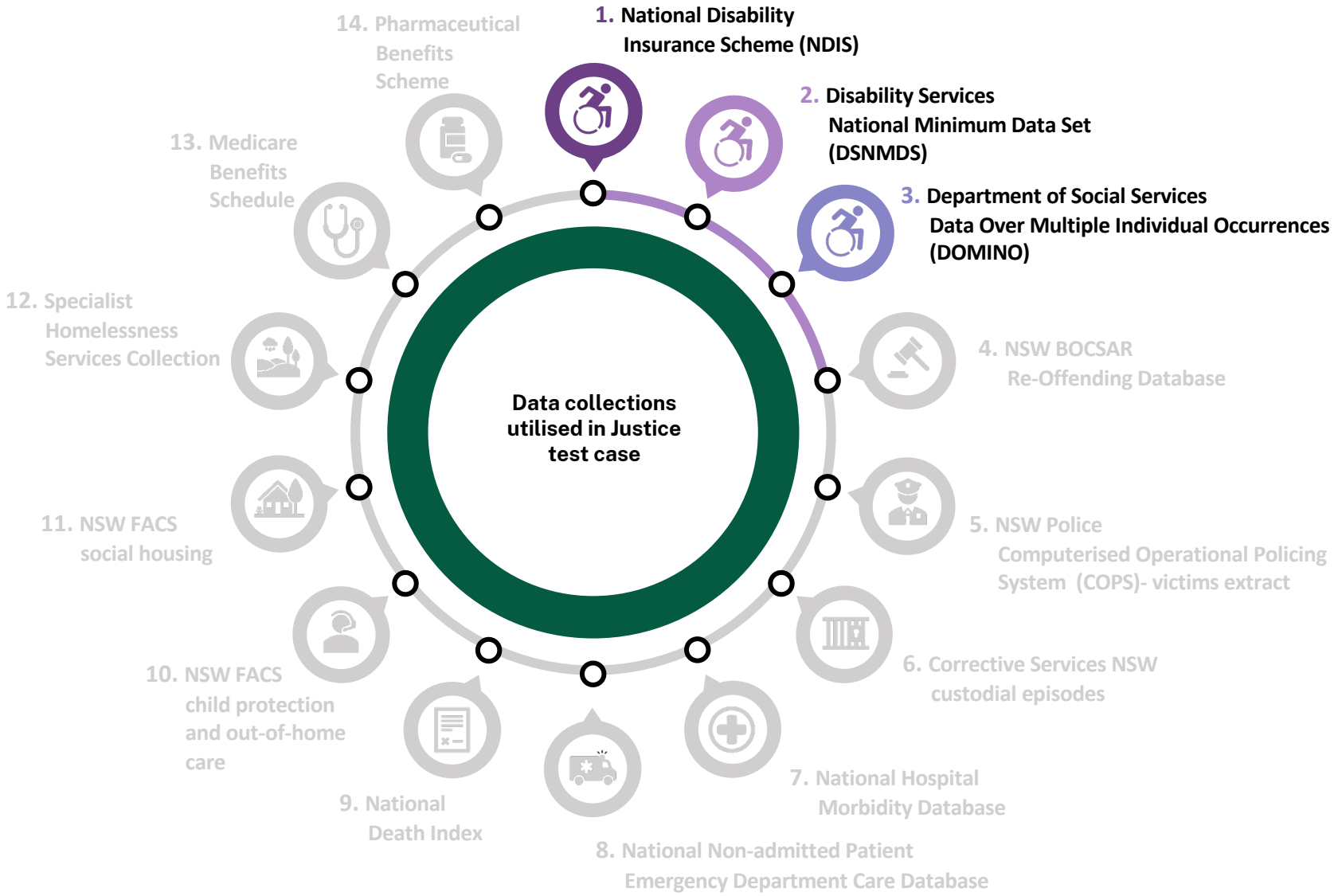
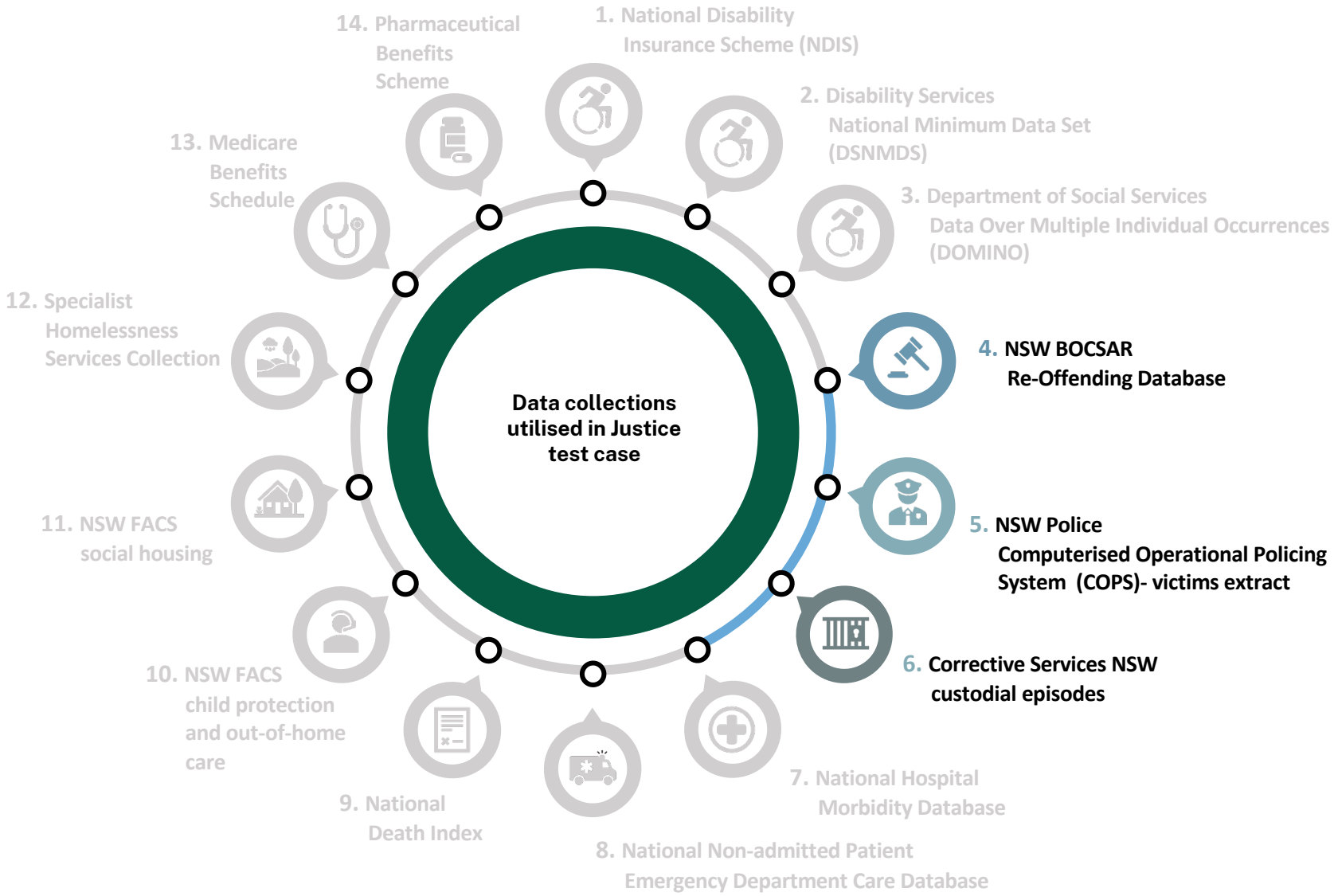
Three main disability datasets were used to construct an initial cohort of people with disability.



