

Is there dignity in justice?
An exploration of young peoples' lived experiences
of contact with
the broad Australian legal landscape

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A thesis submitted to fulfil the requirements for the Degree of Doctor of Social Work

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2023

Statement of Originality

This statement certifies that to the best of my knowledge, the content of this thesis is my own work. This thesis has not been submitted for any degree or other purposes, nor has any part of this work been used for the award of another degree. I certify that I have used my best endeavours to ensure that all scholarly, literary and other sources and resources have been cited, referenced or otherwise acknowledged. Additionally, this thesis meets the University of Sydney Human Research Ethics Committee requirements for the conduct of this research.

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DATE: 16 December 2022

Abstract

This study raises awareness of adolescents' responses to practice interactions with the variety of legal actors who work within the broad range of formal and informal contexts and settings that together comprise the Australian legal system; an area of social work research that is largely unexplored. A qualitative framework influenced by feminist poststructural, intersectional and response-based concepts was utilised to explore an overarching research question: "How do emerging adults perceive and make sense of their lived experiences of legal actors' practices during their earlier interactions in Australian legal settings?". Semi-structured, in-depth interviews were conducted in a democratic and collaborative research space. In focussing attention to adolescents' lived experiences through the contrast and comparison of the accounts of 10 emerging adults and 10 legal actors, this inquiry opened opportunities to disrupt discursive practices that essentialise adolescents and highlighted interconnections between legal actors' power, and adolescent dignity and resistance. Analysis confirmed that the legal system can be broadly defined to include formal contexts in which legal actors are subject to practice rules often guided or interpreted by judicial officers in court contexts. Additionally, that the legal system's broader definition also extends to environments outside these formal contexts, to non-formal contexts not governed by practice rules, allowing for individual interpretations of practice interactions. Analysis reveals the two groups share common perceptions including: that adolescents have clear understandings of the performance of relations of power across contexts; the connection between youth resistance and asymmetries of power; and, that youth responses to practice interactions can involve experiencing emotional and mental distress. Findings also reveal that positive dignity experiences framed within positive social responses are linked to positive experiences of power even in the face of negative legal outcomes. Ultimately, youth dignity is indicated as the key component of supportive, meaningful and effective direct practice that lowers risk of emotional and mental harm for adolescents in contact with the legal system. Discussion includes the prospect that future practice in the legal system should be founded on relational and ethical practice competencies underpinned by an ethic of justice-doing, ensuring legal actors authentically interact with, and attend to adolescents as unique multiple-identified human beings.

Acknowledgements

This thesis was written on the traditional lands of the Wangal Peoples of the Eora Nation on whose unceded lands I live. I acknowledge and pay my respects to the Wangal, recognising them as traditional owners; past, present and emerging of the beautiful land, wind and waters of Rozelle. Always was, always will be Aboriginal land. I recognise the Wangal as amongst the First Peoples of Australia. I also acknowledge the role my profession has had in the history of damage and hurt of our First Nations Peoples. It is my sincere hope that the multiple knowledges contained in this thesis will contribute to de-colonising and anti-oppressive practices, while highlighting the need to bring the dignity of all people to the centre of our professional work.

I am deeply grateful to the people who volunteered to collaborate with me in this research. Without the emerging adults and the legal actors who made themselves vulnerable in the research environment, I could not have explored the questions that arose from practice with young people who have contact with the law. Thank you all, for your trust and for sharing with me your deep, and broad knowledges. I hope you find I have done justice to your narratives: This research is dedicated to you.

I am also grateful to my academic supervisors, Professor Susan Heward-Belle and Professor Emerita Fran Waugh. Your wisdom and guidance have been exceptional; students need academic supervisors who have your combined profound prudence, knowledge and sagacity. I have been lucky to have you both in my corner. Sue, may I expressly acknowledge your pastoral support – the doctoral journey can feel quite lonely, thank you for being a present and compassionate human being. I additionally acknowledge and thank Professor Donna Baines and Associate Professor Margot Rawsthorne for their academic assistance and support in the early stages of this doctoral project.

I have also been fortunate to have the astute knowledge and direction of my professional supervisor, Dilip Balu to guide me throughout this undertaking. Many of the observations that arise from this practice-oriented research came from our reflexive social work supervision conversations. Thank you for walking with me Dilip. To my fellow clinicians: Your vast experience is my immeasurable resource. You are a group of caring, generous, clever, critically reflective, humorous and irreplaceable justice-doing colleagues. Thank you, all.

To successfully complete their research, doctoral students also need the infrastructure support that universities provide. I am deeply grateful to Associate Professor Nicole Mockler, Suin Jung and Conrad Richters, all of whom provided expertise, support and expert guidance throughout my candidature.

Many friends have walked this road with me. In particular, Gilda Fahd, Robyn Woods-Child and Jean Bas, thank you all for your precious friendship and love. And to Professor Shirley Alexander; Shirley, your calm, sage advice came at a critical moment. You four are all loyal, warm, loving, amazing and supportive friends.

Last, and so very not least, I thank my beautiful family for their endless encouragement of me and of my research effort. Thank you all for seeing the value in my research. Thank you all for understanding that I sometimes needed to stay at my desk especially when you wanted a fun friend or someone to talk to. Mostly, thank you all for listening to the words that came, sometimes in a rush. To India, Henry, Candice and Bridgina; you bring me sunshine, delight and love – without you four, I would not have clearly understood how my everyday efforts can influence the future, including our family's future. Thank you for your support and love my Darlings.

To my dear husband James, you too bring me sunshine and delight, and also, pleasure, happiness, glee, joy, contentment, serenity, and love (and Martha!). You have enabled me to enfold myself into your care during this sometimes challenging and always privileged experience of *'becoming'*. Without you, and without your care and encouragement given in so many ways, this work would not exist. I needed a familiar base to return to when I ventured away on this academic journey, and this you gave with your open heart. I also wouldn't have known that legal actors can be dignity-aware practitioners. Thank you for your gift of seeing the worth in this research, for saying often "I want to be dignity-aware in my work", and for putting these research findings into practice, your practice. As I closed the pages of this work and reflected over my research journey, I could also see, very clearly, that without you and without your support, I would not have understood what love, kindness, generosity, safety, acceptance and validation in the face of adversity actually feels like as experiences and how these experiences have meaning for me. Which is not to say the doctoral experience is itself adverse, rather that at times our world has been complicated with unexpected circumstances, as this doctoral research has progressed to finality. We together know and have experienced what has happened in our lives during the history of this research. And so, because of these experiences, I also clearly saw that without you, I would not have had the opportunity to share with you; a good man, a nurturing father and grandfather, and a respectful husband - our supportive, empathetic, generous and loving family. You have given me the space to make meaning of the totality of my work, my research, and my life across the time-frame of this research journey. Thank you for all of these things my Darling James, and for your deep and abiding love. It is returned in spades. Always.

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CHAPTER 1. INTRODUCTION

1.1 Introduction to the chapter

The genesis of this inquiry is direct clinical social work practice in a youth-focussed response-based therapeutic mental health practice; in this thesis it's called *the clinic*. The age range of the young people who come to the clinic accords roughly with youth who are attending Australian high schools. Many of the young persons who attend the clinic have experienced challenging life circumstances, including being “subjected to violence or other forms of oppression” (Wade, 1997, p. 23). The nature of these life circumstances can also, frequently, mean youth must be in contact with the law.

Youth who come to the clinic have had a range of lived experiences of contact with the specialist jurisdictions such as Children’s Court, juvenile justice and the Federal Circuit and Family Court of Australia. Additionally, many have also had contact with a much broader range of legal contexts including both the formality of other court settings and informal environments. In informal contexts practice interactions frequently have a focus on preparation of legal matters that in some way involve a young person. This research thus arose from locations at which legal actors directly practice with young people. These legal actors include social workers, and also a range of professionals whose work, and practice interactions, influence youth futures.

At the clinic, therapeutic work with young people is underpinned by response-based theory and perspectives (Coates et al., 2019). Accordingly, youth voice is privileged and uplifted as an authentic and accurate source of knowledge regarding their lives. Youth perspectives and knowledges of challenging life circumstances are acknowledged as distinct, rich, clear and well-defined.

Also underpinning practice is the fundamental assumption that each young person has an inherent capability to “respond effectively to the difficulties they face” (Wade, 1997, p. 24). Moreover, a central effort in the therapeutic work with young people is engaging in conversation concerning youth acts of resistance as responses to challenging life circumstances.

The work of practice then, is in connecting the concept of resistance in locations of marginality, oppression and violence including structural violence, to the multiple ways in which young people work to retain or reassert their dignity (Richardson & Wade, 2010; Wade, 2015) within the therapeutic relationship. In this therapeutic process young people experience how their strengths and capabilities are understood as unique acts of resistance when their dignity is challenged. In this way youth dignity is a central organising concept of therapeutic practice at the clinic. During the therapeutic process it becomes clear that what may have been previously known as, or said to be, difficulties/setbacks or symptoms existing inside a young person’s mind or brain, are problems arising from “the mistreatment and humiliation of those individuals in the context of violence and injustice and through negative social responses” by others to youth (Wade, 2015, p. 895). Young people’s lived experiences are privileged as containing contextually and situationally-contingent understandings of power and how power is performed.

In thus emphasising the astute resourcefulness of young people’s acts of resistance to disrespect to their dignity, in locations of oppression and violence, including structural violence, a response-based approach additionally renders visible the specific locations at which asymmetries of power can be, and are accomplished. A response-based approach accordingly underscores the interconnections between power, resistance and dignity.

Further, a response-based approach recognises that youth acts of resistance serve to retain or reassert a young person’s own intrinsic dignity. Youth resistance acts, often experienced as internal responses of distress, are therefore acknowledged as ubiquitously

utilised in service of enhancing young people's personal, emotional and mental safety and survival (Bonnah, 2016; Coates & Wade, 2007; Richardson & Bonnah, 2015; Reynolds, 2020, Wade, 1997, 2015). Moreover, in their resistance, each young person reaffirms their multiple quintessential identities (Bonnah, 2016; Richardson & Bonnah, 2015; Reynolds, 2020; Richardson & Wade, 2010; Wade, 1997). Across time, the voices of young people attending the clinic and speaking about their experiences of their contact with the law, together, became a chorus of responses to those experiences, recognisable as multiple acts of youth resistance.

The clinical therapeutic work that inspired this research is also underscored by practitioner critical reflection and reflexivity (Fook, 2004; Fook & Askeland, 2007). Through this well-known social work practice, new knowledges that are central to clinical practice are generated with, and through, multiple client knowledges. However, while critically reflective practices challenged deeper assumptions about the legal system, its shape, extent and concepts vis-a-vis youth, e.g., that it appears to offer young people a protective stance, reflective processes could not resolve some therapeutic dilemmas, or meet nagging questions about youth emotional and mental wellbeing following their contact with the law. Eventually a systematic exploration appeared to be the process that could resolve these dilemmas and questions that related to consistent descriptions of young persons' acts of resistance when they were in contact with the law. Additionally, it was realised that there could be potential for underscoring future novel dignity-aware practice with youth who would have contact with the law, through utilising lived experiences in a similar way to the processes used in the clinic; by building new knowledge with and through those who have lived experience. Hence, the research on which this thesis reports.

The over-arching purpose of this inquiry was to build knowledge with emerging adults and legal actors that could inform dignity-aware practice with young people who work in the interdisciplinary space between the law and social work, particularly social

workers and other legal actors who work directly with adolescents. Moreover, the research was underscored by a social work commitment to transformative practice by taking a political and justice-doing stance to research (bell hooks, 1994; Reynolds, 2020). By building knowledge with these two groups relating to how power relations are performed, the following became possible: First, points for practice change regarding current discursive constructions of adolescents could be located through exploring discursive practices as performed across the broad range of legal milieux. Second, attention could be drawn to whether legal actors give attention to multiple intersecting youth identities in legal environments. Third, legal actors' understandings of youth distress in various legal contexts could be explored; and fourth, there was an opportunity to contribute to knowledge relating to the extent of integration of youth dignity into current practice across diverse legal settings. Consistent with achieving this purpose, exploring how emerging adults both experienced, and made sense of their earlier lived experiences of contact with the law, and building knowledge through comparative and alternative data with legal actors was a practical research solution.

The remainder of this chapter includes an outline of the key terms, a contextual background and a precis of this inquiry. The chapter closes with an outline of the organisation of this thesis.

1.2 Key Terms

Throughout this thesis, the term *legal system* refers to the Australian legal system broadly defined including all legal contexts in which a young person interacts with legal actors, and not narrowly confined to the specialised youth-focussed jurisdictions. Therefore, for the purposes of this thesis, the term *legal system* includes spaces where social exchanges over legal matters arise. Locations where these exchanges can occur include in social workers' offices, solicitors' offices, barristers' chambers, legal conference rooms,

physicians' rooms, telephone and electronic exchanges, hearing or hospital rooms (for example some mental and physical health hearings are not conducted in formal court rooms), common areas of court houses and court rooms. This thesis considers the formal sites of the legal system to include the court buildings and courtrooms of the equivalent of the NSW jurisdictions known as the Children's Court (including sites of the Juvenile Justice jurisdiction), Local Court, District Court and Supreme Court, and the Federal and Family Courts of Australia (including what was previously known as the Federal Circuit Court). The term legal system will also be encountered throughout this thesis as relevant literature is cited. Where possible, international literature was selected that had similarities to the adversarial Australian legal system. Where this is not possible a reference is made to the appropriate legal system.

While the stance taken in this inquiry was toward democratic research, the equalising of power, and the recognition of each participant as a unique person possessed of multiple intersecting identities, the terms *youth*, *young person(s)* and *young people* have been used interchangeably, and with the respect this researcher-practitioner has for the young people who come to the clinic. However, given this research sought to explore specific lived experiences of the legal system, broadly defined as above, the terms *youth*, *young person(s)* or *young people* should also be understood using the legal distinction used in the Australian state of New South Wales (NSW): "[l]egally a 'child' is generally defined as a person who is under the age of 18 years" (Judicial Commission of NSW, 2020).

The expressions *youth*, *young person(s)* or *young people in contact with the law* is understood to be a person(s) who is under the age of 18 years who interacts with the legal system for a range of reasons (International Bureau for Children's Rights [IBCR], 2018). The variety of reasons can include being witness-survivors, or witnesses of crime, youth who come to the attention of the state for protection reasons, or for other reasons relating to provision of care (including adoption, physical health issues, mental health issues, for

example pursuant to the *NSW Mental Health Act (2007) – Young People*, which was recently amended in 2015). Youth can be involved in administrative cases, or they may be young persons whose needs must be met if a parent/parents/carers are detained and awaiting hearing. Youth in contact with the law may be support persons for others, including supporting a parent in domestic and family violence (DFV) proceedings or be a carer or supporter of parents who do not have English as their first language. Young people in contact with the law may offer support for friends who have legal needs. Youth can be involved in refugee appeals, transgender proceedings, proceedings relating to medical interventions or matters involving their financial affairs. This list is not exhaustive.

It is important to distinguish youth/young people in contact with the law from *youth /young people in **conflict** with the law*. This term is an adapted definition referring generally to a person under the age of 18 years who interacts with the justice system because they are suspected of, accused of, or found guilty of committing a criminal offence (IBCR, 2018).

Similarly, for the purposes of this thesis, the adapted expression *youth witness-survivor* is assumed to be a person under the age of 18 years who has been a victim of crime and who has survived. Therefore, a youth witness-survivor is also a witness to that crime, regardless of their role in the offence, or their role in the prosecution of the alleged offender or group of offenders (IBCR, 2018).

Youth witnesses of crime are people under the age of 18 years who have witnessed a criminal act against either a person they know or a person they do not know (IBCR, 2018), who are compelled to give evidence in a criminal case. *Youth witnesses of crime* are also people under the age of 18 years who may not have witnessed a criminal act, but who nonetheless are compelled to give evidence that is deemed to be relevant in criminal proceedings.

Throughout this thesis, the term *emerging adult* has been used to describe a young person aged between 18 and 22 years (Bringewatt, 2013).

The term *adolescent* is used in this thesis loosely based on the ages of young people who attend high school in Australia; 12 to 18 years of age.

The expression *legal actor* is an expansive term used to describe persons who work within the legal system and who, during their everyday practices, may interact with youth in contact with the law. While the legal actors who volunteered to participate in this study were people with law degrees and who practised as lawyers, throughout the knowledge-building processes participants, including the legal actor participants, often considered the practice of legal actor colleagues - actors from other professions whose work brought them into legal landscapes. Thus, the term *legal actor* as used in this thesis, included solicitors, barristers and advocates, and judicial officers, including judges and magistrates all of whom have formal legal training. Additionally, the term *legal actor* was used to describe witness intermediaries including social workers, formal witness support staff including social workers, mental health practitioners including social workers, psychologists, psychiatrists, medical practitioners, social service officers involved in care proceedings including social workers, and protection workers including social workers and police officers. The term also includes staff who do not directly work with young persons in the broad variety of legal contexts, including reception staff, support staff, security staff, court officers and maintenance staff.

The term *domestic and family violence* (DFV), is the generally recognised term used in Australia for violence against women, children and adolescents, performed within a domestic setting or family environment. Perpetrators are mainly but not only male, victim-survivors are mainly but not only female. Victim-survivors are mainly, but not only female. Perpetrators are frequently, but not only male. Legal definitions may incorporate the “psychological, physical, sexual, financial and emotional abuse and coercive control”

(Callaghan et al., 2018, p. 1555), which may occur in familial settings. Children and young people, however, are absent from legal definitions of domestic and family violence in familial settings (Callaghan et al., 2018). A feminist framing will be used in this research to conceptualise the issue. In clinical practice, and in this thesis, DFV is acknowledged as arising from macro level social relations of patriarchal oppression that underscore gender inequality for females and a subordinate status of women and children (Ali & Naylor, 2013; Montoya & Rolandsen-Agustín, 2013). Such a framing recognises inequality and subordinate status in family units wherein the prevailing social construct and defining characteristics of DFV environments are acknowledged as power, coercion, and control (Dobash & Dobash, 1979; Heise, 1998). It is also a fundamental assumption that at the time the events of DFV are perpetrated, dynamics of asymmetric power relations exercised by a dominant-other create a context in which abuse of young people can take place, while simultaneously silencing the voice of youth. Such a framing also accounts for the historic and ongoing influences of colonisation processes on Australian Aboriginal and Torres Strait Islander Peoples.

Throughout this thesis, the terms *sexualised abuse of children* or *sexualised abuse of a child* (SAC) is substituted for the legal phrase child sexual abuse (CSA). This approach is taken since the word *sexual* conveys consensual acts between people and communicates mutuality (Coates et al., 2019; Coates & Wade, 2007). A clear distinction is drawn here by substituting the term *sexualised abuse of child(ren)*, to highlight the notion that the acts involved in SAC are violent, oppressive, unilateral, non-mutual acts committed by one person against the body and will of a young person without their consent (Coates et al., 2019; Coates & Wade, 2004).

On occasion, the terms *victim* and *survivor* appear in accounts of participants. Considering the centrality of dignity to my professional practice, and, that dignity is the central concept that informed this inquiry's research processes, I respect peoples' use of

terms for self that they themselves utilise when describing their lived experiences. Therefore, no attempt is made to provide a global definition for the terms *victim* and *survivor*, since the use of these terms may form part of the specific and unique meaning-making of participants' lived experiences.

1.3 Contextualising this research

a) *Contextual factor – the adversarial system*

Since this inquiry sought to explore youth experiences of contact with the legal system broadly defined, a wide-ranging approach was taken to exploring the literature in anticipation of capturing scholarship that would inform theorising and research. While Australian and international literature was explored for contextualising this research, youth contact with the law in Australia must first be contextualised within an adversarial system of justice, since this is the system within which Australian youth have contact, rather than the traditionally European context of inquisitorial practice.

The Australian adversarial system derives from laws, traditions and processes that came from the English justice system during colonisation; a similar process of justice system absorption occurred in other English-colonised common law countries dotted around the globe such as New Zealand, Canada and the USA. Adversarialism informs a trial tradition based on a partisan contest (Markovits, 2008; Pakes, 2007). In adversarial jurisdictions, while legal practitioners have a principal duty to the Court, their role is to assemble the evidence for the case they will present at trial, and to advocate for their client's interests without seeking to balance competing claims.

Some Australian scholarship has specifically examined the adversarial system vis-à-vis young people through specialist jurisdictions, e.g., the Children's Court jurisdiction. Sheehan and Borowski (2013) is a unique collection of multiple assessments of Australia's

Children's Courts that together comprise a national study in this specialised space. This collective body of mainly qualitative scholarship is comprehensive, with data gathered from a wide range of key adult stakeholders in the field. Analyses revealed a broad range of issues and challenges for youth who have contact with this field of legal practice which, in Australia, remains embedded in the adversarial system. There are examples of how this jurisdiction takes a responsive approach to young people's perspectives. One is the Children's Court of New South Wales, where care-circle pilots, youth justice conferencing and restorative justice processes (Fernandez et al., 2014), are indicative of a youth-centred jurisdiction making moves from less-flexible forms of practice and moving toward a more youth-sensitive, responsive and non-adversarial environment for young people who are the central focus of proceedings through laying of criminal charges (Cunneen et al., 2015). However, these processes and their associated practices may not benefit young people who are not the principal focus of legal proceedings.

In Australia, the Children's Court jurisdiction also frequently deals with child abuse cases. In terms of this research, relevantly, Sheehan and Borowski (2013) both edit and contribute to a volume that draws together a thorough set of evaluations of "the core business of the Children's Court in each of Australia's eight child welfare and juvenile justice jurisdictions" (p. 1). Sheehan and Borowski (2013) draw attention to a critical point; that the mistreatment of children and youth, is underscored by legal interventions, highlighting young people's depth of experience of legal practice that remains embedded within an adversarial context, even as this specialist arena makes moves toward practice that is youth-focussed. As a complete volume, Sheehan and Borowski (2013) is a persuasive contextual document relevant to this inquiry since it underpins how youth experiences of the legal system at large, and of the adversarial context, are replete with multiple knowledges of how power is exercised at the point of practice.

Additionally, research has contextualised youth interactions with legal actors relating to parenting matters, and particularly conflictual parenting cases in the Family Law jurisdiction (for example, Cashmore & Parkinson, 2008; Foote, 2011; Kaspiew et al., 2014; Morrison et al., 2020; Ross, 2012; Sheehan, 2018, 2021; The Law Council of Australia, 2018; Webb et al., 2021). While the scholarship reflects that the jurisdiction applies itself to matters that should be concerned with the best interests of youth and children, and indeed, the Family Law system articulates itself as child-focussed, the locations at which young people are invited into its legal settings are adult-focussed and underpinned by the adversarial nature of legal hearings in this jurisdiction. It is additionally important to note that direct involvement or inclusion of young people in hearings is rare (Family Court of Australia, 2018, Appendix B5; Foote, 2011). As Sheehan (2001) adroitly states; the Family Court is rather, “a court of ‘private law’ and children come to its attention as a consequence of their parents’ matrimonial dispute. Most typically child protection matters are raised as issues in access and custody decisions” (p. 70). Young people thus compelled to interact with practitioners who practise in this jurisdiction are faced with adversarial circumstances where they have little chance of influencing their future outcomes either during proceedings or through review following judgment (Sheehan, 2021).

There is also a large body of Australian and international scholarship that evidences young victim-survivors’ challenges when they are compelled to navigate an adult-focussed criminal justice system (Aldridge & Luchjenbroers, 2007; Bowden et al., 2013; Caprioli & Crenshaw, 2017; Cashmore, 2007; Cashmore & Bussey, 1996; Cossins, 2009; 2020; Eastwood & Patton, 2002; Elmi et al. , 2018; Goodman et al.,1992; Hayes & Bunting, 2013; Henry, 1997; Quas et al., 2005; Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, 2017; Vandervort, 2010; Woodward et al., 2014; Zajac et al., 2012). As discussed below, though youth are understood as vulnerable in the criminal justice system in Australia, nevertheless, young peoples’ experiences, whether as victim-

survivors or as witnesses who give evidence, in criminal matters are contextualised by adversarial processes.

Australian and international scholars and advocates have asked whether the adversarial system is the appropriate forum for young people's evidence-giving in some specific circumstances (Bluett-Boyd & Fileborn, 2014; Cossins, 2020; Kelly, 2002; Sheehan, 2021; Webb et al., 2021). In response there have been moves to introduce special measures in some circumstances where young people are evidence-giving as victim-survivors (Bluett-Boyd & Fileborn, 2014; Lee et al., 2018). While these more youth-sensitive procedures may present circumstances of greater compassion and dignity for young people, the measures only apply in restricted circumstances and not all legal contexts, specifically not outside the formality of court proceedings and indeed not in the broader scope of legal environments.

Additionally, as Bluett-Boyd and Fileborn (2014) concede there can be a disconnection between the successful implementation of reform through practice change. Barriers to effective realisation of reform through translation into practice, relevantly include, the performance of power relations, whether an institution's practitioners have capabilities to be reflective, reflexive and transparent (Berman, et al., 2007), and pre-existing cultural values (Kennedy & Eastal, 2011). However, Bluett-Boyd and Fileborn (2014) indicate key facilitators of successful implementation of reform include increased awareness; augmented and specialised education; boosted resources to allow for implementation; the creation of good relationships through improved communications between relevant agency staff; and most importantly locating the most motivated individuals who wish for reform to occur. These findings conceptually support the notion that practice change is possible even in a system that appears to be frequently hindered by its adherence only to "justice-related priorities" (Kennedy & Eastal, 2011, p. 52).

b) Contextual factor – legal landscapes as discursive workplaces

While all people under the age of 18 are discursively constructed as ‘child’ in Australian jurisdictions, typically young people are doubly-discursively constructed and essentialised as inherently vulnerable on account of their age. For example, in NSW, a “vulnerable person means a child ...” (s. 306M(1), *Criminal Procedure Act 1986*, No 209), where a child is usually a person less than 18 years of age. Consequently, the concept of vulnerability vis-à-vis youth in contact with the law is “conditioned by both normativity and power” (Petherbridge, 2016, p. 601), highlighting interdependency “while also acknowledging the dynamic, intersubjective forms of power that are also co-constitutive of subjects and social relations” (Petherbridge, 2016, p. 602). Goodwin et al. (2018) agree, while also characterising a social interaction between materially particular people (young people and legal actors) at the point of practice. This discursive constitution of young people in the interdisciplinary space between the law and social work informs how social work legal actors approach their work within the legal system.

In discursively producing and constituting a specific class of intrinsically vulnerable people through the recognition of each of the materially particular people (as a holistic concept: see Goodwin et al., 2018) in the specific class, the legal system offers a protective stance to people discursively constructed as child, who are under the age of 18 years. Further, the legal actors who discursively perform the production and constitution of an essentialised class of vulnerable people are implicated in assuming responsibility for the explicitly offered protective stance (Vögele, 2020). Here again, this necessarily, includes social workers whose work is in this interdisciplinary location.

Against this background of a discursive essentialising that raises expectations of protection, the ways in which the system works against a protective stance through its practices and procedures are open to being experienced as complex, threatening,

prejudiced and discriminatory. This may occur despite legal actors viewing their work as supported by legal discourse and a set of procedures that constitute the legal system, rather than a form of social interaction. Thus, the concept of discursive constitution of adolescents was a critical contextual factor for this inquiry.

c) Contextual factor – legal landscapes as social environments

When youth have contact with the law, it is with an institution. As with all institutions, the legal system is operationalised through people: legal actors. Some legal actors in the interdisciplinary space aim their work directly toward solving legal problems (e.g., solicitors, barristers, advocates, judicial officers). While other legal actors could define their work as supporting legal outcomes (e.g., social workers who act as witness intermediaries or social worker-mental health practitioners). Nonetheless, the information required for legal issues to reach an end-point is conveyed between people (Goodwin et al., 2018; Sheehan, 2003) through the back-and-forth use of words in conversation. It is reasonable to assume that young people will experience each interaction as a social exchange.

During case preparation, in the less formal context of an office or chambers, social interaction begins. Information about what has occurred cannot be known unless there are exchanges between legal actors and, relevantly for this inquiry, young people. While contextually, the exchanges occur in a legal setting that may be experienced as less formal than a court space, nonetheless, it is a social context. These instances of social exchanges and interactions can hold meaning for the young person who is experiencing the exchange. These are important points when considering the whole of practices experienced by youth across the legal system when it is broadly defined.

However, legal actors trained in adversarial traditions, particularly those who take a trial-centred approach, may prefer to consider their work to be only what they do in court. They may also prefer to consider their work in the formality of the court as a simple

engagement in strategies of legal practice underpinned by legal principles and knowledge (Boyd & Hopkins, 2010). But even in the formality of the court it is reasonable for people less familiar with legal practice to recognise and experience the back-and-forth nature of question-and-answer that is the basis for the verbal characteristics of contemporary practice as a social exchange occurring between people. Australian social work research situates legal actors' practices within a social context clearly describing the process of social interactions that occur during evidence-giving (Sheehan, 2003). Contextually, those exchanges do not occur in a hypothetical barren legal framework for young people experiencing evidence-giving and the practices associated with that formal legal process. Rather, the exchanges are conducted in a social context, the exchanges are real and can therefore hold meaning.

A larger scope of Australian and international research that considers the dynamics of practice when youth are evidence-givers, emanates from a range of disciplines each of which reflects social interactions, including psychology, law, sociology and social work (Caprioli & Crenshaw, 2017; Cusack, 2020; Eastwood & Patton, 2002; Hayes & Bunting, 2013; Quas & Goodman, 2012; Plotnikoff & Woolfson, 2009; Zajac et al., 2012). While this variety of scholarship possibly reflects the diversity of legal actors who intersect with youth when they are in contact with the law, common to the findings are the ways in which young witnesses, particularly witness-survivors experience evidence-giving practices as oppressive, complex and daunting. Additionally, the connection between youth contact with the law and youth responses to evidence-giving, even when not the subject of proceedings, is a well-defined reference point in scholarship, research and grey literature (for example, Bonnah, 2016; Caprioli & Crenshaw, 2017; Cashmore & Parkinson 2008; Cossins, 2020; Currie, 2009; Macourt, 2014; Nicholson et al., 2019; Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, 2017; The Law Council of Australia, 2018; Vandervort, 2010).

These experiences are underscored by legal processes that inform the ways in which particularly a victim-survivor undergoes a perceptual transformation from subject to object (victim-survivor to witness) for legal actors. While not specifically stated as a social process, Bluett-Boyd and Fileborn (2014) found this process does occur and that it is similarly experienced by victim-survivors. Additionally, Bluett-Boyd and Fileborn (2014) found that despite legal actors often having interacted with a victim-survivor over an extended period throughout trial preparation, there is a decline in legal actors' perceptions of victim-survivor/witness individuality, uniqueness and humanity, with the needs of the legal system to solve a legal issue taking precedence. These processes occur across time through social exchanges that begin with positive social responses to a victim-survivor that transform as trial strategies take precedence toward negative social responses as the victim-survivor becomes a witness. If the person is under 18, they face the challenge of being doubly discursively constituted and essentialised during this process.

Additional findings emphasised by observations of the social interactions of evidence-giving that privileges legal process over witnesses needs highlight the back-and-forth nature of evidence-giving, which is open to perceptions of social exchange, but which also can lead to experiences of distress (Aldridge & Luchjenbroers, 2007; Cossins, 2020; Woodward et al., 2014). This change or inconsistency in how practice is performed and experienced could underscore experiences of denial of genuine participation and operative silencing (Webb et al., 2021). These are valuable contextual observations and findings for this inquiry since these contextual issues reflect the kinds of structural inequalities experienced through social interactions as described by young people who have come to the clinic. The scholarship relating to these challenges will be further considered in the following chapter.

d) *Contextual factor – youth perceptions of bias*

Salient research contextualising this study finds that many young people perceive “that the legal system is intimidating, complicated, expensive and biased against them” (The Law Council of Australia, 2018, p. 4). These youth perceptions of bias align with the author’s clinical practice experiences. While the legal system is a state institution that itself produces and constructs subjects through its specific power and knowledge claims, youth perceptions of bias may additionally in part, rest upon young people’s institutional experiences of macro systems, and associated experiences of micro-interactions with adults.

That is, young people may have grown to experience the “apparently ‘natural’ structures of inequalities that existed (and continue to exist) between adults and children” (Hendrick, 2008, p. 49, emphasis in original). This includes their experiences of the educational system through attendance at school, characterised by micro-interactions with adult teachers. Other macro system/micro-interactions with adults can include those within the justice system, including interactions with police officers, or within the health system including interactions with medical practitioners. Additionally, scholarship reflects that adolescents who disclose sexualised abuse or exploitation may negatively experience a range of professional responses as biased and discriminatory, while much younger children are regarded as “*innocent* victims” (Allnock, 2017, emphasis added). Furthermore, professionals have been shown to consider sexualised exploitation of young people through specific contextual, behavioural and gender-based lenses that neglects young males as victims while recognising young females (Cockbain et al., 2014).

e) *Contextual factor – youth contact with the law; where and why*

Contemporary Australian research indicates youth are exposed to a wide variety of civil and criminal legal issues (Coumarelos et al., 2012; Coumarelos et al., 2013;

Coumarelos, et al., 2015; Macourt, 2013; 2014; Pleasence et al., 2015). The seminal Legal Australia-Wide (LAW) Survey (Coumarelos et al., 2012) yielded a report series including papers that describe analyses of a large sample of survey data (n=20,716), specific to young people's contact with the law. Youth have contact with the specialist Children's Courts and Juvenile Justice jurisdictions as the subject of criminal proceedings. They also have some contact with practitioners in the Family Court jurisdictions, and with the adult criminal legal jurisdiction as a victim-survivor of child sexualised abuse. Literature also indicates young people have complex and challenging contact with the law within the limited arena of family/DFV proceedings as these legal matters interact, with frequent added complexity when young people "experience institutional and interpersonal racism and colonialism" at the intersections of culture, ethnicity and multiple identities (Tsantefski et al., 2018, p. 203). Additionally, regarding youth and their interaction with the Family Court jurisdiction, in Australia prior to 2017, for young people whose needs were to transition away from the sex assigned at birth toward their preferred sexual identity, it was necessary to obtain the permission of the court for young people so to transition (Dimopoulos, 2021).

However, young people also experience a broad range of legal issues outside these legal areas. Macourt (2013) establishes that the range of legal problems youth face include, though are not limited to, criminal property cases; violence; sexualised abuse; personal injury cases; discrimination, bullying or harassment cases which can be based upon intersecting youth identities; or civil and administrative decisions relating to physical or mental health. Accordingly, Macourt's (2013) paper accurately reflects direct therapeutic practice narratives, and the clinical experiences that are the origins of this study.

Additionally, Macourt (2013) emphasises the proposition that youth are in contact with the wider legal landscape and have experience of an extensive range of legal practices. Macourt (2013) and the LAW Survey (Coumarelos et al., 2012) therefore provided valuable contextual considerations for this inquiry, regarding where and why youth are in contact with the law that aligns with clinical practice experiences.

Scholarship also indicates a persuasive interconnection between three youth “at risk” markers and susceptibility to legal problems (Macourt, 2013, p. 5). Markers include young people who were experiencing mental distress at the time of their contact with the law. Statistical data that contribute to why youth have contact with the law, relate to young people in the 15-17-year age range who have experienced mental distress. Data suggest increased prevalence for experiencing both one legal problem (79.9%) and, at least one substantial legal problem (62.1%), compared to a non-risk marker cohort whose comparative statistics were 42.5% and 20% respectively (Macourt, 2013).

Research findings also note a two-way connection between having legal needs and experiencing mental distress (Balmer et al., 2010; Coumarelos et al., 2013; Genn, 2019; Pleasence & Balmer, 2009; Tobin-Tyler et al., 2011; Zuckerman et al., 2008). Pleasence, Balmer and Hagell (2015) found that “the experience of legal issues was a key predictor of mental illness” (p. 15), supporting the findings of Macourt (2013), Balmer et al. (2010), Coumarelos et al. (2012), Hoeve et al. (2014), Pleasence and Balmer (2009), Pleasence et al. (2008), and Tobin-Tyler et al. (2011). These findings are a significant contextual factor for this study since they also accord with direct practice experiences.

f) Contextual factor – connections between youth distress and contact with the law

Empirical research related to Juvenile Justice jurisdictions, also points to higher rates of mental distress and extreme mental distress, including suicide-related behaviours for some young people when they are the subject of proceedings, compared to corresponding community who are not the subject of proceedings (Dierkhising et al., 2013; Indig et al., 2009; Kerig et al., 2009; Liddle, 2014; Sawyer et al., 2010; Stoddart-Dare et al., 2011; Teplin et al., 2006). Youth who have contact with the Juvenile Justice system often face complex circumstances in early life including an increased likelihood, compared to their parallel community cohort, to have multiple distinctive trauma experiences (Abram et al.,

2003; Adams, 2010; Feierman & Ford, 2016; Ford et al., 2012). Additionally, these youth are likely to have experienced multiple traumas on frequent occasions, typically on frequent occasions each year of their lives (Dierkhising et al., 2013; Finkelhor et al., 2007); and to have often experienced formal out of home care (Barrett et al., 2013).

Furthermore, adolescents who have contact with the Juvenile Justice system have been shown to reflect high adverse childhood experiences (ACE) scores (Baglivio et al., 2014; Cropsey et al., 2008). ACE scores predict both future health experiences (Felitti et al., 1998), and specifically shorter-term health outcomes (Baglivio et al., 2014) including the ways youth respond to adverse experiences, through distress (Baglivio et al., 2014; Feierman & Ford, 2016) or through behaviours that mediate pain such as the use of substances (Feierman & Ford, 2016). Since a bi-directional connection between contact with the law and experiences of mental distress is established, contact with the law can be considered an adverse experience in young people's lives. Therefore, these research findings both align with therapeutic practice experiences and were contextually valuable for this research.

Research findings that evidence examples of bewilderment and running (Sheehan, 2003), crying (Quas et al., 2005), shaking (Hayes & Bunting, 2013), refusing to speak or utilising a regressed speaking voice (Cossins, 2020) as various responses to evidence-giving. Perhaps less obvious, nonetheless observed in research, is a young person's confusion, restlessness, and obvious changes in mood (Cossins, 2020). Incongruously, findings also indicate that some young victim-survivors also experience dissociation during evidence-giving, explained by research underpinned by polyvagal theory (Porges, 2011) and neuroscience (Perry & Jackson, 2018), as immobilisation in which youth "are silenced by their own internal protective mechanisms that are activated when feeling unsafe or threatened" (Caprioli & Crenshaw, 2017, p. 199). However, some research that has a neuroscience focus points to these experiences as the building blocks of resilience that can

assist young people in their efficient responses toward stress, aiding individual personal recovery toward preferred futures (Perry & Jackson, 2018).

Further research indicates that young people who give evidence may also experience fear (Hayes & Bunting, 2013; Henry, 1997; Zajac et al., 2012) and/or anxiety (Cashmore & Trimboli, 2005; Eastwood & Patton, 2002; Plotnikoff & Woolfson, 2012; Powell et al., 2016; Zajac et al., 2012). Moreover, Hayes and Bunting (2013) found that young people reported feeling scared, physically sick, shaking and confusion. Vandervort (2010) reports that some youth may respond to cross-examination with reciprocal “hostile manner” while “others may exhibit symptoms of withdrawal and refuse to continue answering questions” (p. 357).

Eastwood and Patton (2002) found that youth are intensely conscious of judicial officers’ behaviour, including judges’ negative behaviours, while also perceiving legal actors’ practices to be aggressive. In these circumstances, research indicates youth can experience humiliation and harassment (Eastwood & Patton, 2002; Plotnikoff & Woolfson, 2012; Powell, et al., 2016). Associated research additionally indicates young people may experience legal actors’ practices as emotionally or mentally distressing (Flynn, 2013; Flynn et al., 2016).

There are research findings that indicate youth may utilise learned protective behaviours when in contact with the law that “create psychological and emotional distance from the source of the threat” particularly where a young person is “unable to organize an effective fight or flight response in the face of physical threat” (Caprioli & Crenshaw, 2017, p. 198). That is, through earlier characteristically similar adverse experiences, youth have available to them previously tested behaviours experienced as successful responses they can utilise in protecting their physical, emotional, mental and psychological integrity (Porges, 2011; van der Kolk, 2006; 2015).

Contextually, the totality of this research is valuable in bringing attention to the strong connections between young people's interactions with the legal system and their experiences of mental distress. This area of scholarship and research will be expanded upon in the following chapter.

g) A short summary regarding the contextual backcloth of this research

Against these contextual factors, the question arises, how do youth experience practice? Social work research contextualises young people's ability to be involved in the legal system and is indicative of legal actors' concentration on producing outcomes consistent with legislative discourse that essentialises and doubly-discursively constitutes young people, while also outweighing young people's needs and overshadowing authentic and genuine youth participation.

Diverse research deriving from a range of scholarly fields that have small touch-points or a wider connection with the legal system, and additionally grey literature directly associated with the law, also tell the story of young people who, while needing to interact with the legal system, perceive bias or discriminatory practice. Youth, in turn, experience a gamut of responses from legal actors that populate the broader legal landscape. These responses can be characterised as negative social responses to which young people respond with experiences of distress.

Ultimately, the sum of the literature drove the development of what appeared to be a previously unproblematised topic as the focus of this inquiry: age and diversity as intersecting oppressions of youth within the legal system. If age and diversity were experienced as intersecting and oppressive affronts to their dignity, to which youth responded with acts of resistance, the people who would have situationally and contextually-contingent lived experiences of a broad range of legal environments would also

have the knowledge of the practices that underscore intersecting oppressions. That is, young people, like those who came to the clinic, would simply know.

Additionally, legal actors who practice with, who observe practice, and who are motivated to work in this space, would also have multiple knowledges that could inform the inquiry of whether age and diversity are intersecting oppressions of youth within the legal system. Further, legal actors would have an opportunity to either emphasise current discursive narratives, or indeed, assist in the disruption of current discursive practice thus supporting the groundwork for future practice transformation.

The following section presents a short precis of this research.

1.4 A brief overview of this research

a) The aims of this study

The aims of this inquiry grew from the contextual factors outlined and summarised above. And while the obvious question asked above results, (how do youth experience practice?), necessarily to understand this simple question, broader queries flow. For example, what are the possible ways to explore how young persons experienced and made sense of their lived experiences of the legal system. And, also what research processes can be utilised to examine practices performed by the wide range of legal actors who work in the legal system?

Given the theoretical underpinnings of the practice work from which this research originates, it was of particular interest to investigate the degree of integration of the concept of youth dignity into legal actors' practice. In this regard, the study sought to develop understandings of power relations and how youth made meaning of their experiences of distress as responses to practice in legal contexts. Additionally, the inquiry was practically concerned with the development of knowledges relating to how youth distress was

responded to by legal actors. Through exploring youth knowledges and comparing these to legal actors' perceptions of youth experiences of the legal system, this study also sought to make a unique contribution to the growing scholarship relating to young people's experiences of the legal system. The value in generating knowledge with these two groups of participants was in the opportunity to raise awareness of youth experiences of the legal system broadly defined. By so doing, the study could underscore its commitment to working toward outcomes founded on equality and justice-doing for youth who are in contact with the law, while opening opportunities for youth to influence innovative practices with young people in the broader legal landscape.

b) The four research questions

The principal research question that directed the inquiry examined: *how do emerging adults perceive and make sense of their adolescent lived experiences of legal actors' practices during their earlier interactions in Australian legal settings? (RQ1)*

More specifically, the following three research questions led the examination of the awareness and understandings contained in the lived experiences of emerging adults and legal actors, as a means of knowledge building relating to power relations, resistance and the recognition of adolescents as unique individuals:

- *How do emerging adults perceive that legal actors construct adolescents? (RQ2)*
- *How do emerging adults perceive that legal actors recognise, acknowledge, assess and respond to adolescents' experiences of mental distress (RQ3), and*
- *What steps, if any, do legal actors take toward equalising power with adolescents in legal settings? (RQ4)*

c) *The framework for theorising and research*

The framework for research was built upon feminist epistemological concepts, influenced by intersectional and poststructural analytical sensibilities, that together formed the scaffold holding dignity as the central organising concept. Methodological considerations were also underpinned by response-based theoretical approaches. These considerations were taken since, necessarily, an exploration of how relations of power were experienced arose as a practice response to the youth who came to the clinic.

Consequentially, as is the underpinning of direct practice, this inquiry also acknowledged how power is related to knowledge-production, while privileging youth voice within a context of dominant groups existing in relation to subordinate groups (Aston, 2016; Frye, 1983; Grasswick, 2018). In total, the framework for theorising and research was considered practical and appropriate.

Dignity occupied the central conceptual space of this study's theoretical framework, first, because this research endeavour derives from direct social work practices that acknowledge notions of respect for inherent human dignity, worth and autonomy that are fundamental to social work ethics (Australian Association of Social Workers Code of Ethics Section 2.1, 2020). Second, in accounting for the interdisciplinary space in which this research was conducted, this research also recognised respect for human dignity and worth as being a fundamental concept to legal ethics (Neal, 2014). Third, response-based theoretical considerations underpin both the direct practice that motivated this inquiry, as well as multiple aspects of this study; specifically, the significance of dignity as a profound human social and relational organising concept. In this sense, human social life is fundamentally organised around the conferring and preserving of dignity (Wade, 2007). In total, this inquiry acknowledges and expresses dignity as a broad, fulsome, and significant concept that incorporates young people's natural orientation toward their intrinsic dignity

(Bonnah, 2016), in service of maintaining safety in their lives; when people's dignity is disrespected or affronted, they will resist even through "small acts of living" (Wade, 1997, p. 23).

d) Methodology

While research often seeks to understand institutional practices through analysing policies, or in the case of the legal system, legislative discourse, Coates and Wade (2007) argue that:

it is individuals in specific positions within institutions who must realize these abstract concepts locally through discursive actions ... [and who] ... must freshly justify their use of institutional power in each case by linking their actions to institutional ideologies, policies, or objectives. (p. 511)

Therefore, an exploration of how individuals discursively act and utilise their social power, is not able to be revealed only "by examining the institution's ideology, policies, or objectives" (Coates & Wade, 2007, p. 512).

Consequently, this study's epistemological assumptions include that "marginal social locations in fact offer certain epistemic advantages ... that by virtue of having to know how the world looks from more than one perspective" a marginalised person "has available a set of comparisons that make visible the assumptions underpinning dominant worldviews" (Jaggar, 2014, p. 307). Moreover, that people who experience the practices of individuals in the institutional context have a deep, situated and contextually-contingent knowledge of the institution's ideology, policies, or objectives (Bodwitch, 2014; Crasnow, 2015; Harding, 1987; 2003; Jaggar, 2014).

Therefore, this research offered opportunities to select realistic research questions that could reflect problematic circumstances experienced by youth as

subordinate/subjugated people. Conceptually this inquiry challenged the idea that an objective reality exists independent of human experience, and, proposed that understandings and acceptance of realities about the world emerge from social interactions that are culturally and historically situated (Denzin & Lincoln, 2003; Gergen, 1999). Consequently, the knowledges generated through this research are founded upon the interactions between participants and researcher and the interpretations that flow from those interactions, based upon the acknowledgment that people construct their realities within their particular social location.

Additionally, this inquiry rested upon epistemological considerations that explore knowledges in lived experiences that can underpin potential practice developments and enhancements in what is increasingly becoming an interdisciplinary environment in which social workers practice alongside legal actors' colleagues. Therefore, this research was rooted in transformation politics and practice (bell hooks, 1994) and in justice-doing (Reynolds, 2020), while drawing upon feminist thinking about the interrelatedness between power, knowledge and institutions (Bové, 1995). Further, this inquiry was informed by circular understandings of how power relates back to knowledge-production underpinning research endeavours to create a democratic research space (Crasnow, 2015).

This epistemological standpoint "requires that researchers approach their research reflexively, looking critically at their own social locations, interests, and commitments and critically assessing their own reliability as knowers" (Jaggar, 2014, p. 307). Researcher location was therefore important. My experiences as a mental health practitioner working with youth for many years in a clinical social work practice locates me as an insider in this sense: I actively participate in the discursive productions of mental health, mental wellbeing, and the interactions my clients have with the legal system that I seek to analyse and trouble. However, I also assumed an outsider perspective in this research where I pursued an engagement in a methodical, ordered and systematic inquiry into how young people

experience the variety of Australian legal contexts. Additionally, I have a second insider location in my personal life since I have an intimate involvement with the law through my family. My engagement in this multifaceted researcher-practitioner position is, coincidentally, stimulating and disrupting. A distinctive juncture. A place from which Michel Foucault might say I have had an opportunity to question the “kinds of familiar, unchallenged, and unconsidered modes of thought [on which] the practices we accept rest” (Foucault, 1981, p. 155).

