

A YOUTH SOLICITOR'S GUIDE TO

WORKING WITH YOUNG PEOPLE

ACKNOWLEDGMENT OF COUNTRY

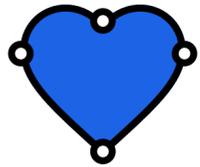
In the spirit of reconciliation, Uniting Communities acknowledges the Traditional Custodians of Country throughout Australia and their enduring connection to land, sea, and community. We pay our respects to Elders past and present, and extend that respect to all Aboriginal and Torres Strait Islander peoples today.



HOUSEKEEPING

Q&A

Please feel free to ask questions, I would love this session to be as interactive as possible.



Feedback is always appreciated.

Contents

01 - INTRODUCTION

02 - YOUTH CRIME WAVE

03 - BEST PRACTICE

04 - YOUTH COURT

05 - DIVERSIONS

06 - DOLI INCAPAX

01 INTRODUCTION



LINK TO
PROGRAM
HERE

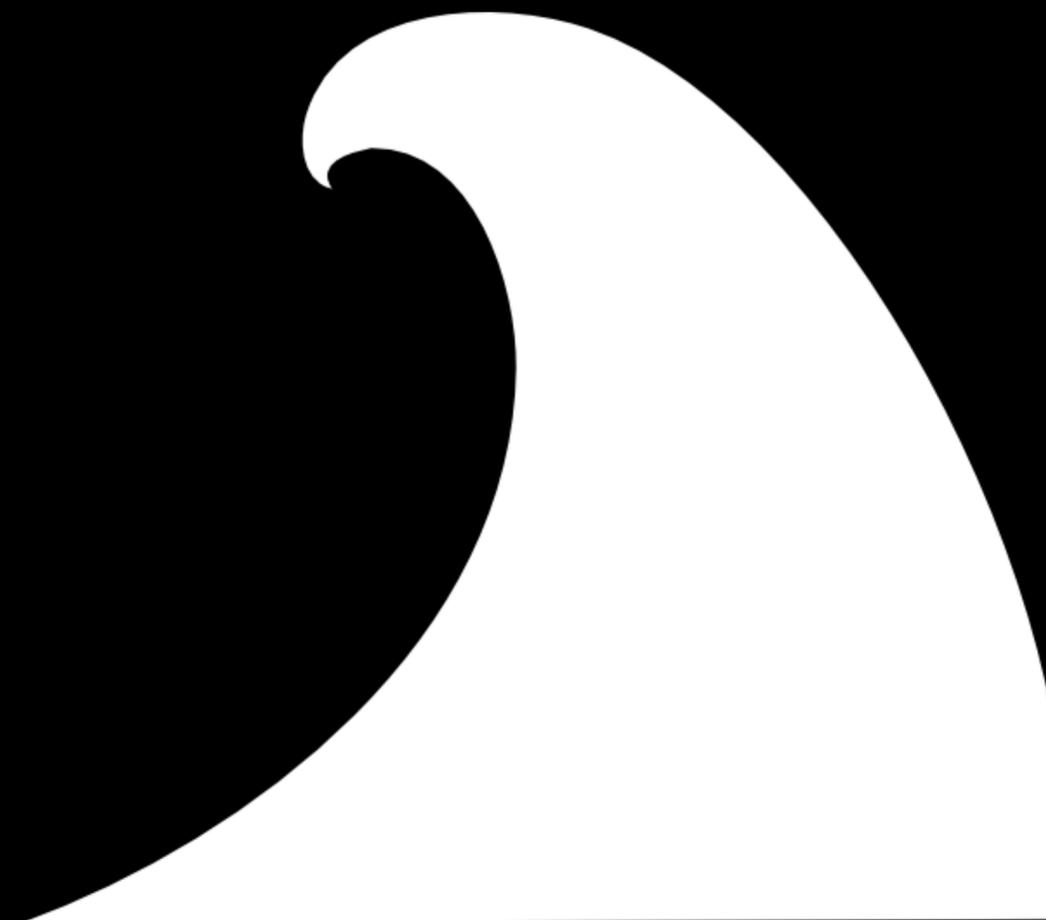
**Who is this guy
& why should
we listen?**

Definitions

Youth: under 18

Child: under 14

02 YOUTH CRIME WAVE



OR IS IT MORE OF A RIPPLE?

Children began to be the tyrants, not the slaves, of their households.

They no longer rose from their seats when an elder entered the room; they contradicted their parents, chattered before company, gobbled up the dainties at table, and committed various offences against Hellenic tastes, such as crossing their legs.

"SCHOOLS OF HELLAS: AN ESSAY ON THE PRACTICE AND THEORY OF ANCIENT GREEK EDUCATION FROM 600 TO 300 BC", KENNETH JOHN FREEMAN



Adelaide hit by youth crime spree as government mulls raising age of criminal responsibility



By 9News Staff | 9:19pm Sep 4, 2024



If these kids can steal and drive a vehicle and run from police they are old enough to know what they are doing is wrong and against the law I think it's time teenagers be charged the same as a adult with jail sentences that's the only way to stop it

1y Like Reply

What did they expect? They don't invest in them and they go soft on them! Without consequences there's no deterrent! This is basic psychology!