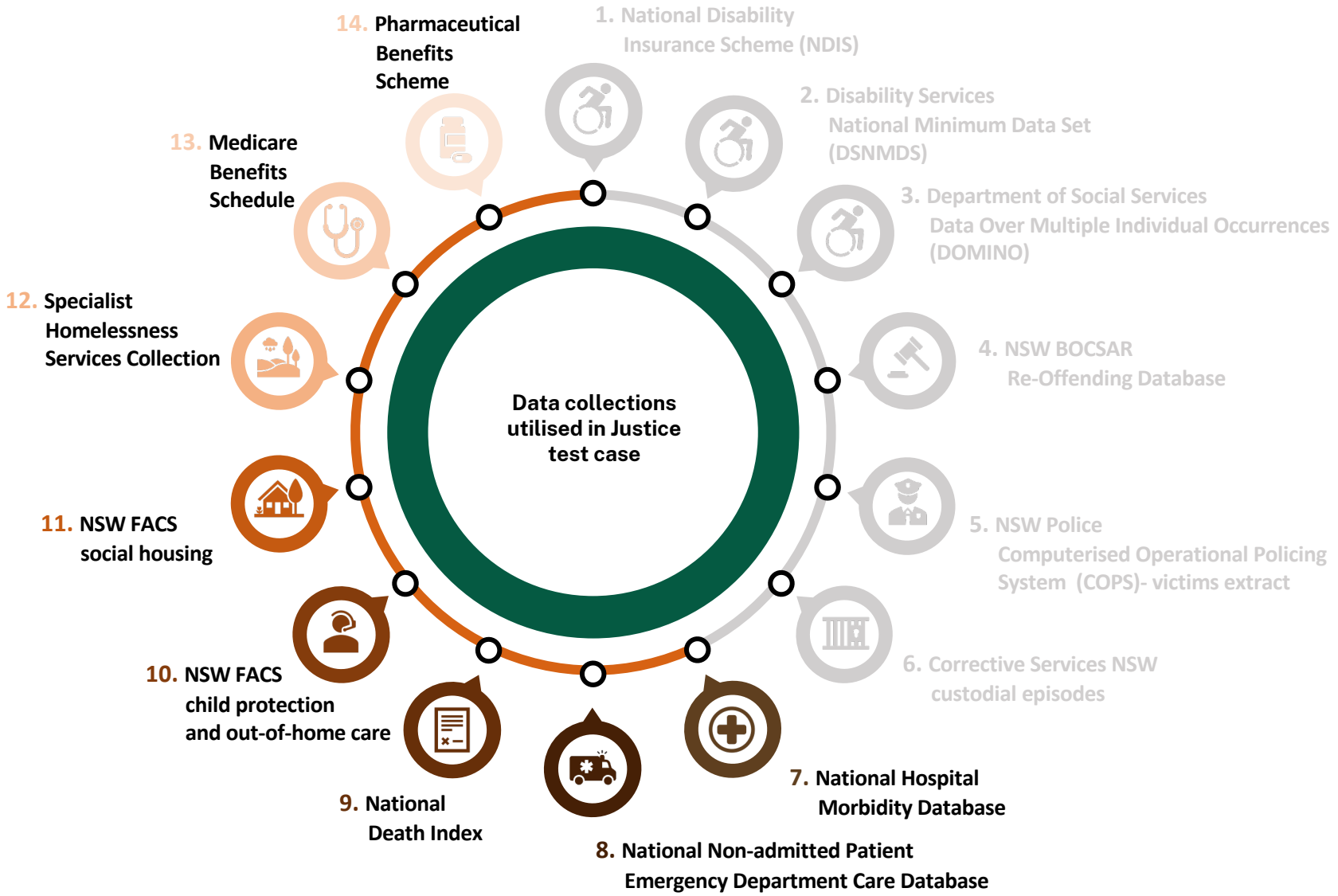
Examples of conditions and disorders by disability type.

CONDITION, DISORDER or DISEASE	DISABILITY TYPE: COGNITIVE	PHYSICAL	PSYCHOSOCIAL
Intellectual Disability (mild to profound)	●		
Traumatic brain injury	●		
Autism	●		
Fetal alcohol syndrome	●	●	
Down syndrome	●	●	
Cerebral palsy		●	
Visual impairment (including blindness)		●	
Hearing loss		●	
Alcohol or other substance dependency			●
Schizophrenia			●
Bipolar affective disorder			●
Major depressive illness			●
Borderline personality disorder			●

Three criminal justice system datasets were used.



Eight other mainstream service datasets were used.



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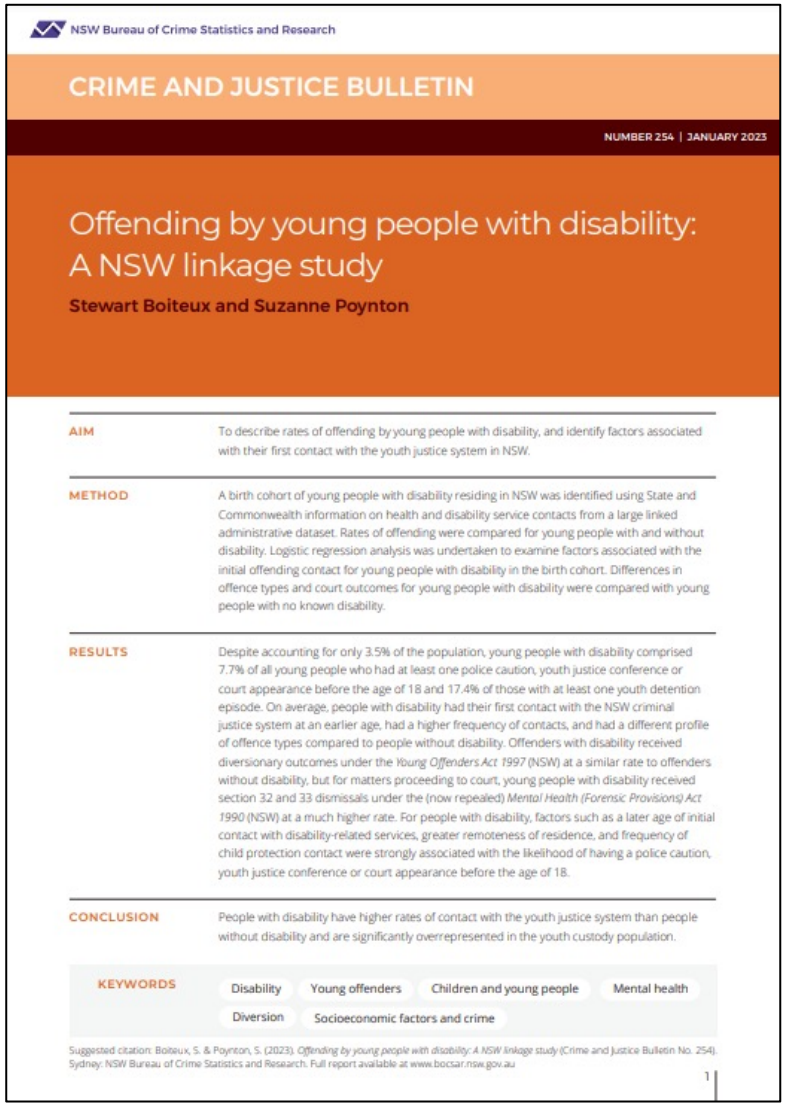
The test case has produced four BOCSAR reports, with one focusing on young people specifically



NSW Bureau of Crime Statistics and Research

CRIME AND JUSTICE BULLETIN

NUMBER 254 | JANUARY 2023

Offending by young people with disability: A NSW linkage study

Stewart Boiteux and Suzanne Poynton

AIM To describe rates of offending by young people with disability, and identify factors associated with their first contact with the youth justice system in NSW.