(i) An overview of the research methods

The inquiry’s methods were also influenced by feminist poststructural theoretical approaches. Methods were underscored by assumptions that imply young peoples’ realities are in a state of continuous construction, of constant movement or change, occurring within a social context. In this way youth subjectivities were acknowledged as complex and not conducive to the inflexibility of the grand-narrative that considers a body a stable object. Rather, here, youth subjectivities were considered open to being doubly-discursively produced or constituted as the *vulnerable child* (legal definition) subjectivity, a kind of naturalised condition.

Research can be conducted *on* youth in contact with the law, usually making it “possible to include without distinction the various trajectories of [youth] who interact with the justice system” (BCR, 2018, p. 9). However, given the origins of this research, and the knowledges that come from practice with youth formulated through responsive, reflexive critical social work practice, it was vital to expose the connections between young people’s experiences of distress and their contact with the law. Equally vital, it was also important to capture young people’s various trajectories of their interactions with legal actors performing practices, by conducting research *with* young people. Indeed, it is these trajectories as

noted in the scholarship, and witnessed in the therapeutic space that underpin the aims of this inquiry.

Accordingly, the methods utilised in this research opened spaces for challenging discursive production and construction of young persons as an essentialised identity, or a doubly-essentialised subjectivity of *vulnerable child*. Next an opportunity opened to formulate locations of resistance against essentialising conceptualisations of youth. Last, the research space itself formed places of resistance against essentialising conceptualisations of youth. The research space was therefore a place of protest wherein young persons could express the ways in which they responded to prior contact with the legal system broadly defined with current acts of resistance. The research space similarly supported legal actors' capability to be vulnerable in their engagement with their own, and their colleagues' (including interdisciplinary colleagues e.g., social workers, mental health practitioners, witness intermediaries etc.) power and practices as they narrated their lived experiences.

A qualitative framework was utilised that captured young peoples' lived experiences and voices while also opening spaces to contest everyday practices and constructions of people under 18 years in the broader contexts of the legal system. The study was influenced by narrative inquiry to underpin methods that privileged the accounts and voices of adolescents through their older voices as emerging adults. Alongside emerging adults' accounts, comparative-alternative accounts were generated with legal actors, primarily to develop a richer understanding of how discourse underpins current practice. Generating data with legal actors was additionally considered an advantage in accomplishing this study's aims to contribute to understanding the extent of integration of youth dignity in current practices; and also, to draw on data capable of triangulating the emerging adults' data.

In these undertakings, feminist theoretical considerations underscored analyses, including the influence of an intersectional "analytic sensibility" (Cho et al., 2013 p. 795) and

an adapted critical analytical approach that grew from response-based practices (Coates & Wade, 2007) that are founded in poststructural analysis. Feminist theoretical considerations additionally informed the inquiry's acknowledgment that there is a "partiality, fluidity, and situatedness of knowledge" (Hesse-Biber & Piatelli, 2014, p. 177), through novel approaches to knowledge building underscored by response-based theoretical perspectives, including the centrality of dignity. Furthermore, influenced by these theoretical perspectives, the questions of "*who* can know, *what* can be known, and *how* we can construct the most authentic view" (Hesse-Biber & Piatelli, 2014, p. 177) underscored how the research was conducted, placing the researcher in an explicit location of equalising power vis-à-vis participants.

Therefore, the knowledge generated in this inquiry was co-created through the interactions between the participants and the researcher, while the research was located in a democratic relational space that held dignity as a central concept. In this way, knowledge building occurred with all participants in a participatory and reflexive way (Hesse-Biber & Piatelli, 2014). Methodology designed using this framework therefore offered complex though nuanced resolutions to the challenges that dominant legal discourses presented when exploring subjugated youth knowledges and lived experiences.

1.5 Organisation of this thesis

Chapter 2 follows; comparing and contrasting the ways dignity is understood and defined. It considers the concept of dignity as it relates to young people through a rights-based lens and as it underscores processes of oppression. The chapter explores the literature relating to victim-survivors' evidence-giving in cases involving the sexualised abuse of children and exploring youth locations in Family Law cases. It also critically reflects upon young people's mental distress and how response-based practice and scholarship

underscore an alternative and ultimately empowering approach to young people's experiences of contact with the law through understanding acts of resistance.

Chapter 3 presents a detailed description of the methodology that guided this research. This chapter explains the research design, methodology, and procedures used to collect, analyse and present data. In this regard, this chapter includes a discussion of the feminist epistemological approach and theories that guided the research. The research design features are included, particularly how dignity as a central concept is held within the theoretical framework and how response-based practice and scholarship underscored the whole of the research process. Finer details of the analytical framework used to examine each participant's lived experiences are given, along with limitations and implications of the overall research design. Importantly, the chapter contains a discussion regarding the trustworthiness and authenticity of this research.

Chapter 4 offers the findings of this research. Consistent with the epistemological and theoretical foundations of this inquiry, emerging adults' accounts are privileged, positioning them as possessing expert knowledge of the ways relations of power are performed through discursive practice, how they respond to negative social relations experienced as negative dignity-relations with acts of resistance, and whether youth dignity is a foundational and integrated concept of practice in the legal system. The chapter also presents legal actors' accounts of their alternative perspectives of current practice with adolescents across the legal landscapes. Legal actors' voices are similarly distinctly-heard as valuable sources of contrasting and comparative knowledge regarding their perceptions of adolescents' experiences of the legal system, whether adolescents experience distress and how legal actors individually respond to adolescents' distress.

Chapter 5 presents the Discussion to this research, and also the Concluding remarks of this thesis that connect the findings of this study with preceding scholarship.

Ultimately, the chapter offers innovative recommendations to move towards youth-influenced, dignity-aware practices with young people in contact with the law.

1.6 Closing the chapter

This thesis argues that young people's contact with the law and experiences with legal actors' discursive practices essentialise youth as a subordinate, marginalised group. Further, that youth contact with the law and experience of legal practice extends well outside the narrow jurisdictional areas of Children's Court and juvenile justice, child welfare and Family Court, and criminal cases relating to the sexualised abuse of children.

Significantly, this thesis shines a spotlight on the lived experiences of unique young people whose multiple identities intone their voices, rendering cadence to their experiences of being essentialised as a member of a specific and marginalised group across the broad legal landscape. The ability to focus this spotlight has been supported by the voices of legal actors whose complementary perceptions could be utilised to compare and contrast with the knowledge found in youth experiences. Taken together, the collective voices of the participants make a distinctive and unique contribution to the growing body of social work literature centred upon dignity as a core social work concept, directly understood as significant and germane to interdisciplinary work with youth ideally embedded within the context of the legal system broadly defined.

In disseminating these multiple knowledges, the aspiration that underpinned this research endeavour is that legal actors, including judicial officers, barristers and solicitors, and relevantly, social workers, who increasingly are occupying positions and locations that impact young people's experiences of the legal system, will intently listen not only to their colleagues' accounts, but will also accurately hear the chorus of expert youth voices.

CHAPTER 2. DIGNITY AS A CENTRAL ORGANISING CONCEPT

2.1 Introduction to the chapter

This research was influenced by a range of scholarship, practice and theories that share a common concern for upholding human dignity as the central feature of social work practice. Dignity, as it informs practice, motivated my interest in this inquiry, catalysed my research questions and informed the research design and methodology. Accordingly, this foundational principle is the central organising concept underpinning this research. The approaches to promoting and upholding human dignity in social work practice which informed this research are discussed in this chapter.

2.2 Dignity; as an imperative

a) Dignity as a fundamental concept to practice

In defining social work, the International Federation of Social Workers (IFSW) identifies social change as its fundamental mandate (IFSW, 2022). The IFSW also directs social workers' attention toward a professional concern for challenging and changing the structural conditions that underscore marginalising and exclusionary processes that contribute to unequal opportunities between groups of persons (IFSW, 2022). Additionally, in working to accomplish social change, the first of four overarching principles which together inform social work practices of all forms, is relevantly, *respect for the inherent worth and dignity of human beings*. The remaining are to do no harm, to respect diversity, and to uphold human rights while working toward social justice (IFSW, 2022). In this way, the IFSW seeks to direct social workers in their everyday practices toward promoting human dignity as central to practice, research and scholarship, underpinning the profession's "efforts to

both imagine and create counterworlds for individuals, groups, communities, societies ... which will overcome disadvantage, injustice and oppression” (Borowski, 2022, p. 610).

Aligned with this aspiration, dignity is the central feature of Australian social workers’ efforts in working toward social change, as stated in the Australian Association of Social Workers Code of Ethics (AASW, 2020). This ambition is also shared with international social work colleagues. For example, an overarching respect for the inherent dignity of each human, can be found in the ethical codes of the Aotearoa New Zealand Association of Social Workers (2019), the British Association of Social Workers (2021), the Canadian Association of Social Workers (2005), the Swedish Union for Social Work Professionals (2015), and in the global social work statement of ethical principles of the IFSW (2018).

Although there is broad agreement across the social work profession about the imperative for social workers to promote human dignity, nonetheless the meaning of the concept of dignity is contested. It is challenging to find consensus on a current universal definition of dignity, since the concept is connected to debates that range from virtue-based philosophical perspectives, through substantive dignity and recognition dignity to justice-based human rights dignity (Gilbert, 2015). Dignity has also been defined through the lens of indignity (Borowski, 2022). One view of this situation is that despite the major role the notion of dignity plays in primary human rights documents (e.g. United Nations Convention on the Rights of the Child, UN 1989; United Nations Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power, UN 1985; Universal Declaration on Human Rights, UN 1948; United Nations Declaration on the Rights of Indigenous Peoples, UN 2007) the creators of these fundamental documents assumed a global understanding of a dignity concept (Häyry & Takala, 2005). While Byk (2015) describes dignity as a “vague but powerful concept” (p. 362) citing dignity as a valuable foundational notion that both “defines and should guide humanity” (p. 364), McCrudden (2008) claims that a lack of a universally agreed upon definition has led to highly contested and context-dependent contemporary

conceptualisations. McCrudden's claims resonate with Borowski (2022) who argues that "dignity is difficult to define and is surrounded by contestation" (Borowski 2022, p. 610).

In an historical examination, Leget (2013) asserts that across time the concept of dignity has become more ambiguous. Furthermore, based on the pervasive utilisation of dignity language across multiple contexts over the "last two thousand years", Leget argues that the force of the concept has been diminished by "a continuity of its illocutionary content that seems to get lost the more one focuses on the details of dignity talk" (2013, p. 945).

However, in terms of this inquiry, Borowski (2022) who explores dignity with the intention of bringing social workers' attention to the centrality of dignity to their work, argues that even though dignity is a contested concept, it is "nevertheless a very important practice-shaping value provided social workers are conscious of the contestation" (p. 611). In Borowski's (2022) account, with careful consideration of the concept and what it means in the context of the specific working environment, dignity should inform social workers' ethical and socially just work. Relevantly, Borowski (2022) additionally draws attention to the significance of the concept of dignity "by such professions as nursing, law and medicine" (p. 611). He additionally points out that "a social work perspective, however, is not well represented" amongst the scholarship relating to the concept of dignity (Borowski, 2022, p. 611). Borowski's contention informs the demand for research conducted by social workers, that is centred on this core social work concept .

(i) Dignity; comparing, contrasting and contexts

Dignity is a concept open to interpretation across social work and interdisciplinary contexts. For example, Njoya (2017) sees dignity as reinforced by fundamental concepts of equality, autonomy and social responsibility, holding "the view of dignity as the equal, public status of democratic citizenship" (p. 51). This conceptual approach is referenced against "ideas about reality and the way we should live in it" (Leget, 2013, p. 947) leading to the

notion of subjective dignity; dignity connected to a person's lived experiences of self-respect. This links with Borowski's (2022) notion of "dignity as respect"; where respect is defined as a considerate and sensitive "expression of regard for other people" (p. 612). Rao (2013) has a similar view of recognition dignity, where "unique and subjective feelings of self-worth possessed by each individual and group" are generated through practices that confirm a person's sense of self (p. 189) underscored by social conditions in which "respect for a person's dignity requires recognizing and validating individuals *in their particularity*" (p. 188, emphasis in original).

Borowski's (2022) approach to dignity "through the prism of indignity" is also meaningful since this inquiry sought to explore experiences of young people when they interact with state institutions (p. 612). This approach allows scope to examine "failures to treat humans as humans" in three ways (Borowski, 2022, p. 618). First, to understand the ways in which people may be denied agency and so experience the lack of opportunity to "represent themselves to the world in the manner they wish to" (Borowski, 2022, p. 618). Second, to be treated as an "object (a means) rather than a complete person (a subject)" (Borowski, 2022, p. 618). Third, to be treated as if "superfluous – of no use and having nothing to contribute, including to decisions about themselves" (Borowski, 2022, p. 618).

By utilising Borowski's (2022) conceptualisation of dignity defined through the lens of indignity, there is a sharper focus on ways in which practice can positively uplift people's dignity while working with people toward socially just outcomes. Some examples of practice are, honouring self-representations and enabling clients' problem-solving capabilities in decision-making (Sung & Dunkle, 2009), or, e.g., taking positive steps to equalise power with people who seek assistance from practitioners, specifically to interrogate practice so as not to patronise clients (Gallagher et al., 2008).

In considering dignity literature relating to this research, Leget (2013) speaks to dignity as a social practice, referencing an ethic of care, and ultimately advocating for dignity

as an “intersubjective category which is constituted and upheld by people who are interrelated in caring relationships” (p. 952). Leget’s (2013) approach to dignity, grounded on the ethics of care is relevant to this inquiry since the practice orientations of social work upon which the ethics of care are built are:

also highly sensitive to the more or less subtle ways in which people are excluded, marginalised, disrespected or disvalued (Tronto, 1993). [and] Asymmetry in relations of power is an important theme in the political awareness of the ethics of care. (p. 950)

Echoing Leget (2013), Goodwin et al., (2018) consider the concept of “dignity as a social practice” (p. 489) within healthcare contexts that utilise an ethics of care framework, connecting experiential dignity with a critique of safety discourses that have historically dismissed narrow definitions of dignity. Healthcare conceptualisations of dignity are valuable to this research, first, since they arise from a context which closely aligns with this inquiry’s clinical social work origins. And second, the healthcare field has a focus on the concept of dignity as a fundamental basis upon which person-centred care and praxis is developed through a dignity-rights perspective. A dignity-rights conceptualisation is also common to social work practice in all its forms, where a consideration of dignity “ineluctably leads to a consideration of human rights” (Borowski, 2022, p. 619). That is, in both the healthcare and social work contexts, the concept of “dignity is commonly invoked as the basis for legitimating the recognition of human rights” (Borowski, 2022, p. 619). Additionally, given Borowski’s (2022) account that there is a “lacuna in the social work literature” (p. 611), scholarship in the healthcare interdisciplinary space regarding the concept of dignity is a valuable reference for this practice-oriented research.

(ii) Dignity when considering the research context

In undertaking this research, which is concerned with exploring the situated knowledges contained in young people's lived experiences of being in contact with the multiple environments that constitute the broader legal landscape, a primary consideration relating to the concept of dignity had to be of the interdisciplinary space where social workers and legal actors interact with youth. This consideration was initially informed by the clinical practice experiences that generated this inquiry, and additionally based on the notion that the interdisciplinary space is one in which social workers are increasingly working in a range of roles alongside legal actors. Furthermore, given the professional contrasts in the ways social workers and legal actors practice, there could be paradoxes or challenges surrounding ethics, rights and obligations that are a central and vital concern for the work that social workers do with people within the context of the broader legal landscape.

For example, as discussed above, the fundamental mandate for the social work profession is its commitment to social change based on human rights, and relevantly the respect for human dignity and worth. However, the operationalisation of this fundamental mandate is viewed more broadly (Zifcak, 2014). At a micro-level, social work's mandate concentrates attention for work at the point where social structures and human pain transect (Baines, 2017). Consequently, professional micro-level attention focusses on challenging disadvantage, inequality, oppression and marginalisation, utilising advocacy as a means of creating opportunities for all people (Burke, 2013; Burke & Harrison, 2009; Teater, 2014). To facilitate social work's mandate at the micro-level, social workers cultivate extended, compassionate, supportive and non-judgmental relationship-based practices (Howe, 2009) underscored by an ethic of care (Zifcak, 2014). These practices allow for the effective assessment of people's physical, emotional and psychological needs (Connolly & Harms (2012). As discussed above, social workers additionally have a macro-level mandate in influencing social justice debate and social change (Gillingham, 2007; IFSW, 2022).

However, legal actors who share the interdisciplinary space with social workers, do not have a specific fundamental mandate that concentrates attention to practice, nor do legal professional associations require commitment to community. Legal actors are not mandated to work in any way other than to the use of “legal rules, techniques and procedures” (Zifcak, 2014, p. 12) that apply to address a client’s legal issue in a pre-determined way according to precedent in limited and tangible circumstances. Their work is to negotiate specific legal resolutions for their clients, or to obtain decisions relating to their clients’ problems in the form of judicial judgments (Zifcak, 2014).

While the work legal actors perform can be similarly characterised as being conducted at a point where social structures and human pain intersect, work comes to lawyers as part of their everyday practice, rather than, as social workers do, answering a specific mandate (Zifcak, 2014). Legal practitioners have a paramount duty to the court, that goes to the administration of justice and upholding the law (*Giannarelli v Wraith* [1988]). This is reflected in everyday legal practices, e.g., to not mislead the court, to be independent and free from bias, to be frank and honest in their dealings with the court reflected in practices of not being a witness in their client’s case, not influencing witnesses or withdrawing from a case if a client deliberately misleads the court. Legal actors also have a duty to their client to craft a specific tactical narrative of events “which is most credible and capable of withstanding the exigencies of legal process ... to win the case for the client” (Finkelstein, 2011, p. 136). While strategic advantages based on legal knowledge are deployed to advance clients’ interests even at the risk of harm to another (Markovits, 2008), in practice this can lead to a situation that has been conceptualised as a ‘peculiar feature’ of legal practitioners’ responsibilities reflecting a conflict of duties (Mason 1988, p. 555). Practically, legal practitioners work to identify only the legal rights that pertain to their client. By utilising concise and persuasive argument based on reasoning abstracted from the facts, and outside of extenuating context such as structural issues, they seek the most favourable legal outcome also based on a duty toward their client (Zifcak, 2014). In this way the conflict is

avoided. Thus, legal actors have a duty-focussed practice, underpinned by an ethic of justice (Zifcak, 2014). However, it is apposite to note here that alongside these duties, lawyers are also increasingly the integral and identifiable members of a group of people whose role is in a state of flux; no longer simply officers of the court, but also service providers whose work falls in line with “changing social values” (Warren, 2011, p. 10).

Neal (2014) argues, that since the law is a normative system, it has a warrant to work with all people with dignity, with dignity recognised as fundamental to legal ethics (Luban, 2007). Neal (2014) further maintains that the law seeks to treat people, as “*beings whose dignity must be respected*” (p. 42, emphasis in original). While Waldron (2012) identifies respect for dignity as a predominant legal concept. Therefore, it was vital for this research that consideration be given to the ways in which interdisciplinary legal actors may understand dignity concepts.

As Borowski (2022) points out, legal scholarship provides for dialogue on dignity, however, dignity remains a contested concept in legal conceptual thinking (Brownsword, 2015). Indeed, in Brownsword’s (2015) account “there is a fault line in the international jurisprudence of human dignity” (p. 7), that sees a clear difference between a liberal understanding of human dignity as the basis for positive rights, and a conservative approach “holding that the fundamental duty is not to compromise human dignity” (p. 7). Brownsword (2015) additionally asserts that in diverse national contexts, there is “some unevenness and unpredictability in the various appeals that are made” to the concept of dignity and how dignity is applied in legal contexts (p. 7). Thus, the ways in which individual legal actors perform their interpretation of dignity when working alongside social workers and with youth in the interdisciplinary space is reflected in Brownsword’s (2015) reference to the possibility of dignity being a tool of subversion rather than enhancement of choice wielded by legal actors, including judges, and that by using “this insight, we can chart the application of human dignity relative to both liberal and conservative readings” (p. 8).

b) Dignity and young people – through a right-based lens

Given the focus of this research was to explore the situated knowledges contained in young people's lived experiences of being in contact with legal contexts, it was necessary to also consider the notion of dignity more directly as it relates to young Australians through the human rights lens embodied within the United Nations Convention on the Rights of the Child (UN, 1989).

The Government of Australia endorsed the United Nations Convention on the Rights of the Child (UNCRC) as a States Party in 1990. The obligations and duties across the jurisdictions of States Parties regarding the treatment of young people when they are in contact with legal contexts, are prescribed in the UNCRC, and are specifically stated (see Appendix J). Relevantly, Article 40 specifies that young people should be treated in ways that are "consistent with the promotion of the child's sense of dignity and worth" (United Nations, 1989). The importance and centrality of young peoples' dignity is reflected in the language of the UNCRC, which refers to dignity eight times. Additionally, Article 12 underpins the rights of young people to express their views; indicates youth rights to age-appropriate weight to be given to their views; and the right to the opportunity for youth to be heard in "any judicial or administrative proceedings ... either directly or through a representative" (United Nations, 1989, UNCRC, Article 12), further consolidating the United Nations approach to young persons' dignity and worth.

However, despite what might be viewed as a fundamental duty regarding the obligations of Australian legal actors when interacting with Australian youth in legal contexts in relation to the UNCRC (Sutherland & Macfarlane, 2016), this duty, or indeed any duties based on this legal discourse and foreseeable by Australia's ratification of this human rights instrument are not enforceable in Australia (Flynn et al., 2016). Such a critique could be the basis of significant challenges faced by young people when they are in contact with legal

contexts. Challenges could arise since neither binding youth rights that are specific to dignity flow consequent to Australia's ratification of the UNCRC. Nor do any binding duties specific to youth dignity flow for legal actors that may be implemented through practice.

While the concept of youth rights "presupposes that children are spirited, agentive and deserving of recognition for their place in society as actors" (Richardson & Bonnah, 2015, p. 197), there is critique of a rights-based dignity discourse relating to young people on two counts. First that the UNCRC is individualistic and young people lack capacity to exercise any power the instrument might bestow (Purdy, 1994). Second, even if young people face challenges to their dignity and wish to invoke a right-based remedy, perhaps the only solution they have is "to grow up" (O'Neill, 1992, p. 39). A blunt, though perhaps somewhat realistic observation, given young people's lack of political power.

Additionally, there is scholarship that points to the idea that conceptualisations of dignity that are outgrowths of legal theoretical perspectives may be less congruent to an actively democratic inquiry (Njoya, 2017). These readings underscored how a legal human rights approach to dignity as a concept could restrict achievement of this inquiry's primary aim, particularly given, as noted above, that the notion of dignity was open to narrow and/or abstract definitions (McCrudden, 2008; Neal, 2014) and can be limited by contextual-specificity (Borowski, 2022; McCrudden, 2008). These considerations underpinned this inquiry's expanded approach to dignity that was aligned with "the movement toward more inclusion of the perspectives of children in legal decision making" (Richardson & Bonnah, 2015, p. 197) when considering theorising and research.

c) Dignity, young people and the marginalised other

The context of double discursive construction of young people in contact with the law was discussed in the opening chapter. Here the discussion is taken further connecting totalising discourses with marginalising processes that may be at the heart of young

people's perceptions noted above as bias against them when they are in contact with the law (The Law Council of Australia, 2018). Many legal discourses essentialise youth subjectivities and identities, constructing people under 18 years of age as *other*, i.e., *other-than adults* and therefore non-members of the dominant group within the legal power and knowledge system. In such discursive productions of youth, all people under 18 years of age, occupy an *outsider* status identified by age. Additionally, the group is constituted and produced by constructions relating to unidentified structural difficulties connected with appearing in an adult-oriented court environment, and its associated processes. This reality and its impacts are well summarised in the New South Wales (NSW) Equality Before the Law Bench Book (2020), which states that:

Children and young people face particular difficulties in our adversarial system — whether appearing as witnesses or as alleged offenders largely because of a mismatch between their capacities and the adult-oriented court environment and processes. If these difficulties are not taken into account, the evidence that the court obtains from them may be of poorer quality and less complete. (Judicial Commission of NSW, 2020, s6.1.2)

This discursive construction of children and youth as *other than appropriately capable*, frames young people as a group in need of some form of attention, since explicitly the judicial officer who is guided by the Bench Book *should* take into account the inherent discrepancy between young people's capacities and the environment, so as to obtain complete and good quality evidence. Implicit in the discourse is that a person over the age of 18 (the dominant adult group) is matched to the environment, hence the evidence obtained from members of this group will be of richer quality and fully complete. Arguably, here also is the implicit underpinning of a discursive *othering process*.

A benevolent interpretation of the double discursive construction offers the possibility that a benign youth-centred approach will be taken by judicial officers toward people under the age of 18 who interact with the legal system. However, the discourse does not oblige judicial officers to be altruistic or compassionate; these institutional actors have the power to perform the discourse as they see fit so to do. On the face of it, the guidance given in the Bench Book is that if judicial officers do not account for the difficulties that apparently flow from the “mismatch” there will be judge-created issues with “...the evidence that the court obtains” from a group of specific people who “face particular difficulties in our adversarial system” (Judicial Commission of NSW, 2020, p.6103).

While elsewhere there are practice guidelines that indicate an understanding of the connection between youth dignity and young people’s appearances in court as witnesses or survivors of crime, (e.g. Commonwealth Department of Public Prosecutions, n.d; United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, UN, 1985; Victims and Witness Rights under the *ACT Human Rights Act* 2004, ACTHRC, n.d.), the type of discourse outlined above which is a practice guideline for judges, is disconnected from youth dignity or recognition of young people as diverse, individual human beings.

d) Digging for dignity; young people’s contact with the law

This section looks at two areas of research that focus on youth contact with the law as victim-survivors of the sexualised abuse of children (SAC) where young people are required to give evidence against perpetrators, and Family Law cases that have a focus of domestic and family violence (DFV) where youth participation is compromised. Sometimes, perhaps often, these two areas of law overlap.

(i) *Digging at the coalface; youth evidence-giving in cases of sexualised abuse of children (SAC)*

In the field of children and young people's interactions with the legal system, research and scholarship most frequently settles upon youth contact with the law when they are victim-survivors of SAC. Given its specific descriptive nature in most criminal codes, SAC requires young people who are victim-survivors to engage with a range of legal actors, including social workers. Eventually, cases may run to trial. Findings from research in this area indicate how challenging the practise and processes of SAC trials can be for young people, even when contemporary special measures that should provide protections are put in place which can include witness intermediaries who are increasingly trained social workers. Cross-examination processes that characterise SAC trials additionally involve challenges to integrity and credibility (Cossins, 2020; Eastwood & Patton, 2002; Zajac et al., 2012) in circumstances where young people often assume they will be believed, and/or, equally can be fearful they will not be believed (Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, 2017; Zajac et al., 2012).

Further, Kelly (2002) argues that traditional approaches have created a practice environment in adversarial systems in which youth evidence is open to implicit repudiation based on a discursive construction of youth as a group defined by age, and who "routinely lie about sexual violence" (Kelly, 2002, p. 364; see also Aldridge & Luchjenbroers, 2007). While this is particularly applicable in SAC cases, it could be argued that this discursive view permeates all legal contexts given the common educational and training environments in which specifically legal practitioners engage. Additional legal oriented literature identifies the lack of autonomy that any youth victim-survivor or witness has in a range of criminal jurisdictions (McGonigle Lehyh, 2011; Moutaan, 2012), a circumstance that puts youth at a specific site of jeopardy. This research underscores how youth may experience legal systems as unsupportive, disbelieving, unprotective, and indeed victimising.

It is pertinent to note that scholarship also raised the ways in which youth witness-survivors of abuse “may experience legal process as a form of secondary victimization as a result of inappropriate treatment and responses by legal actors, including judges and lawyers” (Douglas, 2018, p. 85). Caprioli and Crenshaw (2017) connect both the content and the delivery of practice that concentrates on prior traumatic events involving “the trilogy of shame, secrecy, and stigma” that is the “intimate wound” of abuse (p. 191), in legal environments that emphasise the task of locating a legal solution, as the basis for these possible experiences of secondary traumatisation. There is also limited scholarship that can be viewed as a consideration of systems abuse, or as discussed in the introductory chapter, secondary traumatisation of young people (Caprioli & Crenshaw, 2017; Douglas, 2018; Laing, 2017; Patterson; 2011; Rich & Seffrin, 2013).

While scholarship points to these interactions as capable of being perceived as a threat by young people to their emotional and mental integrity (Caprioli & Crenshaw, 2017; Vandervort, 2010), Cossins (2020) notes that evidence is given within a “culture of power and powerlessness” (p. 559). Here Cossins (2020) is referring to how youth victim-survivors and witnesses are compelled to attend court and be subjected to the legal system’s rules. In Cossins’ (2020) account, multiple practice interactions in this regard are manifold points of jeopardy for young people, since these interactions present numerous opportunities for asymmetric relations of power to be performed using “authoritarian body and verbal language” (Cossins, 2020, p. 559) in a “culturally-indifferent” environment (Cossins, 2020, p. 557). In these circumstances, it is open to assume, youth could experience relations of power, realised through practice within a hegemonic institution as oppressive and biased against them, rather than receiving of a protective stance.

Feierman and Ford (2016) assert that during evidence-giving a young person is “constantly scanning for danger” and has few resources for answering questions (Feierman & Ford 2016, p. 551; see also van der Kolk, 2015), while Plotnikoff and Woolfson (2015)

point to this evidence-adducing practice as one in which there is a possibility of triggering the emotions associated with original trauma leading to extreme distress. It may be that the practices and procedures relating to evidence-adducing replicate the power, coercion and control dynamics of previous trauma experiences for youth. Indeed, scholarship has consistently indicated how the evidence-adducing practices can be experienced as overwhelming, and distressing; or perhaps also experienced as a contemporaneous trauma (Bowden et al., 2013; Cashmore, 2007; Cashmore & Bussey, 1996; Cossins, 2009, 2020; Elmi et al., 2018; Goodman et al., 1992; Hayes & Bunting, 2013; Henry, 1997; Quas et al., 2005; Vandervort, 2010). Additionally, and in particular for youth who are victim-survivors of SAC, young victim-survivors have “typically encountered multiple and powerful modes of silencing by the time they get there” (Caprioli & Crenshaw, 2017, p. 197) reflecting an added dimension that may underscore distress responses, but which sit at odds with what youth in these circumstances are being called upon to do.

The scholarship is therefore helpful in pointing to the ways in which youth may experience the formal legal system as oppressive by the time they are compelled to participate in evidence-giving. If legal actors inflexibly take the view that practices and procedures are merely their work without considering the social, emotional or mental outcomes that may be experienced by youth in contact with the law, opportunities arise for a “failure of the justice system to recognise the exquisite vulnerability” of young people (Eastwood & Patton, 2002, p. 5).

Research has found that fears and anxiety can be mitigated if young witness-survivors receive information about the court procedures and if youth find opportunity for their voice to be heard (e.g., Hayes & Bunting, 2013). While scholarship also points to judicial intervention relating to cross-examination style as being a means of controlling practice that otherwise creates an environment of aggression, humiliation, confusion or intimidation for young persons (Cashmore & Trimboli, 2005). These findings are also linked

with psychological research on young people's perceptions of procedural justice where it has been found that empowerment through having voice is a major factor in positive perceptions of procedural justice. However, if there is an unwillingness for youth voice to be uplifted, or if youth are silenced, then findings indicate young people experience negative emotional responses (Fondacaro et al., 2006).

(ii) Digging at the coalface; youth participation and voice in Family Law

As noted elsewhere, youth may be reluctant to engage with the legal system if they currently live in circumstances characterised by oppressive power relations, for example, they live with perpetrators of domestic and family violence (DFV). In situations where young people's contact with the law is in the context of DFV-related proceedings in the Family Court jurisdiction, research shows that young people face specific challenges relating to participation (see for example Carson et al., 2018; Cashmore & Parkinson, 2008; Fernando, 2014). Additionally, literature indicates young people may have already encountered circumstances where the legal system has limited their participation "positioning them as observers rather than victim/survivors of DFV" (Tsantefski et al., 2021, p. 942). Specifically, Tsantefski et al., (2021) emphasise how youth may be effectively non-existent in the initial forms of DFV proceedings that can lead to Family Court jurisdictional matters. The lack of inclusion of young people at these preliminary forms of interactions with the justice system, "even by practitioners employed by child-focused agencies" (Tsantefski et al., 2021, p. 950), and the contribution of the fragmented Australian legal system also underpin the challenges adolescents face in securing their preferred futures. The findings of Tsantefski et al., (2021) are pertinent considerations for this inquiry since they evidence, particularly, the dignity-challenges young people face when they are the holders of vital and multiple contextual and situational-knowledges specifically concerning their lived experiences of adverse DFV circumstances they face, and yet paradoxically, youth face exclusionary practices.

The Australian Family Court jurisdiction publicly advertises an explicit public discourse that holds that *children's best interests are paramount* (Cashmore & Parkinson, 2008). However, young people are rarely offered an opportunity to have open dialogue with the decision-maker or to give their own evidence (Deputy Principal Registrar, Family Court of Australia, 2018, [FCA, 2018] Appendix B5). Literature reflects this position taken by the court, reflecting the obvious reliance youth are compelled to have on a dominant class of adults to speak for them, and additionally highlighting the operational and effective silencing of young people depending on the willingness of adults to uplift youth participation (Carson et al., 2018; Cashmore & Parkinson, 2007; The Law Council of Australia, 2018).

The Family Court jurisdiction is also adversarial, and so, for young people an illogicality, or perhaps paradox frequently occurs where youth voice is silenced while the realities of what young people wish for in their own best interests is ignored “at the expense of process” (Ross, 2012, p. 13). Additionally, research indicates that the practices developed through Family Court legal reform that seek to be protective, for example the use of expert witnesses whose role it is to bring youth voice to the court, frequently see young people’s views “being lost in translation rather than transmitted” (Morrison et al., 2020, p. 412). International scholarship in similarly constituted jurisdictions support some of these findings, specifically when ‘experts’ in the form of social workers tend not to listen carefully to young people and somehow, in translating between what is said by youth and what comes before the court, the directly contrary of a young person’s desires, preferences, needs, or words, are presented back to the court (Birnbaum, 2017), at which point the young person can have no influence in their preferred future since they are excluded or perhaps not included in proceedings.

Some youth experience positive individual practices by legal actors, including experts, whose motivations may be to assist youth in having their voice heard (Carson et al., 2018). And some young people experience positive experiences even if their outcomes are

not as they wish, since they have been able to tell someone, perhaps 'an expert' in proceedings what has happened for them (Birnbaum, 2017). Though research indicates that most people under the age of 18 report "feeling negatively toward the court process ... and dissatisfied with either their level of input or awareness of the decision-making process", with some youth indicating "harmful effects of the court process for themselves and their family" (Carson et al., 2018, p. 47).

Practice-focussed research made specific findings regarding Independent Children's Lawyers (ICLs) including that though young people's views were accounted for by ICLs in the research, young people's perspectives were not decisive in changing practice toward youth participation or voice. Nor was youth-voice a vital factor in how ICLs decided to run cases. Cashmore and Parkinson (2008) found a general lack of consideration for young persons in the Family Court, echoing the findings of Kaspiew et al., (2013) and Sheehan (2003). Morrison et al. (2020) describe the concept of youth as being "too vulnerable to speak about their own lives" as a construct that creates "an epistemic injustice that ignores their own accounts of their lives" (Morrison et al., 2020, p. 413). This range of scholarship resonates with Fricker's (2007) conceptualisation of epistemic injustice "in which someone is *wronged specifically in her capacity as a knower*" (p. 20, emphasis added) through denying youth the opportunity to speak for self, underpinned by "identity prejudice" (Fricker, 2007, p. 27). This notion highlights the concept that the family law system can, even unintentionally, be an anti-therapeutic arm of the state creating harm even in its attempts to be protective of a class it assumes to be vulnerable (King, 2006), since "hearers fail to meet speaker dependency in a linguistic exchange" (Dotson, 2011, p. 236) given adolescents are excluded/precluded from the opportunity to speak to the relevant audience. Consequently, in marginalising young people through the indignity of silencing youth voices, there is a risk that legal practice and procedures can be experienced by young persons as distressing during contact with the law in this jurisdiction.

These practices and procedures also work against the provisions of the UNCRC, and often against the concept of *best interests* legislation. Particularly, when decision-making about young people's futures excludes rather than includes young people "from decision making in ways that are potentially harmful" (Morrison et al., 2020, p. 413), and indeed functionally silences young people (see also [FCA, 2018] Appendix B5). Cashmore and Parkinson (2008) make important connections to the ways in which young people have rights to be heard pursuant to Australia's ratification of the UNCRC. Their research also links youth rights to the ways in which having a voice can work against young people's best interests since legal actors can find ways around youth inclusion while procedurally continuing to act in the best interests of the child, thus conveniently solving legal issues while functionally silencing young people. In so doing, the legislation is satisfied. However, young people may be left in challenging circumstances, especially in circumstances where the youth is a direct victim-survivor. Nevertheless, the findings of Cashmore and Parkinson (2008) also reflect that an "acknowledgment and respect for ... children's views ... as a contributor to better decisions and outcomes" can be positive for young people in contact with the law (p. 100). Further, that autonomy and choice have meaning for young people who experience violence, abuse or conflict, supporting other findings relating to youth perceptions of procedural fairness and voice (Fondacaro et al., 2006).

However, while some of the research touches on the UNCRC and may therefore tangentially reflect upon dignity, this research does not directly speak to youth dignity, or how practices of legal actors reflect upon youth dignity and how youth experience legal practice in the broader legal landscape.

e) Dignity in action; a response-based approach

The discussion above addresses how dignity is a core concept to social work practice. Response-based practice (RBP) is a contemporary therapeutic approach to

working with people who experience internal distress or suffering. RBP is gaining traction internationally, and within Australia as a specific approach to enacting dignity in practice. RBP is a relevant consideration to this research, principally since the inquiry grew from direct service that is itself focussed on young persons' dignity and which utilises a RBP lens for therapeutic practice. Specifically, my clinical social work is underpinned by response-based theory, scholarship and practice, where youth dignity is held as the central concept informing every aspect of direct-service with young people. This means that all aspects of the relationships young people have when they engage with the clinic, centre on connecting affronts to young persons' dignity; unhelpful or negative social responses (Coates & Wade, 2016) toward youth are linked to their acts of resistance understood as logical responses to the adverse circumstances of marginalisation, oppression, violence or discrimination (Coates & Wade, 2007; 2016). Conceptualisations of these processes will be discussed more fully below in a separate sub-section relating to resistance.

(i) Response-based practice and scholarship in the context of this research

Response-based practice and scholarship (RBPS) have contributed to “a social science theory” that employs “contextual analysis of social interaction to gain understanding of people and their actions” (Coates et al., 2019, p. 120). While it is “embedded within a social justice foundation, response-based practice may also serve as an analytical tool and offer a framework for research” (Richardson, 2016, p. 199).

RBPS primarily grew from practice experiences with Canadian Indigenous families and communities during the 1990s (Wade, 2015). Drawing on the direct early practice experiences of Allan Wade, Linda Coates and Nick Todd, the initial RBP focus was on discursive and interactional ideas reflecting the ways in which clients' meaning-making was shaped by language and socially articulated at micro-level interactions between therapists and people who had experienced a range of adverse circumstances (Todd & Wade, 2004),

including the adverse situational dynamics of oppression, marginalisation, discrimination, and all forms of violence, including structural violence.

The understanding of structural violence in this regard is underpinned by Galtung's (1969) proposition that violence is experienced by individuals, groups and sometimes whole societies, when social structures prevent people in these locations from realising their full potential. That is, stable social structures such as the legal system can inflict largely hidden injury through its regular practices and its differential access to resources that prevent an individual meeting their needs (Macassa et al., 2021).

RBPS draws from multiple critical theoretical perspectives including feminist and poststructural theoretical concepts that challenge concepts such as “‘expertise’, ‘truth’, ‘the dominant narrative’ and the idea of a pre-dominant intellectual canon” (Richardson, 2016, p. 200). Additionally, and relevantly for this research RBPS is also informed “by an analysis of power, by interaction in context and by a critique of oppression and social injustice” focussing on “co-constructed conversations rather than mere professional authority” (Richardson, 2016, p. 200).

Practitioners who utilise RBPS approaches in their work are curious about how dominant group members' use of discourses influence the social responses that subordinated groups receive (Richardson, 2016), and also how to achieve both just outcomes for individuals through the deconstruction of dominant discourses while attending to a broader aim of social change (Bonnah, 2016). This is achieved first through giving focus to the experiences of subordinated groups, acknowledging narratives as evidence of patterns of dominance and oppression. This is accomplished within a back-and-forth interested, and, inquiring dialogue in which the practitioner positively socially responds particularly to acts of resistance bringing attention to the knowledge that relevantly young people have regarding how relations of power are accomplished. Second, in giving attention to how the knowledges contained in narratives of experience are utilised by subordinated

group members, such as young people who have experienced contact with the law, there is an articulation of alternatives to dominant discourses that are consistent with youth interests (Van Dijk, 2008).

Utilising RBPS as an approach to research involves interrogating researcher power as well as relations of power in the research context. Specifically, given the interrelatedness of power and knowledge and the ways in which those who can exercise relations of power can control knowledge, means that a researcher has the ability to control discourses and decide on alternative perspectives (Foucault, 1979). Similarly, research decisions that can change the outcome of the research are an exercise in relations of power and indicate the interconnectedness of power and the production of knowledge. Research underscored by RBPS perspectives also informs a researcher's lens through balancing the concept of power with the notion of resistance. Since the approach is informed by both an analysis of power and critiques oppression, it is guided by Foucault's (1980) conceptualisation of resistance as being formed "right at the point where relations of power are exercised" (p. 142).

Furthermore, RBPS is "attentive to issues of inequality related to class, race, gender and able-ness"; thus "an analysis of social issues is crucial" (Richardson, 2016, p. 200). The complexity of lived experiences can easily be overlooked as people are produced, constituted and constructed through essentialising practices that ignore their diverse subjectivities and identities; the RBPS lens therefore avoids universalising experiences understanding such a view to be imprudent. Rather, multiple oppressions are understood as producing subordination and rendering individuals invisible through de-humanising processes. An understanding of how youth are "marginalized within both" (Crenshaw, 1991, p. 1244) can be revealed through response-based approaches to research and accomplished by using an intersectional "analytic sensibility", particularly "a way of thinking

about the problem of sameness and difference and its relation to power” (Cho et al., 2013, p. 795).

From its initial theoretical underpinnings, RBPS continues to evolve through research (e.g., Hydén et al., 2016), scholarship (e.g., Coates et al., 2019) and reflective practice (e.g., Reynolds, 2010). There is a broad range of scholarship that utilises RBPS ideas as a theoretical lens to underscore research inquiry. For example, RBPS ideas have been used to design categories of contextual and situational analysis (Richardson & Bonnah, 2015). RBPS notions have also been utilised to underpin an exploration of whether educators have capacity to re-frame how they teach colonial history to Canadian youth in a way that supports the recognition of continuing violence toward Indigenous Canadians as an ongoing form of colonialism, and which is also supportive of social responses (Fast & Drouin-Gagné, 2019). Scholarship has also utilised RBPS as a perspective to understand the experiences of women survivors of sexualised violence in the legal system (Coates & Wade, 2007; Fast & Richardson/Kinewesquao, 2019; Richardson/Kinewesquao et al., 2017).

RBPS is therefore a dynamic site of continual theoretical growth and a location of scholarship that can capably underscore this research endeavour. The central emphasis of RBPS on the ways in which people respond to adverse circumstances, including marginalisation, oppression, violence, discrimination and injustice, and how people work to reassert and preserve their dignity (Wade, 2015), underpins the soundness in employing this lens to inform the study’s framework for theorising and to underscore all aspects of the research.

(ii) *A linguistic re-orientation; the value for youth in moving focus from effects to responses*

Of relevance for this study is how RBPS ideas promote an exploration of the myriad ways that people respond to affronts to dignity. A RBPS approach differs to practices and research in the mental health field which are embedded within a traditional medical mental health or *psy-* practice approach (Todd & Wade, 2004). Psychology/psychiatry, the traditional medical mental ill health or *psy-* practice approaches to understanding people's experiences of mental distress, seek to assess the effect, results or impacts of adverse circumstances on people. This effect-assessment focus is understandable against the historical backcloth of "determinist underpinnings of social science" that continues to underscore *psy-* approaches to people's experiences of mental distress (Hydén et al., 2016, p. 8). However, by using impacts or effects-language located within the traditional *psy-* practice approaches, attention is directed toward an individualised location of symptomology arising from "stripped down" accounts of people (Grant, 2011, p. 37). A *psy-* practice approach directs attention away from systemic factors that contribute to experiences of suffering and distress, rather attention is given to people-as-fragmented and suffering symptoms that are abnormal, maladaptive or dysfunctional. The notion that people respond to adversity, multiple oppressions, marginalisations or disadvantages is not able to be engrossed into diagnoses expressed as individualistic, pathologising and reductionist (Burstow, 2005; Scott, 2010; Slaby, 2010; Tseris, 2013). Moreover, a dominant group assess and diagnose; thus, expert knowledge claims locate and maintain power within a small group preventing power from accruing to the people who are living the experience of mental distress.

Hydén et al. (2016) give an example of effects-language when describing the influence of feminist psychological research relating to violence against women. In this psychological approach, the impacts of adversity such as being abused by a male partner,

were extrapolated out and consequently explained as a “constellation of ... psychological effects [that] make up the battered woman syndrome”, additionally adding into the syndrome a further symptom borrowed from canine research, though utilising the canine model as a principal symptom of the syndrome (Hydén et al., 2016, p. 7). Similarly, Hydén et al. (2016) highlight how multiple research projects conducted within a *psy-* framework “unequivocally conclude that domestic violence is harmful to children”, however a list of outcomes that include individual symptoms such as depression and anxiety “are regarded as *effects* of violence” (p. 7, emphasis in original).

In both examples used by Hydén et al. (2016), the use of effects-language connects the *effects of* power relations (e.g., an act of oppression, discrimination, violence or marginalisation) to “symptoms of” (Richardson & Bonnah, 2015, p. 197) a static diagnosis that exists within a person. This approach effectively blames the person receiving the diagnosis for their personal deficits, while equally effectively concealing any responses the person may have made to the adversity they experienced (Coates & Wade, 2016). Additionally in giving a static diagnosis to the person who is suffering, there is an effective transference of responsibility for the original acts of oppression and violence from the perpetrator to the person who is suffering (Coates & Wade, 2007).

Psy- practice is utilised in the legal system and in judicial considerations, to underpin judgments and legal outcomes that may not be supportive of witnesses or survivors of adverse experiences (Coates & Wade, 2004). While a cause-and-effect logic is possibly attractive when looking to explain phenomena in a legal framework, as Todd and Wade (2004) argue, a cause-and-effect logic does not provide an accurate foundation for describing human interactions. Coates and Wade (2004, p. 522) observe that in the “act of participating in the everyday, taken-for-granted discursive practices” that utilise a psychologising approach, there is a risk of producing inaccuracies in evidence. For example, scholarship points to young people’s overt and covert responses to adversity, particularly

violence during the experiences and following events (Bonnah, 2016; Hydén 2010; Wade, 1997). However, the entirety of young people's responses is not the sum of the symptoms of a static diagnosis. As Hydén et al., (2016, p. 8) assert:

Too often responses that are not readily encoded as effects are not properly considered by researchers. Responses such as silence, withdrawal, anger, despair, confusion, non-compliance and so on, which may be reproduced between different parties in a family or community, are complex communicative acts. They convey messages; stimulate responses from others; and simultaneously influence the nature of others' responses in ways that move dynamically across social networks.

In using inaccurate evidence as a basis for judicial consideration, judicial officers may, through their everyday discursive practices, unintentionally produce harm for young people who are witnesses or survivors of adverse circumstances. This could occur during the running of legal cases or following judgment, since it is youth who must live out the futures governed by judicial officers' rulings.

(iii) Dignity and resistance; aspects of connection

A crucial theoretical concept of RBPS is the acknowledgment and recognition of the significance of acts of resistance to behaviours that challenge human dignity (dignity challenges/dignity-challenged) as a factor that underscores people's strengths, capabilities, creativity and mental wellness. While resistance is frequently ignored, or negative social responses are given to people by institutional actors, e.g., professional actors such as mental health practitioners who characterise responses as impacts or effects as noted above (Coates & Wade, 2016), resistance to dignity challenges has been found to be as pervasive as it is ubiquitous (Coates & Wade, 2007; 2016; Coates et al., 2019; Fast & Richardson/Kinewesquao, 2019; Richardson & Bonnah, 2015; Wade, 1997). Additionally, acts of resistance can be either overt or covert (Richardson & Wade, 2010; Wade, 1997).