1y Like Reply

We must have a proper justice system!!
Enough is enough!!
If I had a power I would stop this crime immediately

1y Like Reply

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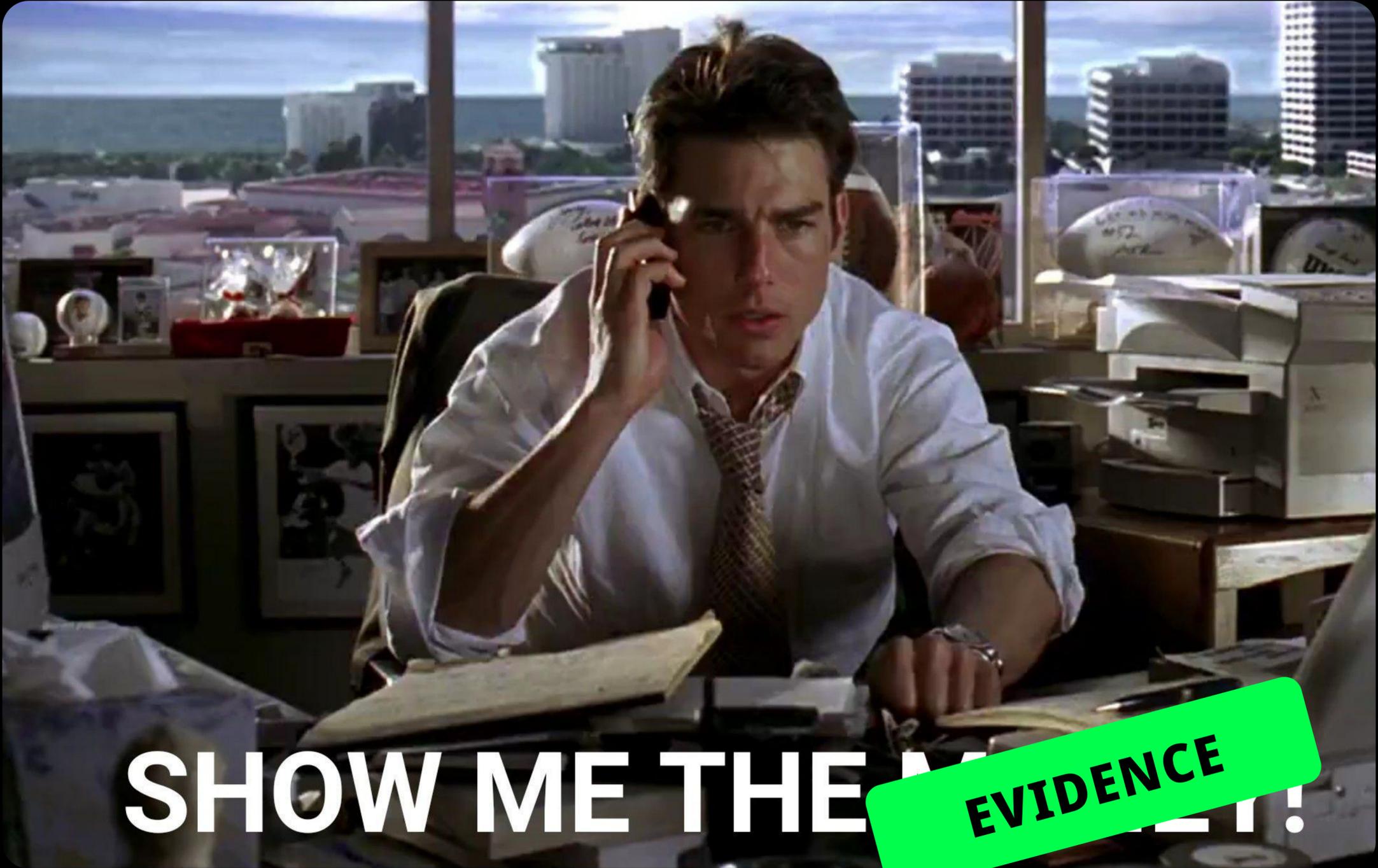
Australia World AU politics Environment Climate crisis Indigenous Australia Immigration Media Business Health Science Tech Podcasts Newsletters

Queensland election 2024

LNP has 'mandate' for youth crime reforms, Miles says, as Crisafulli sworn in as Queensland premier

Two-man 'interim' cabinet takes the reins with new ministries yet to be revealed, while Labor leadership certain to remain the same

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SHOW ME THE M... EVIDENCE

South Australia Youth Offences per 100,000 Population





TABLE 21 YOUTH OFFENDERS, PRINCIPAL OFFENCE BY AGE IN SA, 2022–23

Principal offence(b)(c)	10–11 years	12–13 years	14–17 years	Youth offenders
01 Homicide and related offences	0	0	0	0
04 Dangerous/negligent acts(f)	0	0	5	5
09 Fraud/deception	0	3	14	13
05 Abduction/harassment	0	7	16	23
16 Miscellaneous offences	0	3	23	27
15 Offences against justice(h)	0	4	24	29
Fare evasion	0	0	46	46
03 Sexual assault and related offences	0	12	42	58
06 Robbery/extortion	0	26	63	94
12 Property damage and environmental pollution	6	37	91	133
11 Weapons/explosives	0	23	130	156
07 Unlawful entry with intent	11	39	123	175
13 Public order offences	0	19	162	186
08 Theft(g)	6	68	207	281
10 Illicit drug offences(k)	3	32	320	353
02 Acts intended to cause injury	14	124	474	611
Total(i)(j)	52	397	1,745	2,194

Theft most common for younger offenders



Most common Youth offence



Age group responding for most offending



TABLE 21 YOUTH OFFENDERS, PRINCIPAL OFFENCE BY SEX IN SA, 2022–23

Sex	Age	Number of Offenders	Offender Rate (per 100,000)
Males	10–11 years	43	192.5
	12–13 years	252	1,121.50
	14–17 years	1,216	2,774.60
	Total	1,510	1,703.60
Females	10–11 years	13	61.2
	12–13 years	149	703.7
	14–17 years	527	1,254.70
	Total	684	810.3
Persons	10–11 years	52	119.3
	12–13 years	397	909.7
	14–17 years	1,745	2,033.20
	Total	2,194	1,267.90