METHOD A birth cohort of young people with disability residing in NSW was identified using State and Commonwealth information on health and disability service contacts from a large linked administrative dataset. Rates of offending were compared for young people with and without disability. Logistic regression analysis was undertaken to examine factors associated with the initial offending contact for young people with disability in the birth cohort. Differences in offence types and court outcomes for young people with disability were compared with young people with no known disability.

RESULTS Despite accounting for only 3.5% of the population, young people with disability comprised 7.7% of all young people who had at least one police caution, youth justice conference or court appearance before the age of 18 and 17.4% of those with at least one youth detention episode. On average, people with disability had their first contact with the NSW criminal justice system at an earlier age, had a higher frequency of contacts, and had a different profile of offence types compared to people without disability. Offenders with disability received diversionary outcomes under the *Young Offenders Act 1997* (NSW) at a similar rate to offenders without disability, but for matters proceeding to court, young people with disability received section 32 and 33 dismissals under the (now repealed) *Mental Health (Forensic Provisions) Act 1990* (NSW) at a much higher rate. For people with disability, factors such as a later age of initial contact with disability-related services, greater remoteness of residence, and frequency of child protection contact were strongly associated with the likelihood of having a police caution, youth justice conference or court appearance before the age of 18.

CONCLUSION People with disability have higher rates of contact with the youth justice system than people without disability and are significantly overrepresented in the youth custody population.

KEYWORDS Disability · Young offenders · Children and young people · Mental health · Diversion · Socioeconomic factors and crime

Suggested citation: Boiteux, S. & Poynton, S. (2023). *Offending by young people with disability: A NSW linkage study* (Crime and Justice Bulletin No. 254). Sydney: NSW Bureau of Crime Statistics and Research. Full report available at www.bocsar.nsw.gov.au

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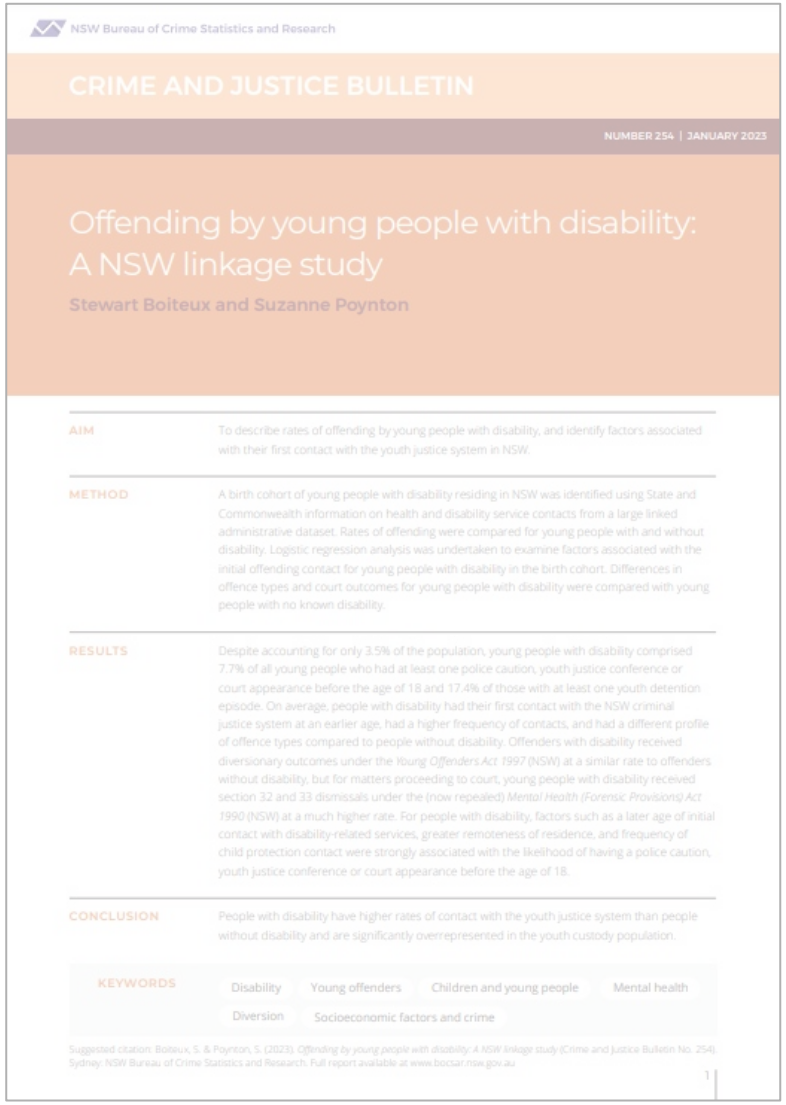
The study examines the background, disability, and criminal justice experiences of a birth cohort of young people through to age 18



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RESULTS

Despite accounting for only 3.5% of the population, young people with disability comprised 7.7% of all young people who had at least one police caution, youth justice conference or court appearance before the age of 18 and 17.4% of those with at least one youth detention episode. On average, people with disability had their first contact with the NSW criminal justice system at an earlier age, had a higher frequency of contacts, and had a different profile of offence types compared to people without disability. Offenders with disability received diversionary outcomes under the *Young Offenders Act 1997* (NSW) at a similar rate to offenders without disability, but for matters proceeding to court, young people with disability received section 32 and 33 dismissals under the (now repealed) *Mental Health (Forensic Provisions) Act 1990* (NSW) at a much higher rate. For people with disability, factors such as a later age of initial contact with disability-related services, greater remoteness of residence, and frequency of child protection contact were strongly associated with the likelihood of having a police caution, youth justice conference or court appearance before the age of 18.

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Follows a birth cohort to age 18:

Those born between 1st January 1997 and 31st December 2000

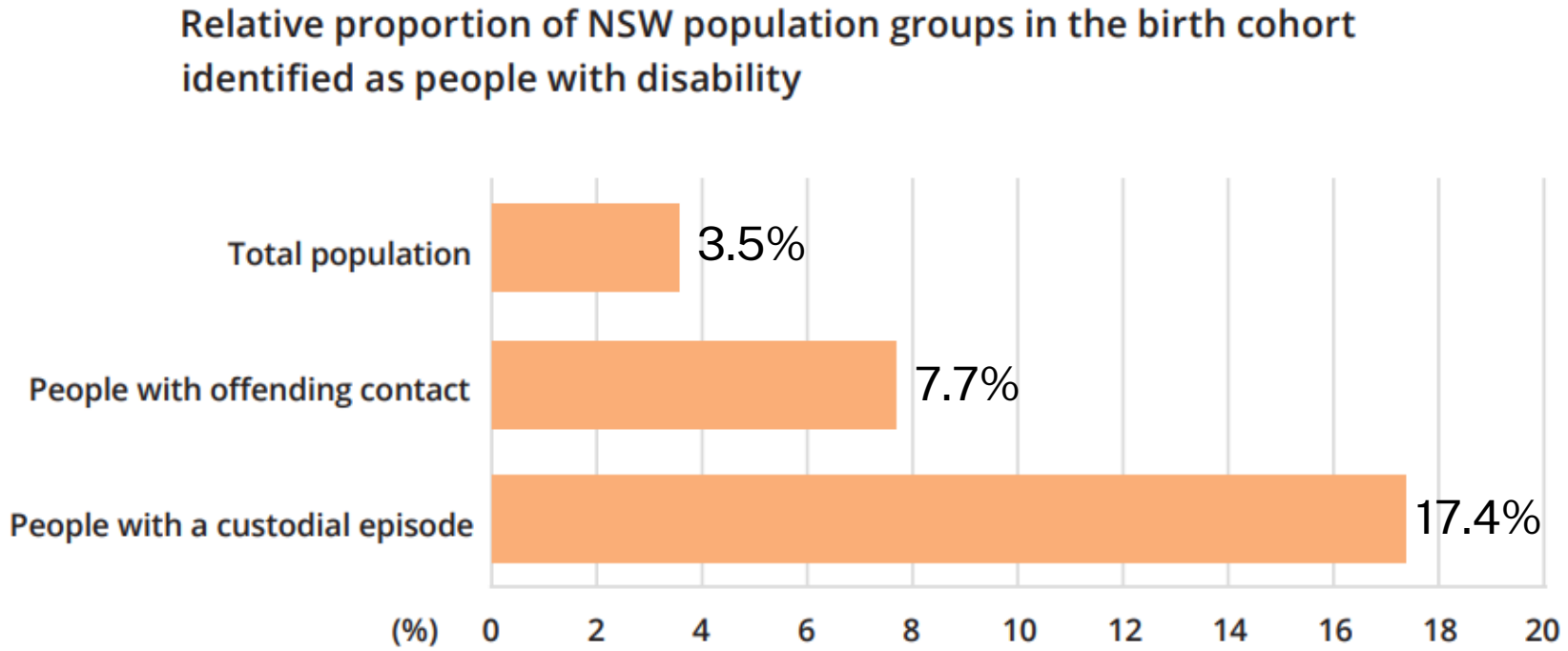
Defines disability as those in contact with disability services

NDIS, State-based support services captured in the DS NMDS, and/or Disability Support Pension

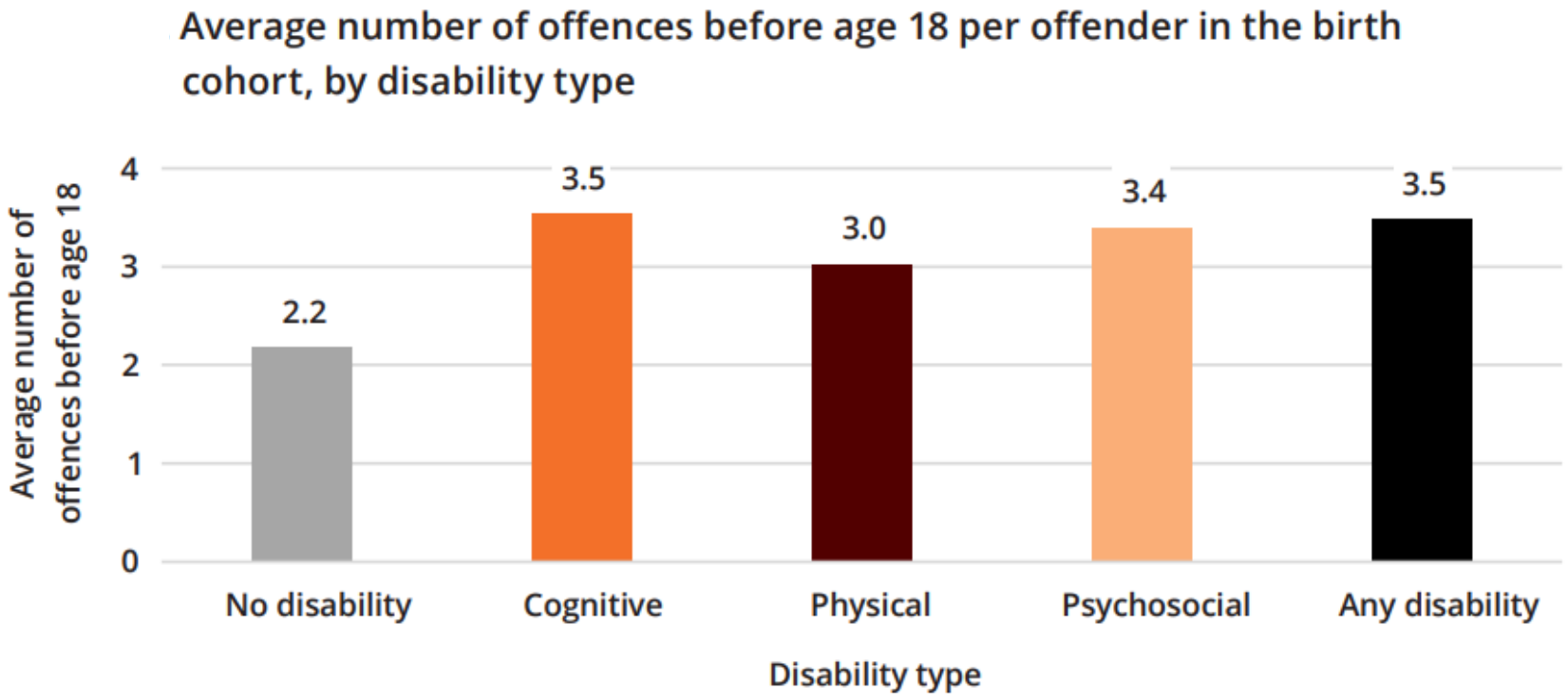
Examines interaction with the criminal justice system and factors associated with offending

Nature and background of criminal justice experiences before age 18

Young people with disability were significantly overrepresented in their contact with the criminal justice system

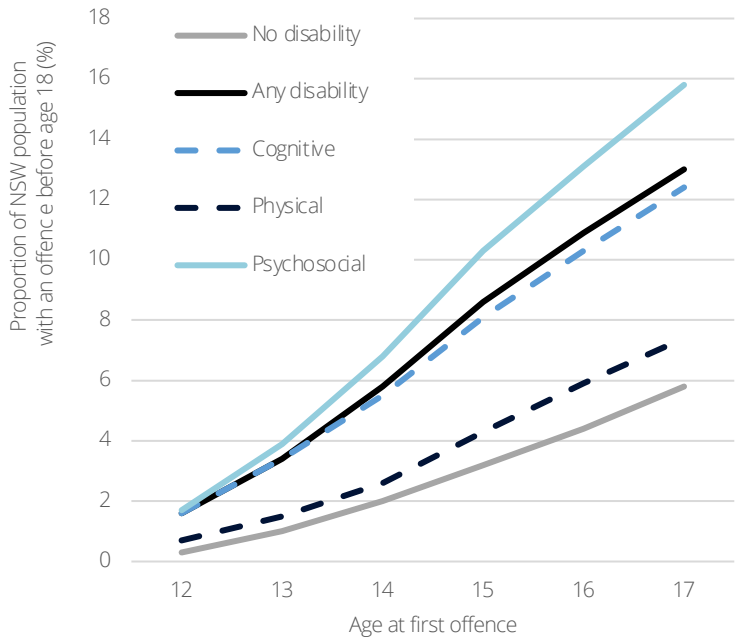


Young people with disability were more likely to accumulate more offences before age 18 (3.5, vs. 2.2 offences)