Overt acts of resistance are obvious and are usually broadly described using common, all-encompassing descriptors (Perry & Jackson, 2018) stemming from the language of trauma such as flight, fight, freeze (collapse) or fawn (sometimes also understood as appease) responses (Dunkley, 2018). These responses are viewed as assisting a young person to, physically or mentally, escape from an adverse situation.

Alternatively, using response-based understandings, the utilisation of these response behaviours is understood to be in service of survival or self-protection and are logical and proportionate acts of resistance (Coates & Wade, 2016). To illustrate, e.g., a child may cling to the leg of her mother, so as to prevent her mother being pushed down a flight of stairs, or locate hiding places within their home to quietly conceal themselves, siblings and mother when their father returns drunk; or, she may avoid an oppressive, controlling parent by looking away, walking out of a room when he walks in, not answering, and refusing to display affection, or, less frequently may display open defiance (Wade, 1997).

Less well-known, though still an overt resistance response, is the concept of flocking; “flock responses imply that individuals use of a process of solidarity to access, mobilise and sustain resource use to counteract ongoing risk” (Ebersöhn 2012, p. 30). Flocking, as a response, tends to be supportive of collective responses to persistent risk to individuals’ wellbeing (Ebersöhn 2012; Ebersöhn et al., 2017). The “human ability to flock towards others” (Perry & Jackson, 2018, p. 128), also understood as a “tendency to affiliate – that is, to come together in groups to provide and receive joint protection” (Taylor, 2006, p. 273), is best illustrated in community risk contexts. A broad flocking response is the work of Canadian volunteer social workers, known as *Sentinelles* (Gatekeepers). *Sentinelles* are trained to move within rural and remote communities identifying and providing assistance and support to male farming community members; particularly when men’s behaviours are informed by social expectations of the ways men perform their masculinities (Roy et al.,

2019). Positive social responses of *Sentinelles* toward community members decrease stigma while uplifting and strengthening individual community member's dignity through collective-understanding and community-initiated resource supply (Roy et al., 2019).

A second easily understood overt flocking response relevant to this youth-focussed research is where a context positively responds to young people's collective stress. This is accomplished where the context is "reimagined and restructured by using relationships to link resources" in circumstances where individuals are exposed to mutual and multiple jeopardies in "high-risk and resource-poor environments" (Ebersöhn 2012, p. 30). Ebersöhn (2012) describes an example of two schools which equally lack infrastructure and resources. This example of two schools, approximately one kilometre distant, illustrates how one school was deserted while the second school "was alive" (Ebersöhn 2012, p. 29). In Ebersöhn's (2012) evocative description, the students and teachers of the second school thrive as the school, as an entity, engages in creative partnering with multiple local connections. The school's collaboration with external community relationships, included initially the supply of meals, followed with external relationships with volunteer social workers who supplied both after-school care and home visits to students who had not attended school. Additional partnerships were negotiated with healthcare clinicians who provided free access to health support for students; and community-based in-service training for teachers. In this example, flocking as an additional and alternative response of individual humans, uplifts the dignity of students and of teachers (Ebersöhn, 2012) while collaborative social supports underscore a range of beneficial health outcomes (Taylor, 2006). This second flock response is similarly underscored by positive social responses within a framework of practice.

Covert acts of resistance are clearly less apparent and may frequently be deeply internally hidden from fellow human beings. Covert resistance acts can include, for example, utilising responses experienced internally within the imagination of a young person (Bonnah,

2016). Extreme forms of covert resistance experienced as internal suffering can, and sometimes do, lead to the utilisation of behaviours that are harmful to self, and also to “deaths languaged as suicide” (Reynolds, 2015, p. 169).

Whether overt or covert, the value in recognising that resistance acts are responses to challenges to dignity, is that, accordingly, acts of resistance tell us something has happened (Richardson & Bonnah, 2015). Additionally, resistance acts can also direct our attention to the nature/content of what has happened. In this regard, Callaghan et al. (2017) prompt thinking about the motivations for young people to disclose:

the act of disclosure also functions as a resistance to an imposed regime of silence – a gesture of defiance that enables children and young people to hold on to a thread of self-determination and a sense of self that is beyond the immediate experiences of violence and coercion. (p. 3383)

Given the interdisciplinary space in which this inquiry was conducted, the scholarship of Callaghan et al., (2017) is a vital practice note and a clear guide for both social workers and legal actors when working with young people. In disclosing, even in the smallest, quietest way, there is a:

holding on to a sense of ‘me’ that enables a distance to be built between them and familial patterns. It enables them to feel they can protect themselves and their families, by making conscious choices about who to tell, how and when they tell. (Callaghan, et al., 2017, p. 3383)

Relevantly, an overt though perhaps misunderstood example of resistance can be when a young person does not answer questions in court. Through an RBPS lens, this is a response to a circumstance experienced as oppressive, marginalising or discriminatory. The additional circumstances which direct attention to the notion that not answering a question

in court is an act of resistance, are that the young person has been compelled by a powerful institution to interact, and *in-context* the young person has little or no power to change their circumstances. In this way, the young person's response to oppressive, marginalising or discriminatory circumstances is understood as a logical, situationally and contextually-contingent *overt* act of resistance to relations of power performed through everyday discursive practices in an unknowable environment. In the same context, *covert* youth resistance could include an experience of mental and/or emotional distress (Bonnah, 2016; Richardson & Wade, 2010; Wade, 1997).

Viewing overt and covert acts of resistance through a RBPS lens brings a nuanced consideration of young people's lived experiences of power relations when they are in contact with the law and how their experiences are connected to mental and emotional distress; as Richardson clarifies "such 'small acts of living' (Wade, 1997) embody a preference for respectful treatment and encode the desire for a better reality" (Richardson, 2016, p. 202). These points are significant when considering how practitioners might work with young people who are in contact with legal contexts, considering the range of events that compel them into those contexts and over which young people have no control.

The recognition, witnessing, giving voice, connection and belonging processes referred to above, and the response-based practices of critically engaging with language (Reynolds, 2010), uplifting voice and of recognition of young people's creative acts of resistance in service of asserting and preserving their dignity in the face of adversity were taken up as contributions that could underscore an approach to methodology. Similarly, legal actors' voices considered as legitimate sources of data that reflect understandings and perceptions of the integration of concepts of dignity in the legal system, is an obvious RBPS approach to research for two reasons. First, given the centrality of exploring social responses when employing an RBPS approach (Hydén et al., 2016), consideration of the range of social responses youth may receive from individual legal actors and the collective

institutional responses that underscore contact with the law could be examined through the perceptions of legal actors. Second, young people's knowledges of social responses could be compared *in-context* to legal actors' perceptions of youth experiences.

Additionally, RBPS therapeutic approaches that open space for *positive social responses* to young peoples' personal *social responses to adversity* (Coates & Wade, 2007) was a specific approach that would underscore the collaborative data generation process. These relational connections and belonging processes, which will be expanded upon below, are vital in therapeutic work that centralises dignity, since the positive social responses given by social responders, that are in context and recognise acts of resistance to dignity-challenges, are potent and vital for promoting healing and recovery (Coates & Wade, 2016; Coates et al., 2019; Richardson & Bonnaah, 2015). It was recognised that bringing these perspectives to the whole of this social work research process would also underscore the ethical responsibilities that underpinned each aspect of the inquiry. Underpinning that notion, is the recognition that by adopting various perspectives from RBPS as described above, research processes could occur in the complex relationship between positive social responses, dignity, social justice (Richardson & Wade, 2008) and justice-doing (Reynolds, 2020) with both the young people and the legal actors who it was anticipated would engage with the research process.

(iv) Dignity; othering and belonging

Pivotal to an RBPS approach is an understanding that the power relations at the heart of social justice issues such as injustice, oppression, violence, including structural violence, discrimination and marginalisation, are strategic *othering* processes rather than *belonging* processes, and that the organisation of categories (dominant/subordinate) is based upon power and context (Bonnaah, 2016; Richardson, 2016). Tactical processes that indicate to members of a subordinate group that they do not belong to a dominant group

are the core of oppression, marginalisation or discrimination (Harding, 2003). This is a vital touchpoint back to RBPS feminist underpinnings (Richardson, 2016).

In this regard, Bonnaah (2016) directs attention to the notion that youth struggle for both connection and belonging in circumstances of adversity. Using the notion of flocking as described above, an example of the struggle for connection is young people who will seek belonging even in the most adverse circumstances of “street entrenchment”, the Canadian term used for homelessness, by locating other homeless people with whom they can form relationships (Bonnaah, 2016, p. 18). Given Bonnaah’s account, there is a very real sense then, that young people will struggle for connection, *belonging*, when facing what is arguably the adverse circumstances of the legal system, since youth have no real power and likely little experience in controlling their legal circumstances. It also seems obvious given Bonnaah’s (2016) approach that young people will seek out positive social (belonging) responses from legal actors, a sense of connection. However, the discourse surrounding youth who interact with the law, either through contact, or conflict, is productive of *othering* processes, even if the aim is to provide a level of protection. How these processes are experienced is vital to understanding what young people’s responses are to contact with the broader contexts of the law.

By centring resistance and dignity challenges as fundamental to mental health work with young people, there is a clear connection between social justice issues and challenges to young people’s mental wellness. In this approach, social justice issues such as oppression and marginalisation are understood as contextualised discrete othering practices performed by dominant group members. Rather than individual young people having an internal problem/issue in their brain or mind, the issue or problem can be found “in mistreatment and humiliation” of young persons “through negative social responses” experienced in the context of indignity (Richardson, 2016, p. 203). These othering processes thus exist outside the minds of young people (Reynolds, 2015), even when

responses to such othering processes “such as sadness, despair, longing or hope” are internal (Richardson & Bonnah, 2015, p. 197). Utilising this lens, the realities and complexities of a young person’s life can be recognised through the situated and contextually-contingent knowledge and expert understandings of youth as they speak about their experiences of the relations of power.

An RBPS oriented approach to practice with youth opens spaces for young people to experience a world in which their voice is clearly heard and uplifted, and in the witnessing of young people’s lived experiences, a *belonging process* occurs through positive social responses in the therapeutic space (Coates & Wade, 2016). An honouring of a young person’s complexity, diversity, and unique problem-solving capability occurs. And, in the space between youth and social worker/therapist there is hope for the future; again, making a touchpoint with the feminist origins of RBPS. There is also a clinical process of challenging the grand-narratives of medical diagnoses that underscore a *psy-* approach to impacts for youth to adversity, as opposed to young peoples’ creative responses to adverse life circumstances. RBPS processes therefore sit specifically in opposition to therapeutic spaces that silence, alienate, negate, medicate and develop an environment in which there are further opportunities for replication of power relations, and where young people experience powerlessness, helplessness and hopelessness (Delano, 2013; Webb, 2010).

Moreover, when utilising an RBPS framework, practitioners overtly resist diagnosing, overtly resist seeing people as not trustworthy in their own lives and overtly enact a justice-doing perspective by working toward changing “the social contexts in which suffering and structural violence occurs” (Reynolds, 2020, p. 358). Given the range of diverse identities and subjectivities and the range of adverse circumstances that young people bring to the clinic, RBPS is utilised as a practice model since as a group, youth also frequently experience discrimination, oppression, violence, marginalisation and injustice. Furthermore, clinic experiences indicate the ways in which RBPS accounts for young

people's lived experiences of power relations that are experienced as disrespect or injuries to dignity, and which operate to disregard, exclude, ostracise, marginalise, condemn, humiliate, debase, degrade, oppress or violate them.

This clinical experience was germane to considerations for theorising and research for this inquiry. RBPS offered authoritative underpinnings for answering the research questions and for underscoring the ethical obligations of the study.

f) Dignity; an expansive concept

Given this inquiry's dignity-centred underpinnings and forward-focus practice purpose and aims, a narrower, legalistic and rights-based approach to dignity was rejected in preference of a large and thick conceptualisation of dignity. This broad concept of dignity was drawn from scholarship that emphasises an "existentialist approach that attends to the inward cry against degradation" (Njoya, 2017, p. 51) and recognises the social and relational aspects of dignity.

Additionally, and for the purposes of this inquiry, dignity was acknowledged and articulated as a profound human social and relational organising concept that incorporates the ways in which people respond to disrespect of their dignity (Coates & Wade, 2007) or experiences of indignity (Borowski, 2022). In terms of this inquiry that explored young people's lived experiences of power relations and drawing on the dignity scholarship of response-based theory, this research placed primary emphasis on the natural inclination of young people toward their intrinsic dignity (Bonnah, 2016; Coates et al., 2019), in the context of a hegemonic system (Gramsci, 1971). Second, attention was drawn to the ever-present and creative nature of young people's attempts to generate places of mental and emotional safety for themselves, particularly when power relations are exercised against their dignity; which in this inquiry included investigating young people's perceptions of their

construction as adolescents, constructions of their distress during contact with the law, and how they were treated during their interactions in legal settings.

This expansive concept of dignity was understood as accounting for young people's fundamental safeguarding capabilities in working to preserve dignity in service of maintaining safety in their lives. Accordingly, this understanding of dignity as a concept underpinned theorising about the ways in which young people who face adverse life circumstances, particularly experiences of unequal power relations within unknown environments may respond. For example, being in contact with legal contexts. As Bonnah (2008) argues, "when youth feel their dignity is threatened, they will do something to preserve it" (pp. 38-39) through acts of resistance.

Consequently, the research also sought to explore young people's acts of resistance to dignity affronts occurring during their interactions with legal actors and the legal system as indications and illustrations of the dynamics of relations of power within the legal system, while utilising legal actors' perceptions of youth contact with the law as an appropriate and authentic form of comparative knowledge relating to the ways in which young people and their distress are discursively constructed. In this regard an RBPS approach was a valid, valuable and practical framework for theorising and research.

2.3 Closing the chapter

There is a scarcity of research in the interdisciplinary social work-legal space that is underscored by theoretical approaches that specifically acknowledge the inherent expertise of youth as the holders of multiple knowledges regarding their capabilities in resisting affronts to their dignity within the legal system.

Missing from the literature is an examination of how relations of power are performed through practice in the legal system generated explicitly with the young people

who are the experts in the field, and who have access to multiple sites of situated and contextually-contingent knowledges. Moreover, scholarship rarely, if ever, focusses upon the dignity or the right to dignity of youth in legal contexts. While the contemporary scholarship emanates from a broad range of disciplines and in its explorations has trustworthy and authentic origins, in its origins it may not align with the broadly defined interdisciplinary legal system that is the context with which adolescents interact when they are in contact with the law.

Additionally, knowledge relating to how youth respond to the Australian legal system, including their experiences of, and responses to, professional practices beyond the specialist children's jurisdictions, is limited. While there is existing literature that underscores the connection between young people's interactions with the legal system and experiences of mental distress, the literature relating to this connection could be strengthened by research that centres youth as the holders of multiple knowledges and compares youth knowledge to legal actors' perceptions of youth experiences of contact with the law. By utilising a RBPS informed framework for theorising and research that holds dignity as its central organising concept, the resistance of youth in contact with the law is exposed and explored, and responsibility placed upon legal actors to assess how they respond to individual young persons.

This inquiry seeks to make a contribution to the scholarship in this area, and in so doing raise awareness of young people's participation in the legal system, empower youth who are compelled to be in contact with the law, and consequently uplift young people's wellbeing during and following their contact with the law through developing knowledge that can underscore innovative practice with youth in the legal system broadly defined. In this way, this research was a form of justice-doing that promotes social change.

This chapter has compared and contrasted definitions of dignity, settling on a broad conceptualisation of dignity as a central concept for the whole of this inquiry's research

processes. The discussion has noted critiques of the concept and emphasised that despite attempts to clearly define dignity, the concept remains a contested notion across a variety of areas of scholarship and professional spheres. Ultimately, definitions of dignity appear to be context-specific, though there is scope for interdisciplinary spaces to have a shared concern for conferring dignity on all human beings and for ensuring that the inherent dignity of all humans is uplifted. Additionally, the chapter highlighted the value of centring dignity as the concept that underpins all aspects of this inquiry's theorising and research. Chapter 3 following explores how the research framework was put into practice and describes the methodology used in this research.

CHAPTER 3. METHODOLOGY

3.1 Introduction to the chapter

This chapter details the research aims, questions and methodology used to explore youth experiences of the legal system. It provides a discussion of the epistemological considerations and theoretical perspectives that underpinned the methodology and methods that comprise the research design. The chapter also details the qualitative approach and narrative methods utilised in the study. The chapter concludes with an examination of the justifications and limitations of the research design, and a discussion relating to the research processes that contributed to data trustworthiness and authenticity.

3.2 Research aims

Given the inquiry's practice-orientation, and its commitment to working toward more just and equitable outcomes for youth who interact with the legal system, it was fundamental that the research be founded on epistemological considerations and theoretical perspectives that provided opportunities for improvements to practices that de-marginalise young people. Accordingly, the voices, perspectives and experiences of young people were given priority as legitimate sources of contextually specific situated knowledges. Additionally, legal actors' perceptions of the ways in which young people experience legal landscapes were utilised as valid sources of comparative data.

3.3 Research questions

Informed by the literature reviewed in Chapters 1 and 2, the principal research question that directed the inquiry was: *How do emerging adults perceive and make sense of their lived experiences of legal actors' practices during their earlier interactions in Australian legal settings?*

This primary research question led three subsidiary research questions:

1. *How do emerging adults perceive that legal actors construct adolescents?*
(RQ2)
2. *How do emerging adults perceive that legal actors recognise, acknowledge, assess and respond to adolescents' experiences of mental distress?* (RQ3)
3. *What steps, if any, do legal actors take toward equalising power with adolescents in legal settings?* (RQ4)

3.4 Philosophical and theoretical underpinnings

a) *Epistemological considerations*

A qualitative researcher's epistemological considerations form the pivot point around which all their research decisions are made (Denzin & Lincoln, 2011; Guba & Lincoln, 2004; Hesse-Biber & Leavy, 2011; Leavy, 2014, Patton, 2002, Silverman, 2013). Based on the relationship between epistemology, theory and methodology, these decisions ultimately lead a researcher to a complete research design and demonstrate the quality of their research (Carter & Little, 2007).

Given that this inquiry sought to explore the knowledges in lived experiences that could potentially underpin practice change, the research was firmly embedded in "transformative politics and practice" (bell hooks, 1994, p. 71) and justice-doing (Reynolds, 2020) by encouraging the perspectives of young people as a group "whose position in society has become compromised" (Spencer et al., 2020, p. 131). While the connection between feminist epistemology and response-based practice and scholarship was discussed earlier, there is additionally a strong legacy of feminist practice and research that centres on the oppression of children and young people, who share a subordinated and

disenfranchised status with women. Indeed, Firestone (1971) urges feminist researchers to “include the oppression of children” when undertaking feminist projects (p. 118).

Continuing the connection between feminist epistemology and research promoting practices that centre women’s and children’s dignity should be unsurprising. In its earliest recordings, feminist scholarship has framed the centrality of dignity to feminist philosophy; Broad (2019), for example, draws on Sophia (1740) to illustrate how the earliest feminist thinkers argued for “(a)n equal right to dignity, power and esteem” as the aim for all people (Broad, 2019, p. 27). Additionally, feminist epistemology underscores conceptualisations of domination and subordination, factors that underpin response-based approaches to theory and scholarship. Accordingly, this research was positioned within feminist epistemology. This decision was pragmatic, realistic and valid particularly since the aims of the inquiry were to return findings to promote dignity-based practice with young people.

Though there are numerous theories of feminism (Morley, 2009), all share a fundamental critique of institutions, assumptions and practices that historically favour a dominant group over a subordinate group. Similarly, while there is neither a specific feminist epistemology or methodology (Crasnow, 2015; Hesse-Biber, 2014), research underscored by a feminist epistemology has contributed to a diverse range of theoretical perspectives that trouble conventional epistemologies and methodologies. There are nevertheless fundamental and unifying points of convergence that mark out feminist research and which were a valuable resource for this research.

Feminist epistemologies and methodologies are united in many ways, though relevantly for this research, the following shared key elements underscored its epistemological considerations: Primarily, “(t)hey are critical – they question the status quo; [and] they are liberatory and egalitarian – they seek to counter oppression, though precisely what that looks like may vary considerably as contexts vary” (Crasnow, 2015, p. 637). Next, research so informed is positioned to challenge positivist positions on objectivity (Lather,

2003) and to interrupt essentialist thinking that connects power, knowledge and institutions (Bové, 1995). Last, attention is given to understanding the interrelatedness of power and knowledge-production to ensure research does not replicate oppressive environments. In this regard, feminist epistemology invites a researcher's consideration of the hegemony of research contexts emphasising researcher location (Crasnow, 2015). By requiring researchers to interrogate and equalise power relations throughout the whole of the research, democratic research processes are prioritised. In emphasising these research processes, research underpinned by feminist epistemologies seeks to destabilise the hierarchical binary between researcher and participants that exists in research underscored by more traditional epistemological perspectives. Rather, feminist research is conducted democratically, and research processes are underscored by the foundational feminist epistemological concept that legitimate, authentic, partial and plural knowledges are produced through the interactions between participants and researcher (Aston, 2016; Berger, 2015; Frye, 1983; Grasswick, 2018).

Research informed by a feminist standpoint tradition was particularly influential to this inquiry. Conceptually, this tradition proposes ways of understanding knowledge and its production. First, it acknowledges all knowledge as situated, interpreted and therefore local (Haraway, 1988). Second, it presupposes that the people who occupy locations within marginalised or oppressed groups have detailed and particular understandings and knowledges, gained through active physical and intellectual engagement in the world and concomitantly, those within dominant groups do not (Jaggar, 2014). Third, people who have lived experiences of oppression or marginalisation know most about othering processes in specific contexts (Harding, 2003). Last, a standpoint perspective crucially underscores the contention that “the epistemic authority of individuals who have been discredited as knowers, especially those who are economically dispossessed, politically oppressed and socially marginalized, and whose status as knowers is therefore likely to be doubted as unreliable, uneducated, and uninformed” (Jaggar, 2014, p. 307). That is, a standpoint

perspective offers “certain epistemic advantages” since marginalised individuals have experienced both inside and outside locations underscoring specific insights “that make visible the assumptions underpinning dominant worldviews” (Jaggar, 2014, p. 307). This final point was vital when conceptualising how young people experience hegemonic institutions, specifically the legal system where research reflects that youth are frequently characterised as unreliable evidence-givers who are not to be believed (Aldridge & Luchjenbroers, 2007; Kelly, 2022).

This study explored how practice could be transformed in ways that would benefit youth who often experience oppression and marginalisation within legal contexts. In creating transformative research, relaxing “that boundary erected long ago between those who know versus those from whom the raw materials of knowledge production are extracted” (Tallbear, 2014, p. 2) was important. Moreover, it was also important to “think creatively about the research process ... as an opportunity for conversation and sharing of knowledge, not simply data gathering” (Tallbear, 2014, p. 2). By concerning itself with how knowledge is produced rather than moving toward positivist or scientific traditions (Haraway, 1988), the research could clearly mark out the interconnections between those who experience practice and those who practise, by building a body of knowledge concerning “who can be a knower and what can be known” (Hesse-Biber, 2014, p. 5). Therefore, drawing on feminist and standpoint epistemologies and traditions informed critical decisions such as recruiting two groups of participants whose perspectives could separately and together contribute to producing knowledge about young people’s interactions with the law.

b) Theoretical framework for research

This inquiry built upon the feminist epistemological influences that held dignity as the central concept. This was a pragmatic approach given the inquiry’s practice-orientation, origins and aims that also sought to redress the limited social work scholarship relating to

dignity as a central tenet of practice (Borowski, 2022). Moreover, these theoretical and philosophical components supported the “data analysis and interpretation of the meaning contained” in the experiences of both emerging adults and legal actors (Kivunja, 2018, p. 46).

Additionally, the study’s methodology was underscored by theoretical perspectives that considered power, the relationship between power and knowledge-production, and the privileging of voice within a context of dominant groups existing in relation to subordinate groups (Aston, 2016; Frye, 1983; Grasswick, 2018).

(i) *Feminist poststructuralism*

Drawing on strands of feminist and poststructuralist theorising, this study’s methodology “offers a supportive and critical way of understanding and changing personal, social and institutional practices in a variety of settings” (Aston, 2016, p. 2253). The guiding theoretical concepts that underscored how feminist poststructuralist ideas were employed in this research will now be discussed.

In common with feminism, there are multiple poststructural perspectives. This inquiry drew upon Foucault’s work which is well-aligned with research that is located within a feminist epistemology since “it addresses how social power is exercised and how relations of gender, class and race might be transformed” (Weedon, 1987, p. 22). Foucault (1982) describes power as only existing through interpersonal actions, that is “what defines a relationship of power is that it is a mode of action which does not act directly and immediately on others, instead, it acts upon their actions.” (p. 789). Accordingly, power relations are understood to “have a directly productive role, wherever they come into play.” (Foucault, 1978, p. 94). This Foucauldian definition of power as relational, necessitates a researcher’s interrogation of hegemonic discourses and practices that serve to maintain dominant groups’ positions at the expense of subordinate groups, thus institutionally and

socially constructing binary opposites. Though in Foucault's account, while the concept of binaries is challenging, these stereotypical locations indicate starting points for analyses. Leading on from these polarised positions, deeper analyses of power as a relational concept linked to "knowledge, competence and qualifications" (Foucault, 1982, p. 781), can reveal the ways in which knowledge is retained or shared and thus whether power is equalised, and, how people experience discursive practices.

This means that the goal of feminist poststructural research is to build understandings of the connections between power relations, the ways individuals perform discursive practice and normalisation processes within institutions of the state (Foucault, 1982). Foucault's (1997) constitutive understanding of power and the historical contingency of discourses (Gannon & Davies, 2014) that interrelate to "shape, guide, or affect the conduct of people" (Bacchi & Goodwin, 2016, p. 5) were particularly relevant to this study's data analysis as it provided a lens to examine how discourses are performed through power relations and accomplished through practice.

This inquiry was also interested in examining the language used by participants to represent their experiences. Language as a means of making one's experiences, thoughts and feelings known is vital to knowledge-building in a feminist poststructural framework for research. As Gannon and Davies (2007, p. 80) note this "linguistic turn" underscores analysis of meaning-making, social structures and power relations. Additionally, institutional language (discourse) can be influential in the production of meaning, and in the perceptions of institutional actors who use institutional discourse.

Feminist poststructural conceptualisations of language emphasise the fluidity of meaning within historic and value-specific contexts, running as a counterpoint to dominant notions of language as fixed, uncontested and objective. Language is open to interpretation both by speaker and by listener. That is, the belief in language as expressing a specific meaning denies the concept that individuals use language to create their own

understandings of themselves, their self and their subjective knowledge of the world, and similarly denies the acceptance of people's experiences as authentic and real. Weedon (1987) argues that fixed meanings of language can deny people's experiences:

(l)anguage, represents quite specific values and interests ... It is the medium through which already fixed "truths about the world and individuals are expressed ... These meanings which inevitably favour the interests of particular social groups become fixed and widely accepted as true irrespective of sectional interests. (pp. 76-77)

Drawing on these theoretical strands informed the research, creating an exploratory space that challenged "essentializing practices" (Davies et al., 2006, p. 88). In this way, this inquiry opened knowledge-building processes where it was less likely that totalising practices could remain inevitable and invisible, while sustaining a spotlight on social, cultural and historic discursive legal practices, in a systematic way. Additionally, the researcher was interested in peeling away layers of overlooked, hidden or previously unrevealed power relations "in order to reconstitute the world in less oppressive ways" (Davies et al., 2006, p. 89). Further, by moving attention to emancipation from "the type of individualization which is linked to the state" (Foucault, 1982, p. 785) the research aims could be realised. Accordingly, this study took the position that the findings that would eventually flow would be considered variable, unfixed, partial and contextual (Haraway, 1988).

c) Methodological considerations

The primary considerations that directed this inquiry's approach were based on its epistemological and theoretical underpinnings. Consistent with the aims of this inquiry, the study rejected methodologies that concentrated on assumptions and methods relating to validation of reason and logic (Gannon & Davies, 2014). Equally, challenging essentialising discourses was an important facet of this study's intentions. Additionally, methodological

considerations needed to accommodate a sceptical stance toward taken-for-granted assumptions that underpin how legal actors practice, while simultaneously holding that all subjects are produced and constituted within power and knowledge systems (Gannon & Davies, 2014). Finally, the primacy of lived experiences, and analysis that privileged young people's multiple identities and voices while utilising legal actors' perceptions and experiences as comparative knowledge were crucial to methodological considerations.

The methodology was influenced by critiques raised in the literature about research exploring people's experiences of the legal system. Kilcommins and Donnelly (2014), warn against the notion of an "Everyman' account" within legal discourse that constructs and signifies victims into an essentialised group disregarding the diversity of people (p. 306, emphasis in original). By drawing attention to how "certain categories of victims are rendered invisible and unable to share the benefits of the more inclusive approach", Kilcommins and Donnelly (2014, p. 305) argue that research must illuminate the experiences of participants who have previously experienced marginalisation and oppression in the legal system. They describe the ways in which discourse can construct and constitute groups and what practices follow. Their work crystallised my commitment to undertaking research that examined young people's experiences and considered how powerful institutional processes can be easily replicated.

Accounting for these points, if this inquiry had taken a narrow methodological approach that concentrated on the perspectives of legal actors alone, the research would have been at risk of focussing only on how the legal system *appeared* to respond to youth. Only hearing the voices of the dominant group (i.e., legal actors), risked perpetuating discursive practices that arise through the exercise of power relations. Findings underpinned by this approach may have directed awareness toward legal actors' beliefs, or the knowledges contained within the legal system, that surround discursive practices or the areas of the law that traditionally have produced legal oriented literature. The methodological

implications of adopting that approach could have been to idealise legal discourse and to allow without challenge the youth subjectivities constructed by discourse. Moreover, young people's diverse experiences of how practices are performed within legal contexts would have been subjugated at the expense of dominant voices. Furthermore, the multiplicity of voices and knowledges about the practices and processes of the legal system, contained in young people's lived experiences would have been silenced (Kilcommins & Donnelly, 2014).

However, it must also be noted that in engaging legal actors in this research space for knowledge-building, their lived "experience and knowledge of the legislation, policies and procedures that configure practice" (Heward-Belle et al., 2020, p. 419) were considered a valuable comparative source of practice-led data that can underpin potential practice change (Wagenaar & Cook, 2011).

(i) Methodology

In light of the methodological considerations described above, a qualitative research approach that held dignity as its central organising concept was adopted. This methodological approach was informed by narrative inquiry knowledge-generation techniques, and feminist poststructural and intersectional approaches to analysis was a pragmatic and practical framework to realise the research aims.

Narrative inquiry methods can generate data to understand people's experiences of social structures that impact their lives and how they explain their efforts to affect those structures (Nybell, 2013). Narrative inquiry challenges traditional and modernist views of truth, reality and knowledge, and offers ways of revealing complex patterns and descriptions of construction (and reconstruction) and evidence of dominant, and indeed subordinate discourses, that impact on peoples' knowledge creation.

Using a narrative inquiry approach offered ways of organising the values and beliefs that influenced people's interpretation of their lived experiences and their thoughts about the future. Knowledge was built collaboratively with participants and (re)produced by a reflexive researcher so that the integrity of narratives was preserved, thus conveying the complexity and uniqueness of each participant's subjectivity and identity, and the essence of their humanity. Furthermore, research processes influenced by narrative inquiry methodology enable space for the telling of the manifold ways in which participants engage, disengage, re-engage or resist discourse (Riessman, 2013), while privileging and maintaining participants' dignity by honouring participants' acts of resistance (Wade, 1997).

Given the practice-orientation and origins of this research, this methodological decision resonates with response-based approaches to research since it underscores young people's narrative histories of "prudent, creative and determined resistance" (Wade, 1997, p. 23). Accordingly, participants' subjective and embodied experiences were recognised, privileged and noted as part of the data collection (Ellis & Bochner, 2000). Moreover, this research valued and utilised young people's subjective orientation, acknowledging the significance of internal responses and emotion by recognising responses to power relations as resistance. Participants' responses to power relations and their consequences were considered through the lens of resistance. As Foucault prompts us to keep in mind; "where there is power there is resistance" (1978 p. 95). The framing of resistance as a legitimate response to oppression resonated with my social work practice with people who have experienced trauma.

By privileging accounts of people's own experiences, it is both possible to gain social knowledge (Lofland & Lofland, 1995, p.16) and to make available such knowledge in a way that is easily understood to those outside the groups studied (Fielding, 1982). By grounding the research in emerging adults' experiences and "privileging their subjective views" (Burman et al., 2001, p. 447) and then comparing their perspectives with legal

actors' perceptions of their practices it was possible to gain "a more textured analysis of the dynamics" of the experiences and constructions of young people in legal settings (Bryman, 2012, p. 400). Moreover, by utilising a narrative inquiry approach, a space was created for accounts to be witnessed and heard within a democratic research context.

3.5 Ethical considerations

The research design complied with the obligations and protocols pursuant to the Ethical Guidelines of the University of Sydney and in accordance with current ethical standards as prescribed by the Australian Association of Social Workers Code of Ethics Section 5.5.2. This research was conducted with the approval of the University of Sydney Human Research Ethics Committee 2017/800 (see Appendix A). Prior to their interview, each participant gave informed consent to their participation, and to the parameters of confidentiality and privacy, the sharing and dissemination of the findings of the study, and how data were managed, curated and stored. All participants were also made aware of protective procedures regarding their participation, maintaining participant dignity, autonomy, choice and respect. This placed the power to self-exclude in the hands of participants. It was hoped this would also reduce any risks related to emotional and mental wellbeing. Strategies were actively undertaken to equalise power, in order to maintain a collaborative and democratic research space. These will be described below.

a) Informed consent and ongoing assent

This research considered informed consent, and ongoing assent regarding participants' voluntary collaboration in the research project as well as the dissemination of findings produced from the data, as fundamental to participants' autonomy. Informed consent was also considered essential to the notion that participants received the respect and esteem in which they were regarded by the researcher, and central to participants'

dignity experiences of this research. Prior to the commencement of data collection, consent forms were explained, participants were made aware that they could withdraw their consent at any time, and, that they held the ability to withdraw from the research at any time. Following, participants were given the choice to participate.

Assent processes began with the informed consent process which concluded with participants signing the consent form; an action that has shared culturally emblematic significance (Ungar et al., 2006) that indicates initial comprehension and willingness to participate (Schelbe et al., 2015). Given the nature of the research involved sharing narratives of lived experiences that had the potential to raise distressing recollections, it was important to gauge assent to continued participation through 'checking in' questions throughout the collaborative interview. Examples of 'checking in' questions used were: "Are you feeling OK?; Would you like to take a break?; Are you OK to continue?; We can take another break if you'd like?" (Cashmore, 2006; Gorin et al., 2008; Schelbe et al., 2015). These questions were designed to "re-visit assent throughout the research process" communicating that researcher's aims "do not supersede their [participants'] welfare" (Schelbe 2015, p. 514). Moreover, in engaging in an ongoing assent process that strikes "a balanced tone somewhere between concern and positive expectancy", the researcher avoids setting up an environment in which there is a possibility of participants' expectation that the research will be too difficult to endure, while coincidentally conveying that the researcher is bringing to the centre of the research, participants' strengths and capacities (Schelbe et al., 2015, p. 514). Additionally, this ongoing assent process communicates to participants the researcher's concrete steps to equalise potential power imbalances (Schelbe et al., 2015).

b) Confidentiality

Ethical consideration was also given to the best means of ensuring that all

participants were made aware of confidentiality, how data would be curated and stored and upholding respect for dignity for all participants. All data were rigorously de-identified. A pseudonym was used for participants, rather than attaching a code when quoting findings to ensure that each participant was seen as a unique person. This decision was based on the notion that dignity is the central concept that underpins this research, and that positive dignity experiences are central to human mental wellness.

Additionally, each participant was told that as part of my professional work, I am a mandatory reporter who has obligations pursuant to the *Children and Young Persons (Care and Protection) Act 1988*. Participants were made aware that while a participant was able to describe their experiences, perceptions and feelings relating to their lived experiences, if I thought it necessary, I would acknowledge concerns I had regarding historic or current issues relating to safety, welfare or wellbeing of a young person that would warrant a report to the Child Protection Hotline, since such a report would compromise confidentiality. None of the experiences described during data collection required a report of this nature.

c) Beneficence and non-maleficence

Every effort was made to anticipate risk of harm, and to avoid causing actual harm to participants, or any other persons, as a result of participants' collaboration in the research project. No benefit, or potential benefit could be given or guaranteed. Each participant was informed that all data had the potential to contribute to the co-creation of knowledge and understandings of how young people perceive their interactions with the Australian legal system broadly defined, and potentially to contribute to improved practices.

A strategy to respond effectively to emotional distress and/or risk of harm was developed. In this regard, contact details for emotional and psychological support were included in the Participant Interview Statements should assistance be required post-interview. This information was discussed prior to data collection and brought to the

attention of participants at the end of meetings. These measures were developed to minimise harm to participants. It remains unknown if any participants required this support.

3.6 Methods

a) Recruitment

This section deals with the recruitment process of the two groups of participants: emerging adults and legal actors.

(i) Recruitment of emerging adults

Participants between the ages of 18 and 25 whose legal issues had been legally resolved, were recruited to the study. Although it may have been preferable to recruit participants who were young people currently engaged in legal processes, ethical and practice considerations negated this approach. First, the researcher decided that she did not want to add stress to young people currently involved in the legal system. Second, the need to obtain consent from parents was prohibitive. Third, it was considered prudent to interview young adults who had had the benefit of time in which to consider their past experiences with the legal system. This approach aligns with Bringewatt's (2013) argument that young adults have a particularly important perspective that is informed by the fact that they have done much of their work toward identity and are still in relative contact with their adolescent experiences and selves.

Recruitment of hard-to-locate, traumatised and/or vulnerable populations poses significant challenges both in terms of research design and ethical considerations (Benoit et al., 2005; Cauce & Nobles, 2006; Campbell et al., 2004; Liamputtong, 2007; Miller et al., 2006). While the recruitment of vulnerable adult populations receives more attention, less consideration is given to the development of a recruitment protocol that engages with young

people who might have experienced mental distress, trauma or oppression(s) in research projects, since it can be difficult given their familiarity with the power-differences (Dworski-Riggs & Langhout, 2010; Flores, 2008) so often associated with their prior experiences (Zayas et al., 2009).

A major consideration therefore was power as a relational concept, and that an inclusive, (Aldridge, 2014) democratic and relational approach to knowledge-building interactions would demonstrate how vulnerability is contextually-contingent by reformulating the research space to be “participant-led” (von Benzon & van Blerk, 2017, p. 897; see also Aldridge, 2014). Accounting for these considerations meant that in the initial stages of recruitment participants were well-informed about all aspects of the research (Gemmill et al., 2012). This included considering how the methodology could ensure that potential participants were offered strategies to maintain their emotional and psychological safety (James et al., 2014).

Initial purposive sampling of emerging adults was conducted via fliers posted behind bathroom cubicle doors on the University of Sydney main campus at Camperdown, Sydney (see Appendix D1). This strategy allowed for coincidental viewing(s) of the flyer and provided prospective participants private reflective space and time, to consider whether they wished to participate. This strategy transformed an ordinary methodological activity into an ethical undertaking of how to recruit a specific group of participants in a sensitive way (Campbell et al., 2014). Consequently, 10 emerging adults volunteered to collaborate in this project through the initial recruitment phase.

A second stage of recruitment occurred through email communication during which the researcher determined inclusion of emerging adults through consistent positive responses to the following criteria (see also Appendix F):

- Contact with legal actors as a younger person between the ages of 12-18 years, in any legal environment though not as the subject of proceedings
- A current enrolled student of the University of Sydney
- Current age between 18 years and 25 years
- Current healthy mental wellness

Further email communication determined a suitable time, date and location for collaborative discussions (see below).

(ii) Recruitment of legal actors

While adolescents have interactions in a wide range of legal landscapes, it was also decided that additional comparative data would be collected from legal actors whose prior professional practices drew from a range of settings. This approach drew on the scholarship of Bacchi (2009) and Bacchi and Goodwin (2016), whose post-structural approaches urge researchers to think about how problems are produced by state interventions (e.g., the legal construction of youth under the age of 18), so as to gain insight into “silenced assumptions that are often not made explicit” (Martinelli et al., 2022, p. 551).

Therefore, in order to generate the richest dataset capable of reflecting age and diversity as intersecting oppressions of youth within the legal system, it was logical to also recruit legal actors who had lived practice experiences with adolescents. The data generated by these participants could inform the experiences of adolescents’ interactions with a broad scope of legal contexts. Moreover, these data could offer perspectives that compared and contrasted with young peoples’ accounts. Coincidentally, both groups’ data could perform triangulatory research functions.

Legal actors were recruited in two stages. Initially, as a condition of the Ethics Approval for the research to proceed (see Appendix A), letters were sent to seven Heads of

Jurisdiction requesting permission to recruit legal actors who practised in their jurisdictions (see Appendix B1). Upon permission being granted to contact judicial officers directly (see Appendices B3; B4), eight judicial officers from two jurisdictions responded to my invitation volunteering to participate (see Appendix B2). These legal actors had had experience of practice with youth in a wide range of jurisdictions prior to their appointment and during their current legal roles. Two senior legal practitioners also volunteered to collaborate through direct approaches (see Appendix C). All legal actors contacted me via email and my email reply constituted the second stage of recruitment (Appendix E2). A third stage of recruitment occurred through email communication during which the researcher determined inclusion of legal actors (see also Appendix F).

b) Data collection

(i) General data collection details

Data collection was conducted between March and September 2018. Collaborative interview time frames were between 37 minutes (legal actor) and 67 minutes (emerging adult). The average length of time for interviews was 52 minutes. Some participants had requested, and been provided with, a Participant Information Statement (Appendices G1; Participant Information Statement Emerging Adults and G2; Participant Information Statement Legal Actors) and Consent Form (Appendix H) in advance of the data collection process. Most participants were provided with a Participant Information Statement and Consent Form at the time of interview, with Participant Information Statement explanation and Consent Form completion processes occurring prior to interview.

(ii) Data collection locations

Email communication with emerging adults determined a suitable time, date and location for interviews. Decisions and details remained in the control of the emerging adults,

though suggested locations at the University of Sydney were provided for convenience. Anticipating the likelihood of previous power differentials was vital in creating a democratic research setting. At all times the goal was to maintain transparency with the intention of honouring the empowerment principles that underscore feminist epistemological and theoretical perspectives of emancipatory research, that holds dignity as a central concept. Thus, choice, agency and the establishment of respect were guiding values of this inquiry (Swauger et al., 2017) underpinning a research space in which participants could enjoy a fundamental experience of felt safety.

Email communication with legal participants was used to accommodate participants' needs in terms of meeting at a time and place during business hours that was suitable for collaboration and data collection. Thus, choice, agency and the establishment of respect similarly underpinned data collection processes with legal actors.

(iii) Initial contact

The process of data collection with all participants commenced with short introductions. Thereafter the Participant Information Statement and Consent Form were each explained as described above. Once consent to participate had been given, the data collection process began.

(iv) Data collection

Informed by feminist, narrative inquiry and response-based approaches, data collection with both groups involved face-to-face, semi-structured, in-depth interviews (Bringewatt, 2013; Hill, 2012; Hill, Knox et al., 2005). Semi-structured interviews were chosen as the form of data collection since this form of collaborative knowledge-building most closely aligns with response-based theoretical perspectives, and because these qualitative methods underpinned the researcher's commitment to do her "utmost to map

and explore the meaning of an area of human experience” (McLeod, 2011, p. ix). They are also acknowledged as the way to collect legitimate, authentic and reliable data, particularly regarding experiences of power relations, acts of resistance and dignity-related experiences. Additionally, rather than a structured question and answer format, a semi-structured interview format allowed for participants to have leeway in how they responded to probe questions (Bryman, 2012). Moreover, semi-structured interview methods also allow for greater “knowledge-producing potentials of dialogues” as the researcher can focus the knowledge-building collaborative effort on matters “important in relation to the research project” (Brinkmann, 2014, p.286). Initial questions were utilised to establish rapport and reciprocity within a non-hierarchical research relationship, underscoring participants’ inherent capabilities in expressing their narratives, and placing control of the research space in participants’ hands (Bryman, 2012). These opening steps established and assisted in maintaining a collaborative and democratic research space.

Specific interview guides were used for each group containing open-ended anchor-point type queries to guide data collection (see Appendices I1 and I2). Though prompts were minimised, examples of questions posed to legal actors included “I’m curious to understand what type of work has brought you into contact with young people?”; “I’m wondering if any of those young people have stood out for you or struck a chord with you?”; “Would you have any observations to make about the range of young people’s responses to other legal actors or how young people are treated by legal actors?”; “I’m curious to understand how you would be aware of a young person’s distress?”. Some legal actors required very few prompts, one required all my interviewing skills to be drawn out, though eventually this legal actor did relax and give extended answers.

Examples of prompt questions asked of young people which focussed on their experiences included “If you’re comfortable to tell me, I’m curious to understand a few things about your experience, like how old you were, and if you had a lot of contact with the

legal system?"; I found this opening question usually opened a space into which many words tumbled out, and very few prompt questions were necessary thereafter when generating knowledge with the emerging adults. Some emerging adults were a little reticent to describe their experiences of legal actors' practices, so probe examples in this regard included "I'm interested to understand a little more about what happened when you said/didn't say anything/[I describe an action]?"; which I may have followed up with a fairly standard response-based query "and then what did you do?". This approach is based upon clinical experience underscored by response-based perspectives that move the conversation toward eliciting descriptions of responses capable of being understood as acts of resistance (Coates & Wade, 2007) as described in Chapter 2.

When signing the consent form, participants could either agree to, or decline to allow the interviews to be digitally recorded. A single participant declined to have their interview recorded in this way and comprehensive written notes were taken. This flexible adaptation of the data collection method that considered the participant's needs and comfort is an example of the democratic research space in action and was underscored by the feminist epistemologies that informed the methodology. Transcriptions of both audio and the single handwritten interview recordings were conducted by the researcher. This process will be described in more detail below. No participant withdrew from the interview process, or from the research process at any time.

Comprehensive notes were taken immediately following data collection as a form of reference checking for transcription accuracy, and to record my immediate impressions, responses to the data collection process, and any obvious points made by participants that I marked for critical reflective and reflexive consideration. These notes formed the backcloth of the research journal, facilitating active theme creation that formed the basis for analysis (Braun & Clarke, 2021). This initial approach to analysis was also helpful in focussing my

approach to data collection relating to the research questions where necessary (Lincoln & Guba, 1985), while also maintaining a genuine curiosity.

As an added consequence, data collection improved as earlier interview data informed modification of collaborations in subsequent data collection (Miles et al., 2014). Accordingly, initial progression of analysis throughout the data collection process (Emerson et al., 1995) was underpinned by the reflexive and continual “iterative movement between theory and evidence” (Oliver, 2012; p. 379) commonly understood as fundamental to social work knowledges and practice. A major example of this reflexive process will be discussed in the next chapter which presents this inquiry’s findings (Chapter 4).

(v) *Role of the researcher*

Given the theoretical and methodological perspectives that informed these methods, it is important to discuss the researcher role in guiding the collaborative interview process, and in locating the researcher at any given point during the research process (Berger, 2015; Drake, 2010), specifically since so doing unhampers a researcher and creates a space where it becomes possible to “handle and present data better, and consider its complex meanings and contribution” to both understanding what is the focus of an inquiry “and of the process involved in knowledge production” (Berger, 2015, p. 221). The totality of the research journey can be a challenging one, with many twists, occasional blind alleys, moments of joy, frequent humour, quiet revelations of challenges faced and recurrent narratives of distress. At times, some of the emerging adults’ lived experience data was for me, in the *here and now*, also distressing, sad, occasionally harrowing; and in that moment it was necessary to acknowledge the challenges that had clearly and obviously been faced by the emerging adults as their younger selves.

However, in every emerging adult’s narrative of lived experiences were the creative, subtle, imaginative, extraordinary and multiple ways in which they had resisted being

overcome by unequal power relations as their younger self. These contrasting experiences provided a groundswell of interpersonal exchanges. Our witnessing of narratives of resistance and resilience occurred as the emerging adults spoke of their work toward recovery following experiences of mental distress subsequent to difficult and challenging earlier times in their lives. It was through these processes that it was possible to locate the expertise of youth who had been in contact with the law.