TABLE 21 YOUTH OFFENDERS, TIMES PROCEEDED AGAINST BY POLICE BY AGE SA, 2022-23

Most balanced split in youngest group

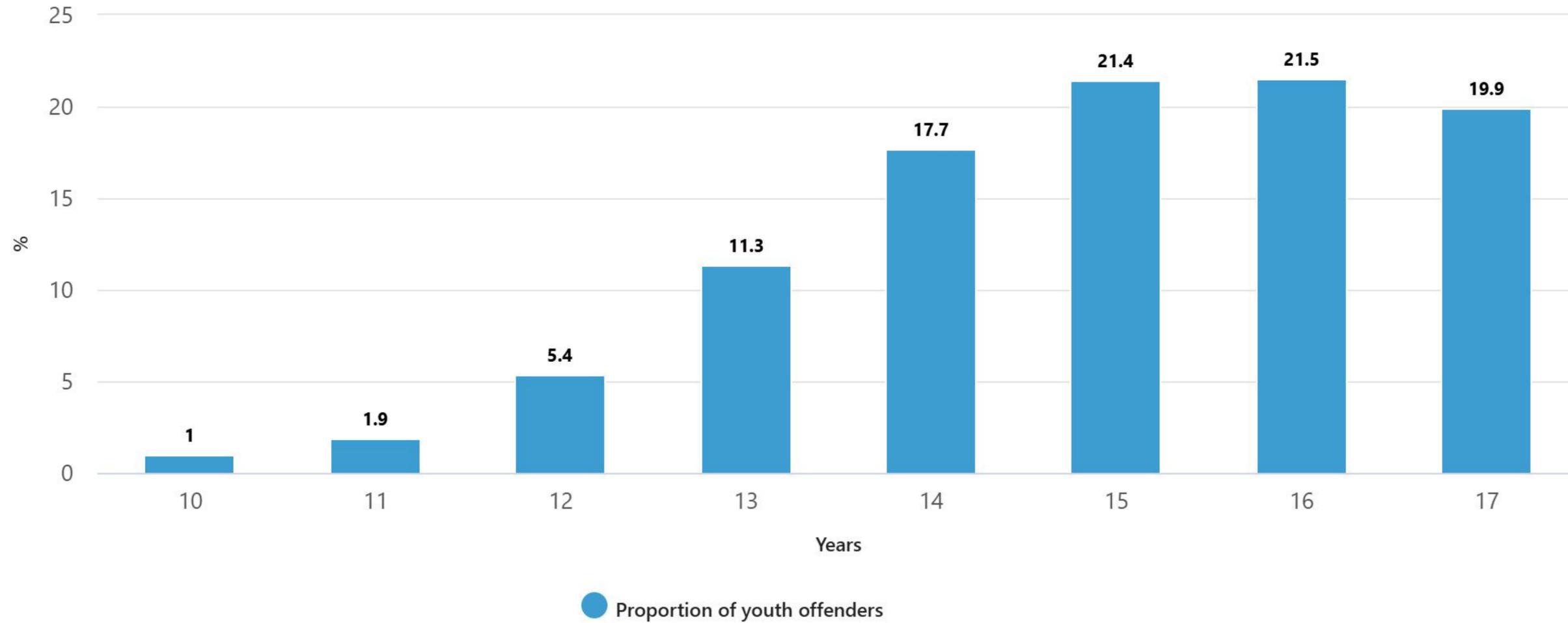


Offense Count	10-11 years	12-13 years	14-17 years	Total (Youth)	Total (All Ages)
1 Offense	28	263	1,229	1,519	20,115
2+ Offenses	26	142	517	679	5,596
Total	52	397	1,745	2,194	25,709

30.9% committed 2 or more offenses.



Youth offenders(a), proportion by age (years), 2022-23



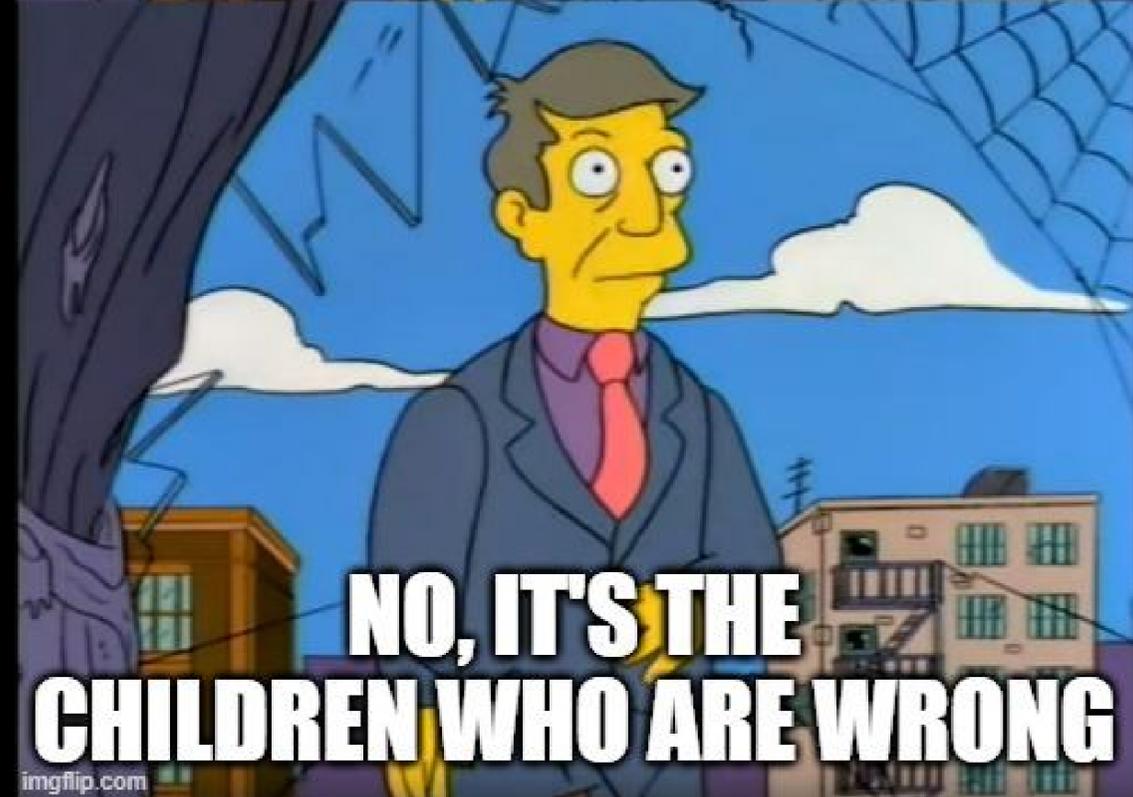
(a) Offenders aged between 10 and 17 years