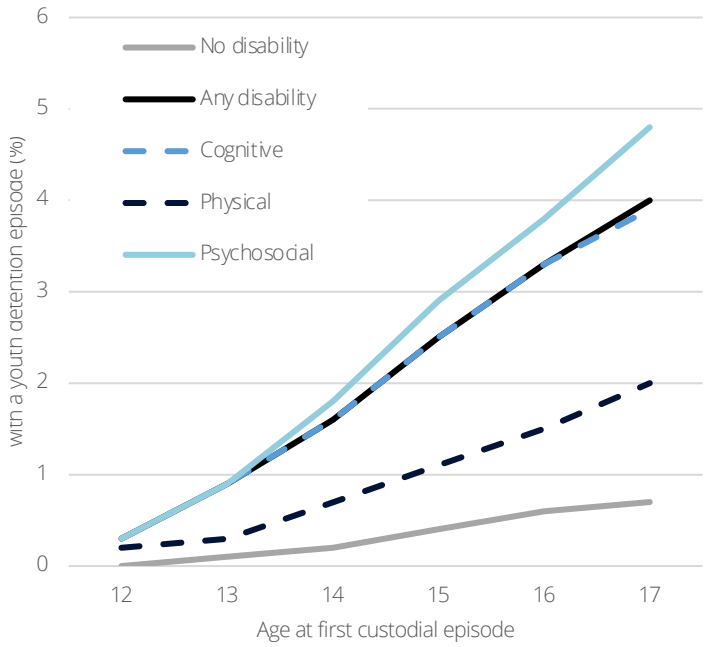


On average, young people with disability, had their first contact with the NSW criminal justice system at an earlier age.

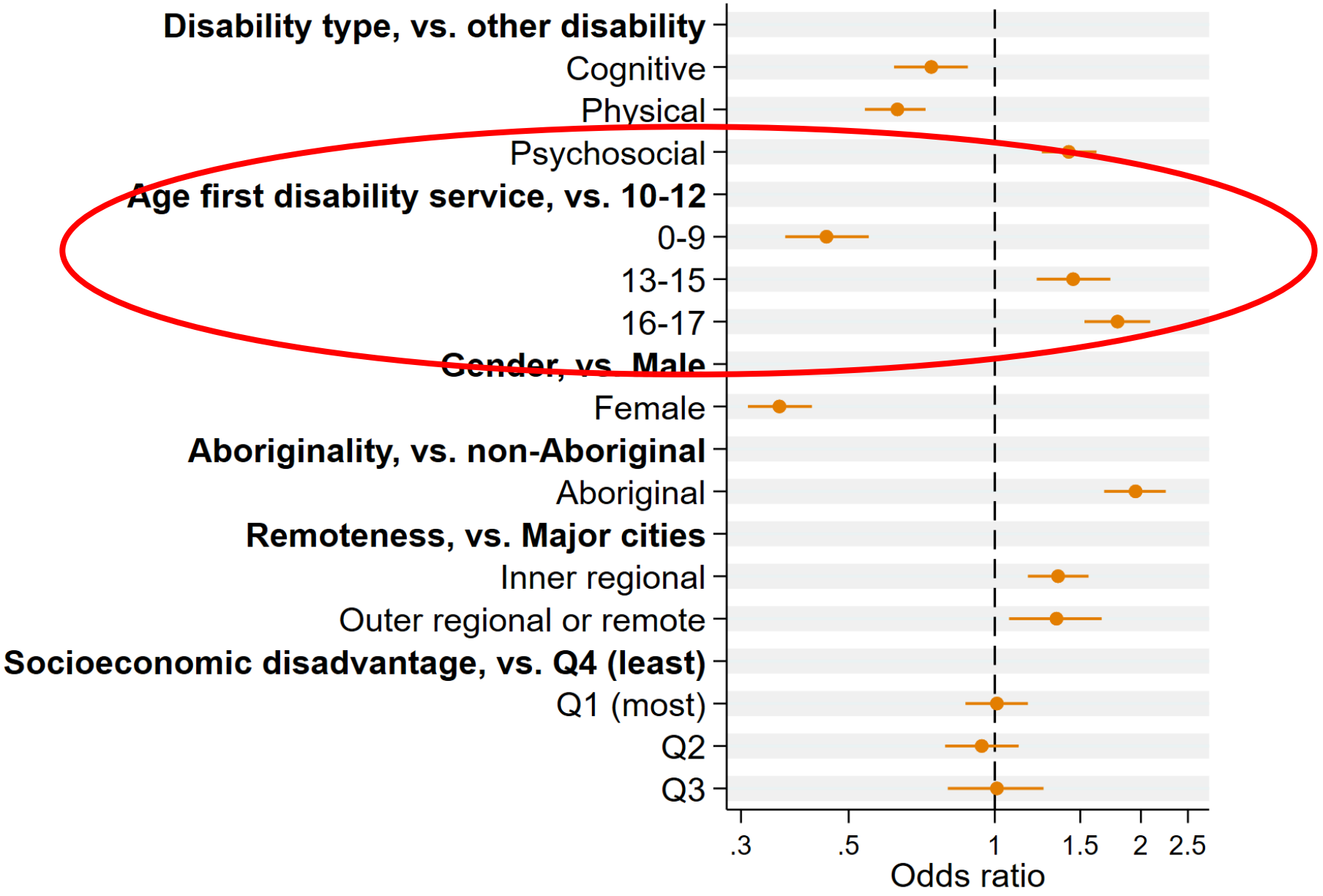
Cumulative proportion of NSW population in the birth cohort with an offence before age 18, by age at first offence and disability type



Cumulative proportion of NSW population in the birth cohort with a youth detention episode, by age at first episode and disability type