Similarly, some of the narrative exchanges with legal actors also contained very distressing, clearly stressful and, sometimes for the legal actors themselves, lamentable experiences of what had occurred for young people. Some legal actors were also willing to be vulnerable in the research space regarding their own feelings, perceptions and distress that arose during data collection. Some admitted their vulnerabilities in terms of feeling that they had a lack of expertise regarding youth distress both in their current practices and in the past. This similar witnessing of legal actors' limitations, strengths and resilience also contributed valuable data to this research, particularly relating to points for practice change.

It was therefore vital to situate myself as "non-exploitative and compassionate toward research subjects" (Pillow, 2003, p. 178), continuously checking-in with all participants, and with myself using reflexive skills developed in practice. While reflexivity both observed "the tension between involvement and detachment of the researcher and the researched" underscoring the inquiry's ethics and quality (Berger, 2015), it was moreover necessary since in the research space I was inviting vulnerability. The solicitation to share experiences must equally be accompanied with participants' perceptions of safety, and actual felt safety, underscored by ongoing assent to participation. This is identified by the researcher recognising how the participant may be experiencing the research process, which included reminding participants that they had the power to stop, to take a break, to withdraw, and if they so wished, to continue. This was facilitated by utilising my therapeutic background, drawing on response-based theoretical perspectives to recognise participants'

internal distress and by maintaining participants' dignity as the central bedrock of our collaborative efforts. By so doing, we, together, could witness and honour participants' past and current experiences and responses.

Consequent upon the feminist post structural theoretical perspectives that underpin the methods used in this inquiry, notions of the *disinterested researcher role* were relinquished. Additionally, in acknowledging my role in the research (Liamputtong 2019), problems, mistakes, biases, pre-conceived ideas and assumptions could be considered, deconstructed and reconstructed in the reflexive process that underscored the research process. These reflexive processes while being central to the audit trail of this inquiry (Nowell et al., 2017), also underpinned analysis.

(vi) *Risk consideration and management*

Maintenance of the mental and emotional safety of the emerging adults who participated in the research was paramount, particularly regarding risk for re-traumatisation. Careful thought was applied throughout the research process to ensure that any previously experienced power differential was not replicated. A safety protocol underpinned by dignity-aware, trauma-aware and trauma-responsive approaches was developed in consultation with research supervisors. The researcher has not been made aware that the protocol has been initiated. As described above, response-based practices underscored social research interactions with participants to ensure power did not accrue to the researcher, or to the University, and to ensure that the research process remained democratic.

I was able to engage in supervisory practices with both my academic supervisors, and my professional supervisor, all of whom offered essential support throughout the collaborative interview process. My habit of keeping a research journal to record independent impressions and responses immediately following each collaborative interview was of vital importance throughout the research process. These observations included:

research environment descriptions; participants' and researcher's perceived comfort levels; researcher's responses to listening to participants' lived experiences; researcher's impressions of participants' body movements, including the ways in which they utilised their hands in particular to underscore their expressive language and whether participants moved in and out of conversations with all-of-body movements. This occurred following interviews so that the research space remained equitable and collaborative, and, without a circumstance of an observational-researcher and observed-participants.

Critical reflection techniques, cultivated through my professional social work in the tradition of Fook (2004) and Fook and Askeland (2007), were utilised to engage in this process. There were few risks associated with this inquiry for the researcher. It was anticipated that some of the lived experience content may be distressing. However, given my professional training and the skills developed from an extended professional life of having worked with youth who experience mental distress, the risk to me was envisaged as low. More obvious physical safety protocols were written into the research paradigm, including that interviews were conducted during daylight hours in safe locations either at the University of Sydney campus or in the professional suites of legal actors.

However, I did experience a surprising response, which might not be seen as a risk. I mention it here perhaps as a salutary note to self for the future; once the iterative process of data analysis was undertaken and developing materials began to come to light, I came to feel I needed to interrogate some of my emotional reactions regarding young people's experiences in legal environments, despite having extensive therapeutic experience with young people who have had contact with the law. In this regard I appreciated my ability to keep a journal since this was my own *fundamental experience of safety*. Journaling became not only a valuable tool in interrogating my emotional reactions to some of the evolving materials, it also developed as a valuable resource in my reflexive practice as a critical theorist and practitioner.

c) *Data transcription and management*

Prior to data collection a file coding identification protocol was developed so that consent forms, data and analysis files could be stored in unique de-identified case files. Following conversion to digital files all audio files and paper consent forms were destroyed. No physical data were retained pursuant to the research promise made in the Participant Information Statement (Appendices G1 and G2). Descriptive and technical metadata accompanied each file. All files were password protected and stored inside password protected ZIP files. This maintained privacy and confidentiality. All research files were stored on an encrypted and password protected laptop computer with a back-up process to the University of Sydney Research Data Store via a VPN, utilised as the primary storage site.

Interviews were transcribed as soon as possible following recording to gain a close familiarity with the data. Prior to transcription I listened to each recording to its end looking at the notes taken after the data collection process; and jotting down extra notes if I thought they were required. These notes would eventually be entered in my research journal. This helped in connecting what I had experienced at the time of collaborative data collection with transcriptions, maintaining integrity throughout the knowledge-building processes.

Typed verbatim transcriptions were then made, read, and re-read for accuracy and for de-identification purposes, and to maintain confidentiality.

This method of collection and management of qualitative data also offered a unique opportunity to develop an intimacy with the expertise and knowledge held within participants' lived experiences.

Furthermore, since this research had grown from critically reflective social work practice, I utilised my professional skills to note any issues arising from the data that might need to be taken to reflective supervision.

d) Data analysis

The exploration of data was informed by reflexive thematic analytical methods (Braun & Clarke, 2014; 2019; 2021). Though, critically, data analysis combined an adaptation of Coates and Wade's (2007) analytical structure which is influenced by poststructural perspectives and analytic sensibilities that explorative analytic inquiry toward how intersecting youth identities experience power relations and practices (Crenshaw, 1991). Data analysis emphasised attention toward multiple oppressions understood as responses to both being rendered invisible and subordination, highlighting partial and situated knowing as "webbed connections and hope for transformation of systems of knowledge and ways of seeing" (Haraway, 1988, p. 585). Analyses also specifically explored narratives of legal actors; acknowledged as genuine, accurate, diverse and discrete comparative understandings of how legal actors understand and perform discursive practices and procedures with adolescents in a wide variety of legal contexts.

The influence of Coates' and Wade's (2007) structure for critical analysis reflected possibilities for exploration of how legal actors may "variously reflect or depart from institutional policies ... [and who] ... must freshly justify their use of institutional power in each case by linking their actions to institutional ideologies, policies or objectives" (p. 511). Thus, analyses were based upon the possibility that "stories about particular patterns of shared meaning across the dataset" (Braun and Clarke, 2019, p. 592) could indicate the ways in which discursive practice that is the performance of asymmetric relations of power is concealed, and perceptions of how the responsibility for utilising these discursive practices is mitigated (Coates & Wade, 2007). There was also an analytic possibility of locating similar patterns in the dataset of concealment of adolescents' resistance to experiencing discursive practices, and, either blame or pathologising of young people who responded to discursive practices (Coates & Wade, 2007). In contrast, analyses informed by Coates and Wade (2007) offered an opportunity of locating patterns of meaning-making in

the dataset that exposed and clarified both features and elements of discursive practices and responsibility for practices that reflected negative or positive dignity experiences for adolescents. Additionally, where there was a possibility of negative dignity experiences, the influence of Coates and Wade (2007) could underscore analyses that revealed youth resistance, coincidentally contesting blame or pathologising adolescents whose resistance took the form of internal pain or other more obvious acts of resistance.

This amalgamated approach to analysis centred “researcher subjectivity” (Braun & Clarke, 2019, p. 590) along with the researcher’s “reflexive engagement with theory, data and interpretation” (Braun & Clarke, 2021, p. 330). This position assumed the researcher role to be “a resource ... rather than a potential threat to knowledge production” (Braun & Clarke, 2019, p. 590). By also borrowing a notion emphasised in poststructural interview analysis and utilising intersectional influences, primary analytic attention was given to “examining *precisely* ‘what is said’ – the ‘things said’...” (Bacchi & Bonham, 2016, p. 115, emphasis in original); that is, how language relates to the discursive production, constitution and construction of adolescents’ subjectivities to inform theme development. Initially, this analytic sensibility offered the possibility of exposing an essentialised identity that can result from “an amalgam of practices that construct them as Other. Such practices include silencing, excluding, marginalizing, stereotyping, and patronizing” (McHugh, 2014, p. 155). Language patterns in what was said by participants, gave authority to discursive power relations and practices regarding the constitution, production and construction of people under the age of 18 as an essentialised group of people who were treated as *other-than* or *different-to* adults.

Additionally, given the scholarship points to youth being overlooked as a group discursively constituted and constructed in the legal system, they could be located at “neglected points of intersection” (McCall, 2005, p. 1774). Analytic sensibilities assisted in identifying the language of lived experiences that offered weight to discursive power

relations and practices, while specific analytic attention could be given to whether adolescents “are characterized simultaneously by multiple social categories” (Else-Quest & Hyde, 2016, p. 155). Thus, analyses also explored emerging adults’ lived experiences of subordination across multiple identity sites rather than keeping categories such as age, gender, sex and sexual orientation separate (Crenshaw, 1991; Else-Quest & Hyde, 2016). Analytic concerns mindfully held that “all intersectional moves are necessarily particularized and therefore provisional and incomplete” (Carbado et al., 2013, p. 304). Analytic consideration of adolescents’ lived experiences of the interconnectedness of multiple categories of identity, and of the embeddedness of the dimensions of inequalities of power within each of their multiple categories of identity, was informed by a broad range of intersectional scholarship (Carbado et al., 2013; Cho et al., 2013; Choo & Ferree, 2010; Crenshaw, 1991; Else-Quest & Hyde, 2016; Ferree, 2010; Haslanger, 2012; McCall, 2005).

Furthermore, in holding dignity as the study’s central concept, analytic consideration was given to language arranged to “expose, withstand, repel, stop, prevent, abstain from, strive against, impede, refuse to comply with, or oppose any form of violence or oppression (including any type of disrespect), or the conditions that make such acts possible” (Wade, 1997, p. 25) facilitating exposure of acts of resistance in the lived experiences of young people who had had contact with the law. In this way connections between relations of power, young people’s resistance and how they experienced legal actors’ attention to their dignity were examined. Analytic notice was directed particularly to knowledges relating to dignity experiences that had the capacity to underpin future youth-informed dignity-aware practice. In this way, knowledge-generation processes were underscored by the study’s commitment to exposing “invisible or concealed power dynamics” (McHugh, 2014, p. 139), while working toward more just outcomes for youth who have contact with the law.

Therefore, remaining curious and analytically attending to precise language allowed for a nuanced analysis that speaks to “the complexity of lived experience within” a specific

social group (McCall, 2005, p. 1774); here, adolescents as narrated by older selves.

Moreover, how discourses themselves can be utilised to ascertain knowledge qualifications; who has expert knowledge? Thus, analyses also explored in circular fashion the connection of knowledge to power, back to knowledge-production.

(i) Data analysis process

The “researcher’s role in knowledge production is at the heart” of analysis (Braun & Clarke, 2019, p. 594), thus, increasing data awareness was developed through active engagement in each of the phases of the research process. During data collection, this was experienced as a creative interaction between participants and researcher as knowledge was built within the research relationship through discussion, meaning-checking and taking notes immediately following interviews. Data analysis continued through research journaling, during transcription, and when keeping further notes of my research process as the project unfolded. Through the process of transcription, listening and appending transcripts formed a critical immersion point for subsequent theme development informed by intersectional theoretical perspectives and using concepts adapted from Coates and Wade’s (2007) analysis techniques. Memos were attached to transcripts that gave attention to moments of removal, acknowledgement, measurement, identity and other forms of construction of subjectivities, since these moments in the narratives would form the basis for coding and theme collection.

Initial formal analysis was conducted upon emerging adults’ data. Legal actors’ data were analysed in a second formal phase of analysis. In this way young peoples’ voices were not supplanted by professional voices within the research space, and legal actors’ data could be utilised as comparative knowledge. This analytic integrity decision was underpinned by feminist epistemologies. During the formal phases, concise codes were generated using the research questions as a means of identifying relevant features of the

data, while specific analytic inquiries were asked of the data that aimed at identifying Othering practices, and the performance of an amalgamation of practices relevant to dominant, marginalised and marginalising discourses (McHugh, 2014). Codes and data extracts were collated for later analytical phases. These initial inductive coding exercises were conducted using NVivo12 Software to manage data.

The next analytical phases, informed by critical approaches and particularly the work of Coates and Wade (2007), involved generating and reviewing initial themes. In an analytic model influenced by reflexive thematic analysis, themes are specifically assumed to be “patterns of *shared meaning* underpinned or united by a core concept” (Braun & Clarke, 2019, p. 593, emphasis in original). In the analysis conducted here, the iterative process was reflexively conducted, with themes undergoing refinement and recorded throughout using journaling strategies. Final analytical phases involved defining themes by determining theme range and emphasis, defining theme descriptors that were informative for practitioners and naming themes to guide writing up since the findings of this inquiry were pointed toward informing practice. The ultimate analytical phase involved constructing an analytic narrative using the major theme descriptors and supported by data extracts, contextualised relative to current scholarship and capable of underscoring innovative youth-influenced, dignity-aware practice in the legal system.

Despite the careful steps taken to clarify meanings during the collaborative data collection phase, I remained mindful that my singular comprehension and interpretation of participants’ narratives was one amongst multiple possible interpretations. I also paid attention to the notion that participants’ narratives contained both situated knowledges but only partial expressions of participants’ lived experiences. I am aware that broader and deeper exploration of the lived experiences of youth is possible, however, this was not possible in this forum or with the current study design. Iterative reflexive research processes, journaling, thorough immersion, and endeavouring for consistent comparison back to the

relevant literature were valuable resources during data analysis, establishing additional triangulation (Patton, 2002) and strengthening the research.

3.7 Limitations and implications of the overall research design

This research was initially motivated by dignity-centred, feminist practice that recognised unheard youth voices and unseen young people as they resisted dignity-challenges when they were in contact with the law. Given scholarship in this area is limited, a qualitative exploratory research approach to investigate this under-explored area (Emmel, 2013) was the most practical counter-hegemonic means of generating data. Additionally, the methodology uplifted and privileged the voices of people who have remained unheard in the scholarship, given the partial attention to the ways in which adolescents experience legal contexts, while utilising comparative data generated with legal actors as a valuable triangulating source (Patton, 2002).

Here, the utilisation of a qualitative research design that included purposive sampling, direct approach recruitment and narrative inquiry methods underpinned by feminist epistemologies as described above sought to develop a body of data indicative of the deep understandings held, particularly by young people. Indeed, given the researcher's commitment to exploring the participants' "emic perspectives" (Trent & Cho, 2020, p. 957), this study's purposive selection of the participants, and its methodology assumed richly situated and contextually-contingent knowledges would be co-produced through the narratives of those people who had lived experiences of the milieu, and who could therefore provide "thick descriptions" (Geertz, 1973, p. 5).

The sample sizes of 10 emerging adults and 10 legal actors utilised in this inquiry's research framework could be considered small and were not based on random selection methods. However, these sample sizes were considered suitable since the collaborative data collection process was expected to be fulsome in text, descriptions, meaning and

representations while realising “contextual understanding” (Bryman, 2012, p. 409) of young people’s experiences of contact with the law through the meaning-making of both groups of 10 participants. Indeed, it was the very process of “fine-grained coding” that “captures diversity and nuance and provides a foundation for conceptualising possibly *significant* patterns (for research questions) of shared meaning” (Braun & Clarke, 2016, p. 742, emphasis in original) that reflected the suitability of the sample sizes.

While scholarship indicates that in a qualitative research model “bigger isn’t necessarily better” (Braun & Clarke, 2016, p. 742), it is acknowledged that the small sample sizes utilised in this inquiry’s research design, and that all participants self-selected to participate, are limiting factors that contribute to the study’s findings being neither generalisable nor standardisable.

3.8 Trustworthiness and authenticity

It is acknowledged that trustworthiness and transparency in the way in which this research was conducted is crucial to the usefulness and integrity of its findings (Cope, 2014). The trustworthiness of this research can be evaluated using four of the criteria outlined by Lincoln and Guba (1985), though additional scholarship will support statements. The four criteria: credibility, dependability, confirmability and authenticity are discussed below. The transferability criteria described by Lincoln and Guba (1985), is not applicable to this inquiry, since findings from this research are limited to knowledge relating to practice with young people in legal contexts.

Credibility, a vital evaluation component (Polit & Beck, 2014), describes confidence in the truth of the inquiry and consequently in its findings. Credibility also refers to a subjective appreciation of findings that occurs when an audience reads research conclusions (Guba & Lincoln, 1989). Therefore, credibility is underscored by the epistemologically justified methodological considerations that lead to research design

decisions and processes. In this inquiry, the co-collection of data was based on feminist epistemologies and feminist poststructural theoretical concepts underpinned by methodological considerations. These same philosophical and theoretical considerations led the qualitative process of data analysis, an iterative questioning of data, along with alternative explorations of data explanations using engagement in critical reflection and reflexive techniques as described above (Attride-Stirling, 2001; Côté & Turgeon, 2005; Ryan et al., 2007). In this way this study's credibility is highlighted.

Dependability describes the stability of data across time and within the confines of the research itself (Polit & Beck, 2014). Processes relating to dependability in this inquiry included maintaining a research journal that logged each step of the research process, including notes relating to research decisions. This documented research journal formed the basis for engagement in critical reflection and reflexive practices (Tobin & Begley, 2004).

Confirmability describes processes that verify data as participants' narratives. In this inquiry, while process logs provide an audit trail that has the potential to verify participants' narratives in part (Tobin & Begley, 2004), various functions of NVivo Version 1.6.1 (QSR International, 2022) software were utilised to explore data, to reveal patterns and to ultimately develop themes (early data management was done using NVivo12 software; QSR: 2019). Confidentiality was a paramount consideration of this research. Rather than reveal process logs, many of which contain identification links to participants, examples of the ways NVivo Version 1.6.1 (QSR International, 2022) was used to manage data volume are contained in Appendix L. Additionally, Appendix M contains an example of how one specific theme was developed using the NVivo creative functions that allow for exploration of data and theme development.

Additionally, the most intense and persuasive quotes (Bager-Charleson & Kasap, 2017; Braun & Clarke, 2006) taken from transcripts form part of the findings in Chapter 4. This also ensured that the context surrounding participants' narratives within the text of the

findings accurately portrays participants' meanings and perceptions while privileging and uplifting emerging adults' voices against the comparative data of legal actors. The example of theme development in Appendix M also demonstrates how the most apposite quotes that highlight the theme were chosen. The findings chapters also provide a demonstration of the way in which conclusions and interpretations have been reached using participants' representations that were refined and located using the process shown in the example in Appendix M (Tobin & Begley, 2004). To further underscore confirmability, a copy of the Codebook produced via NVivo is included in Appendix N, and a copy of the file record can be found in Appendix O.

Authenticity describes how accurately and realistically a researcher conveys the range and diversity of realities that reflects participants' lives (Polit & Beck, 2014). Processes in this inquiry that ensured authenticity included: Initially, the selection of emerging adults as experts, who could co-produce knowledge relating to discourse performed through power relations and accomplished as practice. Next, the selection of legal actors as a group from whom added perspectives could be obtained. Further, throughout this chapter all processes have been richly detailed (Schou et al., 2011). Additionally, as noted above, throughout the Findings chapter, quotes are utilised to capture informants' narratives, meanings and experiences (Bager-Charles & Kasap, 2017; Braun & Clarke, 2006). Last, processes are illustrated in Appendices L and M, supported by the codebook in Appendix N and file record in Appendix O.

a) An additional note regarding authenticity

A small note is added here regarding authenticity, and while bringing attention to the Findings chapter, Chapter 4, that follows. This note applies also to Chapter 5. Given this inquiry was underscored by feminist epistemologies, care has been taken not to essentialise participants' experiences when writing the Findings chapter. The purpose of this research

decision was to avoid replicating dynamics of events and circumstances described by emerging adults during collaborations. When presenting the findings, reference points are utilised when describing experiences or positions taken by participants in their representations of practice. Therefore, to centre the dignity of all participants, the reference point terms utilised in this chapter are: *the majority*, defined as more than three quarters of participants; *a number of*, defined as approximately half of participants; and, *a few*, which describes fewer than three participants (Rawsthorne, 2009).

Privacy and confidentiality have been extended to the exploration and analyses of data. This was an additional strategy undertaken to equalise power throughout the research process, also ensuring the research remained democratic while holding each participant's dignity at the centre of this study. To ensure confidentiality, asterisks (**) replace details that could infer recognition regarding the types of legal proceedings with which any participant has been engaged. Similarly, to ensure anonymity, references to any legal actor, e.g., judge, witness intermediary or any actor who may have even a tangential legal role such as a sheriff's officer or a member of maintenance staff, has been given the term 'legal actor' and enclosed in round brackets, viz: (legal actor), except where the meaning made by a participant could have been lost. In that instance occasionally, words such as *judicial officer*, *social worker*, *witness intermediary*, *barrister*, *security staff*, *sheriff's officer* may appear.

3.9 Closing the chapter

This chapter offered a detailed discussion of the various aspects of the methodology utilised in this inquiry, with a focus on the research aims and questions, the epistemological and theoretical underpinnings of its methodology and the methods that flow from these considerations. To accomplish these goals and considering the gap in social work research in the field of dignity (Boroswki, 2022), a theoretical framework was developed that sits in contrast to previous research when exploring the distinctive, diverse

and multiple forms of knowledge held by young people who have experienced the ways legal discourse and power relations inform the practices of legal actors. The theoretical framework is a research counterpoint in exploring young peoples' situated and contextually-contingent knowledges of being essentialised as a group, while simultaneously facing compound situational consequences that can flow from a vulnerable discursive construction, often leading to disparities in the provision of support and assistance when they are in contact with the law (Fairclough, 2017). It was in utilising this novel approach and by specifically engaging with both "the theory and practice of research" that this inquiry sustained an "ability to navigate uncharted terrain" (Hesse-Biber, 2014, p. 5). The following chapter will outline the findings of the study.

CHAPTER 4. FINDINGS – EXPERIENCES AT THE POINT OF PRACTICE

4.1 Introduction to the chapter

This chapter presents the key findings from the analysis of data generated with all the participants throughout the collaborative process. The chapter (re)produces participants' multiple situated and contextually-contingent knowledges, which are an integral part of the researcher's "reflexive and thoughtful engagement with the analytic process" (Braun & Clarke, 2019, p. 594). Consistent with the epistemological and theoretical underpinnings of this research, emerging adults have been acknowledged as holders of expertise regarding relations of power, the performance of discursive practices and the constitution of youth subjectivities and identities in the legal system. Therefore, their accounts have been privileged throughout the chapter by being presented before those of legal actors. Legal actors' accounts are presented as distinctly heard alternative perspectives and acknowledged as valuable contrasting and comparative data.

The chapter opens with a short overview of the participants, providing context to the emerging adults' lived experiences and meaning-making, while illuminating the broad professional contact the legal actors had experienced with youth across their working lives. The study's key findings are then presented in two major sections that contain the themes developed in the study's qualitative data. The first presents findings relating to *Constructions of adolescents in contact with the law; the near impossibility of being "vulnerable child"*. This section addresses the inquiry's principal research question with analyses directed at underpinning the ways in which *emerging adults perceived and made sense of their adolescent lived experiences of legal actors' practices* and the corollary question that sought to explore *the ways emerging adults perceived legal actors constructed adolescents*.

A second section presents the key findings developed in the data relating to the intertwined concepts of power, resistance and dignity. In this section attention is brought to emerging adults' multiple knowledges of the selectivity of a vulnerable construction of young people that may underscore a protective stance for some youth. The findings presented in this section relate to the analysis of *how emerging adults perceived that legal actors recognised, acknowledged, assessed and responded to adolescents' experiences of mental distress*. Additionally, findings are offered regarding the exploration of *whether legal actors took steps toward equalising power with adolescents in legal settings*.

4.2 Introduction to the participants

This section opens with a short introduction to the emerging adults who collaborated in knowledge-building interviews. The commitment to participant confidentiality and to holding dignity at the centre of this research, both theoretically and practically, is honoured with a global description of both the participants and of the legal contexts with which they had earlier contact. The legal actors will be similarly introduced.

In this chapter, accounts are accompanied by a name. These names are the pseudonyms randomly chosen to underscore the preservation, and uplifting, of each participant's humanity and dignity while maintaining the position that each participant is appreciated as the person who collaborated in the knowledge building process. The accounts of the emerging adults who participated in this study are signified by the pseudonyms Axel, Brittany, Corinne, D'arcy, Edwina, Francie, George, Harley, Imani and Jay. The accounts of the legal actors who participated in this study are indicated by the pseudonyms Aurelia, Beatrice, Cassius, Daphne, Ezra, Freya, Gideon, Hazel, Ira and Jude.

b) Introduction to the emerging adults

The 10 emerging adult participants were aged between 18 and 22 years. Each was a student at the University of Sydney. The emerging adults were not asked to complete demographic forms that would describe them in detail, since these data were not relevant to the study's overarching purpose. The emerging adults were asked six questions relating to inclusion and exclusion criteria prior to commencement of the collaborative interview (Appendix F). During the pre-interview process, one emerging adult identified their ethnicity as non-Australian born, one identified as a First Nations Person of the United States of America born in Australia. None of the emerging adults identified as an Australian First Nations, Aboriginal or Torres Strait Islander person. Five emerging adults identified as female, four identified as male, one as gender non-specific.

While not a demographic question, during collaborative interviews nine emerging adults revealed the disciplinary area of their studies. Five were at various points in law degrees; two were studying criminology with one emerging adult engaged in a secondary major in sociology; two emerging adults were majoring in psychology.

(i) The contexts in which emerging adults had had earlier contact with the law

The emerging adults gave accounts of participating to a varying degree in the preparations of legal proceedings and in the conduct of proceedings in formal contexts. However, emerging adults' lived experiences of contact with legal actors reflected a variety of legal contexts in which interactions had occurred that were outside the narrower contexts of SAC and proceedings that may have involved DFV. The emerging adults' accounts revealed their earlier contact with both civil and criminal areas of law and associated contexts when they were adolescents. Accounts indicated the specific environments in which adolescents interacted with legal actors included both inside the formality of the

courtroom where there were rules and procedures that govern courtroom practices, and in less formal settings. These interactions with legal actors also had included meeting social workers who were report-writers or social workers who worked in the interdisciplinary space with witnesses. Legal actors with whom adolescents had interacted additionally included a range of professionals including solicitors, barristers, psychologists, psychiatrists and various professionals who may have been required to provide evidence in proceedings. Table 4.1, on the next page, reflects the range of legal contexts in which emerging adults had experienced their previous contact with the law. The sum of all the legal environments in which these emerging adults had experienced contact with the law when they were adolescents, contributed to the definition of the legal system found in the key terms in Chapter 1, and assisted in defining what is a legal actor.

c) Introduction to the legal actors

As described in the methodological chapter, 10 legal actors volunteered to participate in the collaborative data generating interviews. Of these, eight were judicial officers from two jurisdictions in NSW and the ACT. Two were senior legal practitioners whose practice included representing young people in trials and interacting with young people in a variety of ways in the legal system. As would become obvious during collaboration, the total experience of these legal actors extended well beyond the jurisdictions in which the sitting judicial officers now served and was added to by the additional legal practitioners' jurisdictional practice settings.

(ii) The contexts in which legal actors came into contact with adolescents

To ascertain what was the view of legal actors as to the extent of adolescents' contact with the law, a general question was asked: *I'm curious to know, what, in your opinion is a legal context in which adolescents could have contact with legal actors?*

Table 4.1

Summary of legal contexts with which emerging adults had contact when they were adolescents

	Civil	Criminal	Family Court of Australia	Supreme Court	District Court	Local Court	Children's Court	Barrister's Chambers	Solicitor's Office	Social Worker's Room	Other Legal Actor's Professional Space
Axel	✔		✔					✔	✔		✔
Brittany	✔								✔		
Corinne	✔	✔	✔		✔			✔	✔		✔
D'arcy		✔	✔	✔		✔		✔	✔	✔	
Edwina		✔			✔	✔		✔	✔	✔	✔
Francie	✔	✔			✔			✔	✔	✔	✔
George		✔		✔			✔	✔	✔	✔	
Harley	✔	✔	✔		✔	✔		✔	✔	✔	✔
Imani	✔		✔					✔	✔		✔
Jay	✔		✔					✔	✔		✔

Three legal actors reflected on their career experiences and gave responses that indicated adolescents interacted with a broad range of legal contexts. However, seven legal actors responded that youth appeared in formal environments as victim-survivors, indicating a willingness to narrowly, and discursively, think toward SAC formal appearances in courts as the principal place of legal contact for youth. This was despite their own varied lived experiences of interactions with adolescents across lengthy professional careers. When gently pressed, these legal actors acceded to the concept that legal contexts could also extend to conference spaces, solicitors' offices, barristers' chambers, holding cells, Juvenile Justice spaces including places of detention, and other interactional spaces wherein practice as informed by legal discourse, might be performed. Six of these seven legal actors similarly accepted that they, themselves, had practised with adolescents outside of the formal environment of the courtroom during their career. Table 4.2, on the following page, presents a summary of the legal contexts in which the legal actors who volunteered to participate in this inquiry had interacted with adolescents throughout their careers.

4.3 Constructions of adolescents in contact with the law: The near impossibility of being a *vulnerable child*

The chapter now examines the themes developed in the qualitative data relating to the lived experiences of youth contact with the law. The following sections contain an exploration of emerging adults' experiences along with comparative accounts of legal actors used to highlight or contrast with lived experience data.

Table 4.2

The contexts in which legal actors had contact with adolescents

	High Court of Australia	Federal Court of Australia	Family Court of Australia	Supreme Court	District Court	Local Court	Children's Court	Juvenile Justice setting (incl. detention)	Holding Cells	Public areas of Courthouses	Barrister's Chambers	Solicitor's Office	Informal negotiation with youth INCLUSION	Formal negotiation with youth EXCLUSION
Aurelia		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Beatrice				✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Cassius			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Daphne	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	
Ezra				✓	✓	✓		✓	✓	✓	✓	✓		✓
Freya				✓	✓	✓	✓	✓	✓	✓	✓	✓		
Gideon			✓		✓	✓	✓	✓	✓	✓	✓	✓		✓
Hazel		✓		✓	✓	✓				✓	✓	✓		
Ira					✓			✓						✓
Jude				✓	✓	✓			✓	✓	✓	✓		✓

a) *The marginalised other*

All emerging adults gave accounts of their lived adolescent experiences of practices that highlighted their differences to the adults around them when they were in contact with the law. Emerging adults' perceptions were that these marginalising practices were directly related to their age when they were under the age of 18 and were compelled to interact with legal actors. Patterns in the emerging adults' data given in this initial section, are related to responses to a prompt question that had been developed through the critical reflection process described in the preceding chapter. This reflexive process occurred immediately following the first of the knowledge-building interviews with Francie. Considering the organic way Francie's collaborative engagement led the research process, her account of being discursively reduced to an essentialised subjectivity correspondingly launches the findings discussed in this chapter. Further findings are also presented.

(i) *“I think that there's an ageist problem in the legal system”*: Experiences of difference

In her experience, practices that discursively constructed Francie as *other-than* adult, also constituted Francie as *vulnerable child*. Francie's experiences were set within earlier adverse circumstances of surviving gendered violence that can be characterised as sexualised abuse of a child. The legal contexts in which Francie's experiences were had were in a criminal jurisdiction in which Francie gave evidence, and also within the Family Court of Australia, in which she was not permitted to give evidence. Below, is Francie's account of the social responses of legal actors that accompanied the practices she experienced in a criminal jurisdiction, and which influenced her lived experiences of interactions with legal actors.

I think that there's an ageist problem in the legal system, um, I felt like there was for me, but I think ageism for me had benefits and problems. I benefitted because I was

able to give evidence from behind a screen and the second time using the CCTV, and, more or less, ah, I was supported at those two trials by the (legal actor) and the (judicial officer), and by the (witness assistant) definitely... The problems of ageism for me were sort of, ah, not being listened to by the person (legal actor) who's supposed to ... (Francie paused), like you know I told you about before? Should, look after your interests ... (Francie paused) and that kind of attack-dog method (legal actor) used? I think that maybe he wouldn't do that to adults.

(Francie, EA)

Francie's positive and satisfying experiences of occupying an essentialised vulnerable discursive subjectivity were accounted for by her as a systemic implication of protection as performed by legal actors, in particular a witness assistant. However, Francie's account of negative experiences, interpreted as demeaning and confronting practice interactions are described as not being heard, in circumstances where Francie's expectation was that legal actors have a role in caring for Francie's interests. Francie's experiences of negative social responses pinpoint how legal actors' social responses interconnect with adolescents' understandings of their lived experiences of relations of power performed through practice. Additionally, Francie's perceptions highlight the ways in which adolescents may experience othering practices that underscore difference based on age, while specifically clarifying responsibility. Interpreting Francie's account as an experience of marginalising or othering practices is consistent with Francie's reflection that the practices that she experienced might not be similarly experienced by adults.

George similarly had lived experiences of essentialising discursive practices relating to age that he perceived had both beneficial and adverse outcomes. Contextually, George's experiences of practice arose from evidence-giving in a criminal jurisdiction. Though it had been George's intention to give only an account of these lived experiences of practices as an adolescent witness, at the point in the collaborative interview detailed below, George

moved toward comparing earlier experiences he'd had in a different jurisdiction at an even earlier adolescent age. This is a second example of the organic flow of the collaborative process:

It happened a bit for me when I was really inside the legal system, but I got some benefits from my age as well, you know? Like, because I was still young enough, I could have those couple of cases heard in the ** – that's a benefit. So in that sense yes, there's ageism but that's how I reckon it should work. I needed to have someone watching my back then. I was confused, I was vulnerable, I was anxious, and maybe more distressed than I thought. On the other hand, ** had a bad time, it's still terrible. ** is still in goal, I think ** shouldn't be there but I can't change it for **. **'s life is shredded. ** didn't get any help for being that age at all. They just said you did something an adult kind of does. You were old enough to know better than to [George uses a word to describe what occurred] someone. (George, EA)

George's lived experience of being essentialised as a vulnerable child subjectivity, and of additionally having an expectation that with this subjectivity would come a protective stance is based upon his previous lived experiences of felt safety in earlier legal proceedings. In critically thinking through his account of his perceptions of the benefits and drawbacks of a bias against adolescents based on age and which constitutes youth as vulnerable in a variety of legal contexts, George expanded on the legal notion of *vulnerable child*. That is, if the legal system produces a vulnerable child subjectivity, then it must wholistically account for both the external and the internal interests of the subjectivity it constitutes. In this positive sense, the concept of practice based on stereotyping adolescents underscores the provision of protection for George when he was very much younger.

George then contrasted his lived experiences with those of a close person whose subjectivity was similarly discursively produced. In his compelling account of how this person did not receive benefits, George described the abandonment and rejection of his friend by a power-filled institution that views some adolescents as adults; these are potent negative social responses aimed toward an adolescent who, as George recounted, received no support or resources. This account demonstrates a compound situational consequence flowing from the vulnerable child subjectivity that can nonetheless lead to disparities in the provision of support and assistance to adolescents based upon the legal view of an adolescent's actions. In George's account, despite qualifying to be constituted and constructed as vulnerable child, the benefits as George described flowing for him, were withdrawn and became unobtainable based on a preferential construction of George's friend as *non-vulnerable* or *unsafe child*. Discriminatory and biased practices are described with clarity in George's account of his friend's lived experiences that serve to further marginalise some adolescents as indicated by George's perceptions that his friend experienced negative social responses from legal actors.

Moreover, George exposed legal actors' practices and the legal system as responsible for the lack of resource support for George's friend and for the way in which his friend was stereotyped, and pathologised. Additionally, George described how his discursive subjectivity was constructed as a privileged, though still essentialised subjectivity that George had experienced in some ways as offering positive social responses.

(ii) *“No-one saw me or wanted to hear my story”: Experiences of invisibility and silencing*

Patterns in the accounts of emerging adults demonstrated lived experiences of discursive essentialisation, with specific perceptions of being constructed as young *un-skilled* decision-makers leading to exclusion from decisions involving their current or future life. These stereotyping experiences were perceived by emerging adults as having been

based on age, when they were adolescents in contact with the law. Patterns in the data revealed discursive practices relating to adolescent invisibility and silencing, which were connected to a denial of voice and exclusion from decision-making.

The accounts of Jay, Axel and Corinne revealed practices that involved actively rendering invisible and silencing of adolescents across two unrelated jurisdictions. These emerging adults perceived that in being ignored and silenced, it was unnecessary to include their younger selves in important life-changing decisions.

From a contextual perspective, Jay and Axel both experienced practices in the Family Court jurisdiction (a Federal jurisdiction and heard by Judges of that jurisdiction), while Corinne's meaning-making of practice experiences were associated with a state common law jurisdiction. Jay's and Axel's contact with the law shared common features of civil cases that, legislatively and jurisdictionally at the relevant time, were heard in the Family Court. At the core of the legal issue for Jay and Axel was the intersection of age, gender and sex assigned at birth. At the time of their contact with the law if youth wished to transition from their sex assigned at birth by engaging in gender-affirmation processes, an application had to be made to the Family Court for permission for them so to do. At that time this was a necessary legal process, even if young people were clear about their needs, wants and desires for their futures and had the permission and cooperation of parents and physicians who supported their decision and choice. Both Jay and Axel had wished to give direct evidence in their cases but were not permitted so to do. Corinne's contact with the law had been through a civil process attached to a case characterised by power, control and gendered violence. Though these cases were prosecuted by the prosecutorial arm of the police, it was nonetheless a civil process heard by Magistrates. Corinne had been required to attend and be present in the court at the time the case was heard. Corinne had not been given information relating to safe rooms, or that she could be accompanied by a trusted

person. Corinne attended the court without the support or assistance of another person, and similarly had not been given an opportunity to be heard:

The legal system just doesn't see someone who was my age then, or maybe even a bit older, as someone who can make decisions for themselves. The legal system feels a bit like a blunt weapon for me, especially when it doesn't see young people as having opinions or being able to make decisions. And this was a decision about myself, it just didn't seem like anyone else, especially the (judicial officer), had thought that I'd thought hard about this. (Jay, EA)

You understand, maybe up to a certain point, that you have to go there to change your life because you can't make that change yourself, so you fold into that. But what's really hard to be with, is that it's so brutal, it's not compassionate or empathetic. There is no one there saying, look it's going to be OK, you'll feel this anxiety for a while, but you'll be OK. You're kind of expected to be an adult, but at the same time you're treated like a small child who should be, you know that old expression "seen and not heard". Those two things aren't really compatible... So, age was an issue, yes, that is an attitude I felt, really definitely felt. But it's hard to describe exactly (pause) it was the whole thing really. I was too young to be in charge of decisions in my life is kind of the bottom line on that attitude to young kids like me of the legal system. (Axel, EA)

I just didn't exist as far as that (judicial officer) was concerned. Maybe if I was older, I might have, I don't know. But no-one saw me or wanted to hear my story. Like, everyone else was in charge of what happened to me. Everyone else was in control... So it felt, yeah, I think condescending to me. (Corinne, EA)

The accounts of Jay, Axel and Corinne detail invisibility, silencing and preclusion from contributing to case formulation and judicial judgments that could and would be life

changing. In each are examples of profound othering practices that serve to clearly demonstrate the subordinate subjectivity of adolescents in the legal system while maintaining the dominant position of legal actors, who coincidentally also have control.

Jay's observations regarding a specific judicial perception that Jay hadn't given the legal (as opposed to the personal) issue the correct level of thought, reflect the near impossibility of occupying the subjectivity of vulnerable child in the legal system and for the tolerance of circumstances out of their control, particularly when adolescents are ignored, silenced and excluded. Axel's account of being compelled to capitulate to the dispassionate brutality of the legal system in which legal actors do not offer empathy or compassion for adolescents sits starkly beside Jay's, whose experiences of being actively rendered invisible and actively not being listened to within a system described as a blunt weapon are similarly compelling.

Axel's account of the paradox of legal actors' expectation of adolescent maturity contrasted with being discursively constructed as "a small child" who lacks skills, clearly reflects both an incompatibility of subjectivities and the near impossibility of comfortably occupying the vulnerable child subjectivity. The position of near-impossibility is real when read through these accounts, since the utilisation or applicability of the vulnerable child subjectivity is, as a lived experience, *ad hoc* at best. In this regard findings here point to a specific disconnect between discursively producing subjectivities characterised by a lack of skills, and the expectation that the same subjectivity (discursively produced vulnerable child) will have the skills to live-out the lives as governed by decisions made without consultation. The expectation that adolescents can live the lives that are governed by judicial decisions, oddly, appears to contest the discursive production of the vulnerable child subjectivity, and yet this challenge appears to be lost on legal actors.

When these accounts are considered with Corinne's experiences of invisibility and voicelessness, specifically experienced as condescending, an overall interpretation of

structural inhumanity and a detachment from the reality of adolescents' responses by legal actors becomes clearer. Additionally, each emerging adults' account, while exposing responsibility for practices that essentialise adolescents through marginalising and discriminatory practices that through these accounts can be interpreted as oppressive, also reflect how the legal system supports a type of self-deception that appears to be based in a kind of conceit; that is, once a matter is judicially decided, it shall be conducted as decided. This appears to apply to decision-making across jurisdictions.

(iii) "The focus was on something else": Experiences of marginalising practices

The following accounts relating to marginalising practices were not revealed as patterns in the data. Rather, the familiarisation processes that come with qualitative analyses provoked questions that were critically reflected upon. The key was to not look at the data in isolation. By "linking things that might not seem obviously related" (Staller, 2015, p. 737), discoveries within the data enabled analytic conversations reflecting people's multiple and varied knowledges. Here the deeper interpretive dive into what was said specifically by the emerging adults, revealed accounts of lived perceptions of marginalisation, difference and othering practices. Edwina, Brittany, Harley and Jay gave diverse and complex accounts of marginalising practices.

Harley had been involved in two sets of proceedings. Care was taken to contain Harley's confidentiality, while contextualising Harley's account below. Therefore, some of Harley's account has been excised. Otherwise, what can be said is that the adverse circumstances that led to one of the proceedings were terrifying and overwhelming leading to both physical and emotional injury for Harley. In Harley's account below, despite what had occurred and the obvious adverse outcomes, Harley's distress responses were not the focus at the point of practice:

They didn't understand I was so distressed to say my answers when I was asked about what had happened when all those people did those things to me, and now I had the scars (in locations) just because they – I don't know – don't like people who know their identity? I felt scared, and I felt afraid they would come again and find me because of what I was saying, because you know, how easy is it to find someone now? But they, the (judicial officer) and the (legal actors), just seemed to ignore everything that was about me, the focus was on something else, the people who had done those things to me, just the questions, without understanding what was happening for me at that time. (Harley, EA)

Harley's account gives authority to how a victim-survivor of adverse circumstances is excluded from their lived experiences, even as they are the primary witness of the acts that substantiate a crime. Here Harley described being a non-person, though in real terms, experiencing again the distress of the adverse circumstances that were the foundation of the legal proceedings. Harley also demonstrated a profound understanding of an apprehension of future adverse circumstances underpinned by similar biased behaviours that could be committed again by the people who had committed the original crime. And yet, the legal actors surrounding Harley seemed not to have had any understanding of the circumstances of distress for Harley, nor of the distress responses Harley described in her account. Here is a narrative of extreme distress to adverse legal circumstances with which Harley was compelled to engage. However, legal actors were described as not acknowledging, understanding or addressing Harley's needs. In this account Harley perceived that attention was given only toward the perpetrators of the crime. This experience can be interpreted as an example of the way in which legal actors can concentrate their practice toward a legal issue while coincidentally ignoring a person who is essentialised as a vulnerable child. In so doing, a form of structural violence that underpinned the ignorance of Harley's distress was concealed. Additionally, in failing to recognise and attend to Harley's distress Harley experienced negative social responses

from legal actors that underscored Harley's responses of distress. Though, Harley's account did illuminate who was responsible.

Brittany, initially generally responded during the collaborative process that in her lived experience people are not equal, particularly when they are young, resonating with peer accounts above. Brittany's experiences of practice were set within a context of seeking to obtain advice relating to a complex civil matter. Brittany's personal circumstances involved having only herself as a resource upon which she could rely at the time:

Everywhere people say things like "humans are equal, everyone is equal", well no its not! Age is a problem, especially when you're the young person! (Brittany paused).
He was really polite and respectful until he knew my age, but what should have been the difference? I think maybe he didn't realise he did that". (Brittany, EA)

Later during collaboration, Brittany came back to the notion of age, giving a detailed account of her perceptions of discursive practices that produce adolescent subjectivities that Brittany perceived were reflected across the legal system as a whole:

I think if this (legal actor) had a good attitude and he'd shown me some process I would have felt the whole law system was working, that the law was around me, wrapped around me and was working for me. Like, so, he wasn't doing anything, he didn't do his job and so what it felt like was that the law wasn't protecting me, it was hurting me. Because he knows the law and I don't. So, I felt like, he was treating me differently because I was so young. (Brittany, EA)

Brittany's account includes a description of the legal system as an institutional concept that could, would and should provide a protective umbrella for young people rather than being an instrument of injury, though through its practices had failed to provide protection and safety, instead actively causing Brittany harm. Additionally, on Brittany's

account, the legal system in discursively producing her, had utilised othering or marginalising practices since Brittany could point to her internal feelings that were her responses to treatment that she perceived was due to her age. Here Brittany exposed responsibility for practice while placing the legal actors' responsibility within the framework of the legal system.

Edwina's experiences of practice had been gathered across a lengthy though intense period through the preparation for trial. To give context to Edwina's account that follows below, Edwina had survived multiple and sustained circumstances of power, control, detention and gendered sexualised violence, though not in circumstances that can be characterised as the criminal offence that involves the sexualised abuse of Edwina as a child. Edwina had experienced all of the preparatory stages for the formality of a trial, including practice experiences of conferences with a multiplicity of legal actors, in a range of legal contexts. Her collaborative engagement in this inquiry was fruitful, and candid. Edwina's unembellished and clear experience of marginalising was connected to internal responses relating to her original adverse circumstances:

I think the language is a problem, it's very, very impersonal. Just the labels 'witness and victim', or referring to 'events', which like is like making it sound really hygienic, like making sure that all of the emotion, the fear, the horror, the terror of what happened to me was gone all along. (Edwina, EA)

Edwina was exceptionally clear that the language used by legal actors sought to impersonalise people's experiences of pain and adversity, as had happened for her. Edwina's choice of language was analysed and interpreted here as Edwina's act of resistance in the research space. Edwina's understanding of how language was used in multiple legal contexts and by multiple legal actors to sanitise what had happened for Edwina is a clear and unambiguous account of her lived experience, demonstrating again

the expertise she shared with her peers regarding the near impossibility of occupying the location of vulnerable child. Edwina also had experienced practice at the intersection of age and socially-constructed gender which she found equally challenging:

Sort of, on the one hand I was “just a young girl” (Edwina used her fingers to motion quotes around words). But on the other hand, “you’re an adult so you’re OK to handle this” (Edwina used her fingers to motion quotes around words). So, kind of, I (emphasised by Edwina) had to take responsibility for being the traumatised person, for being vulnerable, not the legal system, not the (legal actors) and not people who had created the trauma in me. Then also to accept that the legal system would also kind of re-traumatise me. (Edwina, EA)

In her account Edwina brought focus to the ways in which it is possible for young people to be preferentially constructed depending on which practice strategy holds value for legal actors at that current point in trial proceedings, which includes trial preparation. Edwina’s experiences of inconsistent practice interactions resulted in their being perceived as lacking empathy and uncaring. Edwina’s account of the contradiction between legal actors’ discursive essentialising of her, coupled with expectations of her to also be able to cope with the exigent circumstances of being in contact with the law is compelling and resonates with other emerging adults’ experiences above. Edwina’s account underpins the notion that individual practice interactions require close analytical scrutiny as the basis for understanding how case strategy decisions (expert knowledge experienced as negative social responses) can place adolescents in an impossible to tolerate positionality producing a harmful environment for youth.