Source: Australian Bureau of Statistics, Recorded Crime - Offenders 2022-23 financial year

**COULD CRIME BE THE RESULT
OF INTERSECTIONAL
DISADVANTAGE AND CHILDHOOD TRAUMA?**



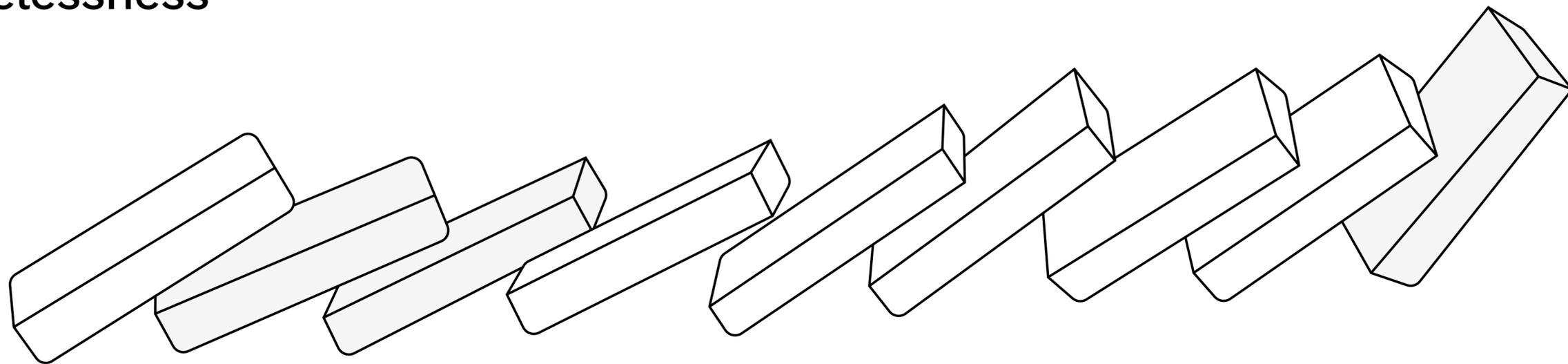
**NO, IT'S THE
CHILDREN WHO ARE WRONG**



Breakdown of key **criminogenic** factors

In my practice, I've observed one or more of the below factors in most of my clients

- Poverty
- Family dysfunction
- trauma
- Contact with criminal justice system
- Foster care/child protection
- Drugs and Alcohol
- Mental Health
- Disability
- Homelessness



**03 -
BEST PRACTICE WHEN
WORKING WITH
YOUTH**

Be Patient: Approach interactions with understanding and patience.

Listen Actively: Use both your ears and eyes—observe body language as well as words.

Use Plain Language: Avoid legal jargon or, if necessary, explain new terms clearly. Many people won't mention if they don't understand something.

Empower with Agency: Ensure they understand that they have control in the process and can give instructions. Explain what it means to “instruct” in this context.

Emphasize Confidentiality: Reassure them that everything discussed is confidential, especially in relation to their parents or guardians.

It's important: The outcome could influence the trajectory of the young person's life.