Factors associated with offending contact of young people with disability



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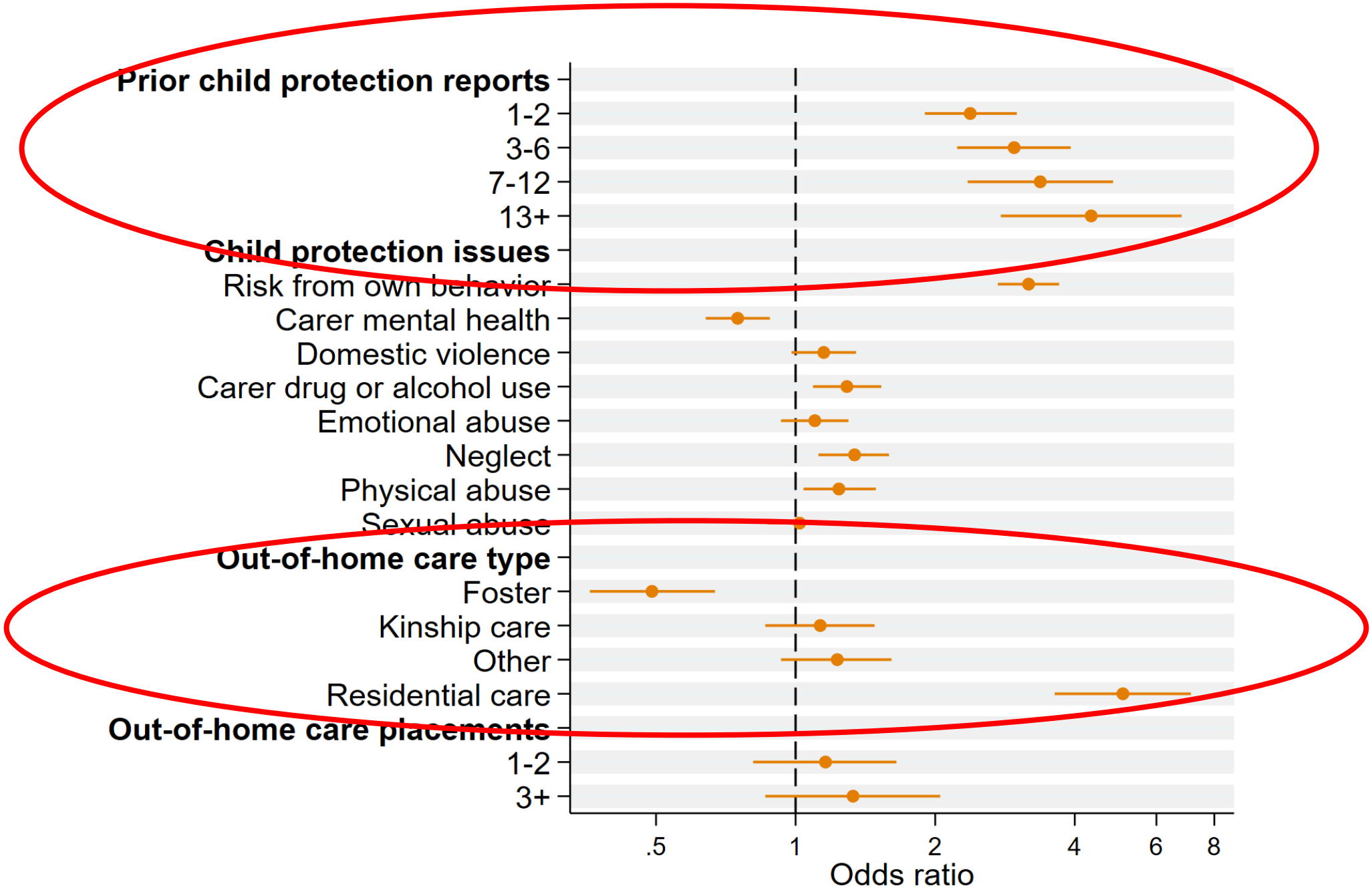
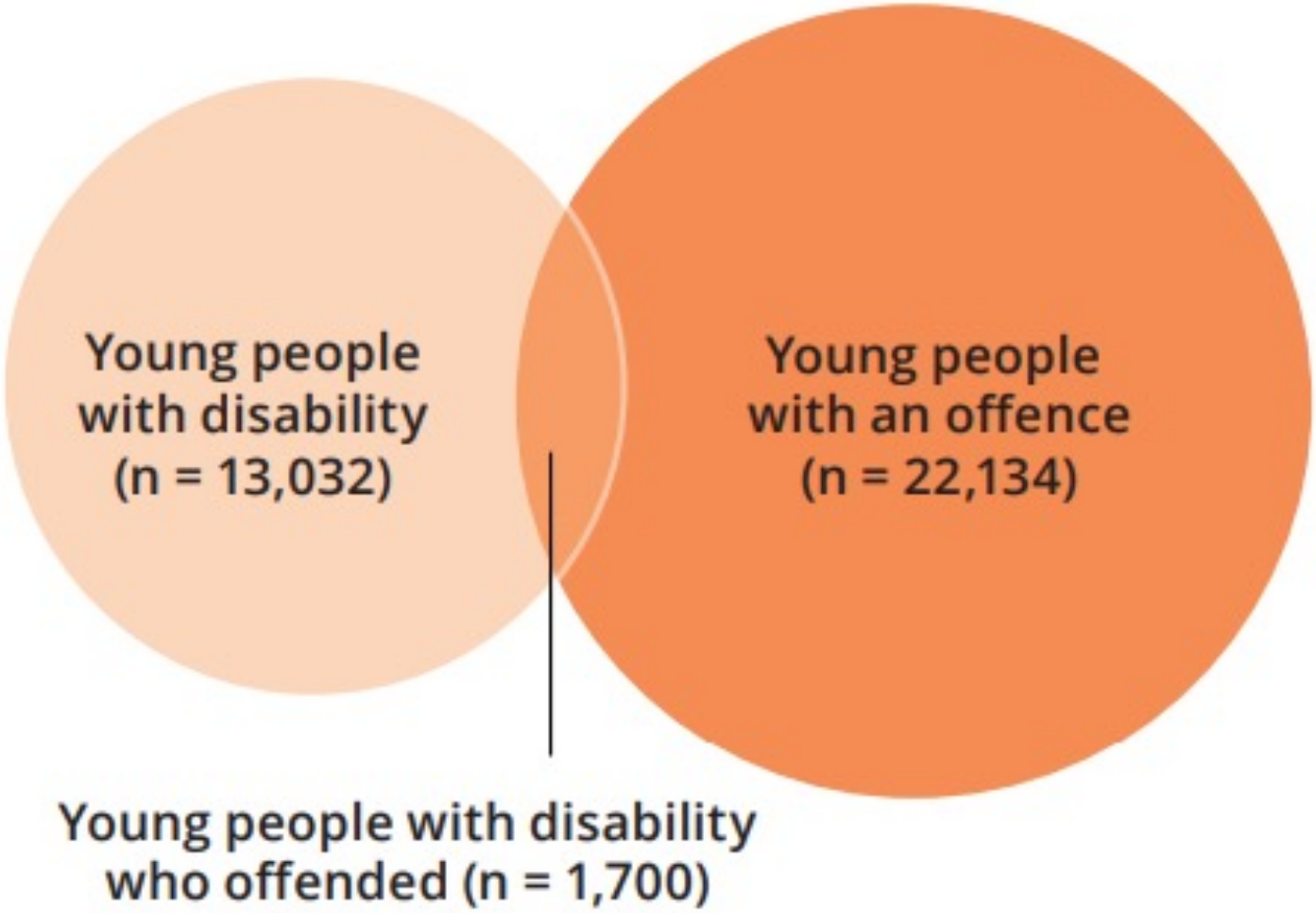
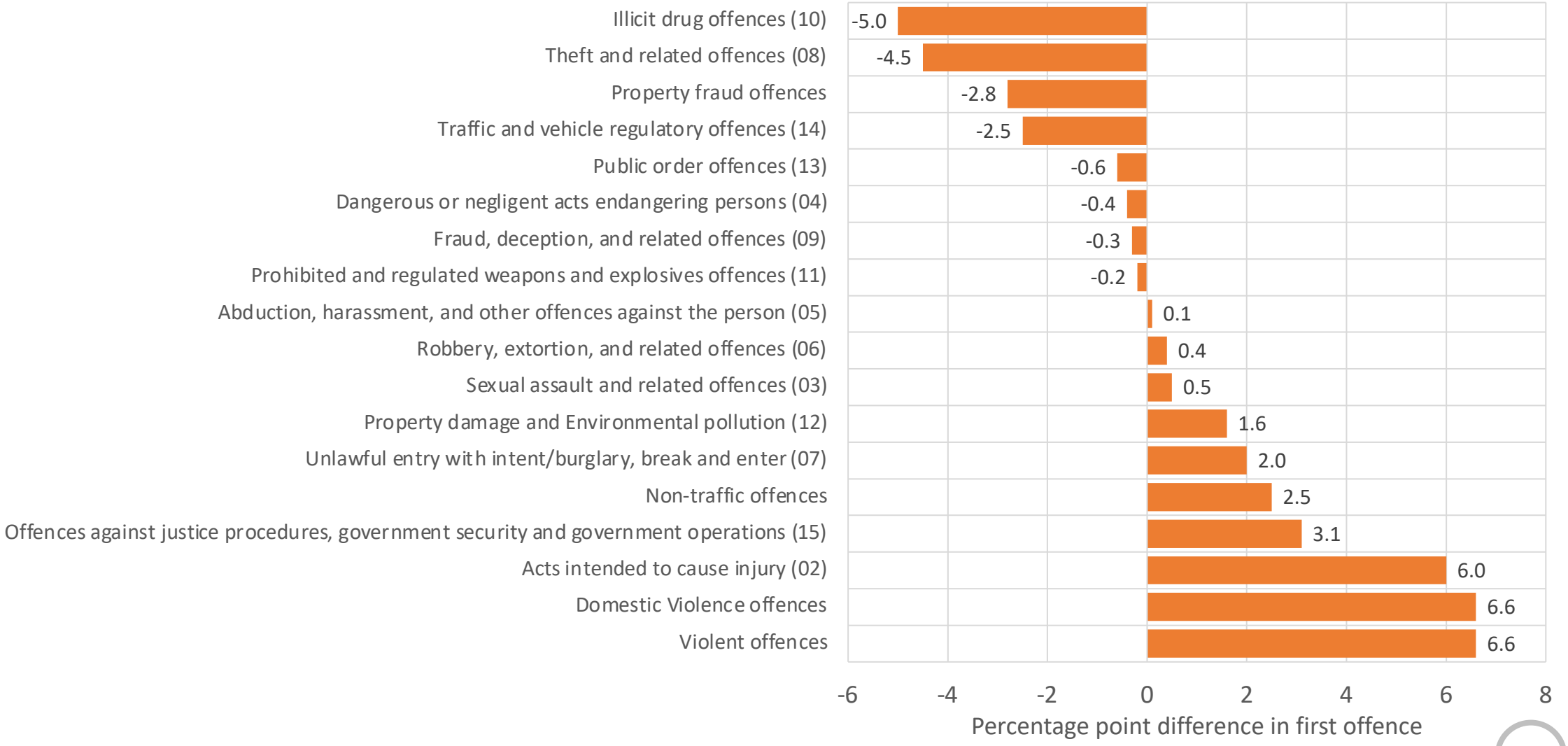