Jay’s account below echoes his previous representation of the active denial of his presence, and of his humanity, in legal contexts though is included here as an example of trenchant marginalising practice:

The judge came in and sat down, we had been told we'd have to stand until she sat down, so then we sat down, and then she asked who was sitting at the back of the room – you know, who we were. My lawyers, my barrister, told the judge who we were, and the judge said it wasn't usual for people to come to court to hear what happened. She just spoke to my lawyers and ignored me, and my parents – it was as if we weren't even there in the room. (Jay, EA)

Here Jay narrated his lived experience of hearing the judge noticing that he and his parents were present, and then his experience of being totally ignored in a case that was about his quintessential identity. In Jay's account is the description of a judge who lacks responsiveness, or an understanding that, in her courtroom, there could be a scintilla of human connection. The ignorance of persons who come to a formal institutional space in unusual circumstances and who are then actively ignored is an example of *power-ful* marginalising and othering practices. This is specifically so in a context where an adolescent was at that particular time, compelled to appeal to a court for permission to completely enfold themselves into their identity in a way that other adolescents need not, nor did adults. This judicial ignorance of a young person attending an institutional space, that would be unknown and uncomfortable, highlights ways in which adolescents are constituted as different, incapable and unskilled in a legal context where a judicial officer is explicitly dealing with matters that pertain to youth. Jay's account, while clarifying responsibility, also describes his lack of worthiness of respect of either a judicial officer's attention, and of the attention of the legal actors who appeared in that courtroom. As a result of this marginalising, emerging adults who have lived experiences of these practices may have experienced an intense form of de-humanisation when they were in contact with the law as a younger person.

4.4 Interconnecting points of practice: Power, dignity, resistance

a) *Power*

The enactment of relations of power was understood in this study as contextualised othering practices performed by dominant group members that marginalise and oppress discursively constituted subordinate subjectivities while maintaining dominant group members subjectivities. Exploring relations of power and connections to the protection inherently offered by the discursive essentialising of adolescents as the subjectivity vulnerable child, was a vital part of this inquiry's analysis. While findings relating to the lived experience of practice that reduces and essentialises adolescents have been extracted and detailed above, the connections between power, resistance and dignity, as these concepts are exposed through practice with adolescents, are presented below.

(i) *“They definitely made you feel like an idiot”: Exposing relations of power experienced as a negative social response*

Edwina's account of her confusion compellingly demonstrates the ways in which the legal system performs relations of power through discursive practices that essentialise adolescents, while simultaneously denying the protective stance it implies through the constitution of vulnerable child.

They definitely made you feel like an idiot then or made me feel like an idiot then when I got confused, and I guess what might have been happening for me then was that the language sought to make it cleaner, make those “events” (Edwina added emphasis) cleaner for everyone else, maybe even protect everyone else from the horror and fear. But in that happening my emotions weren't paid any attention.
(Edwina, EA)

Findings here reflect that adolescents who experience these practices of the denial of their existence as a fully-realised human being, and of denial of a forum in which to articulate their truth have a deep knowledge of how power relations are accomplished and what is the cost to adolescents themselves. Edwina's account above, is of being diminished and rendered invisible as a person. These marginalising experiences occurred while Edwina also experienced oppressive practices relating to age intersecting with socially-constructed gender, while being marginalised at both identity sites. Edwina demonstrated an understanding that other people's needs for protection from horror and fear were given priority over hers to the extent that Edwina's emotional protection was ignored or disregarded by legal actors. Edwina's account of how she had experienced practice that both disrespected and disregarded her as a multiple-identified person, illuminates how despite being discursively essentialised though marginalised within two identity locations, Edwina's responses of horror and fear were isolated to within her rather than being understood as responses to practice. Moreover, in performing these relations of power through marginalising practices that silenced Edwina and rendered her invisible, attention is drawn to ways in which practices conceal both the structural violence that underscores marginalising practices, and Edwina's resistance to the negative social responses that underpin these discriminatory practices. However, in her account, Edwina did expose responsibility for the re-storying of her narrative of the adverse circumstances she faced, sheeting home this responsibility to legal actors who sought to make these circumstances hygienic for the people present without regard for Edwina and Edwina's truth.

Additional patterns appeared in emerging adults' accounts of responses to relations of power. Francie articulated some of these inescapable responses to evidence-giving practices:

So that [cross-examination] makes you feel powerless and alone, and no one will listen to you, and no one will help you, and you can't escape what is happening to

you. Sometimes I just felt really angry too, and sometimes I felt pretty helpless because I was alone giving evidence.

I think that (legal actors) don't actually understand that's what they do for the people they represent. Or maybe they do but they just don't care that they are hurting people. Maybe they're saying to themselves "this is my job, someone's paying me to just do my job", without caring that they're kind of adding to the harm that's been done already. So, in a way, they're part of a system that kind of adds to the hurt and, like that you've already ...like the distress of what's already been done is now extra, because of the way they do their job. (Francie, EA)

Francie connected the practices associated with evidence-giving processes to a lack of power, feelings of loneliness, voicelessness, helplessness and anger. These deep emotional responses are recapitulations of Francie's responses to the adverse circumstances she had faced that compelled both sets of legal proceedings in which she had appeared. Francie's knowledge is insightful in drawing attention to the deep harm that is felt and responded to by youth during the evidence-giving processes. In not being able to escape from the oppressive circumstances of evidence-giving, Francie's acts of resistance learned in similar circumstances of oppression at an earlier time, assisted her again in this legal context. Even anger was helpful in her resistance since anger is a strategy utilised to amplify voice, raising consciousness that Francie was a visible, voice-filled human being who had survived the adverse circumstances that gave rise to the legal proceedings. Again, in her account Francie clarified responsibility for practices that were the performance of relations of power, identifying both legal actors and the legal system within which practices that bring additional harm to adolescents are embedded.

The comparative data relating to power was wide-ranging. While the majority of legal actors were interested in the concept of power, they also found the notion of equalising power with youth a difficult practical concept to understand. A few legal actors were open

about their practices and about how they made attempts to relate to or connect with young people. These legal actors gave accounts of what they thought were practices that could equalise power. The following accounts are representative of the range, beginning with Gideon, who found the notion of sharing power with adolescents a novel concept, and willingly described his practices:

In my earlier career, sometimes, I had to go a bit further and say “you're in serious shit”. And introduce a sombre note, and most of the time it worked, maybe not in the first interview, but it usually worked by the second. I might need to leave that young person with their thoughts and say something like, “I'll just let you think about what I have had to say and I'll come back and talk to you later.” You often had to build trust, though trust wasn't given automatically and nor should it be. But if you're a child, actually what would you know about the legal system and about what will happen? So, there's an element of ageism in that, yes, that occurs all the time. But if it's sort of a discrimination because they are child, then no, that discrimination does not happen, can I make that distinction? I'm sure that there are lots of, paternalistic ... (Gideon paused) I think that is the best concept for dealing with children. And perhaps overly so. And there are, as a consequence, sometimes the children's views are overlooked, and lawyers fail to appreciate that the child should have some say in the process. (Gideon, LA)

Gideon's account ranges broadly. Gideon detailed the ways he perceived he built trust, which seemed to be by invoking fear against a background of abandonment and knowing adolescents do not have contextually-specific knowledge. Despite a clear use of his power, and also discursively constructing adolescents as vulnerable, Gideon nonetheless introduced fear and isolation, so emphasising his power, and successfully accomplishing his dominance at the expense of youth subordination. Relevantly here, Gideon established the

connection between power and knowledge, while also exposing his own responsibility for his performance of asymmetries of power.

While Gideon acknowledged that trust is something for youth to give, when considered in-context, the practices Gideon described left little room to understand how his processes of trust-building could occur. Gideon recognised, conditionally, some degree of marginalisation in the form of ageism in his practice, though relied on everyday practices as a comfort for interacting with adolescents in this way, followed by a denial that this is discrimination.

Two points arise. First, an element of ageism invites the interpretation of oppressive practice. Second, Gideon raised an answer, paternalism, as the understandable (to him) perspective that underscores his practices. As a person who occupies a position of power, Gideon could overrule the preferences of adolescents, people he clearly deemed incapable of knowing their true interests, thus interfering with young persons' autonomy or choice. Additionally, it is clear that Gideon perceived he could accomplish this as part of his practice without young people's consent, even as his objective is promoting perceived wellbeing). However, as a knowledge-bearer, by taking a paternalistic standpoint Gideon could, and arguable did, easily silence youth voice. In so doing, he would affront youth dignity through oppressive practices.

Ira similarly sometimes found it unnecessary to involve youth in their own cases:

My practice as a judicial officer is grounded in a framework based on the Evidence Act and the Practice and Procedure that accompanies the work we do here. My practice at the Bar was similarly framed, but then there was the added problem, that you don't always see them in person. You might talk about them, maybe in conference with a psychiatrist, or psychologist. It's possible that in some cases you won't ever see them [young people]. (Ira, LA)

In not meeting with adolescents or giving young people an opportunity to be included in their future, Ira's paternalistic perspective disregards young people's own accounts of their lived experiences while additionally guaranteeing youth silence. In Ira's practice youth silence was also underscored by exclusion from case preparation that additionally influenced legal outcomes since youth needs, wants, wishes and hopes must be explicitly interpreted by Ira as the legal representative. However, in so doing, Ira as a legal representative directly influenced how youth would live their future lives, without having met, spoken to, or directly considered how young people wished for their lives to continue into the future.

The interesting feature of both Gideon's and Ira's accounts is that neither legal actor pondered that their practice might be experienced in a negative way, or that each legal actors' practice interactions may be experienced by adolescents as sequences of negative social responses. Both accounts are open to an interpretation that each legal actor was confident that their practices were positive and capable of uplifting the lives of young people. Moreover, in so doing both Ira and Gideon placed a kind of stereotypical blame within the subjectivity of adolescent, thus mitigating their responsibility for the performance of asymmetric power relations.

(i) *“I asked her how, and she said ‘Well, I screamed, but nothing came out’”:
Exposing relations of power experienced as a positive social response*

In contrast to negative social responses, a few legal actors were willing to discuss their perceptions and views of practice that could be experienced as a positive social response and that may therefore be a step toward equalising power between legal actors and adolescents who are in contact with the law. In this regard, Cassius gave a very clear account of the ways that the legal system can set aside its discursive essentialising practices, by re-thinking stereotypical approaches to practice with young people by uplifting youth voice:

Part of the problem can be for instance that children apply child-logic which is different to adult-logic. So, when they answer the questions, you know, it can seem a little bit odd and a good example of that is that I went to ask a child whether she'd screamed and she said she had screamed, but in the statement, there was no evidence of anybody having heard, nor in the brief, no evidence of anybody having heard a scream. But then I asked her, sorry so I thought there might be some explanation, I asked her how, and she said "Well, I screamed, but nothing came out". You know, so the adult-logic is the first answer and you might say she's lying because no-one heard her scream. But if you think to ask a question which might not flow from adult-logic but which does flow from child-logic, then you get a response that is of course, what she's actually explaining is what, what does happen for so many victims when they try very hard to scream. (Cassius, LA)

In this unpretentious report of a young person's evidence-giving, Cassius gave a clear account of an exchange of social responses in a formal forum. Cassius also described how distinct and obvious relations of power that are positive social responses, given in-context to young peoples' social responses to adversity and that additionally recognise youth acts of resistance, can be strong and fundamental in supporting adolescent dignity.

Furthermore, Cassius underscored the young person's dignity, since he challenged discursive constructions of young people as untruthful, instead connecting youth responses to an encompassing human being's response when faced with similar adverse circumstances. In his account, Cassius provided clarity and emphasis to the interrelated set of interpersonal social response processes that underscore a fusion of practices that is clearly highly aware of adolescents' dignity. In his account, Cassius illustrated how he achieved this dignity-aware amalgam of practices, by shifting his focus away from essentialising practice through an active movement toward youth-focussed practice, thus accomplishing justice-doing within the legal system through practice. Additionally, in so

doing, Cassius honoured the young person's act of resistance he described, and contested constructions of adolescents that blame or pathologise youth.

Ezra also gave a thought-provoking account from his position as a legal actor in a position of power:

I'm struck by vulnerability. A child, being in an adult world and being asked questions with some degree of precision. Witnesses asked quite precise questions because lawyers are very concerned about whether the described behaviour fits the definition of an offense. There's a certain precision about the whole proceedings, and that doesn't necessarily fit in with the child's way of thinking. (Ezra, LA)

Ezra's account of the concept of vulnerability, reveals the paradox for young people when the vulnerable child subjectivity sits beside an accused, their safeguards and their legal representatives' trial strategies. Here Ezra clarified and explained the connections between power and knowledge that underpin the paradox of the vulnerable child subjectivity and the challenges of occupying that positionality. In revealing and clarifying this paradox for adolescents, Ezra also illuminated the vulnerability framework that discursively constructs young people in contact with the law as an essentialised group which is *different* based on both age and cognitive processes. Ezra's account can be connected back to the accounts of the emerging actors above with lived experiences of marginalising practices that exclude them from legal processes. Using Ezra's account, it is easy to understand that if the dominant group underscores discursive totalising practices using age limitations and cognitive differences, it becomes a simple step to exclude a group of people who is constructed as knowledge-incapacitated and young, further consolidating the dominant groups positionality.

b) Dignity

In considering dignity as a concept, this inquiry's approach to patterns in the data relating to dignity, utilised both *in*-dignity as a lens through which to interpret data patterns, alongside patterns of data that drew attention to practices that uplift youth dignity. Findings in this regard are presented below.

(ii) "I wanted the law to use its power for me then": Exposing affronts to dignity

The majority of emerging adults gave accounts of patronising practices experienced as affronts or in-dignity. Patterns relating to patronising practices were located in the data through emerging adults' shared language meanings.

Corinne's account of patronising practices is reproduced as an initial example. As has been previously noted, in the context of this study, Corinne needed to engage with two jurisdictions. Following, is Corinne's account of experiences of contact with the Family Court on two occasions. The Family Court proceedings described in the account below, related to conflictual parenting matters and followed prior criminal proceedings that had been decided in a state jurisdiction. Corinne had been involved in the Family Court case preparation through an ICL. Unlike the state proceedings, Corinne was restricted from speaking for herself, though was able to sit in the courtroom because at that point in time, she was an older adolescent. In total, Corinne's experiences of contact with the law included experiences of preparation practices and evidence-giving practices. Despite Corinne's extensive lived experiences of adverse circumstances, Corinne had been given no choice but to rely on adults to speak for her about her lived experiences that were relevant to the Family Court proceedings:

The way I experienced the legal system on those two times was pretty condescending, and I kind of understood that power already right, that was how I'd

been living for a long time. But I wanted the law to use its power for me then, so I was willing to kind of let it, well, patronise me in a way? If it, they would help me... (Corinne pauses). Even though it was so awful. The (judicial officer) was completely condescending, ah, mmm, patronising. (Corinne, EA)

Corinne connected the demeaning in-dignity experiences she had been willing to endure if the legal system could assist her with the issues she was facing. It is vital to note Corinne's willingness to tolerate power relations that underpin affronts to dignity through practices experienced as condescending, if the legal system or legal actors who held power within that system, would help her. Corinne's decision was rooted in her previous experiences of gendered power relations within a familial context, and which gave rise to the complex legal proceedings that inform Corinne's experiences. It is open to interpret here that Corinne had also learned from prior lived experiences of the legal system's practices, since these are the circumstances that informed Corinne's clear strategic decisions about tolerating practices underscored by relations of power as she stated in her account. This interpretation of Corinne's narrative reveals her awareness and multiple knowledges of the dynamics of asymmetries of structural power both within and outside of legal contexts, and highlights Corinne's strategic and informed act of resistance. Additionally, her account reflects her intersecting marginalities of age and socially-constructed gender for a person who identifies as female, and who has lived relations of power that have left her with acute capabilities and skills to navigate the dynamics of power across time. In these ways, Corinne's account resonates with Edwina's experiences given above.

Axel similarly described practices he experienced as patronising. In experiencing this type of in-dignity, Axel drew attention to the notion that the legal system is specifically constituted to discursively construct and produce a subordinate group of people based upon age, who are different, silenced and excluded from decision-making. In Axel's account, adolescents experience these patronising practices as de-humanising:

I think that the legal system is set up to be patronising towards kids because they're seen as unknowing, lacking somehow, you know - can't make decisions for themselves, right, and for me I couldn't or wasn't allowed to speak for myself, and was made silent like I described before. (Axel, EA)

Jay and Imani similarly experienced primary essentialising practices based on their chronological age. Their perceptions were that practices are systemically organised to produce adverse circumstances. While Jay's contextual participation with this research has been previously described, contextually, Imani's lived experiences of contact with the law shares common features with Jay, Axel and with some aspects of Harley's contact. Imani also had contact with the Family Court jurisdiction which at the relevant time in Imani's life legislatively and jurisdictionally controlled what was then a legal issue focussed upon the intersection of age, gender and sex. Imani wished to transition from the gender assigned to him at birth by engaging in gender-affirmation processes and had therefore been compelled to make an application to the Family Court for permission despite having the support of parents and physicians to proceed with fulfilling identity. Jay's and Imani's accounts of patronising experiences of practice in the Family Court jurisdiction are (re)produced here:

The legal system is designed to be patronising to young people, I think. I can't see it any other way. And if it's not it just works out that way. As a young person there's just not room to move or to make any difference for yourself (Imani, EA)

I think the system itself is patronising and so was the (judicial officer). I'm not so sure I'd say that especially about the lawyers when they did talk to me, but when they prepared my case without talking to me or asking for my input well ... (Jay paused and shrugged his shoulders) (Jay, EA)

Imani pointed to the impossibility for adolescents of being able to manoeuvre within legal contexts so as to change what is happening for self. Imani described his perceptions

of the lack of autonomy that accompanied being constituted as a vulnerable child subjectivity. Imani gave a rich account of the way the legal system is designed to work against young people in this regard. And, while Jay narrowed his account of patronising practice to specifically speak of the way the legal system functions and that the judicial officer involved also had engaged in patronising practices; Jay focussed on silencing as a specific form of patronising practice that challenged him. It is open to interpret these accounts of denigrating and condescending practices as affronts to youth dignity since in each there are examples of practice that essentialise, deny agency and the opportunity for inclusion, and which thus produce and constitute adolescents as people who are *different-than* or *other-than*, and *in-capable*.

Francie's account elides ageism and patronising practices that stifled her voice and rendered her invisible, while she coincidentally experienced practice that did not meet her expectation of protection. In describing these in-dignities, Francie also described practice that was aggressive or at least confronting.

The problems of ageism for me were sort of the same as being patronised, not being listened to by the person who's supposed to look after your interests, and that kind of being attacked by the (legal actor). (Francie, EA)

While each of the emerging adults' accounts above contains language that describes practices experienced as patronising, Axel's account also provides clarity regarding responsibility for marginalising and discriminatory practices that additionally pathologised youth in stereotypical ways.

Parallel accounts in the data of a number of legal actors relating to practices that could be characterised as biased, particularly that could be described as patronising, emphasised the complex experiences of emerging adults. Daphne did not offer an account of her practice, rather in thinking about her colleagues' approaches to adolescents, Daphne

perceived her colleagues may not focus on young people's experiences, rather, that the motivation for practice is underscored by community expectations and trial outcomes with little attention given to adolescent witness needs:

I think that probably some judicial officers are thinking more about how it looks to the community, and about the structure of the trial process, rather than, I don't know, but rather just being focussed on how you going to get the children to engage, interact and actually, feel like they're part of the process. (Daphne, LA)

Freya was thoughtful about her practice with adolescents, though settled upon the notion that her attention was drawn toward the social issues she felt were the cause of how youth became involved in criminal proceedings. Even when pressed, Freya did not elaborate on how she could make changes to youth experiences in the formality of the courtroom:

I tried not to patronise kids, I tried to kind of reach them on a level that I hope they understood. But maybe I was deluding myself. I can't say that I really thought about that because really, what I think about is how there are so many social problems that need to be dealt with so that they don't even get into court. (Freya, LA)

Beatrice considered adolescents' experiences, connecting adolescents' distress to her perceptions of their unrealistic expectations of what she considered occurs when they are evidence-givers within the formal context of a courtroom:

I wonder to what extent expectations are not met, by that I mean, my feeling is that most young witnesses who come to court have not really contemplated the situation that the person about whom they're giving evidence will be acquitted. That is, that they won't be believed. And, so, everything is built around this idea, that they will be believed, that all the findings of fact will be accepted, so I get a sense that

those expectations are not being met because those expectations are not realistic.

(Beatrice, LA)

While Beatrice opened her thinking with a clear statement that appears to be logical, inquiring whether youth contemplate acquittal on the basis that they will not be believed, what follows in Beatrice's account are two discursive constitutions of adolescents: First, adolescents only appear in trials as evidence-givers about another person whom Beatrice perceived the adolescent will wish to be convicted. Second, Beatrice discursively constructed adolescents as evidence-givers who "won't be believed".

Additionally, Beatrice's account appears to contain a subtle form of blame. This account is open to an interpretation that it is adolescents themselves who come to court with unrealistic expectations about what will occur, and who therefore are to blame for their own distress. This responsabilisation process resonates with Edwina's experiences presented above of legal actors' practices through which Edwina experienced feelings of responsibility. Missing however, is the construction of adolescents as vulnerable child, one which would in such circumstances hopefully attract protection from a powerful legal actor such as Beatrice.

However, Beatrice later considered that practices can leave young people, particularly youth who are victims of crime, isolated and without the support of the legal system that discursively reduces and essentialises young people as vulnerable:

Court cases are almost never about the victim and almost always about the perpetrator, and that's something that I absolutely understand drives victims crazy... And the victim, the vulnerable child or young person, is just left, yes, I imagine feeling like they are unimportant in the proceedings, so I suspect more work needs to be done. And, prosecutors, they're prosecuting on behalf of the government and community. And that's, one of the things that should be explained,

“I don't have your back”. And, you know, and do you realise that you know you might not be believed? (Beatrice, LA)

This account echoes perceptions of practices and procedures recounted by the emerging adults above. Beatrice's perceptions of adolescents' lived experiences did not seek to conceal the structural violence of the legal system, additionally elucidating who is responsible and the ways in which it is performed. Moreover, in her language Beatrice herself found a means of resistance to the ways in which the legal system oppresses young people, despite her engagement with the legal system, her site of continuing practice. There is a clarification, and authenticity, in Beatrice's language as she declared the location, the timing, and identification of the legal actor (herself) who does not offer authentic protection that the discursive constitution of youth as vulnerable child inherently offers. In declaring that as a judicial officer Beatrice can't offer a wrap-around type of protection, she actively declared how the legal system works; that is Beatrice illustrated that, at times, the legal system will engage with the acts of structural violence involving adolescents. In this way Beatrice, both confirmed her understanding of adolescents' experiences of their contact with the law, while coincidentally confirming the meaning-making of emerging adults, e.g., the meanings reflected in the early (re)presentations of Jay and Axel above. In giving her account, Beatrice also honoured emerging adults' resistance when they were adolescents, by whichever means they could.

(iii) “I also think I was responding to a transphobic attitude intersecting with that ageism too”: Intersecting in-dignities

As noted above, four emerging adults had contact with the law in the Family Court of Australia, experiencing lived experience of practice at the intersection of age, gender and sex. To give further context, until 2017, Australia was the only country in the world where a court intervened to give authorisation for medical interventions for adolescents involving core issues of intersecting identities of age, sex and gender. While historically the Family Court

has advertised its commitment to the best interest of children, it is extremely rare for adolescents to give evidence in the Family Court in any legal proceedings. Jay, Harley, Axel and Imani each had contact with the law in civil cases in that jurisdiction. While all wished to be directly involved in their own cases, none of these emerging adults were given permission to give evidence and so had to rely on adults to give them voice; a clear and formidable process of silencing. Though these emerging adults shared a common reason for contact with the law and the patterns in the data were well-defined, their accounts are presented separately since each is authoritative and a vibrant indication of their multiple knowledges of practice. Additionally, each contained unique and nuanced understandings of practice, thus giving deeply insightful views of practice in this jurisdiction.

Contextually, each of these cases arose as a result of youth being engaged in the developmental work of formulating identity during the period designated as adolescence. Relevantly for this research, and importantly for the period in which their cases were heard, in addition these emerging adults had to have had an earlier capability to utilise their own advocacy skills in service of adolescent-self for the legal process to begin and to proceed. Supplementary legal processes involving competency were a hurdle, oddly requiring a judicial judgment of competency though judgment requires a positive medical diagnosis of gender dysphoria.

Axel's experiences provide insights into the supplementary processes and practices surrounding the issue of competency, that pits mental health assessments that indicate young people have mental health issues that require the intervention of the court, alongside the notion that a young person is nonetheless legally competent. Additionally, Axel's account draws attention to (for him), the irreconcilable paradox of having been discursively essentialised as a vulnerable child who could not speak for himself, while also having been compelled in an earlier part of the proceedings to seek a declaration of competency from the court so that his case could proceed; that is Axel was declared competent and yet

coincidentally also not incompetent by virtue of having been constituted by the vulnerable child subjectivity. Furthermore, the legal actors with whom he had to have had contact consistently ignored Axel's intersecting identities that were the reason for requiring legal intervention and were therefore the foundation of the case. In Axel's account, the legal actors appeared to fail to consider that for the case to get to the point of final judgment, Axel had needed to thoughtfully and competently demonstrate to the court his identity formation as it underscored his preferred future. This paradox demonstrates how the performance of practice can create an environment of near-impossible tolerance for adolescents, and to which there are possibilities for adolescents to respond with internal distress:

They didn't consider for a moment how intensely personal and life-changing was the legal case for me. It wasn't just another case for me, it was "the" legal case for me, the transformative case for me, and so I should have been the person they were involving so I could understand what was going on. The clock was ticking for me, because I'd had the competency hearing and won that, now it looked like the lawyers were saying – oh, we just need a few things more. (Axel, EA)

Harley identified complex experiences of marginalisations based on age, drawing an intersectional connection between multiple marginalisations and othering processes. Harley's insight emphasises that in essentialising youth and ignoring multiple youth identities, legal actors' positionality of structural and interpersonal power and privilege could be simply blind to young people's diverse needs. Or, perhaps, legal actors were unaware of how they discursively essentialise youth thereby discounting young people's needs preferring their professional engagement in practices that specifically seek to solve a legal issue:

I definitely felt I responded to an ageist attitude, but I also think I was responding to a transphobic attitude intersecting with that ageism too. I had no choice when I was in the legal system. It's weird that I thought things would be simple; I'd get the outcome I wanted and then things would be fine, but maybe things can't be fine

when there are other factors that are part of what happens when you're there.

(Harley, EA)

Imani gave a clear account of essentialising practice at the point of intersecting identities and how it is possible to be concurrently marginalised within all, while Jay also described his experiences of marginalising and othering practices that negated actions for self, and additionally silenced Jay:

My barrister started reading all the affidavits and other evidence and then I heard all the things that a judge was supposed to hear for a transition case – that's what they kept calling me – "a transition case". I felt overwhelmed, highly anxious and very distressed... I wasn't asked to say anything. I wasn't given an opportunity to give my evidence in my case. (Imani, EA)

I wasn't asked to give her an affidavit for the court to see. I didn't get the chance to give my own evidence, no evidence at all. I wanted to tell them how much it meant to me to be able to transition. That every single day living in a way that wasn't who I knew I needed to be was one day too long. (Jay, EA)

In these accounts the emerging adults perceived the accomplishment of their legal needs came at a cost; it was not a simple process that would enable their younger selves to proceed with the future lives they currently continue to lead. Rather, emerging adults experienced the legal process and practices as challenging and complex. Judicial officers' practices had been experienced as adding complexity to an already difficult and perplexing situation. Harley's account demonstrates her experiences of a judge's ageist and transphobic othering practices to which she responded with mental and emotional distress. Axel, Imani and Jay gave accounts of multiple instances of practices experienced as indignities, demonstrating the potential for near-impossible tolerance of the circumstances for adolescents.

Moreover, emerging adults' lived experiences were embedded in circumstances that the decision to fulfill a specific aspect of identity in this way is internal to self. The legal proceedings would not have risen unless emerging adults had utilised their insight, knowledge, capabilities and capacities to understand what they needed to do to accomplish their future. An interpretation of the meanings in these accounts is that it is reasonable to assume legal actors could reasonably expect that adolescents are able and skilled decision-makers. It is therefore challenging to interpret from these accounts what might be gained by legal actors in utilising exclusionary, marginalising and oppressive practices founded on the discursive essentialising of adolescents. Thus, these accounts expose the connections between experiencing in-dignities, affronts to dignity as occurring at points of practice at which it is possible for adolescents to respond negatively to the negative social responses of legal actors. These points of practice are clearly accounted for in emerging actors' (re)presentations, reflecting emerging adults' multiple knowledges of the connection between the presence of negative dignity experiences and a lack of helpful, meaningful and effective practice.

c) Resistance

Acts of resistance are part of the accounts found throughout this findings chapter, though at other points this resistance is not specifically described as it is in this sub-section. Rather, even when data contain acts of resistance as understood in this research, analysis that has also demonstrated additional patterns in the data have been highlighted in relevant sub-sections. This section presents findings that focussed upon patterns of dominance, oppression and resistance contained in emerging adults' narratives, with alternative patterns explored in the data of legal actors.

(i) *“I felt overwhelmed, highly anxious and very distressed”*: *Exposing acts of resistance*

Imani’s account below illustrated an oppressive environment in which Imani was rendered invisible to the point of disappearance. In his lucid account, Imani demonstrated examples of youth responses to the negative social responses of marginalisation and oppression. Imani’s confusion regarding people who gave evidence without knowledge of Imani is a clear use of dominance through relations of power, underscoring Imani’s feelings of humiliation sometimes still felt as an older person in somewhat similar circumstances. These accounts demonstrate that Imani’s acts of resistance to marginalising and oppressive adverse circumstances are current responses:

I felt overwhelmed, highly anxious and very distressed. So many people who didn’t know me had opinions about me. The worst thing was that things were said about me that didn’t seem to me to make any sense at all. I, me, wasn’t there, I was ... (Imani paused) gone.

I sometimes feel that humiliation when I might have to compromise on things now. It has stayed with me. (Imani, EA)

In understanding resistance as a range of responses to the exercise of asymmetric relations of power, Imani’s account can be understood as a number of acts of resistance formed at the points of practice where asymmetric relations of power are performed. By giving attention to the depth of Imani’s humiliation, and in acknowledging his distress at those points in time, Imani’s knowledge of relations of power can be located within the legal system. Additionally, Imani exposed who is responsible for the performance of asymmetries of power through locating points of judicial practice and within other practices that may be required to solve legal issues. Imani’s account thus clarifies and indicates points at which practice change could be reflected.

Jay also described his complex responses in the face of processes underpinned by a powerful institution:

But in the legal process a lot of my life was available to the whole courtroom, that I didn't know about and because I wasn't allowed to get access to a lot of my file, I didn't find out about that until after the hearing. That was really hard for me during the hearing, and then for a long time afterwards. I kind of felt exposed and ashamed in a way, maybe because I was embarrassed, but it was also because everything was out of my control, I was completely powerless. I still find it hard to understand that a (judicial officer) who does that work doesn't have the skill to imagine, or to step into another person's shoes and have a bit of empathy. After the hearing I was really angry, even though the judge ordered everything to go ahead, it was so hard for me to hear that stuff. The mental health stuff is like so weird right, because I didn't feel crazy. Yes, I was totally anxious and really stressed out, because I (needed that legal outcome). But that doesn't make you crazy. (Jay, EA)

Jay's account of his lack of power within the subjectivity conferred upon him through legal actors having control is linked to the denial of Jay's access to, or inclusion in the legal proceedings. Jay's subjectivity was discursively constituted as vulnerable child, resonating with accounts detailed separately above, but additionally accounted for by virtue of the requirement of needing to appeal to the court for permission to fulfil a vital part of identity. In this process, Jay had lived experiences of exposure, shame and embarrassment through the coupled-together processes of domination and resulting subordination that result from the performance of relations of power. Jay's account also indicates his deep knowledge relating to the essentialisation and production of an adolescent subjectivity. His account draws attention to the ways in which the subjectivity is underscored by undignifying practices experienced as indignities or affronts to his dignity. The valence of these practices was clearly articulated by Jay since he described his responses at the point of

practice. While Jay was clear to whose practice he had responded, his account clarified that despite achieving the legal outcome he sought, the processes and practices attached had been confronting, challenging, marginalising and ultimately disrespected his dignity.

Furthermore, Jay's account illuminates how negative social responses can be experienced by adolescents in specific circumstances where the legal actor is a judicial officer as they perform the relations of power that circumscribe judicial decision-making. That is, despite a judicial officer not specifically interpersonally interacting with an adolescent, such is the nature of the power dynamic, adolescents nonetheless still experience the delivery of a positive judicial decision as a negative social response if the judicial officer engages in practices that compound previous experiences of legal practice that silence, ignore, exclude and otherwise marginalise.

George used the language of resistance as a result of the collaborative context. George considered his experiences during his contact with the law, and how he had responded to a legal actor's negative social responses at the point of practice:

Sorry, yes, (George laughed while responding) ... yes, I want to have my say. But, look, (George takes a deep breath), I wanted to run away, mm, (George paused) ... you said ... (George paused) resist, mm (George nodded). But I couldn't. I just tried not to answer ... (George paused) ... he, that (legal actor) had an agenda, on that day, ah, because he knew [that – word inserted] no-one else knew. And, after that, I couldn't concentrate, couldn't sleep, stopped eating and for a while I couldn't speak, um, for a while my voice failed, I wrote everything. (George, EA)

George had demonstrated his immediate resistance through wanting to avoid the oppressive circumstances of being deprived of his agency. In response to this denial of agency, a clear performance of relations of power and therefore a challenge to George's dignity, George had responded utilising acts of resistance that were within his capability at

that time. He had tried not to answer. However, the reality of the circumstances had been that this strategy was also unavailable to him. The degree of in-dignity to which George then responded is well-defined and inescapable since George accounts for ongoing resistance across time.

d) “People treated me so well”: Positive social responses

D’arcy’s lived experiences and her perceptions of formal evidence-giving practices were underscored by her deep experience of contact with formal legal practices conducted in courtrooms; of practices necessary to prepare for trial including contact with a variety of legal actors additional to solicitors, barristers, and witness support practitioners; and the practices that are utilised for witness preparation prior to and during trial.

D’arcy’s experiences of legal practice were built during an extended period of time in two jurisdictions: a superior Common Law state criminal court and the Family Court. While D’arcy was not a victim-survivor of a crime directed at her, she is a survivor of crime. The Family Court proceedings were conflictual though did not involve D’arcy’s parents. Given the ethical commitments of this research, little more contextual information can be given, except that the lived experiences of practice that informed D’arcy’s accounts here are given from her extensive experiences of the criminal jurisdiction.

The totality of D’arcy’s account of her lived experiences was balanced, thoughtful and considerate. While D’arcy gave accounts of some aspects of her lived experiences that are capable of being interpreted as negative social responses, equally D’arcy wished to express that she had received positive social responses that underscored her lived experiences of positive dignity experiences in legal contexts. Here D’arcy’s account contains the concept that practice that is based in positive practice is helpful, has meaning and is effective:

I'm sure it is in many circumstances a place where you could feel there is ageism, but it wasn't for me. People treated me so well, maybe the defence team were annoying, but maybe they were also doing a job (D'arcy, EA).

As the research collaboration continued, and she could enter a reflective space, D'arcy considered concepts and principles that informed her thinking:

The role they were playing was something that was not needed in the justice system because I do see the value of having a defence team that represents the interests the client and ensuring a fair trial, but the end goal for everyone should be justice...(D'arcy paused). For me in that trial, seeing justice done was seeing a trial where everyone was doing their role in a way that didn't cause more distress, I'd been through so much, and lost everything. (D'arcy, EA)

D'arcy's account of her internal distress is directly interconnected to her perceptions of fairness and justice. In making this connection she conceptually linked the exigencies of a formal trial, the roles of legal actors and how their practices could limit harm, thus resonating with George's expanded construction of the vulnerable child subjectivity. However, D'arcy did not perceive of her experiences as underscored by practices associated with the essentialised subjectivity.

Comparative data patterns of legal actors revealed examples of adolescent distress, and legal actors' perceptions of their positive social responses to adolescents' distress. Therefore, it is probable legal actors had a way of assessing adolescents when and how adolescents experience internal responses to practice. The majority, however, were not able to describe how they personally, would or could respond to adolescents' experiences of distress or what adolescents could be responding to when they are showing signs of their distress. A number of legal actors' representations below indicate the range of responses to adolescents' distress that judicial officers described.

In this first account Jude's perception is that adolescents would feel enabled to indicate to a judicial officer that they were distressed:

If they're looking distressed, I say to them something like, look if you find that you need a break, you just need to let somebody know and I remind them they have their (witness support) with them. I tell the young person something like, if you're having any difficulty just let me know and we can take a break. Otherwise, "if you're ready to proceed we can let the jury in". And off we go. (Jude, LA)

In not acknowledging the power-filled context of a courtroom, and despite Jude's perception that he, a power-filled person is giving an assurance, the language Jude used here in his account of his practice when interacting with adolescents appears likely to remind adolescents of the challenging, if not adverse circumstances they face as they are compelled to be involved in evidence-giving processes. Perhaps Jude perceived his words to young people were enough to empower them to speak for themselves. Or perhaps he perceived the company of a witness support person, usually a social worker, would provide adolescents with confidence to speak for themselves. Despite this perspective, it is possible that here is a point of practice at which core competencies can be developed, thus transforming a potential adverse circumstance into a context where practice is experienced by adolescents as positive social responses such as those experienced by D'arcy.

Ezra's account is encouraging in this regard, supporting alternative practice and demonstrating how he looked for signs and indications of adolescents' challenges in his courtroom, attempting to address adolescents' distress in his practice:

You can see distress. Yes, you can, well, for a start, I don't necessarily say that I can tell, maybe that I missed lots of things.... I'm just a judge, but I've seen lots of people give evidence, and so what I do, is, I look for hesitation. I look for a pause between the question and the answer. I look for what the child's doing,

maybe thinking, maybe looking, maybe furrowing their brow. I will be given a clue, about a child's distress, by the form of the question, and then I observe. The child may look at (the witness intermediary) or the (witness support person). They're the obvious signs I think of distress, and in, across your career there are, you're able to remember how you might have helped some young people who'd shown obvious signs of distress... sometimes I will jump in, and say come on "Mr...". So, I look for obvious signs, as we all do, of emotional distress. (Ezra, LA)

Here Ezra clarified his practice, and practice interventions indicating his willingness to discursively construct young people, their vulnerability and indeed their distress, and to also offer a protective stance vis-à-vis youth in contact with the law. Though Ezra was still fulfilling his role as the judge, looking and listening to each exchange between legal actors and young people. In accounting for practice, in-context, Ezra directed attention to his responsibility for the protective position while utilising his experience and competency to recognise adolescents' distress. While not strictly represented in his account, Ezra appears to have an awareness of youth dignity, and that young people may experience legal practices as adverse experiences. In remaining aware of youth and the range of responses he had witnessed throughout his career, Ezra invoked an ethic of care similar to that described by Aurelia below, again opening the possibility that youth dignity-awareness could be put at the centre of legal practice in the legal system. Moreover, Ezra's honoured youth resistance throughout his account.

Following, is Aurelia's account of her practice position moving her work with young people to a relational human connection:

In my practice, I'm trying to deal with young people on a more personal level. I think I'm trying to make some kind of connection with them that's not adult or child professional-to-client, ahh, so maybe more of a human connection... For me, I feel that my role is to represent them, and that part of that role is to, more, it's wanting

to help those young persons who are my clients to feel at ease throughout the process, so part of my role is trying to manage their fear. (Aurelia, LA)

Aurelia opened the possibility of working with young people in the legal system utilising the concept of dignity as a social practice, referencing an ethic of care while still holding law's ethic of justice. This unexpected account invokes notions of dignity responsiveness within professional relationships where adolescents' dignity as a concept is understood as part of a legal actors' intersubjectively constructed practice that is formed within caring relationships with young clients.

Similarly, Hazel considered legal environments generally, comparing legal contexts with settings more appropriate to youth experiences before considering her youth-centred approach to practice:

I think it is a distressing place to come to. For young people, going to the headmaster's office or the headmistress's offices can lead to distress, let alone coming into a courtroom. So, you do try to put yourself in other people's shoes. I think that's really important. It is part of the task of good (judicial officer) to make sure that you are empathetic that way. (Hazel, LA)

Hazel considered adolescents' lack of real power within the context of the legal system. Additionally, Hazel indicated her understanding that empathy is a valuable competency on which to build legal practice with adolescents. In so doing, Hazel demonstrated that it is possible for legal actors to perceive each adolescent as a unique human thus avoiding practices that stereotype adolescents, and which may add to the distress of being compelled to be in contact with the law.

4.5 Closing the chapter

This findings chapter highlighted emerging adults' multiple broad knowledges of how power is both relational and constitutive of the subordinate, essentialised subjectivity of vulnerable child to which they were discursively assigned. Crucial findings revealed the realities and complexities of adolescents' lived experiences as they attempted to navigate the discursively constituted subjectivity of vulnerable child.

Findings underscore the near impossibility for adolescents of existing as vulnerable child when in contact with the law as reflected largely through the presence of negative dignity experiences. Negative dignity experiences, understood through legal actors' negative social responses to adolescents' responses, were connected to the performance of asymmetric relations of power by legal actors that accomplishes legal discourse by means of practice interactions that marginalise youth. Negative social responses were recognised as oppressive or discriminatory practices that also marginalise youth at multiple identity sites and in a variety of contexts, particularly where practice and legal issues took precedence over adolescents' evident distress. Negative dignity experiences were reflected in findings of both groups.

Positive dignity experiences, also reflected in findings of both groups were understood through legal actors' positive social responses to adolescents' responses. Positive dignity experiences were connected to helpful, meaningful and effective direct practice for adolescents even in difficult and challenging legal contexts.

Findings reflect that the presence of positive or negative dignity experiences for adolescents at practice interactions determine whether youth will resist asymmetric power relations. Findings point to young peoples' multiple understandings of the dynamics of power and the ways in which adolescents are willing to utilise this dynamic, by sometimes making the decision to tolerate the legal system's environment of marginalisation or

oppression. These informed decisions indicate active acts of resistance since choices are made from positions of knowledge.

The link between relations of power performed through practice, the presence of positive or negative dignity experiences and the necessity for resistance, was recognised by both emerging adults and legal actors and is directly connected to adolescents' experiences of emotional and mental distress, both at the point of practice and following practice interactions. Findings reflect that when negative dignity experiences are perceived by youth at the point of marginalising or oppressive practice, they are likely to resist by utilising a range of internal responses.

The emerging adults' perceptions of responses to practice interactions experienced as negative social responses that underscored in-dignities, ranged from being operationally disabled and de-humanised through practices that silence, render invisible and exclude, to feelings of terror, fear, powerlessness, lack of control, distress and extreme distress. The emerging adults' accounts also provided insights into their experiences of marginalising practices based on age, and on age intersecting with multiple identity points while concurrently being oppressed at these sites of identity. Comparative accounts of legal actors' perceptions of adolescents' experiences of the legal system, and legal actors' accounts of their own and other legal actors' practices largely supported perceptions of emerging adults' earlier lived experiences.

Additionally, emerging adults' meaning-making demonstrated the depth and breadth of the lived experience of the circumstances, often extremely confronting circumstances or events that underscored a wide range of legal issues that brought adolescents into a broad variety of legal contexts. While adolescents' lived experiences of adverse circumstances underscored their resilience, capacities and capabilities, these characteristics are either ill-considered or unacknowledged in the legal system. Accounts drew attention to the discursive constitution of the vulnerable child subjectivity as being a

convenient positionality that underscores adolescents' subordination through totalising practices that marginalise youth. Findings specifically reflected that despite adolescents being pivotal information-holders of usually vital evidence relevant to legal issues, they are coincidentally discursively constituted as incapable of understanding the complexity of legal issues that brought them into contact with the law; incapable of understanding legal strategies that are the foundation of the way trials will be run; and therefore, able to be excluded from decision-making about matters that usually influence adolescents' future lives. Findings therefore indicate that the emerging adults' meaning-making ultimately demonstrates how adolescents in contact with the law have deep and broad multiple knowledges regarding how relations of power are performed at the point of practice, and particularly understand the ways in which adolescents are disempowered people who have little or no access to self-determinative actions.

Findings reflect that adolescents are in some ways vulnerable and in need of the protection that may, or may not, be offered by the powerful adults who populate the legal system. In this regard, the emerging adults' accounts additionally demonstrated that resource offering was dependent upon compound situational consequences that ultimately arise as a result of trial strategies rather than flowing from a vulnerable discursive construction. The inconsistency in the ways in which adolescents are discursively constituted as the vulnerable child subjectivity can lead to disparities in the provision of support and assistance when youth are in contact with the law. This appeared to depend on the ways in which legal strategies were invoked. That is, with reliance upon knowledge through power and the exercise of relations of power, legal actors could inconsistently utilise the vulnerable child subjectivity making some adolescents, vulnerable and yet responsible for the circumstances that brought them into contact with the law, but without resources to support them through the exigencies of the legal process. The emerging adults' meaning-making of these lived experiences of practice were that the agency and self-determination of youth as a class of people who are selectively constructed along a sliding binary from

vulnerable to responsible is open to neglect, based on de-humanising practices that openly affronted youth dignity.

The emerging adults gave some examples of having their voices heard. This was experienced as a positive social response and was dignity-affirming. However, the idea of agency and voice appears to arise only in circumstances where young people are compelled to give evidence that will support a particular case theory, rather than being able to give evidence in a way that tells their truth.

Overall, findings generate a picture of legal practices that not only essentialise youth. Accounts also depict practices that frequently render invisible and silence youth depending on trial strategy, or the everyday practices of legal actors at specific times and places depending on what evidence is to be obtained to support a case or how trials are being run. Feasibly, these are relations of power performed through discourse that give authority to legal actors' knowledge qualifications, so connecting knowledge to power and back to knowledge-production through the accounts of emerging adults and the comparative understandings of how legal actors perceive adolescents experience their contact with the law.

These findings offer an alternative to what appears to be an almost immutable view in the legal system of adolescents who are a vulnerable child who has been protected through specific practices that safeguard and shield adolescents' emotional and mental wellness. Indeed, findings serve to contextualise adolescents' experiences of distress when they have contact with the law, reflecting adolescents as responding to practices that actively produce and constitute youth as *non-abled* people who are *other-than adult*. In discursively constructing adolescents in this way, it becomes possible for legal actors to localise young people to a social position where they can be actively ignored, excluded and marginalised; these are *power-filled* negative social responses, performed through

asymmetric relations of power by a dominant group. Given legal actors' negative social responses, and when viewed in the context of adolescents' lack of actual power, young peoples' internal responses can be understood as appropriate proportional acts of resistance.

The next chapter presents a discussion of these findings.

CHAPTER 5. DISCUSSION AND CONCLUSION

5.1 Introduction to the chapter

This final chapter presents a discussion of the key findings presented in the preceding chapter considered against the existing literature reviewed in the early chapters of this thesis. It ends with concluding remarks to this research study.

As a means of building knowledge, the study explored a primary research question, *“How do emerging adults perceive and make sense of their lived experiences of legal actors’ practices during their earlier interactions in Australian legal settings?”*. The process of answering this question involved documenting personal experiences of practice encounters when adolescents had been in contact with the law. Knowledge-building occurred in a collaborative research space where 10 emerging adults shared their lived experiences of contact with the law when they were adolescents. Additionally, the comparative and alternative narratives of 10 legal actors were documented, to build knowledge relating to legal actors’ perceptions of how adolescents experience contact with the legal system. Legal actors’ narratives included their perceptions of their own, and colleagues’, practice interactions in a variety of contexts with young people under the age of 18. The common links between the findings from the two cohorts were:

- the ways relations of power were performed
- the connection between the exercise of power and resistance as a recognised response to power relations, and,
- the presence of positive or negative dignity experiences for adolescents as a function of the exercise of relations of power

In order to make a contribution to the current scholarship, the discussion that follows reviews three salient features of the findings that were common to the two groups of participants.

The initial discussion section following focusses on the first two common findings noted above: Findings linked to relations of power; and, findings that reflect aspects of resistance. These two key aspects of the findings are critical in understanding whether there are practice points at which risk for emotional or mental harm for adolescents arise. Links to the literature reviewed in Chapters 1 and 2 are made through highlighting findings that reflect the interconnections between adolescents' responses to legal actors' negative social responses. Additionally, conceptual and theoretical connections between findings and existing bodies of literature regarding the presence of positive social responses for adolescents are discussed.