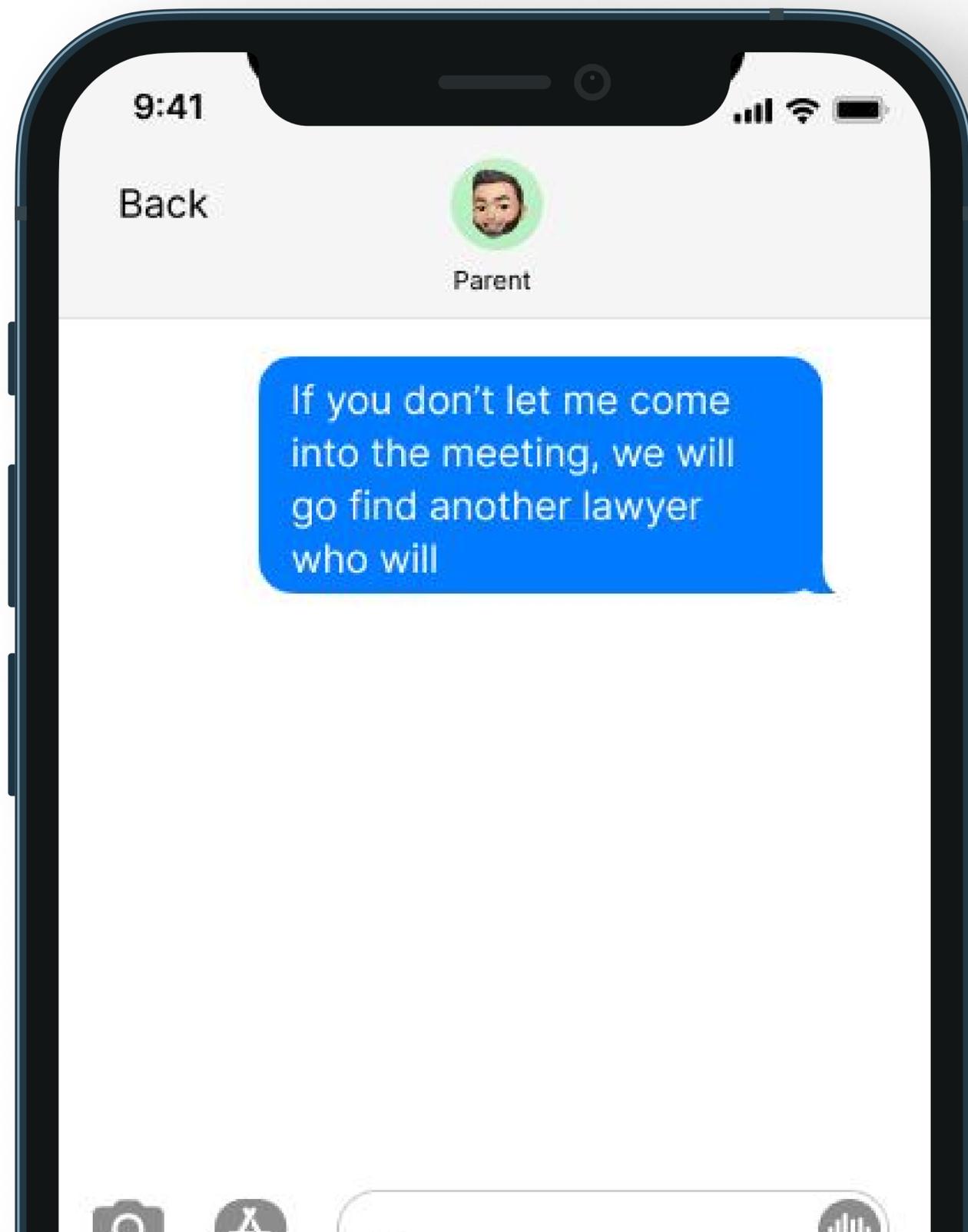
COURT COACHING

“I will take into account the unnecessarily frank admissions made by your client”

Youth Court Magistrate

EYE CONTACT
BODY LANGUAGE
WHAT TO WEAR
WHAT TO SAY
WHAT NOT TO SAY





*Mother of a
teenage
client*



*Remember
who your
client is!!*

PARENTS

Almost never let a parent into the room on first interview

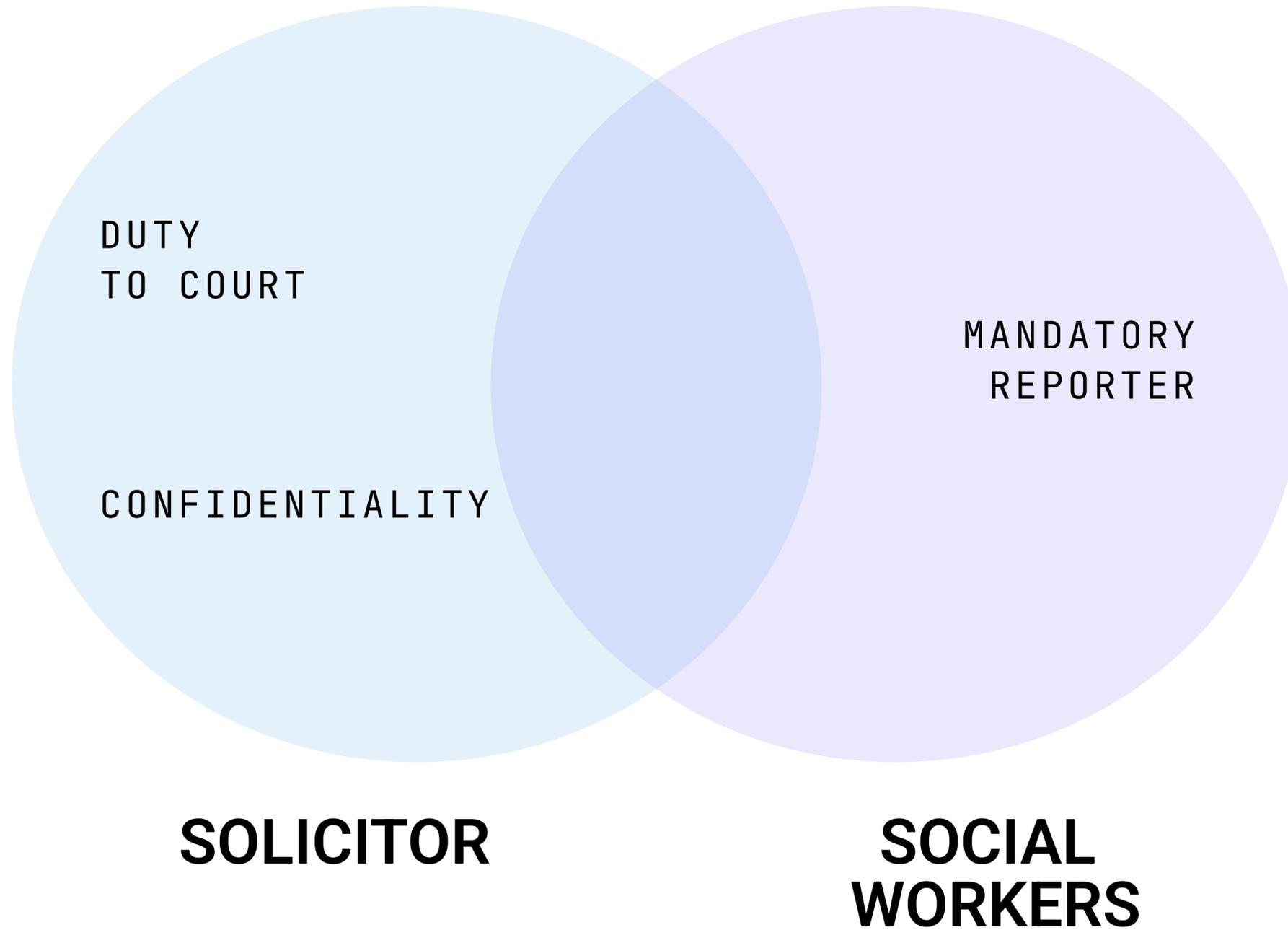
What to talk to parents about (with consent)

- legal process
- outcomes
- the offending

Be very careful where the parent is a victim of an offence – immediate conflict of interest

Remember that every child needs a responsible adult and sometimes you are, albeit for a brief period, that adult in their life.

DEALING WITH SOCIAL WORKERS

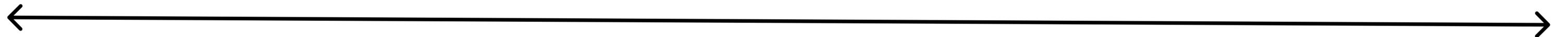


MANAGING TIME / EXPECTATIONS

Rapport
takes time to build.

