

## LEGAL STUDIES

### Crime: Difference between the criminal justice system's treatment of adults and juveniles (Past HSC Question)

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The criminal justice system exists to deal with offenders whilst also balancing individual's rights with community interests. Generally more severe crimes attract harsher penalties however this differs between juveniles and adults as juveniles are more likely to receive more lenient sentences. An imbalance is existent to some degree, between the CJS's treatment towards juveniles and adults however in most cases this imbalance is justifiable as youth are more likely to be rehabilitated and may lack knowledge of their rights and offences. This imbalance and difference in treatment is evident throughout the criminal justice system.

In the investigation stage, the CJS caters for juveniles more leniently and protecting than adults. When being interrogated by police or giving statements, juveniles are required to have an adult present and have a maximum time in custody of 2 hours compared to adults who have a maximum of 4 hours in interrogation. These rights, for juveniles ensure that young offenders aren't manipulated by police, that their statements aren't fabricated and that the offender's right to remain silent is recognised. Adults however do not pose the right to have another adult or carer present when being interrogated as the CJS considers adults to be of an age where they are informed of their rights and know well enough what types of behaviour are criminalised. This imbalanced treatment from the CJS is highly effective because it ensures that juveniles aren't exploited or taken advantage of, protecting their rights within the CJS.

During the investigation stage, young offenders also possess the right to be entitled to legal aid, compared to adults who must apply for legal aid, if financially dependent. This right for juveniles represents the CJS's differing treatment between juveniles and adults as theoretically, adults are more able to afford legal representation and adults are more knowledgeable about the CJS and their rights. The CJS also considers adults to be more financially responsible for their actions and offences. This imbalance although highly effective for juveniles, as it ensures a protection of their rights, it is overall only moderately effective for adults and society due to the limits of resource efficiency and inequality of access.

An imbalance of treatment towards adults and juveniles is also evident when charges are laid. In the CJS, more severe crimes deserve harsher penalties; however juveniles are more likely to be cautioned and given more lenient charges, compared with adults as it is generally believed that juveniles are more likely to be rehabilitated. The circumstances of a young offender are also taken more seriously as their education, childhood or social factors are more likely to be expressed strongly. Adults however are considered to have had more education, enough to be aware of the types of behaviour criminalised. The CJS also regards adults as having more responsibility for their actions, having a stronger mens rea, than perhaps juveniles who are more subject to social pressures (eg: differential association theory). Overall the imbalance which exists at this stage once again in favour of young offenders is moderately effective as young offenders are treated more leniently, provided with a chance to be rehabilitated however it is arguable that many may view this as an opportunity for further offence, failing to act as a specific deterrent, maintain recidivism rates.

During the trial stage, treatment towards juveniles and adults differs in an attempt to achieve justice. Juveniles are tried at a children's court where proceedings are generally less formal, appearing less intimidating. It is a closed court where CCTV and other resources are available to accommodate children and youth. Closed courts protect the individual rights of juveniles as their identities and details are suppressed and protected from the public. Their names aren't revealed and pictures restricted, compared to adults who attend regular court hearings, often open to the public and subject to media releases. This difference in treatment, in favour of young offenders exists to ensure juveniles have a better chance at rehabilitation, due to the absence of public humiliation and have a

better chance at entering adult hood. Adults however who are regarded as old enough to be accountable and responsible for their actions face a public arena, to ensure justice is seen to be done, act as a general deterrent and through the court's transparency, and ensure that corruption doesn't occur. This imbalance, although highly effective for children may be considered ineffective for adults as some may wish to remain anonymous, only being moderately effective.

During the sentencing process, a difference in treatment between juveniles and adults also exists. The young offenders act 1977 offers guidelines for alternative sentences for youth, compared to adults who only have the option of alternative sentences with a judge's discretion. Juveniles in the CJS are sent to juvenile detention centres as opposed to jails or correction centres for adults. Theoretically, this imbalance provides fairness and equality as it tailors to young offenders needs such as education, however not only are juvenile detention centres highly resource inefficient, costing approximately \$1bill per year and housing 10,200 per year (\*kids doing time) , it does little to reduce recidivism rates compared to rehabilitation programs for young offenders such as Mission Australia. These underfunded rehab programs provide better outcomes with a 65% success rate, compared to detention centres, which have been used as a 'political trick' (Max Taylor). Overall this difference, existent to provide justice for juveniles is highly ineffective, failing to rehabilitate young offenders.

During the sentencing the processes, the gap between the treatment of adults and juveniles has decreased with amendments to the Bail Act. New amendments to the act have meant that juveniles too, along with more severe adult offenders are more likely to be held in custody, although over 50% of juveniles receive a non- custodial sentence. This amendment highlights an example where treatment between adults and juveniles is incompetent and ineffective, as society's desires to be 'safe' override individual's rights, for both adults and juveniles. These Bail acts are proved ineffective in many circumstances, creating a prison population of 10,200. It has also been found that 60% reoffend within a year and 13.5% of juveniles have an IQ of less than 70, illustrating the need for more effective treatment and rehabilitation other than prison sentences. Therefore in terms of bail, the CJS doesn't offer much difference in treatment between adults and juveniles resulting in injustice in most cases.

Overall, in most stages of the CJS, there exists an imbalance and difference in treatment towards adults and juveniles, favouring youth, however this is justifiable and usually highly effective.