A second section discusses the last common findings link between the two cohorts: The occurrence of positive or negative dignity experiences for adolescents as a function of the performance of asymmetric power relations. The discussion includes findings that indicate that the presence of positive or negative dignity experiences is directly connected to whether, and to what degree, adolescents experience emotional and mental distress understood as acts of resistance, both at the point of practice and following practice interactions, making theoretical connections to existing literature. The discussion also turns to the value of utilising response-based research practices to underpin research, also making theoretical connections with literature reviewed in early chapters.

Last, this chapter offers a conclusion to this research inquiry. The conclusion proposes key recommendations for practice that flow from the inquiry's findings that reflect positive dignity experiences as being the key determinant of supportive, meaningful and effective direct practice that lowers the risk of emotional and mental harm for adolescents in legal contexts.

5.2 Connections to the current literature

a) *Relations of power: Discursive practice that essentialises adolescents*

All emerging adult participants identified and described experiences of practice that distinctly reflected their differences to the dominant group: adults who performed relations of power through discursive practice. Moreover, the emerging adults perceived these practices were established specifically in relation to age through a sequence of discursive essentialising practices that produce and constitute them as *vulnerable child*. Comparative findings from the legal actors underscore the concept that adolescents are doubly-discursively constructed and essentialised as an inherently vulnerable class of people bounded by an upper age limit. Additionally, a few legal actors identified the ways in which adolescents are considered different to adults. Findings also reflect that adolescents' experiences of asymmetric relations of power are not always through practice interactions in formal contexts, supporting the view that all practice interactions across the whole of the legal system present multiple points of jeopardy, in what Cossins (2020) refers to as a traditionally unsympathetic system where youth are concerned.

The common link between the two groups was that the concept of vulnerability is linked to intersubjective relations of power that are constitutive of both subjects and social relations, therefore informing practice interactions (Goodwin et al., 2018; Petherbridge, 2016). Additionally, findings reflect that in practically constructing the vulnerable child subjectivity, legal actors are implicated in assuming responsibility for providing the explicit protection offered in the constituted subjectivity of vulnerable child (Vögele, 2020).

(i) *Relations of power: Negative social responses*

Social interactions were acknowledged in this inquiry as multifaceted acts of communication that “convey messages; stimulate responses from others; and

simultaneously influence the nature of others' responses in ways that move dynamically across social networks" (Hydén et al., 2016, p. 8). All emerging adults identified and described experiences of practice that were underpinned by negative social interactions.

These practices are the accomplishment of legal discourse performed through power relations, and were experienced as being *other-than*, *lesser-than*, or *different-to* adults who are the dominant group. This dominant group also possess the requisite knowledge in legal contexts. That is, adolescents experience discursive practices as marginalising them to an essentialised group that lacks adult capabilities, not because each adolescent lacks capacity, but because the discursive processes assert that they do. Additionally, the emerging adults identified and described totalising experiences of practices that coincidentally indicated their subordination as a person belonging to a specific Othered-group when they were their younger selves, and, ignored elemental features of their multiple intersecting axes of identities.

As previously discussed, data analyses were informed by the scholarship of Coates and Wade (2007), and utilised poststructural and intersectional analytic sensibilities. This approach underscored findings that clarify and identify responsibility for the othering and marginalising practices adolescents experience, while additionally giving clear descriptions of discriminatory, marginalising or biased practices and how those practices were experienced. While most emerging adults gave name to their experiences of biased and inequitable practice through the lens of ageism, the descriptive detail of marginalising and oppressive practices included actively being ignored (being rendered invisible) and active denial of voice (silencing), highlighting the "amalgam of practices" (McHugh, 2014, p. 155) that serve to constitute the vulnerable child subjectivity. Findings common to both groups relating to emerging actors' experiences additionally reflect how, once essentialised with the immutable characteristics of the vulnerable child subjectivity, a platform becomes available to legal actors to actively exclude adolescents from decision-making about their immediate

and future lives. Findings reflect that emerging adults experience these negative social responses performed through practice, as de-humanising.

These findings resonate with, and add to, literature that focusses on Independent Children's Lawyers' practices in the Family Court of Australia (Kaspiew et al. 2013), legal actors' general practices in the Family Court of Australia (Cashmore & Parkinson, 2008) and in jurisdictions in which young persons give evidence where their interests are legally elided with parental interests (Sheehan, 2003). The findings also support report outcomes that focus on youth perceptions of a system that is biased against them (e.g., The Law Council of Australia, 2018), and are a striking reflection of formal legal discourse that creates and constitutes an outsider status that utilises age and capability as its definitions (e.g., NSW Equality Before the Law Bench Book, Judicial Commission of NSW, 2020, s6.1.2).

Findings that point to relations of power, that are *power-filled* as compared with adolescents' subjectivities that are clearly *power-less* underpin a paradox, or near-impossibility, of occupying the subjectivity of vulnerable child and its expectations of youth. This paradox was located in emerging adults' accounts of the brutality of a system that permits the subordinating practices described above. The paradox arises when adolescents are excluded based upon the subjectivity of vulnerable child so that youth cannot speak for self (Morrison et al., 2020), however, despite being silenced and excluded these same young people are expected to live out the confines of judgments that frequently have no consideration of multiple intersecting identities and of the multiple intersecting (and often) adverse circumstances. These findings are conceptually linked to the creation of an epistemic injustice by the utilisation of relations of power through the performance of discursive practices that constitute young people as vulnerable child (Morrison et al., 2020). Additionally, these findings are theoretically connected to notions of structural violence (Galtung, 1969) specifically since practices and procedures relating to young people are discursively accounted for by legal actors within the legal system and are therefore

“embedded in the political and economic organization of our social world” (Macassa et al., 2021, p. 1). The issue though, is that practice has created the vulnerability for each member of this class disregarding all members’ unique and individual intersecting identities and experiences. In this way then, the legal system exhibits how it can be anti-therapeutic (King, 2006). Findings indicate the legal system not merely shows a lack of consideration for youth agency, participation and voice but specifically creates a harmful environment for a class it has itself constituted as vulnerable.

(ii) Discursive practice: A form of secondary injury

Findings reflect that in some ways, practices compound earlier emotional and mental challenges by placing adolescents in circumstances where their future is compromised. This can occur when adolescents’ understanding of self and their multiple intersecting identities is ignored or exposed without warning, or re-narrated or disconnected from the reality of their lived experiences by legal actors. While the range of practices could be considered variable, partial and contextual (Haraway, 1988), findings point to an extensive scope of de-humanising interactions performed at the point of practice, which are open to be understood as applicable to the strategies of a specific case. In these circumstances, specifically when youth are compelled to experience such practices, it seems clear they will understand the circumstances as characterised by the exercise of relations of power that can be experienced as further threat or harm. These findings support the theoretical conceptualisation of legal practice as a form of secondary injury, victimisation or traumatisation, particularly when a legal solution is the primary focus of practice without consideration for obvious human factors (Caprioli & Crenshaw, 2017; Douglas, 2018; Laing, 2017; Patterson, 2011; Rich & Seffrin, 2013).

Conversely, while the findings pinpoint the ways in which adolescents’ superior multiple knowledges and experiences of the circumstances that had been the genesis of

legal issues founded their deep capacities and capabilities for resilience despite their chronologically young age, this capacity and resilience was frequently disregarded through practices founded in bias against youth as *incapacitated* or *without-capacity* compared to adults. While these findings could also be conceptually linked to existing scholarship in the field of secondary injury, traumatisation or victimisation, these findings also directly connect and add to psychological research relating to experiences of the denial of procedural justice (Fondacaro et al., 2006). Findings of this study in this regard build upon current scholarship by highlighting specific practices, relevant to the recognition of the vulnerable subjectivity, that have become conditioned by both “normativity and power” (Petherbridge, 2016, p. 601) and which underscore possible systems abuses that can occur at each practice interaction in both formal and informal legal contexts, thus increasing the risk for emotional and mental harm for adolescents as they respond to biased practice.

A few of the comparative accounts of legal actors supported the emerging adults’ experiences of practice, both personal and observed. While a few legal actors identified and described their personal practices which are open to being experienced as oppressive and could indicate to an adolescent that they were excluded from decision-making, the findings do not clearly reflect those legal actors considered their practices as unjust or inequitable based on the age of the person involved in the legal issue at the time.

These findings do, however, reflect ways in which it could become challenging for adolescents to occupy the vulnerable child subjectivity. Findings identify that this could occur when legal actors themselves recognise, then deny the concept of discrimination based on age creating environments that are inconsistent and challenging for adolescents to navigate. A second example identified in the findings here is where practices that render youth invisible are identified as being a problem by participants, while ignoring that the practical, logical and clear solution to this practice-problem would be to take steps to contact young people and render youth visible.

In addressing practice in each of these circumstances, a legal actor might simply initially interrogate their power vis-à-vis an adolescent with whom they were interacting, and then actively take steps to equalise that power. This would require acknowledgement of power and commitment to equalising that power; perhaps, a simple invitation toward youth that opens a professional space between legal actor and client that centres youth dignity and highlights the ways in which power shares power. Findings here also indicate that when active steps are not taken to interrogate legal actors' power, the prospect of the legal system as represented by individual actors failing to "recognise the exquisite vulnerability" (Eastwood & Patton, 2002, p. 5) constituted by discourse arises. That is, in constructing adolescents as vulnerable though not recognising that the legal system itself does so, there are opportunities for a greater risk of emotional and mental distress for adolescents to arise through the performance of oppressive practice.

Comparative findings also confirm the near impossibility of occupying the vulnerable child subjectivity, when legal actors utilise a cognitive lens that underscores the double-discursive constitution of adolescents as being both vulnerable and a person of a group that is age limited and *othered* through practice. Findings indicate that legal strategies aimed at supporting accused persons, though without the similar regard for the protection of adolescents, underpin practices that highlight and accentuate adolescents' differences and/or exploit multiple axes of identity. These findings add to the interdisciplinary scholarship including from legal, psychological, sociological and social work sources that focusses on evidence-giving as oppressive (Caprioli & Crenshaw, 2017; Cusack, 2020; Eastwood & Patton, 2002; Hayes & Bunting, 2013; Quas & Goodman, 2012; Plotnikoff & Woolfson; 2009; Zajac et al., 2012). Additionally, the findings common to both cohorts relating to complexity, intimidation, legal strategy, language and experiences of distress during evidence-giving support existing literature (Aldridge & Luchjenbroers, 2007; Cossins, 2020; Woodward et al., 2014).

(iii) Relations of power: Positive social responses

Positive social responses were also experienced through practice that nonetheless is founded in discourse that is totalising. The findings reflect that this occurs when the expectation of protection implicit in the vulnerable child subjectivity is met (Vögele, 2020). Experiences of positive social responses linked to protection can occur even when the legal challenges adolescents face are not resolved as adolescents would prefer. This finding is specific in terms of an emerging adult whose experiences of the legal system are contextually extensive, and somewhat supported by comparative findings where legal actors' mindful practices tend toward a response-based style of practice rather than a discursive legal-issue based practice. Findings indicate that acknowledgment of young people, their perspective and voice through listening and inclusion are features of practice implicated in legal actors' positive social responses. In this regard the findings are conceptually linked to positive perceptions of procedural justice as connected to empowerment through having voice (Cashmore & Trimboli, 2005; Fondacaro et al., 2006; Hayes & Bunting, 2013). Additionally, findings here are theoretically connected to research that focusses on voice as a function of participation, and voice as a form of autonomy that has meaning for youth who experience violence, abuse or conflict (Cashmore & Parkinson, 2008). Further, the findings of this research underpin and support the notion that voice, and inclusion are fundamental rights of adolescents that should be guaranteed through Australia's ratification of the UNCRC.

Comparative findings suggest legal actors are willing to acknowledge adolescents, using a thoughtful approach to practice; both seeing and hearing youth as their primary practice strategies, even as these strategies have a basis in attending to the legal issues of a case. These positive social interactions attend to the needs of the essentialised subjectivity of the *vulnerable child*, in-context. Specific descriptive examples were given, including in circumstances where young people were required to give evidence. These comparative

findings indicate contextually and conceptually direct associations to response-based practice and scholarship that deconstruct dominant discourses by showing ways in which it is possible for legal actors to attend to the exigent needs of subordinate group members in-context, if they are willing to equalise, or at least utilise, their professional power inside “a culture of power and powerlessness” (Cossins, 2020, p. 559), both offering protection implicated by the discursive essentialisation of vulnerable child (Vögele, 2020), and realising that protection through practices experienced by adolescents as positive social responses.

(iv) Relations of power: Summary

By utilising analytical perspectives informed by poststructural, intersectional and response-based scholarship, the findings challenge discursive legal traditions of youth as untruthful (Aldridge & Luchjenbroers, 2007; Kelly, 2002), while additionally underscoring how legal actors’ positive social responses to adolescents’ social responses to adverse circumstances create an equitable environment in which youth can give evidence. Findings in this regard are specifically relevant to the existing literature on youth evidence-giving in SAC cases, specifically since it is usual that adolescents who give evidence in these cases are frequently also witness-survivors who have faced circumstances that underscore experiences of trauma. This inquiry’s comparative findings indicate that despite evidence needing to be given in a system that is hierarchical, in interrogating and taking steps to equalise power, within this hegemonic system legal actors can and in some cases do offer the protective stance while also acknowledging young people’s autonomy (McGonigle Lehy, 2011; Moutaan, 2012).

However, findings contest the notion that the Family Law system in Australia is constituted to function in the best interests of children and young people. The emerging adults’ accounts of their lived experiences resonate with existing scholarship that suggests judicial practices in this jurisdiction discursively produce a youth subjectivity “too vulnerable

to speak about their own lives” (Morrison et al., 2020, p. 412). In this discursive constitution of youth, an epistemic injustice is created against young people since they have no opportunity to be heard (Fricker, 2007; Morrison et al., 2020). As the findings of this research suggest, by ignoring youth capacities, capabilities and resilience developed through the circumstances that bring them into contact with the law and which are the basis for legal cases, an environment is shaped in which this type of epistemic injustice can be accomplished.

Findings relating to practice in the Family Court of Australia additionally included highlighting an illogical paradox for young people where protective reforms such as the use of expert witnesses, have heightened complexity for young people, since often experts are consulted by legal actors in place of youth. This is a clear, active and effective silencing of young people’s voices, and their opinions. Rather, youth views are paraphrased or transformed into acceptable legal case strategies that become palatable for judicial determinations (Cashmore & Parkinson, 2008; Morrison et al., 2020; Ross, 2012). Judgments, thus formulated on cases presented by competing legal practitioners and based on evidence provided by adult legal actors, rather than young people themselves, will regulate young peoples’ future lives at least until they are over the age of 18. This silencing of youth voice is open to being experienced as marginalising or oppressive. This inquiry’s findings in this regard support a theoretical conceptualisation of the current Family Court as an anti-therapeutic arm of the state (King, 2006), in that this jurisdiction maintains procedures vis-à-vis young people that actively silence and exclude them from involvement in cases.

b) Aspects of resistance: Connecting relations of power and acts of resistance

This section considers how participants considered the connection between the exercise of power and the concept of resistance as a recognised response to power

relations. Findings that emphasise how legal actors' recognition of resistance is experienced by adolescents as a positive social response, are discussed. Discussion extends also to findings that reveal that when acts of resistance remain misunderstood or unrecognised as resistance to asymmetric relations of power, adolescents' experience this lack of recognition as legal actors' negative social responses, additionally experiencing practice in these circumstances as unsupportive and ineffective. Drawing on these findings, overall, this section reflects on the notion that the recognition of acts of resistance underscores adolescents' experiences of supportive and effective practice that limits risk of emotional and mental distress at the point of practice and following contact with the law.

(i) Your practice - My resistance

Analyses were underpinned by the Foucauldian (1982) notion that power relations imply strategies of struggle. In this regard, this inquiry viewed young peoples' responses to discriminatory, marginalising and oppressive practice in the broad legal landscape as acts of resistance formed "right at the point where relations of power are exercised" (Foucault, 1980, p. 142). Utilising this perspective and RBPS as an analytic influence, the findings reflect that adolescents' actively resist negative relations of power performed through discursive practices experienced by adolescents as legal actors' negative social responses that were marginalising, biased, discriminatory, oppressive. In this way practices that have their genesis in asymmetries of power are unhelpful, unsupportive and ineffective when adolescents are in contact with the law. These unhelpful discursive practices are also connected to forms of structural violence since they are generated through asymmetric relations of power that service to maintain the dominant group at the expense of youth as a subordinate group.

Findings that relate to acts of resistance as response to oppressive, violent, or abusive behaviours, or asymmetric relations of power were exposed in participants'

accounts. The majority of emerging adults described acts of resistance, even as they may not have recognised their responses as resistance. Additionally, there was some consistency in meaning-making between the two groups in their accounts regarding what could be interpolated as reactions to practice underscored by power relations rather than the concept of responses to relations of power as understood in this inquiry.

Nonetheless, the emerging adults gave very clear details of their resistance experienced through internal pain, including naming distress, humiliation, shame, embarrassment, powerlessness, anger, stress, lack of concentration, insomnia, responsive mutism and responsive anorexia as part of the range of responses to their experiences of marginalising and discriminating practices during and after contact with the law. These data are directly connected, both theoretically and conceptually to existing scholarship in a number of interdisciplinary fields, primarily through response-based practice and scholarship (Wade, 2015), and also in fields that specifically seek to expose the ways young people might experience legal contexts (Cashmore & Trimboli, 2005; Flynn, 2013; Flynn et al., 2016; Hayes & Bunting, 2013; Henry, 1997; Plotnikoff & Woolfson, 2012; Powell et al., 2016; Zajac et al., 2012). Emerging adults' experiences are additionally conceptually linked to scholarship that locates specific acts of resistance accomplished in the privacy of adolescents' minds, and experienced as distress that can remain unobserved to others who occupy the same space (Caprioli & Crenshaw, 2017; Cashmore & Trimboli, 2005; Coates & Wade, 2007; Eastwood & Patton, 2002; Flynn, 2013; Flynn et al., 2016; Henry, 1997; Plotnikoff & Woolfson, 2012; Porges, 2011; Powell et al., 2016; van der Kolk, 2006, 2015; Zajac et al., 2012).

Additionally, the acts of resistance to legal actors' negative social responses that are the performance of asymmetric relations of power that could be ambiguous to observers are also conceptually associated to this inquiry's findings realised through participants' data (Caprioli & Crenshaw, 2017; Cossins, 2020; Porges, 2011; Vandervort, 2010). Given the

analytic framework previously described that was utilised to consider participants' in-context data, adolescents' acts of resistance were understood as relevant, logical, apt and proportional responses to the nature of legal actors' practices when viewed within the context (Coates & Wade, 2016) of the legal system. Moreover, adolescents' acts of resistance were indicative of the significant "social and material conditions" that prevailed at that time (Coates & Wade, 2016, p. 176).

Findings relating to adolescents' internally experienced acts of resistance are also theoretically and contextually interrelated to existing scholarship that documents a bi-directional connection between being obliged to be in contact with the law, and adolescents' experiences of emotional and mental distress (Balmer et al., 2010; Macourt, 2013; Pleasence et al., 2015; Tobin-Tyler et al., 2011; Zuckerman et al., 2008). While findings here support this bi-directional connection, no specific reference frame had previously been utilised to explore this connection in the existing literature. Since there is existing literature that further indicates that experiencing legal issues predicts experiencing mental distress (Pleasence et al., 2015; Macourt, 2013), the findings of this inquiry, positioned as they within a response-based framework that holds dignity as a central concept and which utilised an amalgamated poststructural and intersectional analytic approach to consider data, serve to illuminate how this bi-directional relationship may function, and make a unique contribution to this small body of literature.

5.3 Dignity: The key to supportive, meaningful and effective practice

Each emerging adult told a distinctive and multifaceted story about their adolescent dignity-experiences when they had contact with the law. The findings conceptually resonate with the scholarship of Coates and Wade (2007; 2016), Coates et al., (2019), Fast and Richardson (2019), Richardson and Bonnah (2015), Richardson and Wade (2010), Todd and Wade (2004), and, Wade (1997), each of whom have found that youth will respond to

affronts to dignity utilising a vast range of creative and unique resistance acts; sometimes overt, sometimes covert. Additionally, by considering the responses of adolescents utilising an indignity “prism” (Borowski, 2022, p. 612), findings here support Borowski’s (2022) conceptualisations of indignity that reflect three breakdowns in interpersonal social relations that de-humanise people.

Specifically, the findings supported Borowski’s (2022) theorising of dignity “through the prism of indignity” as “failures to treat humans as humans” in three ways (p. 618). The findings from the emerging adults indicate that in exercising asymmetric relations of power through discursively constituting adolescents as vulnerable child, and in performing marginalising and oppressive practices that actively silence, actively render invisible and actively exclude adolescents, legal actors first deny agency and the opportunity for adolescents to represent themselves in the manner they desire. Second, marginalising and oppressive practices performed by legal actors, encourage and maintain both subordination and objectification of adolescents as the vulnerable child subjectivity, rather than as a complete, unique, multiple-identified person. Third, once marginalised, objectified and essentialised through the performance of marginalising and oppressive practices, adolescents can be treated by legal actors as if redundant to the circumstances that have required legal intervention. The view of adolescents as superfluous to the legal circumstances can occur, despite them often being critical to the exigent legal case. Findings here reflect that adolescents experience this specific indignity as being of “no use and having nothing to contribute, including to decisions about themselves” (Borowski, 2022, p. 618).

Comparative accounts resonated with emerging adults’ experiences of these three explicit indignities, even when given as accounts which legal actors perceived were practices that were supportive of youth, and when legal actors gave accounts that could be interpreted as lacking an introspective view of their professional power, and the dynamics of

relations of power. Thus, the value in bringing theoretical analytical sensibilities to the consideration of the data informed by response-based theory and practice, and, dignity defined through indignity, was that a sharp focus could be brought to practice points where young people have negative dignity-experiences.

Additionally, findings indicate that the lived experience of negative social responses that actively essentialise adolescents as the ignored, voiceless, unheard, excluded and thus de-humanised vulnerable child, underpinned a hierarchical binary between dominant and subjugated knowledges, supporting adolescents' understandings of difference based on age, and the reality of their lack of power within legal contexts. These lived experiences of negative social responses characterised a negative encounter with legal actors linked to negative dignity-experiences.

Furthermore, findings reflect that where asymmetries of power remain present, and relations of power continue to be performed through marginalising, oppressive and biased practices, adolescents experience the near impossibility of occupying the positionality of the vulnerable child discursive subjectivity. In response to the negative dignity-experience of being constituted as vulnerable child, adolescents will respond through acts of resistance as discussed above.

Analytic sensibilities also drew attention to examples of practice that honour adolescent self-representation, and which enable youth capabilities and capacities in problem-solving and decision-making, supporting existing scholarship in this field (Sung & Dunkle, 2009). Findings from both groups support the notion that some legal actors practise with an acute awareness of youth dignity. These findings invoke Leget's (2013) view of dignity, particularly the practice of dignity responsiveness within professional relationships where dignity as a concept is understood as an "intersubjective category which is constituted and upheld by people who are interrelated in caring relationships" (p. 952).

This critical contemplation of the data also allowed for insight into examples of accounts where legal actors tend to practise with youth by taking a relational focus while holding concepts of legal imperatives as part of their work. Findings were open to interpretation of these legal actors' practices of equalising power with adolescents despite not having specifically contemplated this as a process in which they engage. While legal actors may not intentionally take steps to either equalise power, or to interrogate practice to understand points at which there is a risk for practice to be marginalising or biased, nonetheless findings are conceptually linked to, and build upon existing scholarship in this regard (Gallagher et al., 2008). Additionally, these findings resonate with the notion that it is possible for all legal actors' practice to be simultaneously underscored with both an ethic of care and an ethic of justice. Findings therefore imply practice orientations with adolescents that could be thoughtful and perceptive to the sometimes-nuanced ways in which young people are ignored, marginalised, excluded and denigrated through practices that disrespect, devalue and disregard their dignity (Leget, 2013, p. 950). Moreover, findings indicate that practice underpinned by both an ethic of care and an ethic of justice is perceived by youth as a positive dignity-experience.

Together, the findings from the two groups indicate that authentically experiencing being seen as an individual, multiple-identified, responsible and capable human being and being positively socially responded to, were the elements adolescents understood as a frame around a positive encounter with a legal actor and are features that can be linked to positive experiences of power relations. Further, these are fundamental characteristics of positive dignity experiences. Therefore, findings here support and add to scholarship that reflects how practices based in positive social responses and experienced in-context, support recovery and healing from the circumstances that bring adolescents into legal contexts (Coates, Bonnah & Richardson, 2019; Richardson & Bonnah, 2015). Moreover, findings make a contribution to scholarship that reflects ways in which positive dignity-experiences, social justice (Richardson & Wade, 2008) and justice-doing (Reynolds, 2020),

are a complex interrelated set of processes that can be accomplished within the legal system through legal practice.

(i) *Dignity: Summary*

Findings here destabilise discursive constructions of adolescents as *in-capable*, *un-knowing* or *in-capacitated* on account of age. Rather, while chronologically youthful, the findings underpin adolescents as additionally experienced and capable in ways that legal actors may not be. While overall there appears to be little protection for adolescents who are essentialised and constituted as the vulnerable child subjectivity, findings reflect that legal actors whose practice-focus was on establishing relational bonds with adolescents to facilitate the work of solving legal issues were more willing to acknowledge youth as unique individuals, to arguably have their practice interpreted as taking steps to equalise power and to draw on their understandings of the challenges adolescents may have faced prior to their contact with the law. Legal actors' who underscore their practices in this way maintain approaches to practice with adolescents that are perceived by youth as positive dignity experiences.

Findings in this study also challenge practice-based reports that inform legal actors practice such as Kaspiew et al, (2013), and Law Council of Australia, (2018) which are influential in the legal sphere. These authors detail issues such as inclusivity, voice and visibility as the factors that contribute to the views of adolescents that the legal system is biased against them, and that procedures and practice are intimidating and confronting. However, these reports stop short in advocating for practice or procedural changes that would be preferable to practices founded upon the discursive essentialising of youth as the pre-cursor to working with adolescents.

The presence of negative dignity-experiences is directly related to adolescents' emotional and mental distress understood as acts of resistance, both at the point of

practice and following practice interactions. The mechanisms of helpful, authentic, direct practice were defined through the analyses of participants' accounts, framing positive social practice responses toward adolescents, as positive dignity-experiences and a lack of negative dignity-experiences, even when legal imperatives were challenging.

The presence of positive dignity experiences, in-context, are distinguished as the key determinant of supportive, meaningful and effective direct practice with people who are under the age of 18 years that lowers the risk of emotional and mental harm when adolescents are in contact with the broader landscape of the legal system. This inquiry's findings therefore direct attention toward fundamental practice change based upon dignity-awareness as being both preferable and crucial when working with adolescents in all legal contexts.

5.4 Response-based research

Traditionally, (re)presentations or accounts are not inserted into a Discussion chapter. However, here the constraints and economies of this forum, in some ways, prevent tradition inflexibly taking hold. Following are representations spontaneously given by the emerging adults as collaborative interviews were ending. These accounts came as a welcome surprise. There is value in these recommendations in their applicability to practice for professionals who work directly in the legal system, representing young people, since as will be shown, emerging adults welcomed the opportunity "to tell it like it is" (please see Corinne's account below).

There is also value for professionals who work in the interdisciplinary space between the law and social work, particularly social workers who, progressively, are filling roles that are influential for youth in contact with the law. Moreover, these accounts support the utilisation of the theoretical framework used in this inquiry to underpin future research that includes youth under the age of 18 who are currently in contact with the law:

But the whole legal process has made me what I am today, and there's so much value in it. There are so many ways in which it could improve just by explaining itself more widely and helping people to understand how the legal system actually works rather than keeping itself a secret. I want to say too, that to be able to just talk about my experiences without there being a legal reason and without it being therapy is really new for me. It's kind of, well there's been something lifted off me, to just not have any other reason to talk to you, than your interest in what happened for me back then so things could improve. If I can do something to make the system just a little bit better, just by telling my story, there's power in that too.

(D'arcy, EA)

I think I've been able to say the things I wanted to say, and to tell you about those experiences with the lawyer. I want to also say the other reason I came here to help you was because I want to be involved in research that has the potential to make changes for me and for other people. And, I also feel that we all need to take some responsibility for processes, especially young people because we are the people who can make effective changes for the future of our country. (Brittany, EA)

Cool, so, I think it's been valuable to tell my story too, and to contribute. The idea of mentoring, but thinking about mentoring myself was really a nice thing to do, because I could see that I had been clever then, and I'd actually done good things for myself you know, even if I burst into tears. I, ahh, kind of understood that my reactions and responses were real and, the... (Axel pauses), proper responses for then, um push-back, right (smiling). (Axel, EA)

It was, I actually feel much better, um, liked the chance to tell your story thing, you know to um, to tell it *like it is*, you know, for you and how things went for you then at that time, there's something in that idea. Yeah, um maybe it's dignity, yeah, and it's

good to be able to, or to try to help other people like I was then, mm, yeah, thanks, bye. (Corinne, EA) [emphasis added]

The words in Corinne's account are underlined, because they resonate with a paper written by response-based scholars Linda Coates and Allan Wade. "Telling it like it isn't" is the title of that paper (Coates & Wade, 2004, p. 499). In telling her story, "like it is", Corinne gave authority to her experiences of power and to the reassertion of her dignity in the research space, as together we witnessed her acts of resistance against oppression and marginalisation. In telling it "like it is", Corinne and her fellow emerging adult participants beautifully, quietly, and thoroughly demonstrated their expertise and multiple knowledges of how the Australian legal system functions through its actors' practices.

5.5 Closing the chapter

a) *Future research*

As this thesis closes it is apposite to consider what could come of future research in this area that utilises the theoretical and methodological approach used here. Two questions that arose during this inquiry's reflexive processes and which have the potential to underscore future practice remain unanswered at the end of this research. From a transformative, reconstructive and revisionary perspective (Gough & Whitehouse, 2003; Kumashiro, 2004; Weedon, 1997) these questions are: *is it possible to more accurately identify current practices used by legal actors that can be characterised as asserting of adolescents' dignity?*, and if so, *what are the defining factors which can be taken into account in order to strengthen a youth-influenced, dignity-aware and enhanced model of practice?* It is hoped that these questions may be answered in the near future.

b) Proposals for practice: The possibility of innovative youth-influenced, dignity-aware practice change throughout the Australian legal system

By reflecting on the findings of this inquiry, points for practice change that can decrease risk for adolescents' emotional and mental distress when they are in contact with the law can be summarised through the three converging key points: power, resistance and dignity:

(v) First, in terms of power

Findings underscore recommendations in this regard that include: That the multidisciplinary range of professionals, including social workers, who work with youth in the legal system broadly defined, engage in training and ongoing reflexive practice that principally underpins interrogation of professional power and challenges personal biases. Findings here indicate that in developing self-awareness of biases, legal actors develop responsiveness to young people's multiple identity points, opening the potential for youth to be acknowledged as complete persons, thus contesting discursive essentialising practices. Currently, some legal actors demonstrate practice that is open to being interpreted as insightful in this regard. By stepping away from essentialising assumptions of youth, and training legal actors in these areas, legal actors can openly equalise power with young people, substituting inclusive practice for othering or marginalising practices. In transforming practice from exclusive practice to newer inclusive practices, there is potential to openly share legal knowledge thus contesting the knowledge-power interconnection that has historically maintained legal actors' dominant position at the expense of youth's subordinate position.

(vi) *Next, regarding youth dignity*

Recommendations are that professionals who work with young people in the legal system develop an awareness that while discourse currently exists that constitutes the *vulnerable child subjectivity*, it does not mean young people are therefore non-abled people who require adults to strategise legal issues and cases on their behalf without involving young people in decision-making processes. That is, in authentically acknowledging the inherent strengths and capabilities of each young person as a unique, agentic human being with intrinsic dignity, professionals who interact with young people in the legal system take positive steps toward inclusive practice that assumes youth intellect and capability for self-determination. In so doing young people's dignity is respected and uplifted, and youth voice is heard, even if outcomes are unsuccessful. Moreover, by transforming the ways young people are seen as unique individuals rather than an essentialised group, youth interests are not elided with adults' interests. Parental rights, or carers' rights, while relevant, remain separate. In seeing youth as agentic, thoughtful, capable decision-makers through inclusive practice, legal actors develop an alternative way of acknowledging young people as discrete rights bearers. In this way practice aligns with the Convention on the Rights of the Child.

(vii) *Additionally, in relation to resistance*

Perhaps crucially, recommendations in relation to youth resistance include awareness of and identification of young peoples' responses, particularly by judicial officers, as potential acts of resistance to oppressive or marginalising practices. This first acknowledges the multiple ways youth act in service of dignity and safety (Richardson & Wade, 2010), contesting taken-for-granted views of young people's emotional and mental distress. Moreover, in a judicial and thus powerful acknowledgment, opportunities arise for legal actors' social responses to young persons' responses to be positive, validating and affirmative. That is, when legal actors and particularly judicial officers, offer positive social

responses to young people's responses to affronts to their dignity, there is an opportunity to validate what has occurred for youth in-context. By seeing and recognising acts of resistance, particularly in the context of adversarial proceedings, and positively responding by intervening in support of youth who are experiencing distress, relations of power are utilised on behalf of youth. At such a critical point, there is an opportunity for youth to receive a positive social response that reinforces "the fingerhold" adolescents "have on their dignity", while augmenting their autonomy (Reynolds, 2020, p. 354). In this way *power shares power* with young people.

(viii) As the penultimate point: Core competencies and the possibility of a hybrid model of democratic practice

The innovative youth-influenced dignity-aware practices as reimagined in this research space, move toward democratising responses to young people in the legal system broadly defined. Training would therefore be required particularly in relation to core competencies regarding the three recommendation points which highlight the interconnections between power, dignity and resistance. Ongoing practice would also require wisdom, flexibility, contextualised considerations and understandings to augment and balance the sole requirement of the adversarial system to primarily seek the most favourable legal outcome by applying the relevant law to the facts of the case consonant with an ethic of justice (Zifcak, 2014).

Therefore, the focus of practice would move away from being solely underpinned by an ethic of justice, toward a hybrid model that incorporates an ethic of care (Fox, 1995; Gilligan, 1982), something like Aurelia's current efforts to work in a caring relationship with her clients while still attending to their legal needs, as discussed in the preceding chapter. Such a hybrid model of practice would entail "actually being just and ethical" when working with young people (Reynolds, 2020, p. 349). A hybrid model would also entail consistently and skilfully attending to intersecting multiple youth identities while noting connections to

power and disadvantage (Crenshaw, 1995). This is likely to involve legal actors first building core competencies in interrogating professional and personal power, and then mindfully applying those competencies during each interaction with young persons. This reimagined practice in the legal system, is fundamentally more relational and ethical, and is a movement toward practice underpinned by an ethic of justice-doing (Reynolds, 2020).

Where and how training in core competencies and a hybrid model of dignity-aware practice could ideally occur must be left for discussion in a larger forum. Though it is appropriate to briefly suggest here that prospects for training can begin at undergraduate level. Schools of social work have the potential to develop study modules that take an interdisciplinary approach to dignity-aware practice that ideally could be offered to the range of students who will eventually become the legal actors who practice with youth. Second, for those legal actors, who currently engage in practice interactions with youth in contact with the law, including witness intermediaries, social workers, lawyers, members of the medical professions and judicial officers, the findings here underpin an interdisciplinary approach to core competency training in dignity-aware practice. Additionally, a side-by-side collegiate approach to core competency training where the range of actors learn together as an interdisciplinary effort to centre youth dignity in their practice, could also open opportunities to understand the practice points at which individual change support is most required.

(ix) The final point: The potential for youth-influenced policy and legislative reform

As the final point regarding recommendations: This research has been always focussed on practice and potential practice change. As the exploration and analysis of data evolved toward the recommendations discussed in this chapter, it became clearer, perhaps through happy coincidence, that the findings relating to recommendations also offer opportunities to influence policy and legislation relating to the ways in which youth enter,

and experience the legal system broadly defined. In particular, youth-influenced policy that underscores on-going core-competency dignity-aware training as part of legal actors' continuing skill-building is an area for future thinking and planning in the effort toward minimising risk of emotional and mental harm for youth in contact with the law, and a way of underpinning justice-doing in the area of social work with young people in contact with the law.

5.6 Conclusion to this research

This final chapter explored the knowledge co-created with emerging adults and compared with legal actors' representations in the form of a reimagined innovative youth-influenced, dignity-aware practice that could be utilised by any legal actor when working with young people in contact with the legal system.

I am grateful to the emerging adults for their clear and concise accounts of their multiple deep, situated and contextually-contingent knowledges. Each shared their narratives using flexible, critical thinking skills and a high level of insight, underscoring the concept that they are the holders of expertise in the area of practice improvement and change, specifically relating to the ways in which youth emotional and mental distress can be ameliorated in the legal system through the awareness of power, dignity and resistance. These 10 emerging adults' discretionary capabilities were valuable to this study's analyses, particularly in separating responses to practice, from responses to earlier adverse circumstances, or to the circumstances that compelled contact with the law. Additionally, the emerging adults' critical thinking, insight, competent and astute discerning capabilities have assisted this inquiry in making a unique contribution to expanding the knowledge base of response-based theory in the area of research practice, and specifically research with youth who have experienced contact with the law.

I am also deeply grateful to the 10 legal actors who made themselves vulnerable in the research space, and whose contributions to this research provided insightful points for practice change. My reflection as this thesis closes is that researchers should be bold in their ambition to seek knowledge even in what appear to be society's most powerful institutions. There are always people who wish to share their understandings and who are willing to step out of their comfortable places to seek to know, and to seek to improve their practice. Here, a range of "real-life solutions" (Heward-Belle et al., 2020, p. 419) have been reflected in the knowledge-building processes accomplished with *power-ful*, motivated legal actors. Recently, a very senior legal actor not connected to this specific research, though one who has closely followed its trajectory asked: "*how can we do better?*". Responses to research like these bode well for youth who are compelled to be in contact with the law.

a) Closing remarks: Jay

In closing, this inquiry was inspired by the narratives of some of the young people with whom I have had contact in my practice at the clinic. Often young people will have experienced challenging and adverse life circumstances characterised by interpersonal violence or "other forms of oppression" (Wade, 1997, p. 23), that can lead to youth being compelled to be in contact with the law. Consistent with the theoretical underpinnings of this research, and also given the commitment to the therapeutic principles of the work with young people that I, as a research-practitioner, undertake at the clinic, the voices of young people and emerging adults were privileged and uplifted as an authentic and accurate source of knowledge throughout this inquiry. It is therefore appropriate that the final words of this thesis are from an emerging adult. During collaboration, Jay eloquently shared details of his experiences of when he was younger. Jay told his story with uplifting good humour, even as he narrated the difficulties he had faced.

Toward the end of the data generation, Jay shared how he processed what had happened during and subsequent to his contact with the law. Jay's solution underscores

the ways in which people locate resolution to their internal pain, often in creative and uniquely personal ways. Jay worked through his lived experiences by researching the law, and the legislation relating to his case. In researching his own case as an older Jay, he was able to pinpoint the answers he had needed from the legal actors who had represented him in the past. In so doing, Jay discovered a form of justice for himself. Should we be asking why Jay needed to do this for himself? The answer must surely be, a resounding and affirmative – yes.

Jay was successful in his case; he received the judgment he needed to fulfil the future he wanted for his life. And yet, Jay suffered. Deeply. Across time. Jay was clear in giving an account of the impetus for his search for meaning and knowledge. Jay's motivation is situated in the passage below. The impetus for this inquiry was practice with young people whose experiences are not dissimilar to Jay's. In the open-hearted listening to the voices of young people in the clinic, multiple opportunities arise to build new knowledge. I foresee, that legal actors including judicial officers, barristers and solicitors, other interdisciplinary professionals whose work brings them into the legal system, and relevantly, social workers, who increasingly are occupying positions and locations that impact young people's experiences of the legal system, should and will listen intently to the chorus of expert voices who, like Jay, ask for justice-doing and ask for dignity in justice. I hope those legal actors use the listening and learning opportunities held within this research project to re-think and to transform their practice with youth in contact with the law.

I commend to my audience Jay's account of his search for comprehension, meaning and significance in his lived experiences of contact with the law:

Um, I just read a lot of other case files afterwards because I needed to find out my own answers. Things didn't settle quickly for me about my case, and yeah, I just googled, looked around so I could start to untangle the uncertainty about my life you know. I was pretty affected for a long time. I felt kind of, um, responsible for all

of the effort, but really isolated and alone even though I'd had the support of my family. Does that make sense? I suppose vulnerable is something I felt inside the courtroom on that day, but I also felt a lot of responsibility for all the money that was being spent too. I'm pretty curious and I really like research. I'm the academic type. Like, it's pretty hard to find these sorts of cases, the ones like mine, I wanted to know why it needed to be that I had to have **, that didn't sound right to me, like ah... (Jay pauses) not just not fair, it badly affected me and I didn't understand why. So, you have to trawl through databases and that. It helps if you're like me because you can find out stuff yourself.

So, now I can sort of say, it would have been a more dignified place for me if the (judicial officer) had said to me that I could sit with my (legal actors), instead of sitting at the back of the courtroom and feeling like my whole life was on show. If the (judicial officer) had been even a bit more friendly, and seen that I was a person, not just bits of paper, it would have meant the whole place, the court or the legal system, was more recognisable rather than a place I didn't understand and didn't know or couldn't understand, and so it was a place I was afraid to be in. So, you know there would have been a lot more dignity for me, if the (judicial officer) had recognised me as a human being, kind of taken a few moments to make me feel like I was present at my own case, and not at any other case, and try to show she understood the depth of my feelings and how difficult had been my life. I guess it would have felt more dignified for my parents too. I mean I went to that court specifically because, like this is the place that I thought, I'd - it's about a just outcome because it's the place you have to go to, there's no choice (Jay emphasised the underlined words with a slightly louder voice). Um, I think that, you know, I should feel there would be some justice. (Jay, EA)

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Appendices

Appendix A - University of Sydney Human Research Ethics Committee Approval



Research Integrity & Ethics Administration
Human Research Ethics Committee

Tuesday, 21 November 2017

Prof Donna Baines
School of Education and Social Work Research Operations; Faculty of Arts and Social Sciences
Email: donna.baines@sydney.edu.au

Dear Donna

The University of Sydney Human Research Ethics Committee (HREC) has considered your application.

After consideration of your response to the comments raised your project has been approved.

Approval is granted for a period of four years from **21 November 2017** to **21 November 2021**

Project title: Multiple jeopardies: legal settings and adolescent dignity?

Project no.: 2017/800

First Annual Report due: 21 November 2018

Authorised Personnel: Baines Donna; Stevenson Lynette;

Documents Approved:

Date Uploaded	Version number	Document Name
07/11/2017	Version 2	V2 List of Topics Gp1 FINAL CLEAN COPY
07/11/2017	Version 2	V2 List of Topics Gp2 FINAL CLEAN COPY
07/11/2017	Version 2	V2 Participant Info Stmt Gp 2 FINAL CLEAN COPY
07/11/2017	Version 2	V2 Participant Info Stmt Gp 1 FINAL CLEAN COPY
07/11/2017	Version 2	V2 Recruit Poster Gp 1 FINAL CLEAN COPY
07/11/2017	Version 2	V2 Recruit Poster Gp 2 FINAL CLEAN COPY
05/09/2017	Version 1	First email response - Recruitment Key Informant Group 1
05/09/2017	Version 1	First email response - Recruitment Key Informant Group 2
05/09/2017	Version 1	Participant Consent Forms - Key Informant Groups 1 and 2

Special Condition/s of Approval

- It is a condition of approval that written permission from the heads of jurisdictions of the Children's Court, Juvenile Justice, Local Courts and District Courts of NSW and the ACT is obtained and kept on file prior to the relevant part of the research being conducted.

Condition/s of Approval

- Research must be conducted according to the approved proposal.
- An annual progress report must be submitted to the Ethics Office on or before the anniversary of approval and on completion of the project.

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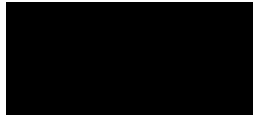


- You must report as soon as practicable anything that might warrant review of ethical approval of the project including:
 - Serious or unexpected adverse events (which should be reported within 72 hours).
 - Unforeseen events that might affect continued ethical acceptability of the project.
- Any changes to the proposal must be approved prior to their implementation (except where an amendment is undertaken to eliminate *immediate* risk to participants).
- Personnel working on this project must be sufficiently qualified by education, training and experience for their role, or adequately supervised. Changes to personnel must be reported and approved.
- Personnel must disclose any actual or potential conflicts of interest, including any financial or other interest or affiliation, as relevant to this project.
- Data and primary materials must be retained and stored in accordance with the relevant legislation and University guidelines.
- Ethics approval is dependent upon ongoing compliance of the research with the *National Statement on Ethical Conduct in Human Research*, the *Australian Code for the Responsible Conduct of Research*, applicable legal requirements, and with University policies, procedures and governance requirements.
- The Ethics Office may conduct audits on approved projects.
- The Chief Investigator has ultimate responsibility for the conduct of the research and is responsible for ensuring all others involved will conduct the research in accordance with the above.

This letter constitutes ethical approval only.

Please contact the Ethics Office should you require further information or clarification.

Sincerely



Professor Glen Davis
Chair
Human Research Ethics Committee (HREC 2)

The University of Sydney HRECs are constituted and operate in accordance with the National Health and Medical Research Council's (NHMRC) National Statement on Ethical Conduct in Human Research (2007) and the NHMRC's Australian Code for the Responsible Conduct of Research (2007).

Appendix B - Correspondence

This appendix presents the correspondence that was required as a condition of approval of the project by the University of Sydney Human Research Ethics Committee (Project No: 2017.800).

This inquiry did not focus on *youth in conflict with the law*, therefore permission was not requested from the head of jurisdiction of the Children's Court or the governing body of Juvenile Justice. Since the research focus was on *youth in contact with the law*, correspondence requesting permission to contact sitting judges/magistrates directly, was sent to the heads of jurisdiction of the Supreme Court of NSW, the District Court of NSW, the Local Court of NSW, the Supreme Court of the ACT, the Federal Circuit of Court of Australia and the Family Court of Australia.

- **Appendix B1** contains the pro-forma letter sent to the heads of these jurisdictions.

Responses were not received from the Chief Justice of the Supreme Court of NSW, the Chief Magistrate of the Local Court of NSW or the Chief Judge of the then Federal Circuit of Court of Australia. Responses were received from the Acting Chief Justice of the Supreme Court of the ACT, the Chief Judge of the District of NSW (through his Associate), and, the Chief Justice of the Family Court of Australia (through the Deputy Principal Registrar). Those responses are located in the Appendices below:

- **B2** *Example of letter sent to sitting judicial officers (de-identified)*
- **B3** *Permission to contact a current sitting judicial officer of the Supreme Court of the Australian Capital Territory (de-identified)*
- **B4** *Permission to contact all current sitting judicial officers of the District Court of NSW (de-identified)*
- **B5** *Letter refusing permission to contact sitting judges in the Family Court of Australia*

Appendix B1 – Pro-forma letter to Heads of Jurisdiction



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

A35 - Education Building
The University of Sydney
NSW 2006 AUSTRALIA
Telephone: +61 2 9036 9316
Email: donna.baines@sydney.edu.au
Email: lste68021@uni.sydney.edu.au
Web: <http://www.sydney.edu.au/>

The Honourable xxxxxxxxxxxxxxxxxxxx
Chief Justice/Judge of xxxxxxxxxxxxxxxxxxxx
xxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Dear Chief Justice/Judge,

Re: University of Sydney Research Project – Recruitment of Participants

My name is Lyn Stevenson. I am a Doctoral Candidate at the University of Sydney, Sydney School of Education and Social Work.

I am hoping to obtain your permission to recruit those Judges of [redacted] based in [redacted] who might be willing to participate in my research. I am also hoping to obtain your permission to send an email advertisement directly to each of those Judges through their [redacted] email address.

Participation would involve Judges collaborating with me during an interview about dignity-enhancing practice with youth. Interviews usually take about one hour.

The central concept of my research is dignity. An anti-oppressive framework underpins my discovery-oriented and inter-disciplinary research, and its practical outcomes have implications for both social work and legal practice. My research focuses on how adolescents perceive their experiences when they intersect with legal environments. It also seeks to understand the practices that barristers, solicitors and other legal actors, use when working with adolescents who intersect with legal settings.