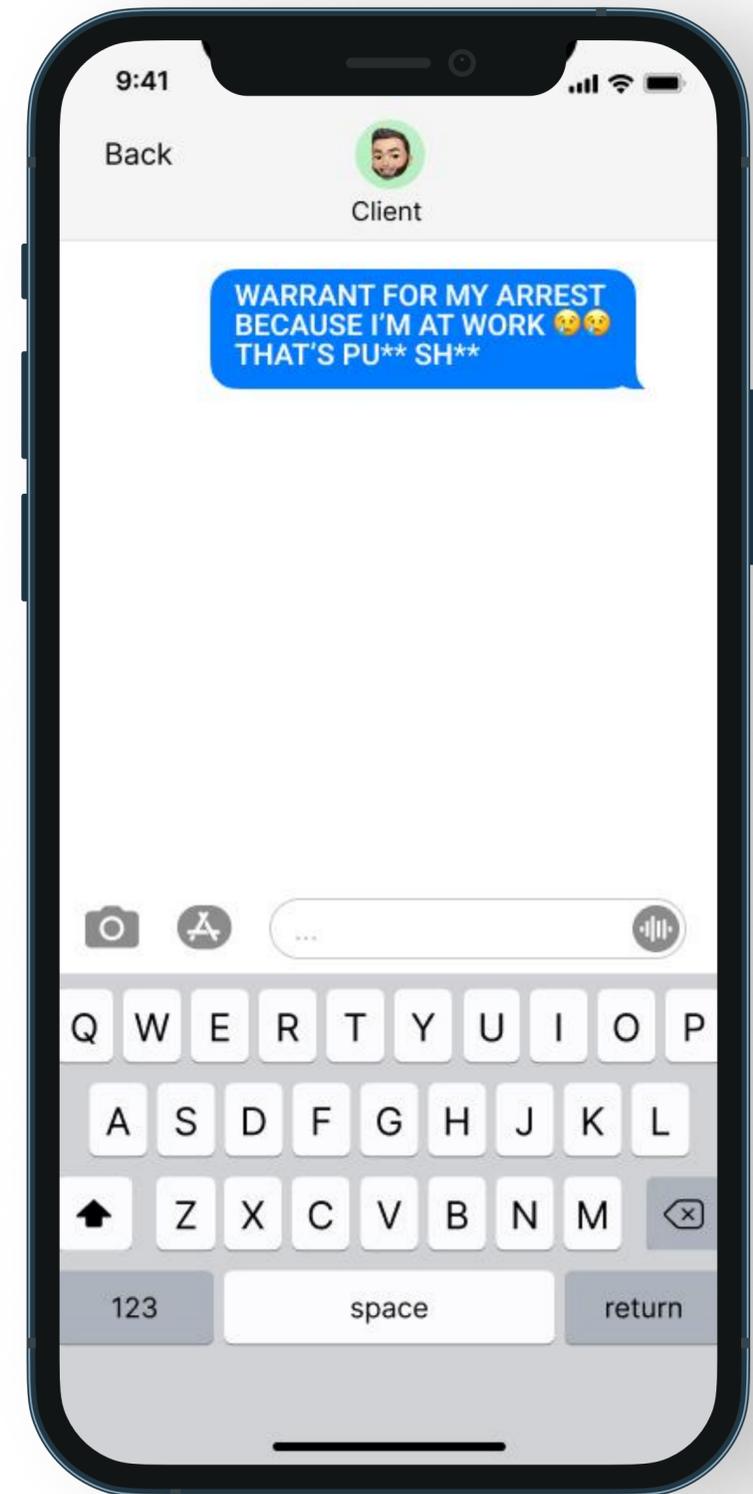
Getting the best
outcome for client
takes time / work.

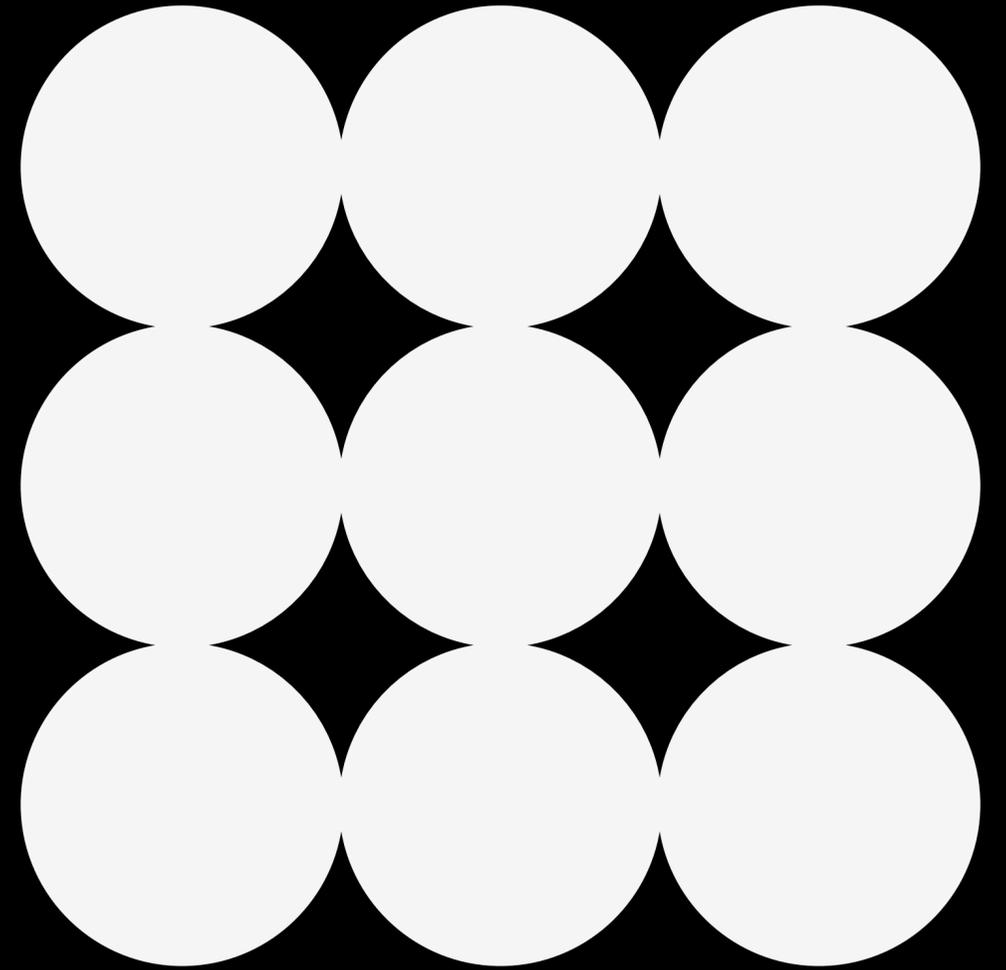
Client,
caregivers & the
court expect
things to move
quick.