Despite this overrepresentation, the vast majority of young people with disability did not offend before age 18 (87%)

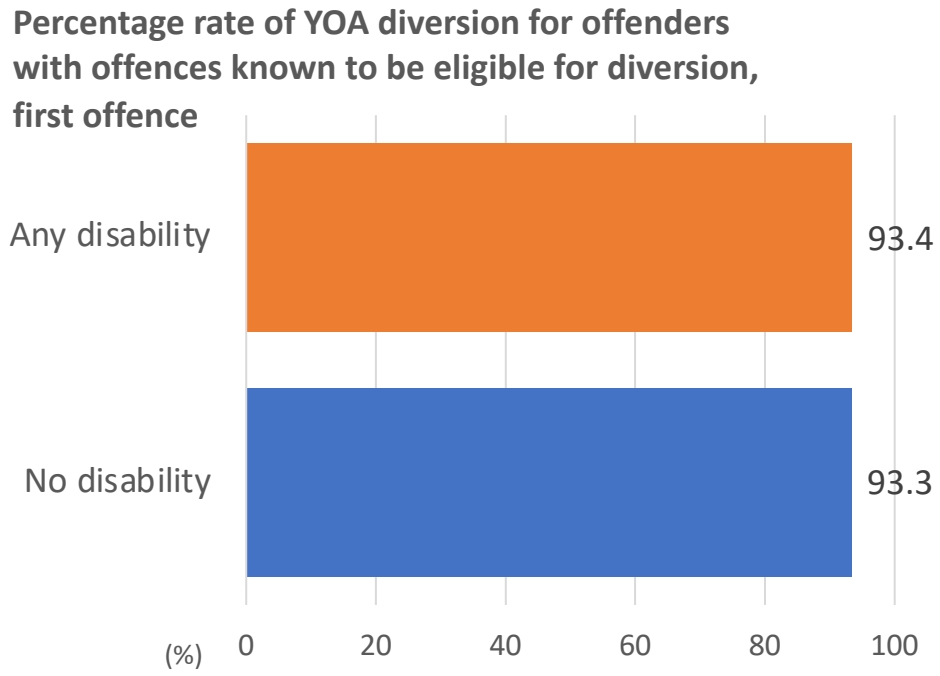


Young people with disability had notably different offence types

Difference in first offence type of people with disability compared to people with no disability



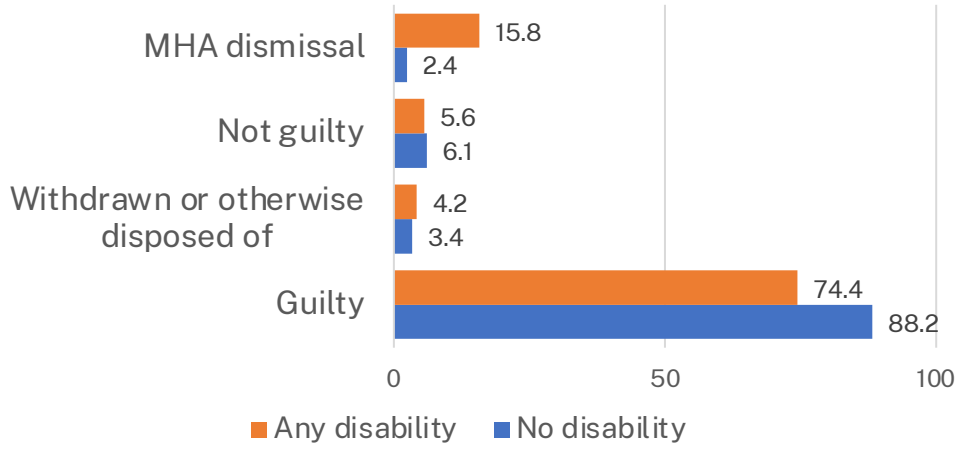
Rates of court diversion using a youth justice conference or police cautioning were similar between young people with and without disability



- For young people who were eligible to receive a YOA diversion, diversion rates averaged around 93% for both groups
- Young people with disability were more often ineligible to receive a YOA diversion due to their offence type

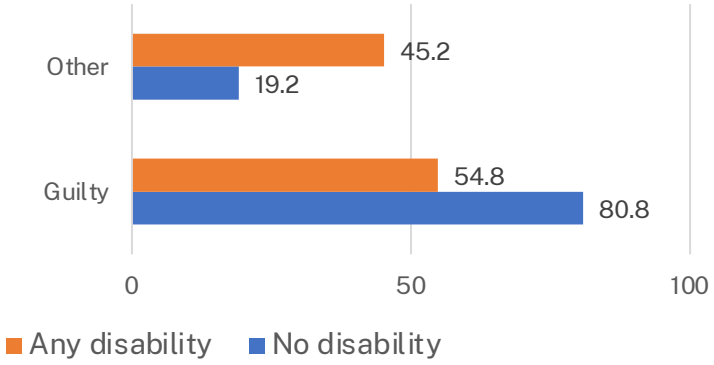
For offences proceeding to court, people with disability were significantly more likely to receive a s32 or s33 dismissal under the (now repealed) Mental Health (Forensic Provisions) Act 1990 (NSW)

Non-strictly indictable offences – percentage rates by finalisation type



- Young people with disability who had an eligible offence were significantly more likely to receive a Mental Health Act dismissal those without disability
- They were also more likely to have charges withdrawn or otherwise disposed of

Strictly indictable offences – percentage rates by finalisation type



- Young people with disability who had a strictly indictable offence were significantly more likely to have their case finalised with a not guilty outcome, or with charges withdrawn or otherwise disposed of

Summary

- While people with disability are overrepresented as young offenders and those with a custodial episode, the majority of young people with disability do not offend before age 18.