Since judicial officers have usually had practical legal careers prior to their elevation to the bench, and given they are observers of current practice, their practical experience constitutes a bank of knowledge relating to the practices

that barristers, solicitors and other legal actors use. This bank of knowledge has the potential to make a valuable contribution to my research.

The Human Research Ethics Committee of the University of Sydney has approved the ethical aspects of this study [*HREC Project No: 2017/800*].

I have enclosed copy of the advertisement that I would send to the judges. The Human Research Ethics Committee has approved this advertisement.

Should you require any further information, please do not hesitate in contacting me, or my supervisors (Professor Donna Baines or Associate Professor Margot Rawsthorne, University of Sydney School of Education and Social Work).

I look forward to hearing from you about my request. For your convenience I have provided my contact details below, along with those of my supervisors.

Thank you for your time.

With regards,



Lyn Stevenson MSW(Q) DSW Candidate
THE UNIVERSITY OF SYDNEY | NSW | 2006 | AUSTRALIA
E: lste6801@uni.sydney.edu.au

Supervisor contact details:

Supervisor:
Professor Donna Baines
Chair of Social Work and Social Policy
University of Sydney School of Education and Social Work
E: donna.baines@sydney.edu.au

Auxiliary Supervisor:
Associate Professor Margot Rawsthorne
University of Sydney School of Education and Social Work
E: margot.rawsthorne@sydney.edu.au

Appendix B2 – Example of letter sent to sitting judicial officers



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

A35 - Education Building
The University of Sydney
NSW 2006 AUSTRALIA
Telephone: +61 2 9036 9316
Email: donna.baines@sydney.edu.au
Email: lste68021@uni.sydney.edu.au
Web: <http://www.sydney.edu.au/>

[REDACTED]

Dear [REDACTED],

Re: University of Sydney Doctoral Research Project – Recruitment of Participants

My name is Lyn Stevenson. I am a Doctoral Candidate at the University of Sydney, Sydney School of Education and Social Work.

I am hoping you might be willing to participate in my research. Participation would involve your collaboration with me during an interview about dignity-enhancing practices that legal actors might utilise with youth in legal settings.

I understand the huge professional commitments [REDACTED] in your position have, and that you would have little time to spare. Interviews usually take around one hour at a venue of your choice, and at a time that is convenient to you. These interviews are audio-recorded and I usually take a few notes as an *aide memoir*. All transcriptions are de-identified and both audio recordings and my notes are destroyed immediately following transcription.

By way of a little background, the central concept of my research is dignity. An anti-oppressive framework underpins my discovery-oriented and inter-disciplinary research, and its practical outcomes have implications for both social work and legal practice. My research focuses on how adolescents perceive their experiences when they intersect with legal environments. It also seeks to understand the practices that barristers, solicitors and other legal actors, use when working with adolescents who intersect with legal settings.

Since judicial officers have usually had practical legal careers prior to their elevation to the bench, and given they are observers of current practice, their experiences constitute a bank of knowledge relating to the practices that

barristers, solicitors and other legal actors use. This bank of knowledge has the potential to make a valuable contribution to my research.

To supplement this letter, I enclose a copy of the recruitment advertisement that I am using to recruit all legal actors.

The Human Research Ethics Committee of the University of Sydney has approved the ethical aspects of this study [HREC Project No: 2017/800], along with my research design. I have also obtained permission from the Chief [REDACTED], to write directly to the [REDACTED] seeking [REDACTED] who may be interested in collaboration with me.

Should you require any further information, please do not hesitate in contacting me, or my supervisors (Professor Donna Baines or Associate Professor Margot Rawsthorne, University of Sydney School of Education and Social Work). For your convenience I have provided my contact details below, along with those of my supervisors.

I look forward to hearing from you about my request.

Thank you for your time.

With regards,

[REDACTED]

Lyn Stevenson MSW(Q) | DSW Candidate
THE UNIVERSITY OF SYDNEY | NSW | 2006 | AUSTRALIA
E: lste6801@uni.sydney.edu.au

Supervisor contact details:

Supervisor:
Professor Donna Baines
Chair of Social Work and Social Policy
University of Sydney School of Education and Social Work
E: donna.baines@sydney.edu.au

Auxiliary Supervisor:
Associate Professor Margot Rawsthorne
University of Sydney School of Education and Social Work
E: margot.rawsthorne@sydney.edu.au

Appendix B3 – Permission to contact a current sitting judicial officer of the Supreme Court of the ACT

SUPREME COURT
OF THE AUSTRALIAN CAPITAL TERRITORY

CHAMBERS OF THE CHIEF JUSTICE

Lyn Stevenson
DSW Candidate
The University of Sydney

By email: lste6801@uni.sydney.edu.au

2 July 2018

Dear Ms Stevenson

I refer to your letter dated 27 March 2018 regarding your request to recruit participants for your research into dignity-enhancing practice with youth.

[REDACTED] indicated that she would be happy to participate. Her Honour's Chambers can be contacted via [REDACTED]

All the best for your project.

Yours sincerely

[REDACTED]
[REDACTED]
Acting Chief Justice

Copy to: [REDACTED]
Professor Donna Baines
Associate Professor Margot Rawsthorne

6 KNOWLES PLACE CANBERRA CITY
GPO BOX 1548 ACT 2601
6207 1568

Appendix B4 – Permission to contact all current sitting judicial officers of the District Court of NSW

12/06/2018

Mail - lste6801@uni.sydney.edu.au

University of Sydney Research Project - Recruitment of Participants - dignity -enhancing practice with youth

[Redacted]

Tue 12/06/2018 12:15 PM

To: Lynette Robyn Stevenson <lste6801@uni.sydney.edu.au>;

Importance: High

Dear Ms Stevenson,

The Chief Judge grants permission to send the email advertisement enclosed in your recent letter directly to District Court Judges through their associates, whose email addresses you will find by clicking on their name in the contact list on the District Court website.

Or you may wish to write individually to each Judge.

Sincerely

[Redacted]

[Redacted]

Email: room30man@courts.nsw.gov.au | Phone: 92 55 77 5524
Level 21, John Maddison Tower, 86 Goulburn Street, Sydney NSW 2000
[PO Box K1026, Haymarket 1240 | DX 11518](#) Sydney Downtown

Please consider our environment before printing this email. This email and any attachments may be confidential and contain privileged information. If you are not the intended recipient you must not use, disclose, copy or distribute this communication. If you have received this message in error please delete and notify the sender. When communicating by email you consent to the monitoring and recording of that correspondence.

<https://outlook.office.com/owa/?realm=uni.sydney.edu.au>

1/1

Appendix B5 – Letter refusing permission to contact sitting judges in the Family Court of Australia



FAMILY COURT OF AUSTRALIA

Nigel Bowen Commonwealth Law Courts Building
Cnr University Ave & Childers St, Canberra
GPO Box 9991, Canberra ACT 2601



20 August 2018

Ms Lyn Stevenson
University of Sydney
by email: lste6801@uni.sydney.edu.au

Dear Ms Stevenson

University of Sydney Research Project – Recruitment of Participants

Thank you for your letter of 24 April 2018 addressed to the Chief Justice of the Family Court of Australia, the Hon John Pascoe AC CVO. Your letter was referred to the Court's Research and Ethics Committee for consideration and response.

In your letter you request the Family Court grant permission to recruit judicial officers of the Court based in the Sydney metropolitan area, to participate in interviews in relation to how adolescents perceive their experiences within the legal environment.

The Family Court's Research and Ethics Committee met on 25 June 2018 and gave consideration to the request in your letter.

The Research and Ethics Committee has decided to decline your request. Judicial officers do not deal directly with adolescents who 'intersect with legal environments'. It is rare for adolescents, or any children, whose parents are involved in family law proceedings to be directly involved in court proceedings.

You also refer to judicial officers usually having 'practical legal careers' prior to elevation to the bench, with such practical experience constituting a bank of knowledge of potential relevance to your research. Please note that it is not appropriate for current judicial officers to be approached to take part in your research. You may wish to consider approaching professional groups with practical experience directly related to adolescents who intersect with legal settings.

Yours sincerely



Deputy Principal Registrar

Appendix C - Example of letter sent to legal actors recruited direct approach



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

A35 - Education Building
The University of Sydney
NSW 2006 AUSTRALIA
Telephone: +61 2 9036 9316
Email: donna.baines@sydney.edu.au
Email: lste68021@uni.sydney.edu.au
Web: <http://www.sydney.edu.au/>



Dear 

Re: University of Sydney Research Project – Recruitment of Participants

My name is Lyn Stevenson. I am a Doctoral Candidate at the University of Sydney, Sydney School of Education and Social Work.



Participation would involve a collaborative interview about current legal practice with young people. Interviews usually take a little less than one hour. I conduct those interviews at a time and place that is convenient to the Participant. I would be happy to attend your chambers.

The central concept of my research is dignity. An anti-oppressive framework underpins my discovery-oriented and inter-disciplinary research, and its practical outcomes have implications for both social work and legal practice. My research focuses on how adolescents perceive their experiences when they intersect with legal environments. It also seeks to understand the practices that barristers, solicitors and other legal actors, use when working with adolescents who intersect with legal settings.


I imagine that since you have attained the rank of senior counsel, you not only have built a practical legal career over a lengthy time, you also have the experience of being an observer of current practice around young people in a variety of fora. This means your personal and observational experience constitutes a bank of knowledge relating to the practices that barristers, solicitors and other legal actors, such as judges, use in their everyday work when young people appear in courts or other legal environments. In this sense, your familiarity with, and understanding of practice has the potential to make a valuable contribution to my research.

So that you might have the freedom to consider your position, I thought it might be helpful if I also send some additional information that fleshes out my research. The Human Research Ethics Committee of the University of Sydney has approved the ethical aspects of this study [*HREC Project No: 2017/800*]. I have attached a copy of the approved advertisement, a Participant Information Statement and a Participant Consent Form for you to read.

I hope this information gives you a broad understanding of my research project and hopefully will provide you with a basis for participation.

Should you require any further information, please do not hesitate in contacting me, or my supervisors (Professor Donna Baines or Associate Professor Margot Rawsthorne, University of Sydney School of Education and Social Work). For your convenience I have provided my contact details below, along with those of my supervisors.

I look forward to hearing from you.

With regards, 

Lyn Stevenson MSW(Q) | DSW Candidate
THE UNIVERSITY OF SYDNEY | NSW | 2006 | AUSTRALIA
E: lste6801@uni.sydney.edu.au

Supervisor contact details:

Professor Donna Baines
Chair of Social Work and Social Policy
University of Sydney School of Education and Social Work
E: donna.baines@sydney.edu.au

Associate Professor Margot Rawsthorne
University of Sydney School of Education and Social Work
E: margot.rawsthorne@sydney.edu.au

Appendix D – Recruitment advertisements

This appendix presents the recruitment advertisements used to invite participants to collaborate in this research. The following appendices comprise Appendix D:

D1 Recruitment poster emerging adults

(HREC Project No: 2017/800 ID: V2 Recruit Poster Gp 2 FINAL CLEAN COPY)

D2 Recruitment flyer legal actors

(HREC Project No: 2017/800 ID: V2 Recruit Poster Gp 1 FINAL CLEAN COPY)

Appendix D1 – Recruitment poster emerging adults

(HREC Project No: 2017/800 ID: V2 Recruit Poster Gp 1 FINAL CLEAN COPY)

RESEARCH STUDY

were you involved in a legal matter
when you were younger?

★I am conducting a study with young adults, aged 18-25, who were involved in a legal matter when they were a younger person between 12 and 18 years

★I am interested in hearing your perspective, in your words, on how you were treated by lawyers, barristers, solicitors or other legal staff - I want to hear how you experienced legal personnel

★The study involves one audio-recorded interview, conducted here on-campus, that will last about 1 hour

If you're interested in collaborating with me,
or would like more information, please contact:

Lyn Stevenson

lste6801@uni.sydney.edu.au

CONTACT AND PARTICIPATION WILL REMAIN CONFIDENTIAL

This research has been approved by the University of Sydney Human Ethics Committee - HREC 2 (Project no: 2017/800)

TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au	TALKING ABOUT LAW Lyn Stevenson lste6801@uni.sydney.edu.au
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(HREC Project No: 2017/800 ID: V2 Recruit Poster Gp 1 FINAL CLEAN COPY)

if you're a barrister or solicitor
who is interested in
collaborating with me, or
you'd like more information,
please contact:

Lyn Stevenson
lst6801@uni.sydney.edu.au

* BOTH CONTACT
AND PARTICIPATION
WILL REMAIN
CONFIDENTIAL
* ANY DATA
COLLECTED
DURING
PARTICIPATION
WILL BE DE-
IDENTIFIED

RESEARCH STUDY

- adolescents intersect with legal environment for a variety of reasons
- legal contexts are places that are typically unknowable and highly uncomfortable for young people
- often adolescents find legal environments highly anxiety-producing
- research points to adolescents working to maintain, retain, reassert or preserve their dignity in the face of unfamiliar or high anxiety circumstances, thus, adolescents may react to their contact with legal settings with responses unfamiliar to barristers and solicitors.
- my research seeks to understand barristers' and solicitors' responses to adolescents when they intersect with various legal contexts
- participation involves one audio-recorded interview of approximately one hour duration

THIS RESEARCH HAS
BEEN APPROVED BY
THE UNIVERSITY OF
SYDNEY ETHICS
COMMITTEE - HREC 2
(PROJECT NO:
2017/800)

Appendix E - Responses to interest in collaboration

This appendix presents the first email response used to respond to participants and offering further consideration of collaboration. The following appendices comprise Appendix E:

E1 *First email response - emerging adults*

(HREC Project No: 2017/800 ID: First email response – Recruitment Key Informant Group 2)

E2 *First email response – legal actors*

(HREC Project No: 2017/800 ID: First email response – Recruitment Key Informant Group 1)

Appendix E1 – First email response – emerging adults

(HREC Project No: 2017/800 ID: Recruitment Key Informant Group 2)

Dear _____,

I am a Doctor of Social Work candidate currently enrolled at the University of Sydney in the Sydney School of Education and Social Work.

Thank you for expressing your interest in participating in this research study.

As you will have noted from the flier you have seen, I am interested in how you experienced legal settings during a time when you were an adolescent. I would like to hear about your experiences in your words. This would entail recording you during an interview that would take about an hour, at a place that you would feel comfortable in.

If you'd like further information about the study, or, you'd like to participate, please feel free to reply to this email indicating so, and I can get back in contact with you about arranging a time to meet.

With regards,

Lyn Stevenson MSW(Q) DSW Candidate
Sydney School of Education and Social Work
Faculty of Arts and Social Sciences

THE UNIVERSITY OF SYDNEY | NSW | 2006 | AUSTRALIA
E: lste6801@uni.sydney.edu.au

Appendix E2 – First email response – legal actors

(HREC Project No: 2017/800 ID: Recruitment Key Informant Group 1)

Dear ,

I am a Doctor of Social Work candidate currently enrolled at the University of Sydney in the Sydney School of Education and Social Work.

Thank you for expressing your interest in participating in this research study.

As you will have noted from the flier you have seen, I am interested in your practice experiences when working with adolescents in legal settings. I would like to hear about your work with adolescents in your words. This would entail recording you during an interview that would take about an hour, at a place that you would feel comfortable in.

If you'd like further information about the study, or, you'd like to participate, please feel free to reply to this email indicating so, and I can get back in contact with you about arranging a time to meet.

With regards,

Lyn Stevenson MSW(Q)| DSW Candidate
Sydney School of Education and Social Work
Faculty of Arts and Social Sciences

THE UNIVERSITY OF SYDNEY | NSW | 2006 | AUSTRALIA
E: lste6801@uni.sydney.edu.au

Appendix F - Inclusion and exclusion criteria

This appendix presents the inclusion and exclusion criteria used for participation in this study.

Criteria for emerging adults' participation was established on the basis of:

INCLUSION CRITERIA: Positive responses to the following:

- Contact with legal actors as a younger person between the ages of 12-18 years, in any legal environment though not as the subject of proceedings
- A current enrolled student the University of Sydney
- Current age between 18 years and 25 years
- Current healthy mental wellness

EXCLUSION CRITERIA: If positive response to either of the following questions then the participant was excluded. Please note, no volunteers were excluded:

- Identified as Aboriginal and Torres Strait Islander
- Identified as Culturally and Linguistically Diverse

Criteria for legal actors' participation was established on the basis of:

INCLUSION CRITERIA: Positive responses to the following:

- A legal actor
- Contact with young persons aged roughly between 12-18 years during career
- Current healthy mental wellness

EXCLUSION CRITERIA:

- There were no exclusion criteria identified for legal actors

Appendix G - Participant information statements

This appendix presents the Participant Information Statements given to both groups of participants who volunteered to collaborate in this research project, prior to the interview, and before they consented to proceeding with the semi-structured in-depth narrative interview process described in Chapter 4 of this thesis.

Appendix **G1** presents the Participant Information Statement given to emerging adults.

Appendix **G2** provides the Participant Information Statement given to legal actors. A number of judicial officers requested these documents in advance of their collaboration. As a result, following the direct approach recruitment of the final two legal actors who participated, the Participant Information Statement was emailed in advance of the interview, along with the consent form found in Appendix as a way of giving a fuller picture of the research in advance of collaboration.

Appendix G1: Participant Information Statement - emerging adults

(HREC Project No: 2017/800 ID: V2 Participant Info Stmt Gp 2 FINAL CLEAN COPY)



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

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Education Building
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Telephone: +61 2 9036 9316
Email: donna.baines@sydney.edu.au
Email: lste68021@uni.sydney.edu.au
Web: <http://www.sydney.edu.au/>

Multiple jeopardies

PARTICIPANT INFORMATION STATEMENT Key Informant Group 2

(1) What is this study about?

You are invited to take part in a research study about how adolescents perceive their experiences when they intersect with legal environments and what are the practices lawyers, barristers, solicitors and other legal staff

You have been invited to participate in this study because you are a young person between the ages of 18 and 25 years who has been involved with a legal matter in some way and who has experienced legal practitioners or other legal staff in their working environments. You have also indicated to the researcher that you are not an Aboriginal or Torres Strait Islander person, nor do you have a CALD background, that you speak English, and importantly that you are not currently experiencing any mental health issues or problems particularly in relation to your prior experiences related to legal environments. This Participant Information Statement tells you about the research study. Knowing what is involved will help you decide if you want to take part in the study. Please read this sheet carefully and ask questions about anything that you don't understand or want to know more about.

Participation in this research study is voluntary.

By giving consent to take part in this study you are telling us that you:

- ✓ Understand what you have read.
- ✓ Agree to take part in the research study as outlined below.
- ✓ Agree to the use of your personal information as described.

You will be given a copy of this Participant Information Statement to keep.

(2) Who is running the study?

The study is being carried out by the following researchers:

STUDENT DECLARATION

Lynette Robyn Stevenson is conducting this study as the basis for the degree of Doctor of Social Work at The University of Sydney. This will take place under the supervision of Professor Donna Baines, Chair of Social Work and Social Policy, School of Education and Social Work, Faculty of Education and Social Sciences.

This study not funded by any bodies external to the University of Sydney. The student researcher has no conflicts of interest and will not obtain any financial benefit from conducting this research.

(3) What will the study involve for me?

- This study involves you speaking to the student researcher for about an hour about your experiences of legal practitioners or other legal personnel or staff in their working environments
- The location of the interview will be on-campus and during business hours, but you are able to choose the location in which you feel comfortable to speak to the student researcher
- During the one-hour interview you will be asked some questions about your responses when you were a younger person to the way you were treated by legal practitioners, and other legal staff or personnel, in their places of work or other legal settings.
- The interviews will be audio recorded

(4) How much of my time will the study take?

The total time commitment asked of you is to participate in one interview of approximately one-hour duration

(5) Do I have to be in the study? Can I withdraw from the study once I've started?

Being in this study is completely voluntary and you do not have to take part. Your decision whether to participate will not affect your current or future relationship with the researchers or anyone else at the University of Sydney

If you decide to take part in the study and then change your mind later, you are free to withdraw at any time. You can do this by simply telling the student researcher you no

longer wish to continue. No questions will be asked of you if you wish to withdraw from the study and there are no consequences of withdrawal from the study.

You are free to stop the interview at any time. Unless you say that you want us to keep them, any recordings will be erased and the information you have provided will not be included in the study results. You may also refuse to answer any questions that you do not wish to answer during the interview.

(6) Are there any risks or costs associated with being in the study?

- There is a risk of inconvenience to you since you will be giving up an hour of your time
- There is a risk you may experience feelings of discomfort such as mild negative feelings through to feelings of distress or anxiety since the interview will look back at a time which may have been difficult for you
- There is also a risk that any emotional experiences attached to your involvement with legal practitioners, legal staff or other legal personnel may arise.
- If these experiences occur for you, you are encouraged to tell the student researcher and you will be offered the opportunity to withdraw from the study.
- The following details are provided for you should you require on-going support around emotional discomfort, distress or anxiety:
 - University of Sydney Counselling and Psychological Services (CAPS)
 - Open 9am-5pm Monday to Friday
 - T: 8627 8433
 - E: caps.admin@sydney.edu.au
 - eHeadspace
 - <https://www.eheadspace.org.au> for emergency assistance (click the emergency assistance button – top right corner)
 - assistance can also be sought
 - via email (use the email button)
 - call 1800 650 890
 - via chat room (you can find out first if this is the right place for you)
 - Mental Health Line (24 hours) 1800 011 511
 - Lifeline (24 hours) 133 11 14

(7) Are there any benefits associated with being in the study?

We cannot guarantee that you will receive any direct benefits from being in the study.

However, the possible benefits of this research is in its potential to contribute to a more thorough understanding of how to minimize the emotional and psychological risk for adolescents when they intersect with legal settings and how to maximize adolescents' emotional and psychological safety in legal environments.

(8) What will happen to information about me that is collected during the study?

By providing your consent, you are agreeing to us collecting personal information about you for the purposes of this research study. Your information will only be used for the purposes outlined in this Participant Information Statement, unless you consent otherwise.

- During the interview your personal details will not be mentioned and therefore will not be recorded onto the audio-recording.
- Only the way in which you were involved in the legal matter and how you interacted with legal practitioner, legal staff or other legal personnel will be recorded.
- The information collected during the interview will be undergo a secondary and rigorous de-identification process during transcription so that none of your personal information can be attached to the data
- The only identifiable information that will be retained will be consent forms. These will be converted to electronic files and retained separately so data and consent forms cannot be matched.
- No hard copy information or data will be retained
- All data will be stored in secure password protected and encrypted ZIP-files files on a password protected encrypted computer during the study, and will be backed up on the University of Sydney Research Data Store. This is a secure data store on the University campus, located in Sydney, Australia, and not a cloud store located outside Australia.
- Following the study's completion, all data will be retained in secure password protected and encrypted ZIP-files for 7 years on the University of Sydney Research Data Store. As noted above, this is a secure data store on the University campus, located in Sydney, Australia, and not a cloud store located outside Australia.
- The information you provide during the interview will be analysed and published in thesis form though opportunities may arise for publication in journals and at conferences.

(9) Can I tell other people about the study?

Yes, you are welcome to tell other people about the study.

(10) What if I would like further information about the study?

When you have read this information, Lyn Stevenson will be available to discuss it with you further and answer any questions you may have. If you would like to know more at any stage during the study, please feel free to contact Lyn Stevenson via email: lste6801@uni.sydney.edu.au

(11) Will I be told the results of the study?

You have a right to receive feedback about the overall results of this study. You can tell us that you wish to receive feedback by ticking the relevant box on the consent form]. This feedback will be in the form of a one page lay summary. You will receive this feedback after the study is finished.

(12) What if I have a complaint or any concerns about the study?

Research involving humans in Australia is reviewed by an independent group of people called a Human Research Ethics Committee (HREC). The ethical aspects of this study have been approved by the HREC of the University of Sydney [*INSERT protocol number once approval is obtained*]. As part of this process, we have agreed to carry out the study according to the *National Statement on Ethical Conduct in Human Research (2007)*. This statement has been developed to protect people who agree to take part in research studies.

If you are concerned about the way this study is being conducted or you wish to make a complaint to someone independent from the study, please contact the university using the details outlined below. Please quote the study title and protocol number.

The Manager, Ethics Administration, University of Sydney:

- **Telephone:** +61 2 8627 8176
- **Email:** human.ethics@sydney.edu.au
- **Fax:** +61 2 8627 8177 (Facsimile)

This information sheet is for you to keep

Appendix G2: Participant Information Statement – legal actors

(HREC Project No: 2017/800 ID: V2 Participant Info Stmt Gp 1 FINAL CLEAN COPY)



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

Room A35
Education Building
The University of Sydney
NSW 2006 AUSTRALIA
Telephone: +61 2 9036 9316
Email: donna.baines@sydney.edu.au
Email: lste68021@uni.sydney.edu.au
Web: <http://www.sydney.edu.au/>

Multiple jeopardies

PARTICIPANT INFORMATION STATEMENT Key Informant Group 1

(1) What is this study about?

You are invited to take part in a research study about how adolescents perceive their experiences when they intersect with legal environments and what are the practices lawyers, barristers, solicitors and other legal staff.

You have been invited to participate in this study because you have indicated that you have worked with adolescents in legal environments, you currently practise law in NSW or the ACT, or you are a judicial officer in either NSW or the ACT, and you have indicated you are not experiencing any long-term stress associated with your work. This Participant Information Statement tells you about the research study. Knowing what is involved will help you decide if you want to take part in the study. Please read this sheet carefully and ask questions about anything that you don't understand or want to know more about.

Participation in this research study is voluntary.

By giving consent to take part in this study you are telling us that you:

- ✓ Understand what you have read.
- ✓ Agree to take part in the research study as outlined below.
- ✓ Agree to the use of your personal information as described.

You will be given a copy of this Participant Information Statement to keep.

(2) Who is running the study?

The study is being carried out by the following researcher:

STUDENT DECLARATION

Lynette Robyn Stevenson is conducting this study as the basis for the degree of Doctor of Social Work at The University of Sydney. The study will be conducted under the supervision of Professor Donna Baines, Chair of Social Work and Social Policy, and Associate Professor Margot Rawsthorne, Senior Lecturer. Both supervisors sit in the School of Education and Social Work, Faculty of Education and Social Sciences, University of Sydney.

This study is not funded by any bodies external to the University of Sydney. The student researcher has no conflicts of interest and will not obtain any financial benefit from conducting this research.

(3) What will the study involve for me?

- This study involves you speaking to the student researcher, for about an hour, about your work with adolescents
- It is understood that the adolescents you may come into contact with may not be your clients, but that nonetheless you may still work with adolescents in the course of your practice
- During the one hour interview you will be asked some questions about your responses to adolescents when they enter legal settings.
- Some questions will be specifically about your experiences with adolescents who have responded to legal settings in ways that may indicate anxiety, or distress
- Some questions will be specifically about your responses to situations where adolescents have been anxious or distressed
- Some questions will be specifically about your practice with adolescents
- Some questions will be directed to your observations of other legal actors practices with adolescents
- The interviews will be audio recorded and the researcher will take some notes to supplement the audio recording and to allow the interview to proceed in an efficient manner
- The interview will be conducted during business hours, and you are able to choose the location in which you feel comfortable to speak to the student researcher, though it is suggested that a conference room capable of being closed is most suitable if available

(4) How much of my time will the study take?

- The total time commitment asked of you is to participate in one interview of approximately one hour duration

(5) Do I have to be in the study? Can I withdraw from the study once I've started?

Being in this study is completely voluntary and you do not have to take part. Your decision whether to participate will not affect your current or future relationship with the researchers or anyone else at the University of Sydney

If you decide to take part in the study and then change your mind later, you are free to withdraw at any time. You can do this by simply telling the student researcher you no longer wish to continue. No questions will be asked of you if you wish to withdraw from the study and there are no consequences of withdrawal from the study.

You are free to stop the interview at any time. Unless you say that you want us to keep them, any recordings will be erased and the information you have provided will not be included in the study results. You may also refuse to answer any questions that you do not wish to answer during the interview.

(6) Are there any risks or costs associated with being in the study?

- There is a risk of inconvenience to you since you will be giving up an hour of your time
- It is understood that if you are in private practice, this may involve a direct cost, or loss, to you since legal practitioners or other legal actors who invoice for their time during business hours would be setting aside an hour of time to participate in the study
- If you are not in private practice, or are otherwise an employed legal practitioner or judicial officer there is no risk of direct cost to you, rather there is a risk of indirect cost since you will be giving up an hour of your time
- Otherwise, there is a small risk of discomfort that may arise around discussing young people's anxiety or distress when they are involved in legal settings or enter legal environments

(7) Are there any benefits associated with being in the study?

We cannot guarantee that you will receive any direct benefits from being in the study.

However, the possible benefits of this research is in its potential to contribute to a more thorough understanding of how to minimize the emotional and psychological risk for adolescents when they intersect with legal settings and how to maximize adolescents' emotional and psychological safety in legal environments.

(8) What will happen to information about me that is collected during the study?

- During the interview your personal details will not be mentioned and therefore will not be recorded onto the audio-recording
- Only your legal role will be recorded, that is whether you are a barrister, solicitor, judicial officer etc.
- The information collected during the interview will be undergo a secondary and rigorous de-identification process during transcription so there is no risk of your personal information being attached to the data

- The only identifiable information that will be retained will be consent forms. These will be converted to electronic files and retained separately so data and consent forms cannot be matched
- No hard copy information or data will be retained
- All data will be stored in secure password protected and encrypted ZIP-files files on a password protected encrypted computer during the study, and will be backed up on the University of Sydney Research Data Store. This is a secure data store on the University campus, located in Sydney, Australia, and not a cloud store located outside of Australia
- Following the study's completion, all data will be retained in secure password protected and encrypted ZIP-files for 7 years on the University of Sydney Research Data Store. As noted above, this is a secure data store on the University campus, located in Sydney, Australia, and not a cloud store located outside of Australia
- The information you provide during the interview will be analysed and published in thesis form though opportunities may arise for publication in journals and at conferences

By providing your consent, you are agreeing to us collecting some personal information about you for the purposes of this research study. Your information will only be used for the purposes outlined in this Participant Information Statement, unless you consent otherwise.

➤ **Can I tell other people about the study?**

Yes, you are welcome to tell other people about the study.

➤ **What if I would like further information about the study?**

When you have read this information, Lyn Stevenson will be available to discuss it with you further and answer any questions you may have. If you would like to know more at any stage during the study, please feel free to contact Lyn Stevenson via email: lste6801@uni.sydney.edu.au

➤ **Will I be told the results of the study?**

You have a right to receive feedback about the overall results of this study. You can tell us that you wish to receive feedback by *ticking the relevant box on the consent form*. This feedback will be in the form of a *one page lay summary*. You will receive this feedback after the study is finished.

➤ **What if I have a complaint or any concerns about the study?**

Research involving humans in Australia is reviewed by an independent group of people called a Human Research Ethics Committee (HREC). The ethical aspects of this study have been approved by the HREC of the University of Sydney [HREC Project No: 2017/800]. As part of this process, we have agreed to carry out the study according to the *National Statement on Ethical Conduct in Human Research (2007)*. This statement has been developed to protect people who agree to take part in research studies.

If you are concerned about the way this study is being conducted or you wish to make a complaint to someone independent from the study, please contact the university using the details outlined below. Please quote the study title and protocol number.

The Manager, Ethics Administration, University of Sydney:

- **Telephone:** +61 2 8627 8176
- **Email:** human.ethics@sydney.edu.au
- **Fax:** +61 2 8627 8177 (Facsimile)

This information sheet is for you to keep

Supervisor contact details:

Supervisor:
Professor Donna Baines
Chair of Social Work and Social Policy
University of Sydney School of Education and Social Work
E: donna.baines@sydney.edu.au

Auxiliary Supervisor:
Associate Professor Margot Rawsthorne
University of Sydney School of Education and Social Work
E: margot.rawsthorne@sydney.edu.au

Appendix H - Participant consent form

(HREC Project No: 2017/800 ID: Participant Consent Forms – Key Informant Groups 1 and 2)



School of Education and Social Work
Faculty of Arts and Social Sciences

ABN 15 211 513 464

Professor Donna Baines
Chair of Social Work and Social Policy
Supervisor

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Education Building
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Multiple jeopardies

PARTICIPANT CONSENT FORM

I, [PRINT NAME], agree to take part in this research study.

In giving my consent I state that:

- ✓ I understand the purpose of the study, what I will be asked to do, and any risks/benefits involved.
- ✓ I have read the Participant Information Statement and have been able to discuss my involvement in the study with the researchers if I wished to do so.
- ✓ The researchers have answered any questions that I had about the study and I am happy with the answers.
- ✓ I understand that being in this study is completely voluntary and I do not have to take part. My decision whether to be in the study will not affect my relationship with the researchers or anyone else at the University of Sydney now or in the future.
- ✓ I understand that I can withdraw from the study at any time.
- ✓ I understand that I may stop the interview at any time if I do not wish to continue, and that unless I indicate otherwise any recordings will then be erased and the information provided will not be included in the study. I also understand that I may refuse to answer any questions I don't wish to answer.

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Version 1: 30th August, 2017

- ✓ I understand that personal information about me that is collected over the course of this project will be stored securely and will only be used for purposes that I have agreed to. I understand that information about me will only be told to others with my permission, except as required by law.
- ✓ I understand that the results of this study may be published, and that I will not be identified in these publications.

I consent to:

- **Audio-recording (some notes)** YES NO

Would you like to receive feedback about the overall results of this study?

YES NO

If you answered **YES**, please indicate your preferred form of feedback and address:

Postal: _____

Email: _____

.....
Signature

.....
PRINT name

.....
Date

Appendix I - Collaborative interview schedules

This appendix presents the schedules used during the collaborative interviews with both groups of participants who volunteered to participate in this research project as described in Chapter 5 of this thesis. These schedules were required as part of the ethics process at the University of Sydney. In reality, these schedules were a ‘first pass over the target’, an initial guide. As has often been described in research, at times the interviews ranged away to where participants wished to go in the knowledge building process that is the strength of qualitative research. Though, as a guide in answering the research questions, these schedules were helpful in maintaining a focus, gently bringing participants back to the aims of this inquiry.

- Appendix I1 provides the schedule that was approved for interviews with emerging adults.
- Appendix I2 gives the schedule approved for interviews with legal actors.

Appendix II: Collaborative interview schedule – emerging adults

(HREC Project No: 2017/800 ID: V2 List of Topics Gp 2 FINAL CLEAN COPY)

Multiple jeopardies

LIST OF TOPICS FOR SEMI-STRUCTURED INTERVIEW Key Informant Group 2

Adapted from work by Martin (1998) and Nybell (2013)

Note: Apart from the fundamental research work by both Martin (1998) and Nybell (2013), that underpins the methods I will use to conduct these **semi-structured** interviews with emerging adults, I feel it is critically important to found this data collection using the anti-oppressive principles of Response-based practice (Coates and Wade, 2007; Todd and Wade, 2007) that points to that remarkable aspect of human communication – that the same exact words can hold various meaning depending on their context, order, non-verbal expression etc., and that the versatility of language holds an amazing potential to positively transform the way in which we discuss and perceive societal issues. Conversely, it also has the ability to preserve negative presuppositions, biases and stereotypes. I wish to keep these interviews as unstructured as possible so as to allow the voices of youth to emerge according to their experiences. Whether or not

DEMOGRAPHIC QUESTION

- Age range at time the now emerging adult came to intersect with a legal environment (some adolescents' intersections with legal settings may take place over an extended period of time)
- The nature of the event that brought the now emerging adult into contact with a legal environment

BROAD TOPICS

- The young person's narrative of their involvement with that legal environment
- How emerging adults perceive what occurred to them during the time they were in legal environments:

GUIDING QUESTIONS

- Focus on perceptions of power relations, and the protection, or not, of young person's dignity:
 - Prompts may be required around how they were responded to by legal actors. Indeed, to make deeper inquiries, prompts may be required here using the direct language approach of Response-based practice, such questions may involve speaking from an active position e.g. "How did you respond to the barrister who ignored you when you started crying? "What did you do next?"
 - Such questions elicit accounts of actions in situ, and typically bring up feelings and thoughts as active, situated responses (Todd and Wade, 2007)
 - Of interest will be the data as to legal actors responses – whether their responses are founded in dignity for an adolescent, or are able to be characterised as dignity-enhancing responses is part of this discovery-oriented research

Page 1 of 2

- Occasional probes, for example: Then what happened? What did the lawyer do next? Where did the conversation take place? Was the process explained to you?
- Reflective questions to make sure I understand what the young person has said to me.

N.B: At the close of the interview, the emerging adult will be asked if they would like an opportunity to correct or revise anything they've said, or to elaborate on anything that has arisen during our interview. This technique may mean an investment of extra time over the expected hour for the emerging adult. My clinical experience is that young people welcome an opportunity to ensure their voice is heard as they wish it to be.

References

- Coates, L. & Wade, A. (2007). Language and Violence: Analysis of Four Discursive Operations. *Family Violence* 22, 511-522.
- Martin, F. (1998). Tales of transition: Self-narrative and direct scribing in exploring care leaving. *Child and Family Social Work*, 3, 1-12.
- Nybell, L.M. (2013). Locating "youth voice": Considering the contexts of speaking in foster care. *Children and Youth Services Review* 35, 1227-1235.
- Todd, N. & Wade, A. (2004). Coming to Terms with Violence and Resistance: From a Language of Effects to a Language of Responses. In Strong, T. & Pane, D. (Eds.) *Furthering Talk and Advances in the Discursive Therapies*. New York, New York: Kluwer Academic/Plenum.

Appendix I2: Collaborative interview schedule – legal actors

(HREC Project No: 2017/800 ID: V2 List of Topics Gp 1 FINAL CLEAN COPY

Multiple jeopardies

LIST OF TOPICS FOR SEMI-STRUCTURED INTERVIEW Key Informant Group 1

DEMOGRAPHIC QUESTIONS

- How legal practice is characterised (solicitor, barrister, judicial officer etc)
- How regularly come into contact with adolescents in legal environments across career
- Classification of contact (as clients, witnesses etc)

BROAD TOPICS

- How legal actors came to intersect with adolescents –
 - as direct clients, or
 - as witnesses who are for example:
 - victims of violence
 - witnesses of illegal activity
 - witnesses of other violence such as domestic violence, murder, kidnapping, gang violence, war crimes
 - support persons for mothers who are involved in apprehended violence order proceedings
 - children involved in family law matters
 - witnesses involved in family provisions proceedings
 - children of people who have been charged with criminal matters, and whose families have no means of alternative care so are present in the courtroom
 - children of people who have been on bail, but who are taken in custody following the end of a trial
- Broad observations of the range of adolescents' responses with legal actors in legal settings
- Whether the legal actor encountered adolescents' distress, or mental distress when intersecting with legal settings
 - How did you become aware that adolescents were distressed?
 - Did their distress affect how you continued to meet the needs of your client?
- Narrower observations of the range of adolescents' responses with legal actors in legal settings
 - For example – you mentioned earlier that the adolescent that most struck a chord with you was a witness in a kidnapping trial. This young person was not your client. I'm wondering if you might be able to tell me what are your perceptions of that young person's abilities to understand what might have been happening to them while they were having to repeatedly recount their experiences of the kidnapping in the formal, perhaps complex and

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Version 2: 24th October, 2017

differing contexts of examination-in-chief followed by cross-examination and perhaps followed by re-examination?

- Since there's been a length of time since then, I'm wondering if you might be able to comment now on whether that sequence of events might typically involve some adverse emotional consequences for that adolescent?
- Legal actors' narratives of how they respond to the range of adolescents' distress, mental distress and other responses to legal settings
 - Are you able to comment on how other legal actors respond to adolescents when it's obvious to you that a young person is distressed?
- Power relations
 - Can you describe to me how you might have helped adolescents to understand what might occur to them within the context of the legal setting and the legal matters within which they were involved?
 - What might have been the ways you could tell that adolescents understood what was happening around them within the context of the legal setting
 - You told me earlier that you encountered adolescents who were experiencing distress,
- What step legal actors take to protect adolescents' dignity

GUIDING QUESTIONS

- Reflective questions to make sure I understand what the legal actor has said to me.

NB:

Both Key Informant Groups will be given an opportunity to reflect back on our interview, and to revise or elaborate on any answers they have given over the previous hour.

My clinical experience guides me in giving this opportunity. Some people welcome the prospect of reflecting back on the interaction and making sure I've understood our interaction.

Appendix J - The United Nations Convention on the Rights of the Child (extracted)

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 12 provides that:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 39 provides that:

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40 provides that:

1. States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognised as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence

Appendix K - International Covenant on Civil and Political Rights (extracted)

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Appendix L - Data Management

Table L1: Example of a Codelist – Codes compared by number of coding references – ACCOUNTS RELATING TO DIGNITY (Level 1 Theme)

JUST DIGNITY – DSW THESIS (L.R.STEVENSON)

Codes compared by number of coding references – ACCOUNTS RELATING TO DIGNITY (Level 1 Theme)

Codes	Number of coding references	Aggregate number of coding references	Number of items coded	Aggregate number of items coded
Codes\ACCOUNTS RELATING TO DIGNITY	26	344	10	20
Codes\ACCOUNTS RELATING TO DIGNITY\Vulnerable discourse	40	318	15	20
Codes\ACCOUNTS RELATING TO DIGNITY\Vulnerable discourse\Accounts of LA's discursive practices that construct and produce adolescents	28	28	16	16
Codes\ACCOUNTS RELATING TO DIGNITY\Vulnerable discourse\Accounts of LA's recognition etc of mental distress	104	104	20	20
Codes\ACCOUNTS RELATING TO DIGNITY\Vulnerable discourse\LA's perceptions of their responses to adolescents' responses to indignity	35	146	11	19
Codes\ACCOUNTS RELATING TO DIGNITY\Vulnerable discourse\LA's perceptions of their responses to adolescents' responses to indignity\Accounts of practices perceived as UN-dignified	111	111	15	15

Examples of percentage codings

Figure L1: Percentage codings for Axel (emerging adult)

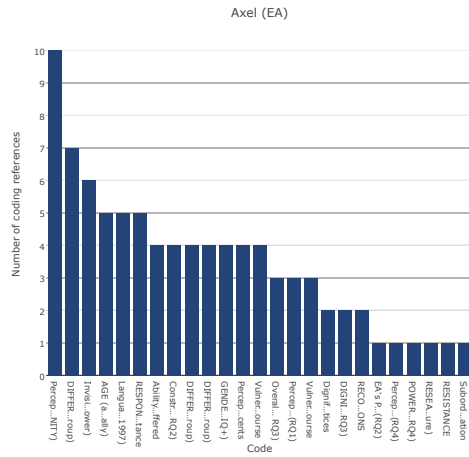


Figure L2: Percentage codings for Edwina (emerging adult)

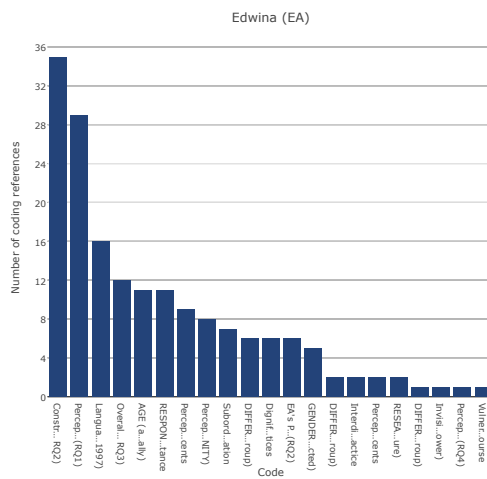


Figure L3: Percentage codings for Cassius (legal actor)

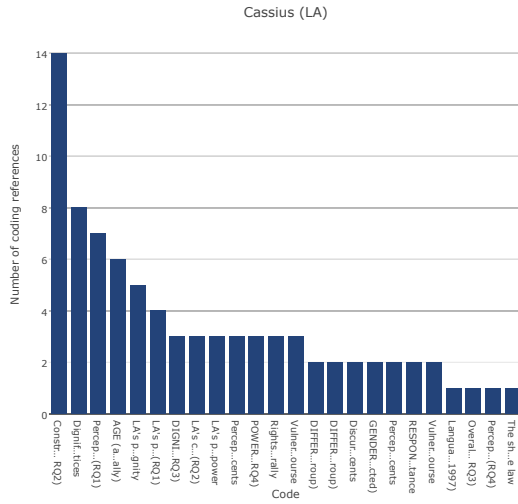
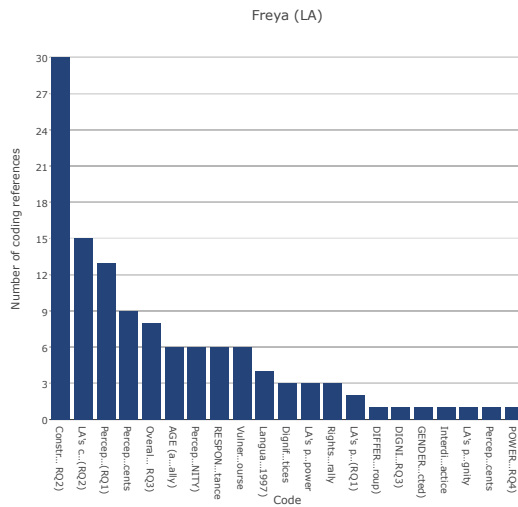


Figure L4: Percentage codings for Freya (legal actor)