HOW YOUNG PEOPLE WANT TO STAY IN TOUCH

Direct mobile number works best.





04 YOUTH COURT

YOUTH COURT

75 Wright St, Adelaide SA 5000

Youth courts are held in private courtrooms within main courthouses, or in regional areas, at youth-only times in the same courtroom.

Court lists show only initials to protect youth identities.

Reporters may report on cases if permitted by the magistrate but must not report name or show face



No general deterrence in youth matters



3—Objects and statutory policies

- (1) The object of this Act is to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential.
- (2) The powers conferred by this Act are to be directed towards that object with proper regard to the following statutory policies:
 - (a) a youth should be made aware of his or her obligations under the law and of the consequences of breach of the law;
 - (c) the community, and individual members of it, must be adequately protected against violent or wrongful acts.
- (2a) In imposing sanctions on a youth for illegal conduct regard should be had to the deterrent effect any proposed sanction may have on the youth.
- (3) Effect is to be given to the following statutory policies so far as the circumstances of the individual case allow:
 - (a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths;
 - (ab) compensation and restitution should also be provided, where appropriate, for persons who have suffered loss or damage as a result of offences committed by youths;
 - (b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;
 - (c) a youth should not be withdrawn unnecessarily from the youth's family environment;
 - (d) there should be no unnecessary interruption of a youth's education or employment;
 - (e) a youth's sense of racial, ethnic or cultural identity should not be impaired.
- (4) This section does not apply to a court imposing sanctions on a youth who is being dealt with as an adult, whether because the youth's conduct is part of a pattern of repeated illegal conduct or for some other reason, including, for example, the gravity of the illegal conduct (and the laws applying in relation to the sentencing of an adult apply to such a youth).

OTHER KEY SECTIONS OF ACT

Jail is Rare for Youth: Jail sentences for youth are used as a last resort (see section 23).

Fines Are Limited: Fines cannot exceed \$2,500 (see section 24), and in practice, it's unlikely that a fine will be imposed.

Community Service Limit: The court cannot order more than 500 hours of community service.

License Disqualification: The court can disqualify a youth from holding a license. However, under certain circumstances, a youth may retain their license if the matter is referred to a family conference.

Understanding of Proceedings: The court must be satisfied that the youth understands the court proceedings and sentencing (see section 30).

A youth can be sentenced as an adult in particularly serious cases or for repeat offending.

05 DIVERSIONS

UNITING COMMUNITIES LAW CENTRE

NOV 24

What is a Diversion Program?

informal caution

formal caution

family conference

POLICE DIVERSION OPTIONS

Police have the power to divert out of the court system in response to low-level offending. This could be issued as:

informal caution

formal caution

family conference

Factors that will be considered:

- Is this a minor offence?
- Has the offender made a full confession?
- Has the offender previously been cautioned?
- The victim's perspective
- The offender's attitude

Adult cautions can now be issued where approved by Sergeant

COURT DIVERSION

Courts have the power to divert out of the court system.

formal caution

family conference

Factors that will be considered:

- Seriousness of the offence
- Content of a plea
- Prior offending
- Impact on victim

Informal caution

You might be warned by the Police and told not to do it again; this is called an informal caution.

This may be an option if you have not done anything serious. No official record is kept [Young Offenders Act 1993 (SA) s 6].

formal caution

If the offence is more serious and you admit you have committed the offence, the Police may give you a on the spot formal caution and may also require you to make an undertaking (promise) to:

- Pay compensation to the victim of the offence
- Carry out community service (not more than 75 hours)
- Apologise to the victim
- Do anything else that is appropriate in the circumstances

FAMILY CONFERENCE

When a Police Officer notifies a Youth Justice Coordinator about an offence a Family Conference is held to make a decision about what will happen to you. Your parents or guardians, close relatives, the victim of the offence and his/her parents (if under 18), a Police Officer and yourself will be present. You are entitled to legal advice at the conference.

The Family Group Conference has a number of powers. It can:

- Warn you about further offending
- Require you to enter into an undertaking to pay compensation to the victim
- Require you to enter into an undertaking to carry out a specific period of community services (not exceeding 300 hours)
- Require you to enter into an undertaking to apologise to the victim, or
- Anything else that is appropriate.

What happens if a diversion fails?

Can go back for sentencing or rehearing.

BEST PRACTICE WHEN CLIENT IS BEING DIVERTED

Confirm client willing to acknowledge and take responsibility for the offending.

Provide the client with information regarding the likely outcomes if family conference were to go ahead or fail.

YOUTH COURT OUTCOMES AND A CLIENT'S RECORD

Can DHS take into account the charge when assessing for working with children check or working with vulnerable people check?

Yes but not the specifics of the offending

Can a general police check bring up these offences?

No

Can specific police checks bring up this offending?

Yes with all offences listed

Is a youth offence classified as a spent conviction for purposes of the act?

Yes - check the act there are a range of exclusion, quite extensive

See spent convictions act Schedule 1

Can a youth go on to the Sex Offender register?

Yes but not automatic

06

DOLI INCAPAX

What is

Doli Incapax?

