

## Assess the effectiveness of the criminal justice system when dealing with young offenders **\*\*REWRITE\*\***

The criminal justice system effectively deals with young offenders under the law. The law defines a young person as an individual under the age of 18. The Australian criminal justice system has employed unique strategies, to protect the rights and wellbeing of young offenders, as well as society's needs and interests. Relevant implementation includes the Children's court and Youth Justice Conferencing. Furthermore, the legal system acknowledges juvenile maturity and vulnerability through its application of the *doli-incapax* principle. The criminal justice system also takes into account the factors influencing juvenile crime and hence, have implemented numerous social and situational preventative strategies, to reduce the risk of young people becoming involved in criminal activity. Although there are apparent contentions within areas such as the age of criminal responsibility and rates of recidivism of juveniles who are processed through courts or Youth Justice Conferencing; fundamentally, the criminal justice system is mostly effective in dealing with young offenders.

The age of criminal responsibility in Australia has been a contentious issue due to its ineffectiveness to reflect the moral and ethical standards of wider society. The Children's (Criminal Proceedings) Act 1987 states that children under the age of 10 cannot be legally responsible for a crime. This absence of legal responsibility for children is termed *doli-incapax*, and is based on the recognition that since children have limited life experience, they may not be able to understand the seriousness of their actions to have the necessary criminal intent to form *mens rea*. However, for children aged 10-13, this presumption of innocence is rebuttable, as seen in the case of James Bulger (UK) and R v SLD (2002) whereby *doli-incapax* was found inapplicable and justice was thereby upheld for the victim. Contrastingly, *doli-incapax* can also protect the child by diverting them from incarceration and thereby improving their future prospects of rehabilitation and community contribution, evident in R v LMW (1999). However, the Australian system has been largely criticised by the international community such as the UN Committee for CROC for failing to uphold the average international age of 13, and thereby representing an inaccurate reflection of society's moral and ethical standards. Inferring, that The Australian Criminal justice system, is ineffective in its lack of consideration for the vulnerability of juveniles within the ages of 10-13 years old, hence, justice for some offenders. Therefore although *doli-incapax* effectively offers protections for both victims and young offenders, it is an inaccurate reflection of social and international values.

The children's court has provided an effective method to deal with young offenders as it provides a less intimidating procedure that is focused on rehabilitation. Established by the Children's Court Act 1987(NSW) it's presided over by a specially trained magistrate, and abides by strict requirements in the Children's (Criminal Proceedings) Act 1987(NSW) so as to protect the child and assist their rehabilitation. Special proceedings include a closed court and names being suppressed so that the privacy of the child is protected in an attempt to act in a situationally preventative manner. Furthermore, in accordance with Article 12 of CROC 1989, the best interests of the child are held paramount in all decisions and formalities are minimised so that children can understand complex concepts and participate in the acquisition of justice. However, its effectiveness was found to be limited, as a 2012 BOCSAR report found young offenders presented to the Children's court had a 65% recidivism rate. In spite of this, adults presented to conventional courts were found to have a comparatively higher recidivism rate of 75%. Thus, although there is room for improvement, the Children's Court has been ultimately effective in achieving justice for young offenders through its focus on rehabilitation and increased measures of protection.

Further, Youth Justice Conferencing (YJCs) are effective in achieving justice as a more victim-focused method, ultimately balancing the rights of the victim, offender and society. YJCs were established under the Young Offenders Act 1997 (NSW), as a voluntary conference between the offender, victim and support persons, who resolve to collectively deal with the aftermath of the offence. They thus reflect the rights of the victim, seen as there is a high victim satisfaction rate, where 88% of victims said they would recommend YJC to other victims. Additionally, it has high public support, where 87% of people agreed the victim should have a chance to talk to the offender about how the crime affected their life – affirming the rights of society. An example of the effective use of Youth Justice Conferences is referenced in the [SMH article 'Racist attack on bus: offender's Youth Justice Conference' \(2014\)](#), in which drunk teenagers who yelled anti-Semitic insults, agreed to visit the Sydney Jewish museum, and to partake in a school harmony project run by the NSW Jewish Board of Deputies. This is effective as a means of achieving justice as it is resource efficient, saving time and money –, further reflecting the rights of the community. However, the effectiveness of YJC substantially depends upon the discretionary sincerity of the victim and offender partaking in the process. However, YJCs only account for 5% of all youth offenders, and 50-60% are referred by the Children's Court- mitigating the use of YCJ's as an alternative to court. Further, YJCs do not necessarily reduce recidivism, as 64% of people referred to a YJC were reconvicted of further offenses within 24 months. Despite this, YJCs are ultimately effective in achieving justice, in maintaining the rights of the victim, offender and society.

Conclusively, the Criminal Justice System has proven to possess effective approaches towards dealing with young offenders. Evidentially, the legal system applies specifically orchestrated mechanisms, legislation and services, to the cases of young offenders, which enable the acknowledgement of the vulnerability and immaturity of a young person, thus providing methods focused on rehabilitation and protection. As well as these mechanisms effectively maintaining the rights of victims, offenders and society. Mechanisms that allow this include doli-incapax, the children's court and youth justice conferencing. However, such mechanisms also possess limitations, such, as an inability to reflect societal and international values within doli-incapax and not effectively reducing the rate of recidivism within youth justice conferencing. Ultimately, however, the processes and procedures within the criminal justice system are mostly effective in the treatment of juvenile offenders.