- For young people with disability, factors such as later age of initial contact with disability-related services, greater remoteness of residence and frequency of child protection contact were strongly associated with the likelihood of contact with the youth justice system.

- Early services and supports, and foster care placements may be protective factors but further research is needed to better understand this relationship.

- Young people with disability receive diversionary outcomes under the YOA at the same rate as young without disability. However, often they are ineligible for these diversionary options.

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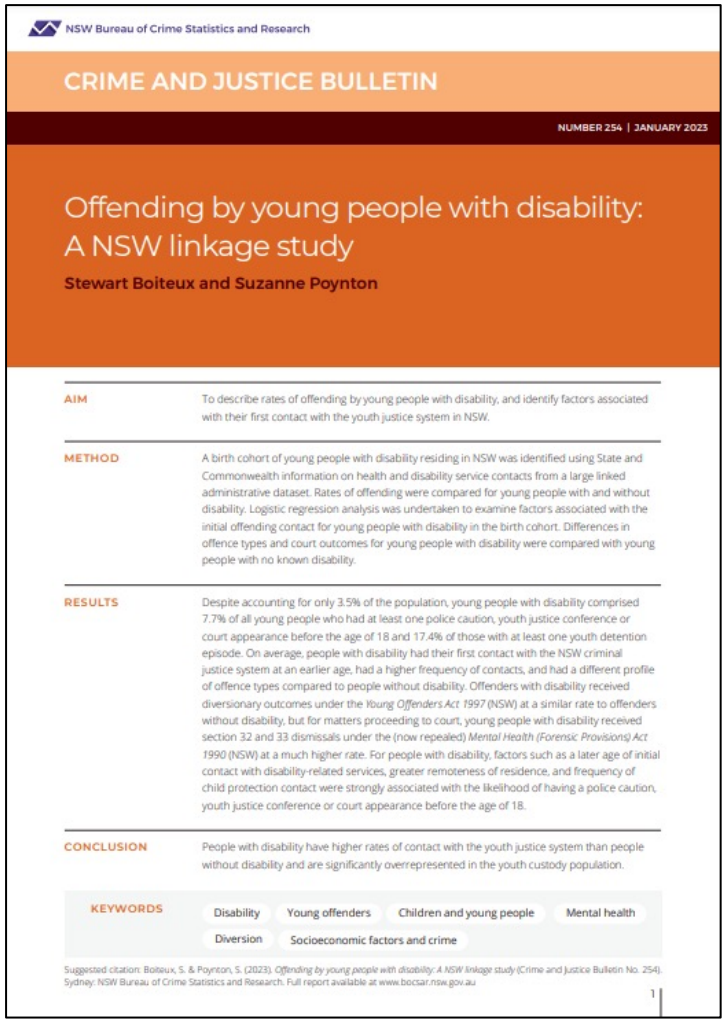

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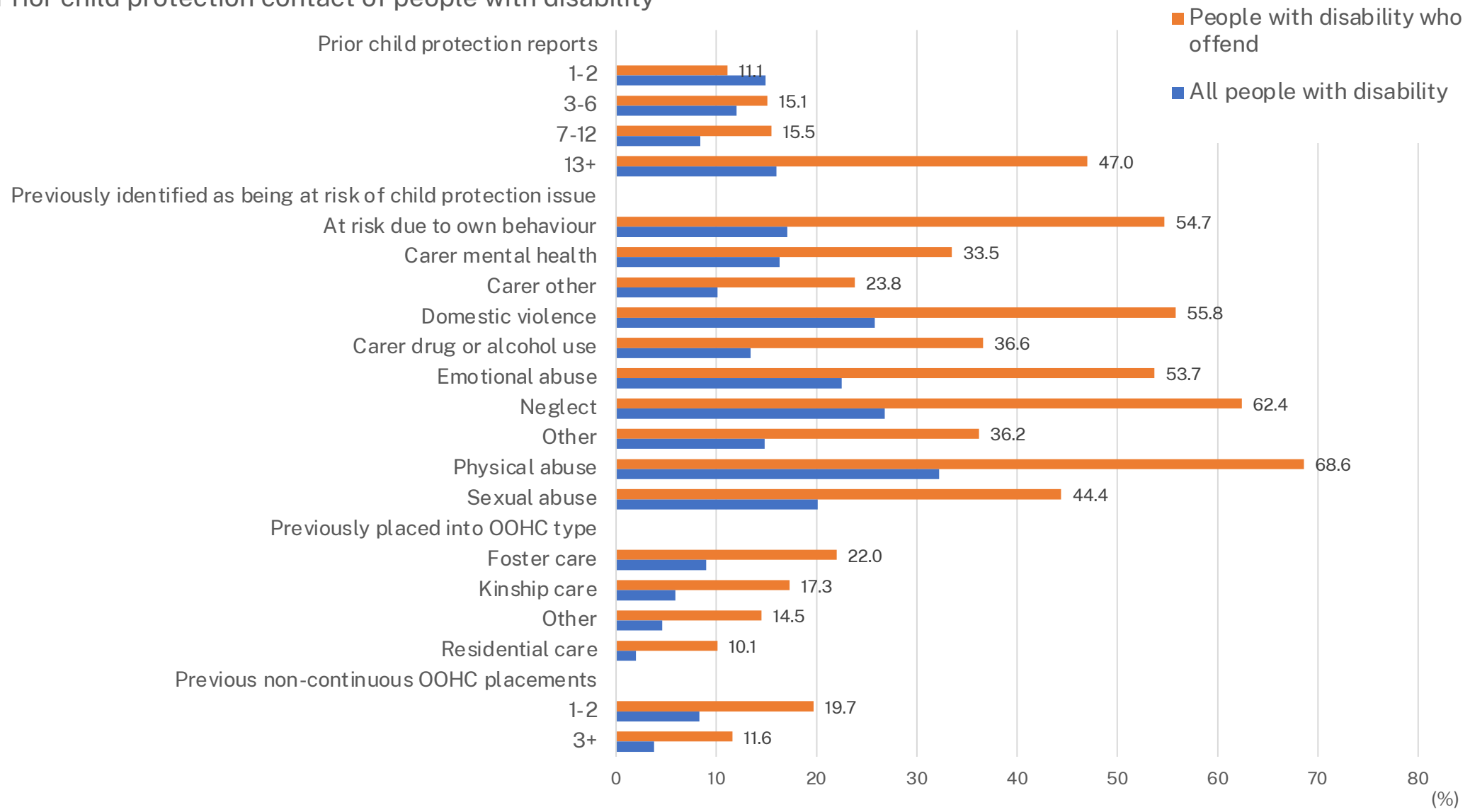
THANK YOU

Young people with disability who offend have particularly high contact with the child protection system

Prior child protection contact of people with disability