*Of evil or
malice*

Incapable of

DOLI INCAPAX

Currently in SA a child over 10 can be charged with criminal offence

Between age of 10-14 Doli incapax applies – in practice raise age with prosecution and let them decide whether to proceed.

Most instances they will not
If they do proceed they need to show their working out and rebut.

RAISE

- Very strong relationship between being involved in the criminal justice system at a younger age and further offending
- Serious mental health impacts
- Seriously compromises their ability to study and find work
- Places youth into new social groups who are highly criminogenic
- Opens youth up to higher likelihood of physical, sexual and mental abuse
- Its bloody expensive!! \$3145/day, \$1,147,794/pa

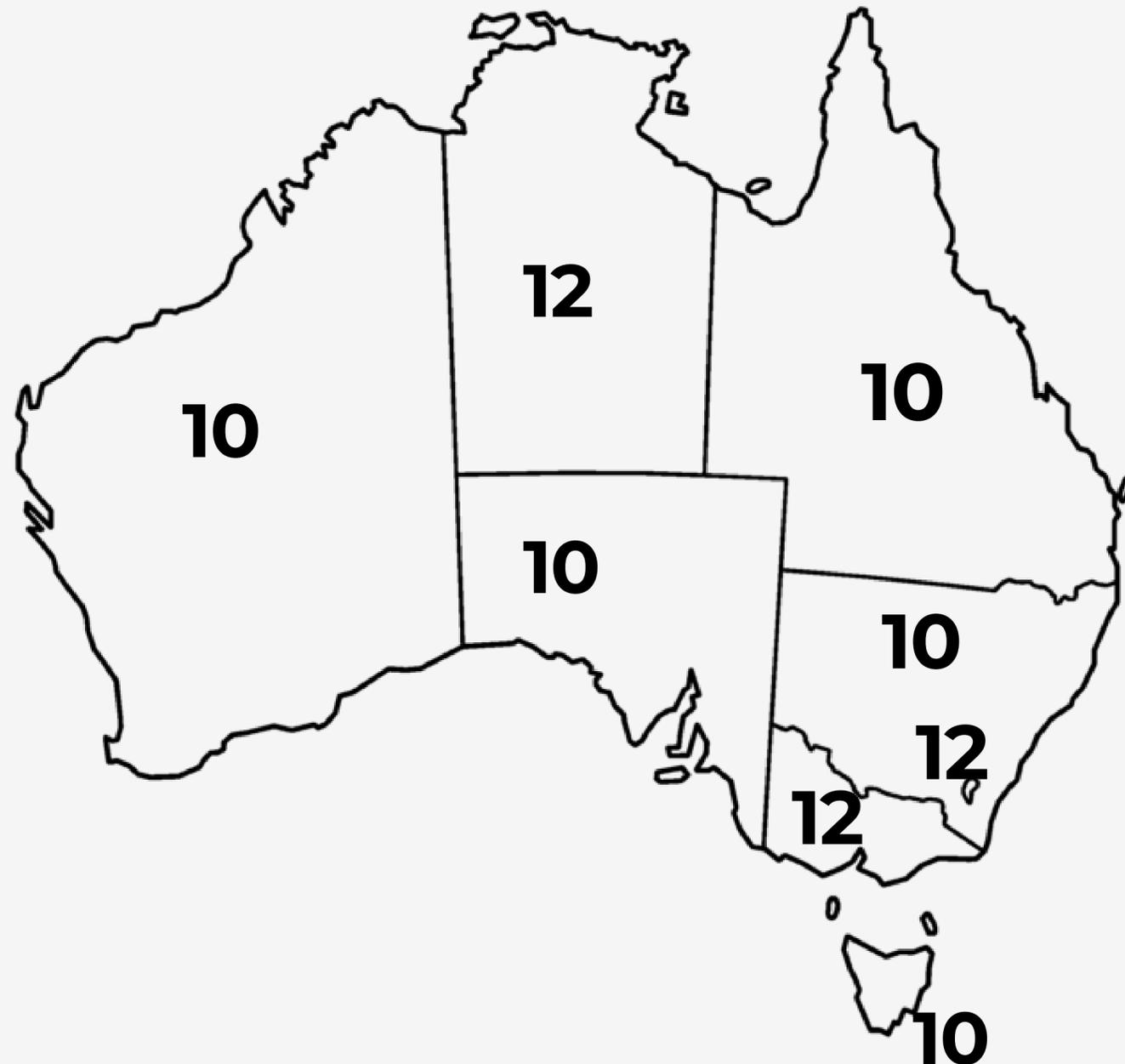
LOWER

The image shows a screenshot of three social media comments, likely from a Facebook post, discussing the criminal justice system for teenagers. Each comment is from a user whose name is redacted with a green bar. The comments are as follows:

- Comment 1:** "If these kids can steal and drive a vehicle and run from police they are old enough to know what they are doing is wrong and against the law I think it's time teenagers be charged the same as a adult with jail sentences that's the only way to stop it." (6 likes)
- Comment 2:** "What did they expect? They don't invest in them and they go soft on them! Without consequences there's no deterrent! This is basic psychology!" (2 likes)
- Comment 3:** "We must have a proper justice system!! Enough is enough!! If I had a power I would stop this crime immediately." (5 likes)

Each comment includes a 'Like' button and a 'Reply' button. The third comment also has a 'Follow' button next to the user's name.

AGE OF CRIMINAL RESPONSIBILITY



NSW, QLD, WA: Minimum age of 10, no plans to change.

NT: Raised from 10 to 12, then back to 10.

Tas: 10 to be increased to 14 by 2025 and 16 for incarceration.

ACT: Increasing from 12 to 14 by 2025.

Vic: Raising from 10 to 12 in 2024, with future plans uncertain.

SA: Currently 10, with a proposal to increase to 12 and long-term plans to reach 14

UNITING COMMUNITIES 

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<https://www.facebook.com/UnitingCommunitiesOz/>



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How did we go?

scan to leave
feedback