Examples of explorations diagrams

Figure L5: Exploration of all file codings for development of Primary Theme 2

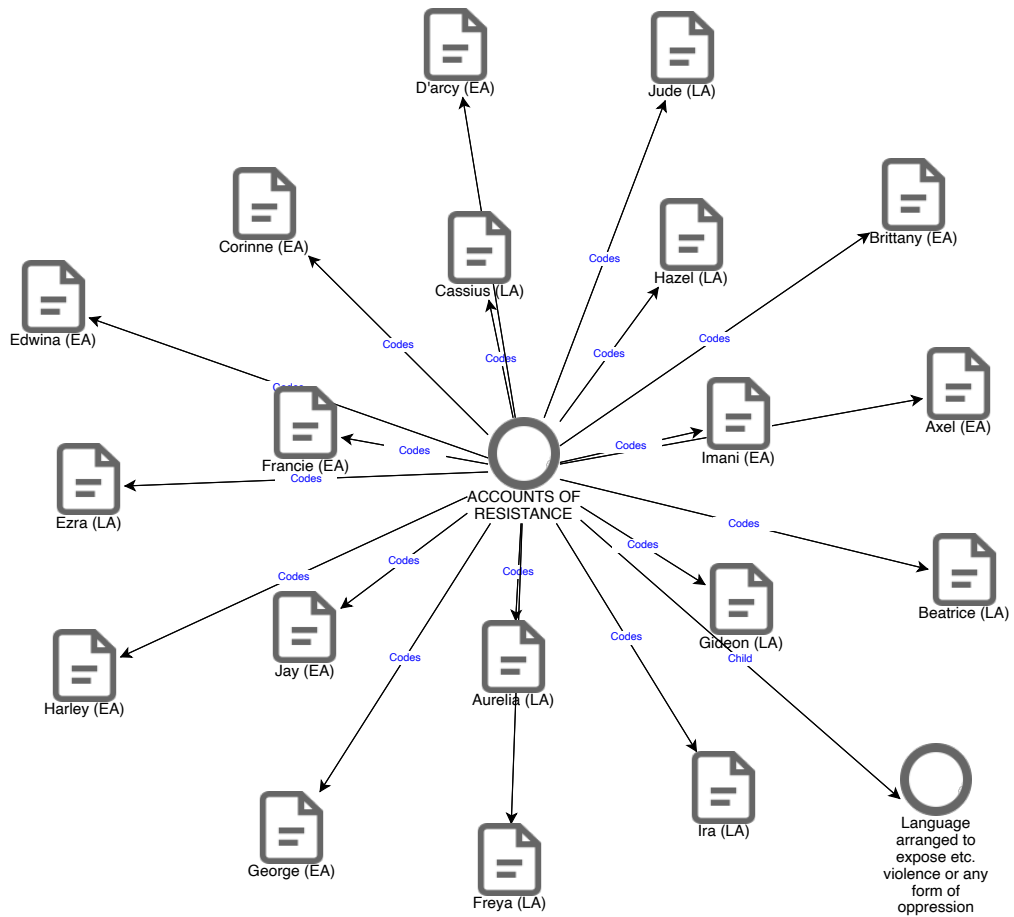


Figure L6: Word tree exploration for theme development process – practice

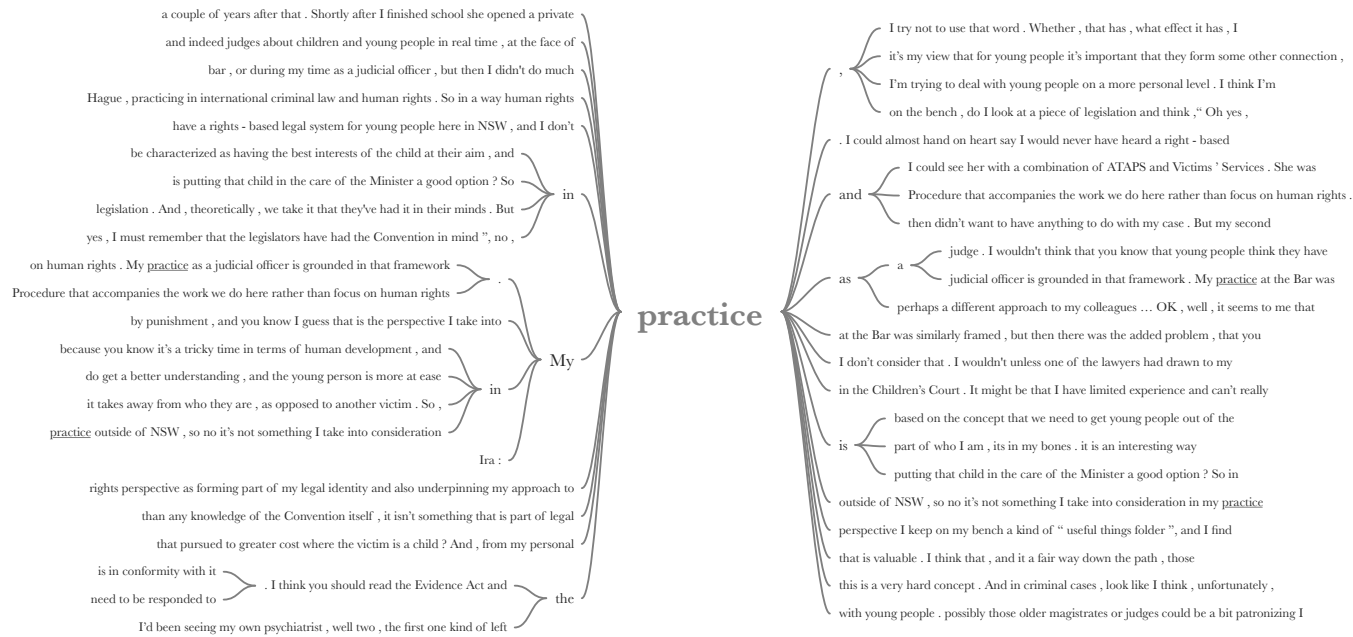


Figure L7: Word tree exploration for theme development process – power

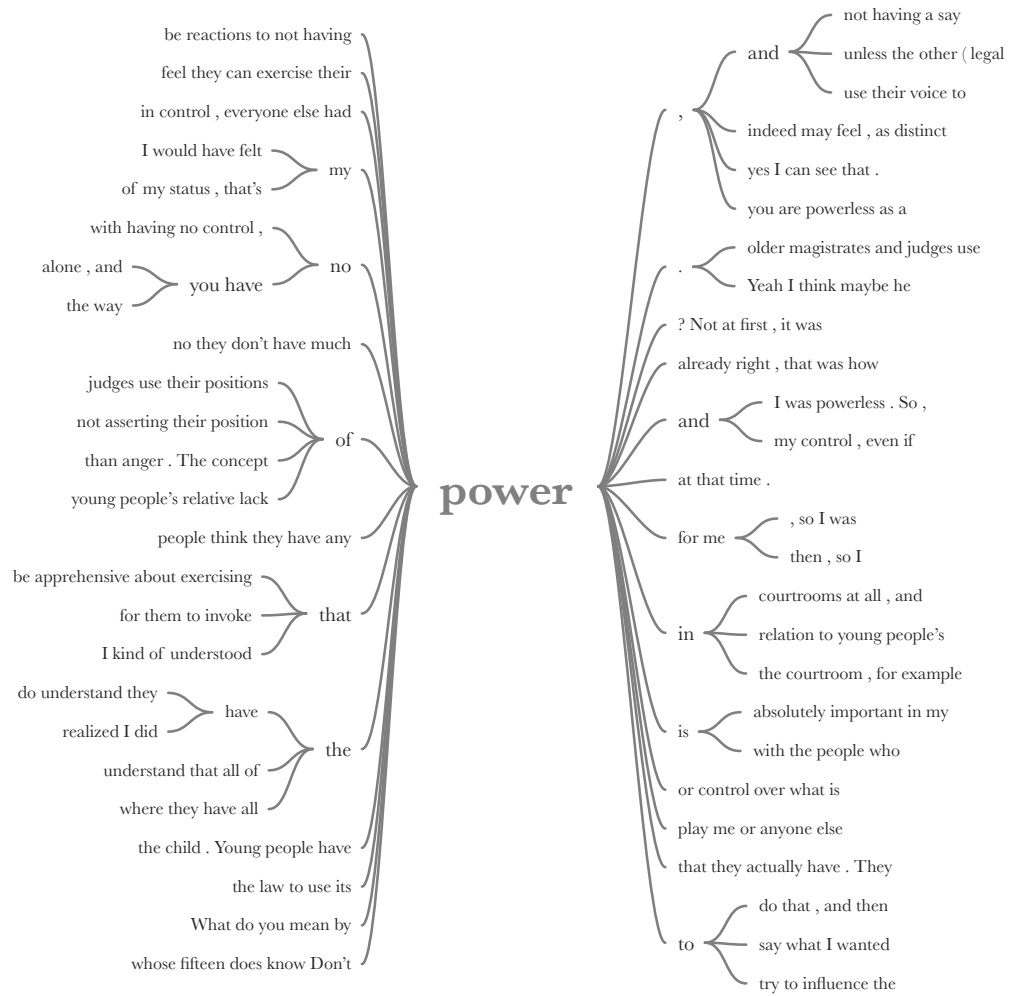
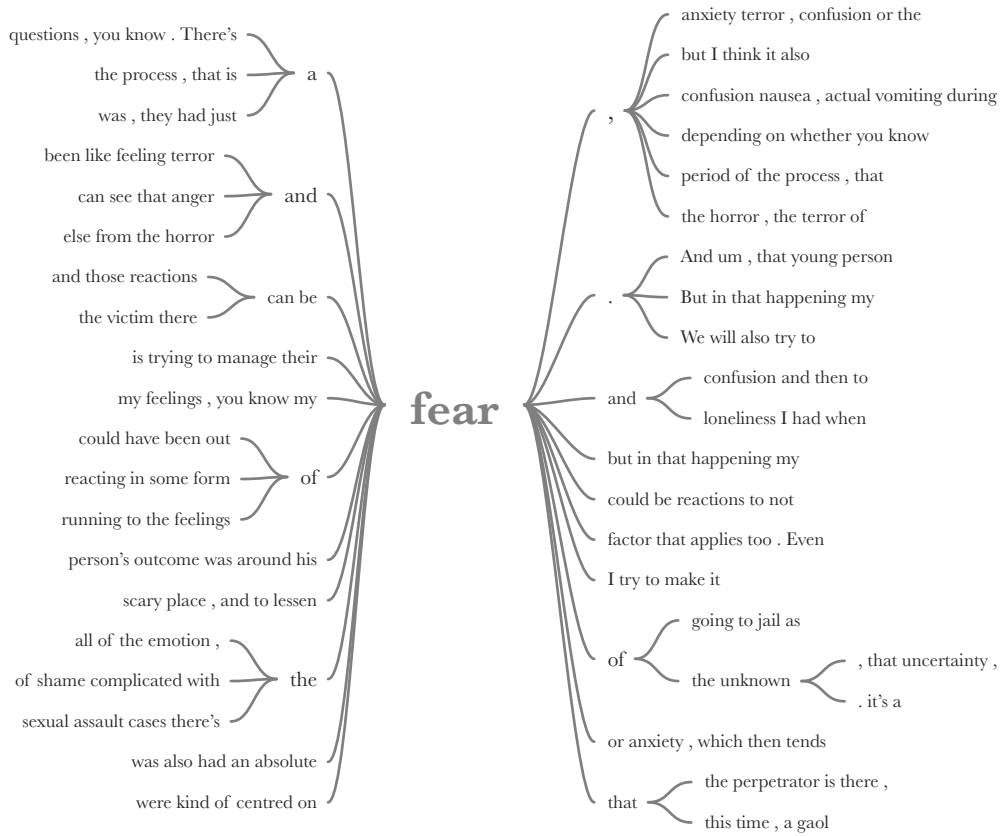


Figure L8: Word tree exploration for theme development process – fear

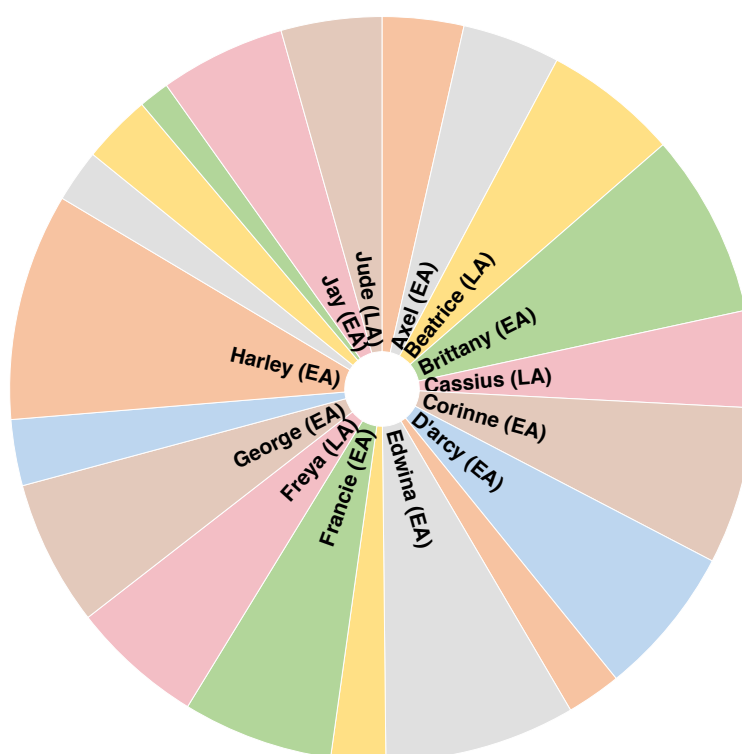


Appendix M – Findings chapter development

Introduction to appendix

This appendix presents an example of the way the data chapters were developed. The appendix contains diagrams, charts and tables relating to 'AGE' to demonstrate how this Level 4 code became a key theme in Chapter 4. While early analysis was conducted using NVivo12 software, the diagrams etc. contained in this Appendix were produced from NVivo (Version 1.6.1)

Figure M1: Files compared by number of codes for AGE (all participants)



Examples of word tree exploration diagrams for key findings refinements for AGE: includes word tree explorations of possible associated words e.g., ageism, ageist, patronizing

Figure M2: Word tree exploration – age

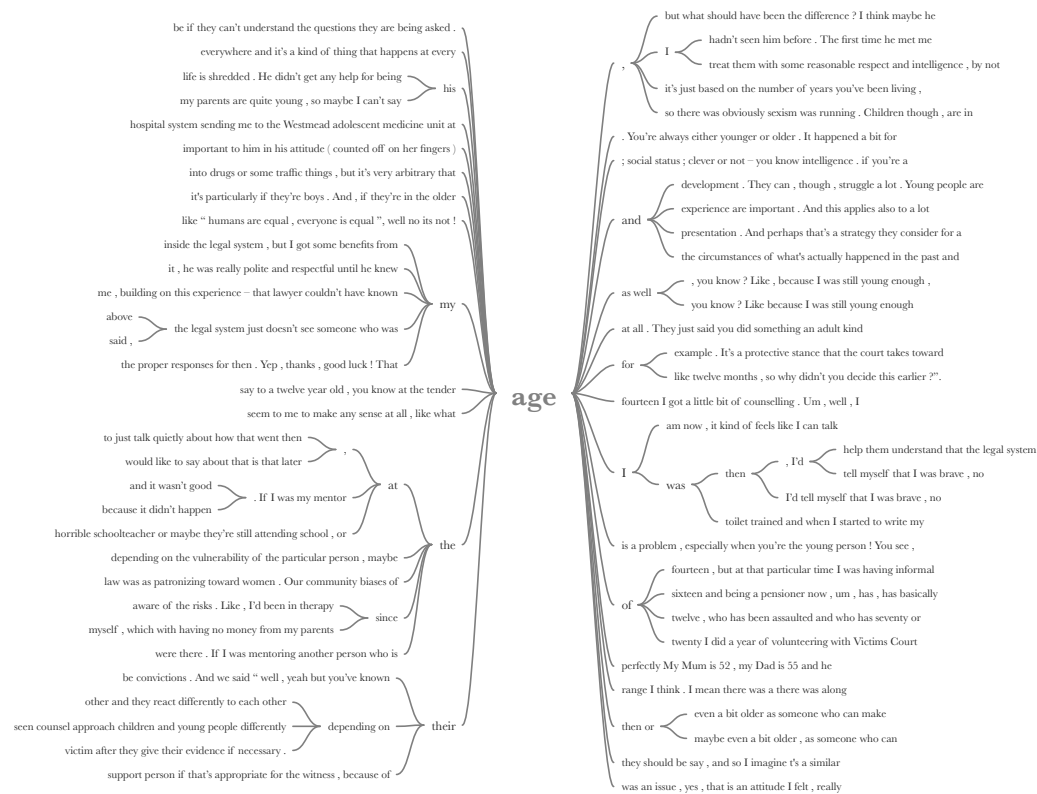


Figure M3: Word tree exploration – ageism

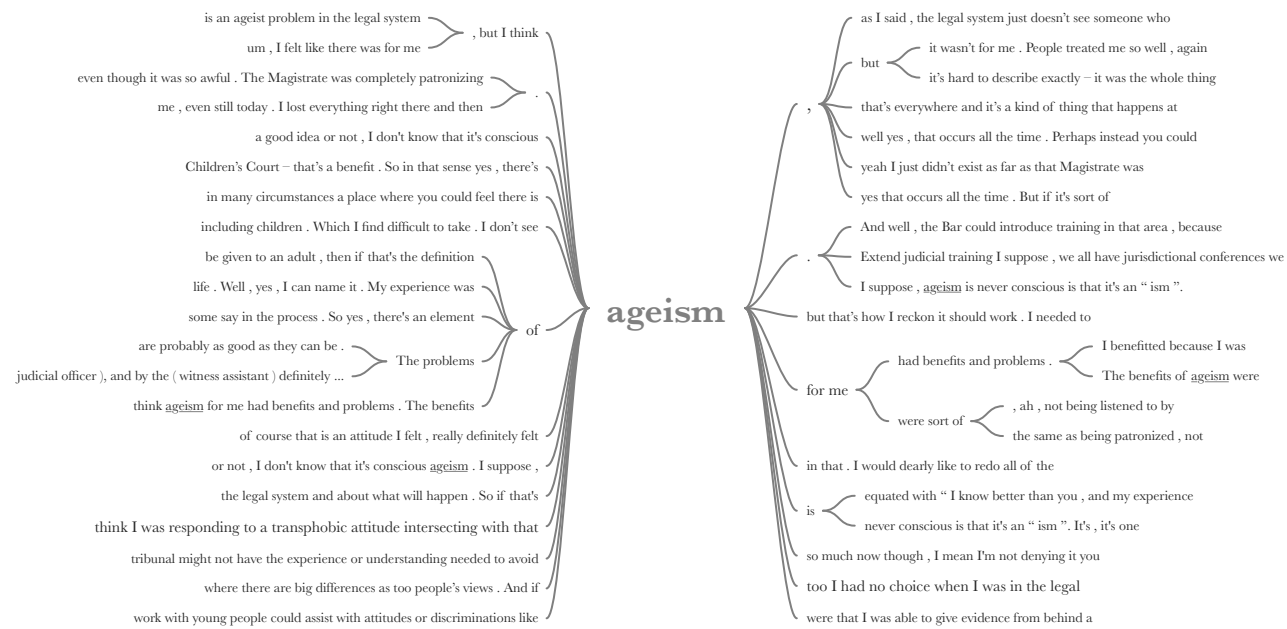


Figure M4: Word tree exploration – ageist

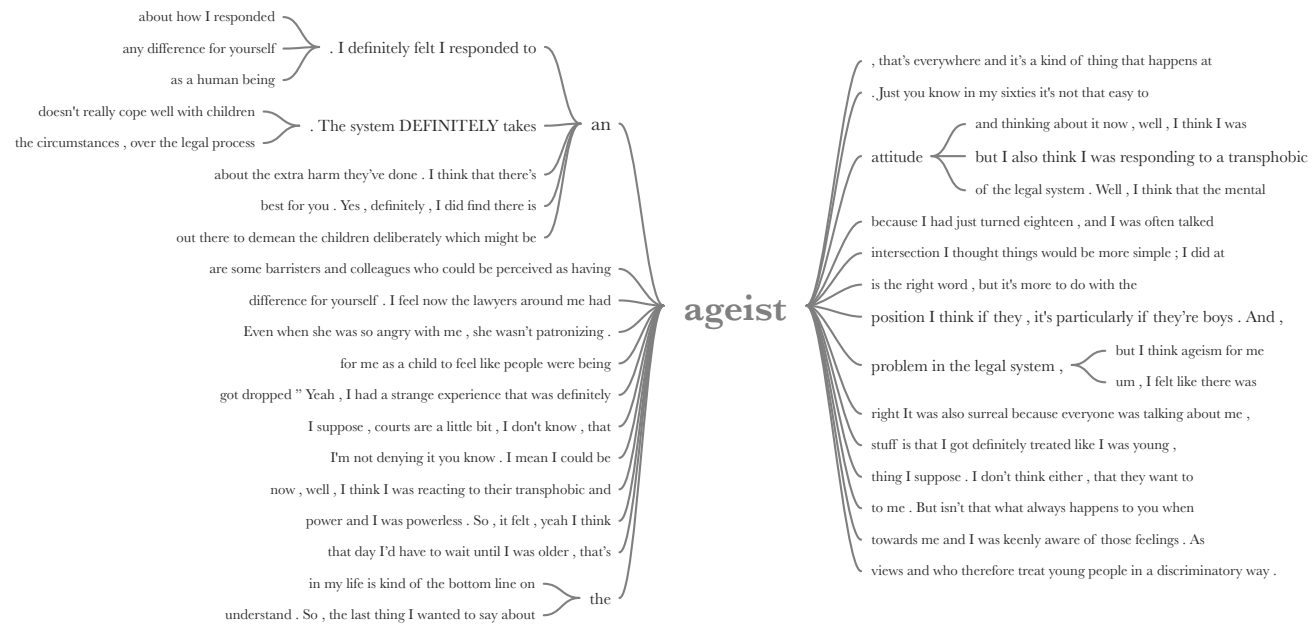


Figure M5: Word tree exploration – patronizing



Example of process for obtaining quotes that best exemplify key finding ‘age’ for utilisation in Findings chapter

Table M1: Extract of initial and final refining queries for Francie’s data only

<p>Example of how quotes were obtained from the data for utilisation in data chapters:</p> <p>Extract from initial refining query, using NVivo (Version 1.6.1) coding query function, for “AGE” to locate quotes for utilisation in data chapters</p> <ul style="list-style-type: none"> • The initial coding query focussed on Levels 2, 3 and 4 Codes • The extract from the initial coding query was 44 pages in length and contained all Participants’ references. • Below is an extract containing only Francie’s references <p><u>Files\Francie (EA) - § 22 references coded [28.40% Coverage]</u></p> <p><u>Reference 1 - 1.33% Coverage</u> the police needed to get evidence from me and they needed me to be very accurate. That was hard because they wanted me to try to pin things down dates and times. The best I could do was try to talk about birthdays or other important events and also about things that happened over again</p> <p><u>Reference 2 - 0.49% Coverage</u> I didn’t feel comfortable around the police, but I didn’t feel scared either, or even uncomfortable.</p> <p><u>Reference 3 - 1.21% Coverage</u> I liked them all I suppose, but in a formal way. They didn’t really make me feel better about what had happened even when they said things like “you’ve been brave to come forward and tell us what happened to you”. Um, it just kind of sounded a bit robotic maybe</p> <p><u>Reference 4 - 1.21% Coverage</u> My DOCS Caseworker seemed more genuine, but a bit tired. Thinking about it now, especially because you know at Uni you have to consider systems, maybe it was that she was under-resourced and had a heavy caseload. I think she tried her best to manage the case.</p> <p><u>Reference 5 - 0.27% Coverage</u></p>	<p>barrister was really unpleasant and sort of nasty to me.</p> <p><u>Reference 6 - 1.33% Coverage</u> It felt like he attacked me, and in a way, it was like he was continuing the hurt. I know he had a job to do, and I had been told that he would ask me questions about lying, but he seemed to do it without thinking that my life had already been really bad and he was just making it so much worse.</p> <p><u>Reference 7 - 0.79% Coverage</u> So that makes you feel as powerless as you felt when you were abused. Sometimes I just felt really angry too, and sometimes I felt pretty helpless because you are alone.</p> <p><u>Reference 8 - 0.09% Coverage</u> continue the hurt</p> <p><u>Reference 9 - 0.76% Coverage</u> Or maybe they do but they just don’t care that they are hurting people. Maybe they’re saying to themselves “this is my job, someone’s paying me to just do my job”.</p> <p><u>Reference 10 - 0.59% Coverage</u> some of the court people. I think understood how distressed I was and that I was more than a bit upset at having to give evidence</p> <p><u>Reference 11 - 0.51% Coverage</u> I’d already had to describe what Dad did to me so many times before and now that barrister was asking me again.</p> <p><u>Reference 12 - 1.61% Coverage</u> Maybe legal people don’t understand this, but every time you have to say what happened you kind of have to go there, be there, experience all the things that happened to you. So, when he was asking me again, but then trying to make me sound like it didn’t happen, well, actually, that didn’t upset me it was extremely distressing because I know</p> <p><u>Reference 13 - 4.25% Coverage</u> But being in a different room made it better, and also the judge intervened a lot more in the second trial. I think that could be because the senior prosecutor barrister objected much more quickly. She was really protective of me in that way, so I think the judge kind of followed her. She had also made sure that I understood that she would need to ask me certain questions but that she was going to try to make sure that I was going to be OK. She told me before the trial started that she would keep looking to see if I needed to stop or take an early break, and she took me to the room I’d be in and she showed me all of the equipment and how it worked. It felt good that the senior barrister was taking time to make sure I knew about how the different CCTV room would work, and what she would do for me. It seemed to me that she was doing things that aren’t her job, but that she wanted me to feel like she kind of “had my back”.</p> <p><u>Reference 14 - 0.94% Coverage</u></p>
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it was the same judge but he seemed to be more aware that there were times I was finding it hard, and so he asked me if I wanted to take breaks a lot of times. I did that. I think that he was more helpful for me.

Reference 15 - 0.58% Coverage

She interviewed us all to ask us what we wanted. She was nice to me, but she didn't seem to understand that I didn't want to see

Reference 16 - 1.97% Coverage

She asked questions about whether I wanted to see him and if I did see him if I would do that with other people there, stuff like that. She didn't seem to understand that when I said no, I really meant no. In the end we just said we wouldn't see him and we haven't. I think that I was old enough to say no I'm not going to see him, and I think that its OK to be able to do that, I think I should be respected when I say that's what I want.

Reference 17 - 0.10% Coverage

I did feel patronised

Reference 18 - 0.94% Coverage

And, the Family Court lawyer, because she said her job was to understand things that were in our best interests, but, when I said I didn't want to see Dad and so did my sisters, she didn't seem to listen.

Reference 19 - 0.79% Coverage

It just doesn't seem to be in our best interests when the person who is supposed to represent you doesn't take notice of what you say, but has an opinion about what's best for you.

Reference 20 - 3.29% Coverage

So, um, there were some benefits, and some things didn't work well for me. I did get (pause), extra support from the judge and the prosecutor, and well, yeah, I guess the solicitor some the DPP was helpful a lot of the time. And the police were great, they helped maybe the most. It wasn't perfect but I'm older now and I can see that no-one can always control everything that happens. I think the protections were probably as good as they could be. It was ... (pause), um it was ageist I think, and it was hard for me because it was sort of the same as being patronized, like when you try to say the things you want to say but, well the police do listen, but after that, the prosecutor barrister and the solicitor ... (pause), ah... (pause), I did try a lot to tell them what I wanted to say. It can be hard to describe, not being listened to by the people who you think are, that their job is to look after you.

Reference 21 - 2.01% Coverage

I'm saying that because all those legal people didn't seem to understand that I've had to deal with things that they probably can't really know, unless its actually happened to them. Like, maybe they think they do because they read about it, or they speak about it in court but I have had to live it, really live it right. So when you ask me something, then listen because I know what I'm saying and then treat me like a human being.

Reference 22 - 3.32% Coverage

I think that there's an ageist problem in the legal system, um, I felt like there was for me, but I think ageism for me had benefits and problems. I benefitted because I was able to give evidence from behind a screen and the second time using the CCTV, and, more or less, ah, I was supported at those two trials by the (legal actor) and the (judicial officer), and by the (witness assistant) definitely... The problems of ageism for me were sort of, ah, not being listened to by the person (legal actor) who's supposed to, like you know I told you about before? Should, look after your interests ... (pause) and that kind of attack-dog method (legal actor) used. I think that maybe he wouldn't do that to adults.

Extract from final refining query, using NVivo (Version 1.6.1) coding query function, for "AGE" to locate quotes for utilisation in data chapters

- Level 4 Code (Age) extract is shown below.
- This extract contains only Francie's references.
- This extract demonstrates the power of NVivo to locate the most intense and persuasive quotes (Bager-Charles & Kasap, 2017; Braun & Clarke, 2006) that exemplify the code "AGE" that emerged from the data.
- These examples of quotes from Francie's data are capable of being utilised in data chapters.

Files\ Francie (EA) - 5 4 references coded [9.42% Coverage]

Reference 1 - 0.79% Coverage

It just doesn't seem to be in our best interests when the person who is supposed to represent you doesn't take notice of what you say, but has an opinion about what's best for you.

Reference 2 - 3.29% Coverage

So, um, there were some benefits, and some things didn't work well for me. I did get (pause).

... final page extract Francie's data

extra support from the judge and the prosecutor, and well, yeah, I guess the solicitor some the DPP was helpful a lot of the time. And the police were great, they helped maybe the most. It wasn't perfect but I'm older now and I can see that no-one can always control everything that happens. I think the protections were probably as good as they could be. The problem was it was ageist I think, and the problems for me were sort of the same as being patronized, like when you try to say the things you want to say but, well the police do listen, but after that, the prosecutor barrister and the solicitor (pause), ah, I did try a lot to tell them what I wanted to say. It can be hard to describe, not being listened to by the people who you think are, that their job is to look after you.

Reference 3 - 2.01% Coverage

I'm saying that because all those legal people didn't seem to understand that I've had to deal with things that they probably can't really know, unless its actually happened to them. Like, maybe they think they do because they read about it, or they speak about it in court but I have had to live it, really live it right. So when you ask me something, then listen because I know what I'm saying and then treat me like a human being.

Reference 4 - 3.32% Coverage

I think that there's an ageist problem in the legal system, um, I felt like there was for me, but I think ageism for me had benefits and problems. I benefitted because I was able to give evidence from behind a screen and the second time using the CCTV, and, more or less, ah, I was supported at those two trials by the (legal actor) and the (judicial officer), and by the (witness assistant) definitely... The problems of ageism for me were sort of, ah, not being listened to by the person (legal actor) who's supposed to, like you know I told you about before? Should, look after your interests ...(pause) and that kind of attack-dog method (legal actor) used. I think that maybe he wouldn't do that to adults.

Coding comparisons by AGE and remaining Level 4 codes in DIFFERENCE

Figure M6: Coding comparison AGE x SEXUALITY

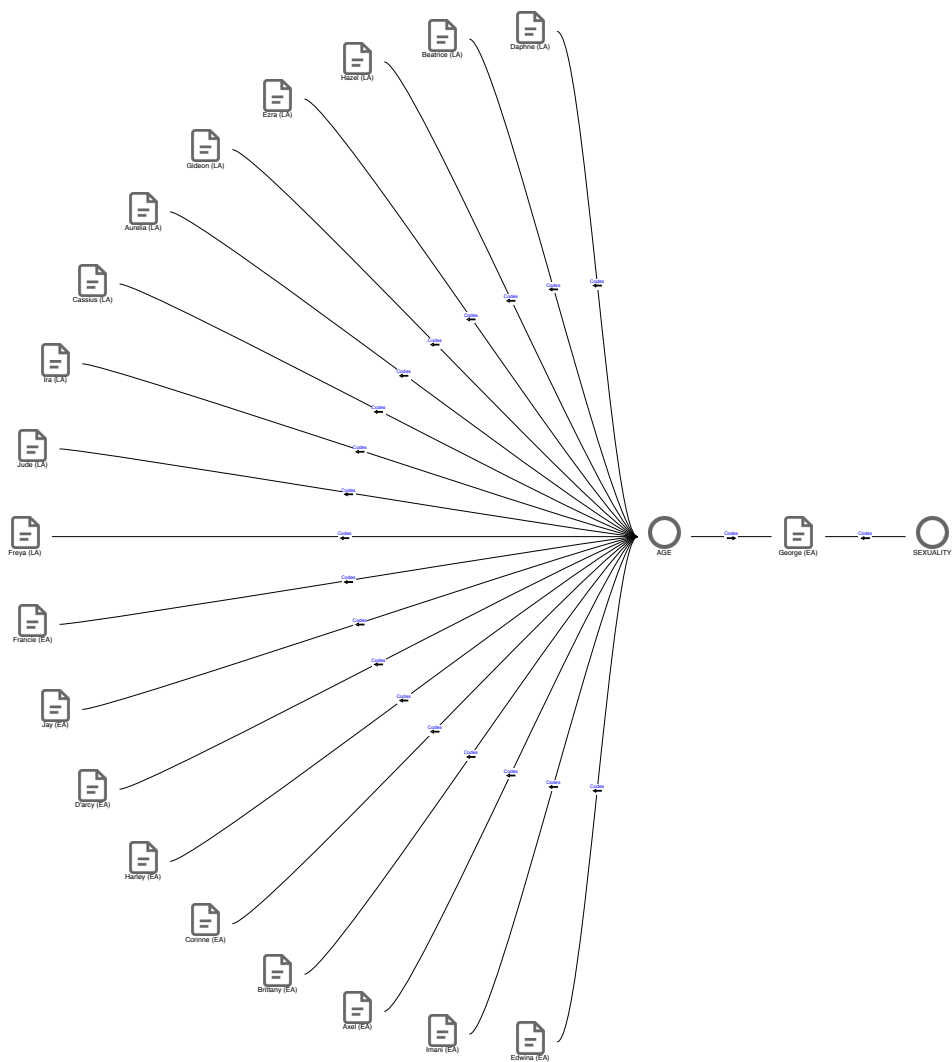


Figure M7: Coding comparison AGE x GENDER & SEX

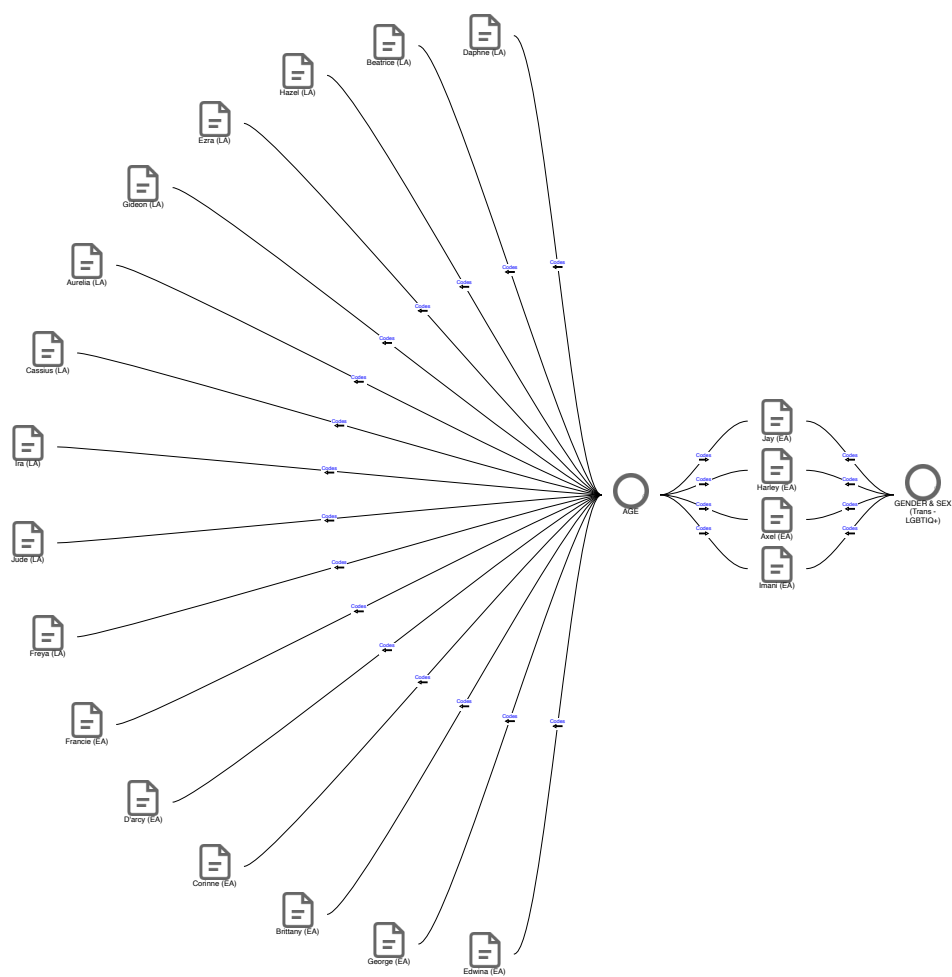
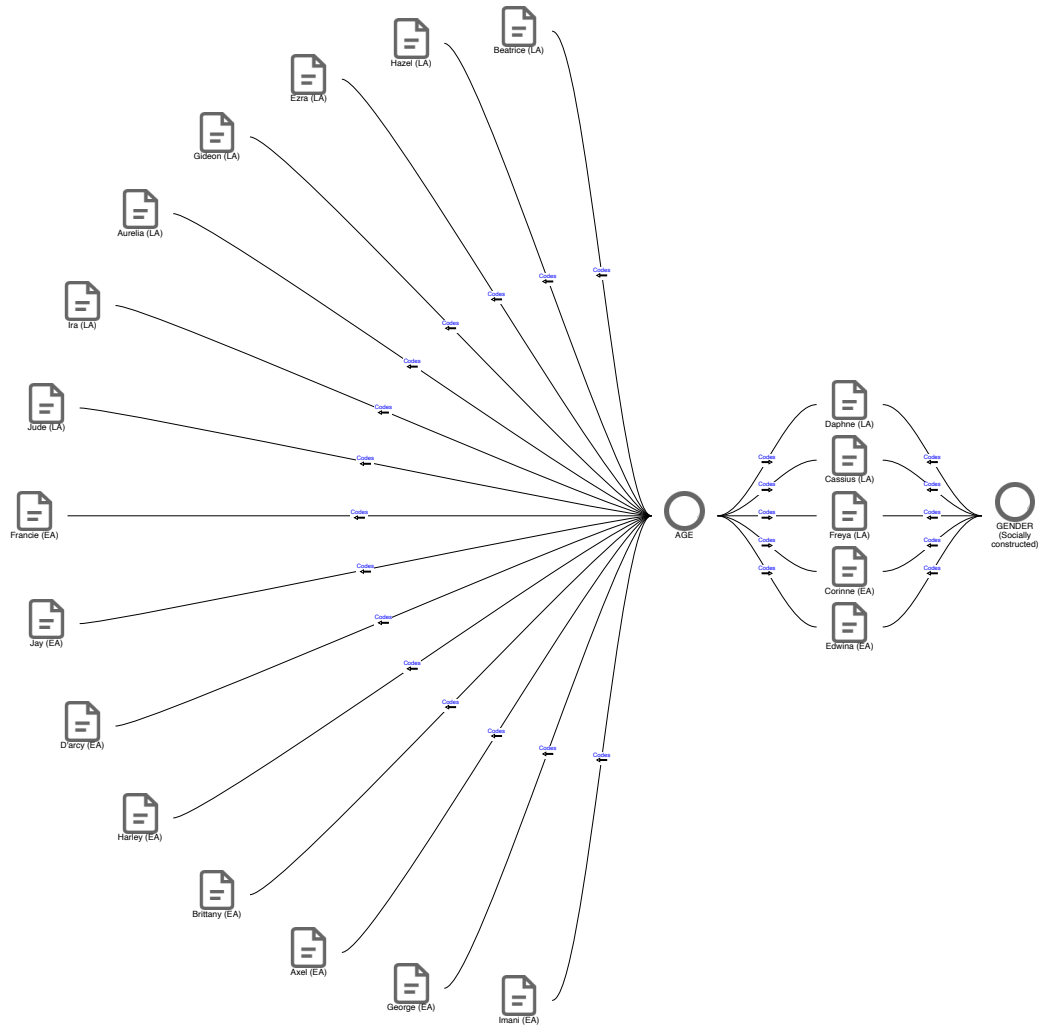


Figure M8: Coding comparison AGE x GENDER (SOCIALLY CONSTRUCTED)



Appendix N – Copy of research codebook from NVivo (Version 1.6.1)

JUST DIGNITY - DSW THESIS (L.R. STEVENSON)

Codes

Name	Description	Files	References
ACCOUNTS OF EXPERIENCES OF CONTACT WITH THE LAW	1st level primary theme Relates to • RQ1: how emerging adults perceive and make sense of their adolescent lived experiences of legal actors' practices during their earlier interactions in Australian legal settings • RQ2: how do emerging adults perceive legal actors construct adolescents as people Includes • Accounts of construction of adolescents as people	20	329
Accounts of LA's constructions of adolescents as people	2nd level theme Relates specifically to • RQ2: how do emerging adults perceive legal actors construct adolescents as people Focus on legal actors' perceptions of the ways in which they, themselves, construct adolescents who have contact with the law - TRIANGULATION DATA • Includes focus on legal actors' language • Includes focus on legal actors' acts	10	54
Accounts of LA's perceptions of adolescents' experiences of the legal system	2nd level theme Relates specifically to • RQ1: how emerging adults perceive and make sense of their adolescent lived experiences of legal actors' practices during their earlier interactions in Australian legal settings Focus on legal actors' perceptions of how adolescents experience the legal system, including legal actors - TRIANGULATION DATA • Includes focus on legal actors' language • Includes focus on legal actors' acts	8	29
Accounts of LA's practices	2nd level theme Relates to • RQ1: how emerging adults perceive and make sense of their adolescent lived experiences of legal actors' practices during their earlier interactions in Australian legal settings Focus on all participants accounts of practice that couldn't be specifically coded – more general references, however useful as TRIANGULATION DATA	19	195
DIFFERENCE (to dominant group)	3rd level gathering code • Initial focus on collecting general DIFFERENCE data • Final capacity as gathering TRIANGULATING DATA – both groups' codes gathered here	12	24
AGE	4th level gathering code specific to OPPRESSIVE/DISCRIMINATORY practices Relates to • Accounts of difference relating to age • Accounts of ageism/ageist/adultist	20	125

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Name	Description	Files	References
	practices • Includes focus on legal actors' language • Includes focus on legal actors' acts		
GENDER & SEX (Trans - LGBTQ+)	4th level gathering code specific to OPPRESSIVE/DISCRIMINATORY practices Relates to • Accounts of difference relating to aspects of identity relating to gender and sex • Accounts of practices that highlight discrimination/oppression • Includes a focus on specific jurisdiction relating to aspects of identity relating to gender and sex • Includes some accounts of contact with the law in other jurisdictions - TRIANGULATION DATA • Includes focus on language • Includes focus on acts	4	52
GENDER (Socially constructed)	4th level gathering code specific to OPPRESSIVE/DISCRIMINATORY practices Relates to • Accounts of difference relating to socially constructed gender • Accounts of practices that highlight discrimination/oppression based on socially constructed gender • Includes focus on legal actors' language • Includes focus on legal actors' acts	5	11
SEXUALITY	4th level code specific to OPPRESSIVE/DISCRIMINATORY practices Relates to • Accounts of difference relating to sexuality (specific to accounts of same-sex relationships) • Accounts of practices that highlight discrimination/oppression based on sexuality • Includes focus on legal actors' language • Includes focus on legal actors' acts • Includes focus on specific practices	1	12
EA's Perceptions of LA's Constructions	2nd level theme Relates to • RQ2: how do emerging adults perceive legal actors construct adolescents as people • Includes accounts of emerging actors' perceptions of how they were constructed by legal actors	10	32
Accounts of LA's discursive practices that construct and produce adolescents	3rd level code - TRIANGULATION DATA – Legal actors' data Relates to • RQ1: how emerging adults perceive and make sense of their adolescent lived experiences of legal actors' practices during their earlier interactions in Australian legal settings • RQ2: how do emerging adults perceive legal actors construct adolescents as people Focus on legal actors' perceptions • Includes focus on legal actors' language • Includes focus on legal actors' acts	20	78
DIFFERENCE (to dominant group)	3rd level code Focus on emerging adults' understandings of adolescents' differences to adults when in earlier contact with the law • Includes how emerging adults understood they were made to feel different to adults • Includes focus on legal actors' language • Includes focus on legal actors' acts • Includes focus on legal actors' use of knowledge/lack of adolescents' knowledge	14	48

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Name	Description	Files	References
Subordination	4th level code • Focus on emerging adults' understandings of adolescents' position of "less than" vis-à-vis adults when in earlier contact with the law • Includes the ways emerging adults understood they were placed in a position of "less than" vis-à-vis adults • Includes focus on legal actors' language • Includes focus on legal actors' acts	13	37
ACCOUNTS OF RELATIONS OF POWER	1st level primary theme • Relates to RQ4: what steps do legal actors take toward equalising power with adolescents in legal settings • Includes data from all participants - TRIANGULATING DATA • Includes accounts of the ways participants reflect on the concept of power	19	125
Accounts of legal practices that move toward equalisation of power	2nd level theme • Relates to RQ4: what steps do legal actors take toward equalising power with adolescents in legal settings • Includes legal actors' accounts on their practices that supported adolescents' needs when in contact with the law • Includes emerging actors accounts of supportive practices • Includes any specific references to knowledge, knowledge sharing (positive) lack of knowledge sharing (negative)	10	34
LA's perceptions of the steps they take to equalise power	2nd level theme • Relates to RQ4: what steps do legal actors take toward equalising power with adolescents in legal settings • Includes legal actors' understandings of their institutional power • Includes ways in which legal actors perceive they use their institutional power to support adolescents	9	29
Vulnerable discourse	2nd level theme • Relates specifically to the legislative understanding of vulnerability (people under the age of 18 years considered to be vulnerable) • Includes focus on legal actors' language • Includes focus on legal actors' acts	11	21
DIFFERENCE (to dominant group)	3rd level code • Includes discursive construction of adolescents as vulnerable • Includes discursive construction of adolescents as different (in need) • Includes focus on legal actors' language • Includes focus on legal actors' acts	10	16
Invisibilisation (Lack of power)	4th level code • Includes emerging adults' accounts of specific practices that were perceived as non-inclusive of them when they were in contact with the law • Includes legal actors' accounts of specific practices they perceive as non-inclusive of adolescents when they were in contact with the law • Includes focus on legal actors' language • Includes focus on legal actors' acts	12	35
Discursive practices that construct and produce adolescents	3rd level code • This code was explicitly developed to catch an emergent theme around discursive practices in the Family Court which specifically denies youth voice – TRIANGULATION DATA from other jurisdictions caught here	4	5

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Name	Description	Files	References
Adolescent's voice	4th level code • Specific data relating to voice caught here • Includes focus on legal actors' language • Includes focus on legal actors' acts	10	32
ACCOUNTS OF RESISTANCE	1st level primary theme • Includes all acts/language that can be characterised as resistance • Includes using research as a contemporary act of resistance	19	145
Language arranged to expose etc. violence or any form of oppression	2nd level theme • Uses Wade's definition: language that is arranged to "expose, withstand, repel, stop, prevent, abstain from, strive against, impede, refuse to comply with, or oppose any form of violence or oppression" (Wade, 1997, p. 25). • Includes accounts of experiences of oppressive, discriminatory or institutionally violence acts, practices, language	18	141
RESPONSES - Young people's resistance	3rd level code • Includes accounts of responses that serve to retain or reassert the intrinsic dignity of individual youth in locations of oppression and violence • Includes broad definition of internal distress: logical and reasonable acts of resistance (Richardson & Wade, 2010; Wade, 1997). • Includes young people's narrative histories of "prudent, creative and determined resistance" (Wade, 1997, p. 23). • Includes accounts both groups - TRIANGULATING DATA	17	112
ACCOUNTS RELATING TO DIGNITY	1st level primary theme Relates to • RQ3: how do emerging adults perceive legal actors recognise, acknowledge, assess and respond to adolescents' experiences of mental distress? • Includes general accounts • TRIANGULATING DATA	16	66
Vulnerable discourse	2nd level theme Relates to • Discursive accounts of vulnerability • Includes focus on legal actors' language • Includes focus on legal actors' acts • Includes specific accounts of meaning-making relating to construction of adolescents as vulnerable	15	40
Accounts of LA's discursive practices that construct and produce adolescents	3rd level code • Includes data from all participants - TRIANGULATING DATA • Includes specific accounts of legal actors' practice when they are aware of adolescents' need for support • Includes emerging actors specific accounts of the ways legal actors positively responded to their experiences of mental distress • Includes specific focus on legal actors' language – possibility of dignity-awareness • Includes focus on legal actors' acts – possibility of dignity-awareness	16	28
Accounts of LA's recognition etc of mental distress	3rd level code Relates to • RQ3 • Includes data from all participants - TRIANGULATING DATA • Includes accounts of actions that are justified by a dominant group as customary, normalised practice and which are open to being perceived as threats to adolescents' dignity • Includes specific accounts of legal actors' meaning-	20	104

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Name	Description	Files	References
	making relating to how adolescents experience practice when distressed • Includes EA's accounts of the ways legal actors did/did not respond to their experiences of mental distress		
LA's perceptions of their responses to adolescents' responses to indignity	3rd level code Relates to • Includes specific accounts of legal actors' meaning-making relating to how adolescents experience legal practice • Includes focus on legal actors' language • Includes focus on legal actors' acts • Includes legal actors' understandings of their practices that involve attacks on dignity	11	35
Accounts of practices perceived as UN-dignified	4th level code • Relates to legal actors' responses to adolescents' responses to INDIGNITY • Includes data from all participants - TRIANGULATING DATA • Includes specific accounts of legal actors' practice when they are aware of practices that do not provide support to adolescents • Includes emerging actors specific accounts of the ways legal actors negatively responded to their experiences of mental distress	15	111
RECOMMENDATIONS	1st level primary theme • Overall theme for recommendations • Developed across the whole of the project • Includes all recommendations	17	129
Dignifying practices	2nd level theme • Data developed throughout collaborative sessions and also as responses to prompt question	17	100
Interdisciplinary Practice	2nd level theme • Data developed throughout collaborative sessions and also as responses to prompt question	11	27
RESEARCH (Future)	1st level primary theme • Data emerged without prompt	6	12
RIGHTS-BASED PRACTICE	1st level primary theme • Includes reflections on CRC within the Australian legal system • Includes reflections on Australian legal system • Includes reflections on lack of rights for youth	9	23
THE AUSTRALIAN LEGAL SYSTEM - SHAPE AND EXTENT	1st level primary theme • Includes reflections on where young people are in contact with the law	4	6

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Appendix O – Copy of file record

FILE RECORD – CODES AND REFERENCES

Type	Name	Codes	References
Document	Aurelia (LA)	31	287
Document	Axel (EA)	34	360
Document	Beatrice (LA)	36	440
Document	Brittany (EA)	32	575
Document	Cassius (LA)	36	337
Document	Corinne (EA)	32	534
Document	D'arcy (EA)	31	458
Document	Daphne (LA)	23	185
Document	Edwina (EA)	31	633
Document	Ezra (LA)	30	223
Document	Francie (EA)	31	485
Document	Freya (LA)	30	482
Document	George (EA)	24	486
Document	Gideon (LA)	30	216
Document	Harley (EA)	34	756
Document	Hazel (LA)	28	188
Document	Imani (EA)	28	245
Document	Ira (LA)	20	108
Document	Jay (EA)	32	421
Document	Jude (LA)	28	324