



# Comparisons between Australian and international youth justice systems: 2015–16

This fact sheet looks at Australian and international approaches to youth justice.

## International agreements, standards and guidelines

Over the past couple of decades, many countries have developed or revised their youth justice policies and practices. A major influencing factor has been the introduction of international agreements and guidelines by the United Nations (UN). For example, under the UN's 1989 Convention on the Rights of the Child, member states regularly report to the UN Committee on the Rights of the Child. This has influenced youth justice systems in many countries, including the principles underpinning each system, and the decision-making processes.

Three additional influential UN agreements that relate specifically to youth justice are:

- Standard Minimum Rules for the Administration of Juvenile Justice 1985 (also known as the Beijing Rules)
- Guidelines for the Prevention of Juvenile Delinquency 1990 (also known as the Riyadh Guidelines)
- Rules for the Protection of Juveniles Deprived of their Liberty 1990 (also known as the Havana Rules).

Within the broad framework of these international agreements, the philosophies, systems, and processes for dealing with young people involved in criminal behaviour vary substantially among countries. In addition, the United States of America has not ratified the Convention on the Rights of the Child, so its youth justice policies and practices are not bound by the its principles.

## Age for treatment as a young person

Article 40(3) of the Convention on the Rights of the Child (UN 1989) encourages member states to establish a minimum age of criminal responsibility, but does not specify a particular age.

The UN Committee on the Rights of the Child (2007) concluded in paragraph 32 of its *General comment no. 10: children's rights in juvenile justice* that 'a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable'.

In practice, however, the age of criminal responsibility varies considerably across countries. An investigation of 90 countries found that the minimum age of criminal responsibility ranged from 6 to 18, and the median age was 13.5 (Hazel 2008).

In Australia, along with New Zealand, England, and Wales, young people are deemed to have criminal responsibility if they are aged 10 or older (Table 1)—although young people in New Zealand under the age of 14 can only be prosecuted for murder and manslaughter (Noetic Solutions 2010).

In other countries, minimum ages of criminal responsibility include 12 in Canada, 13 in Greece, 14 in Germany, Italy, and Spain, and 15 in Scandinavian countries (Table 1).

**Table 1: Minimum age of criminal responsibility, selected countries**

Age (years)	Country
10	Australia, New Zealand, England, Wales
12	Belgium, Canada, Israel, Netherlands, Scotland
13	Greece
14	Austria, Germany, Italy, Japan, Spain
15	Denmark, Finland, Iceland, Norway, Sweden
16	Portugal

Source: CRIN 2016.

Almost all countries have separate criminal justice systems for young people and adults, each with their own legislation. The age at which individuals are processed as adults in the justice system is referred to as 'criminal majority'.

In Australia, the age of criminal majority is 18 in all jurisdictions, except Queensland, where it is 17 (Queensland has recently passed legislation to raise the age limit to 18, which is expected to be enacted in November 2017).

This is consistent with the typical age of criminal majority internationally (18), although it does vary between countries. Countries with a higher minimum age of criminal responsibility tend to have a higher age of criminal majority (Hazel 2008).

### Principles, services and outcomes

Key principles established in the UN's agreements and guidelines include the ability to divert young people away from further involvement with the youth justice system where appropriate, and the notion that young people should be detained only as a last resort, and for the shortest appropriate time (UN 1985, 1989).

Importantly, the principle of detention as a last resort can be found in youth justice legislation in each state and territory in Australia.

Diversion is a key principle of youth justice systems in all jurisdictions in Australia. This takes various forms, including:

- complete diversion from the system (such as an informal warning by police)
- referral to services outside the system (such as drug and alcohol treatment programs)
- diversion from continued contact with the system by the police or courts (through mechanisms such as conferencing—a facilitated meeting to discuss the offence and its impact, and to make a plan for action).

Again, there are wide variations between countries, and a variety of diversionary approaches have emerged since the 1960s (Hazel 2008). The police often play a key role in diversionary action, as they are generally the first point of contact a young person has with the justice system (Hazel 2008). In a 1998 UN survey, 19 out of 51 countries allowed diversion to be instituted by the police (UN 1998, cited in Hazel 2008).

The types of outcomes and sentences available for young offenders vary among countries. For example, young people in custody in the Netherlands can be released to take part in training courses or treatment during their sentences. Other outcomes include intermittent custody (such as night or weekend detention), and training in various forms, such as in Austria where trainees receive a wage throughout their vocational training (Hazel 2008).

Information about the outcomes available in Australia, both diversionary and supervised, is available at: <[www.aihw.gov.au/youth-justice/services-and-outcomes](http://www.aihw.gov.au/youth-justice/services-and-outcomes)>.

Rates of young people in detention in various countries generally reflect the principles and operation of their respective youth justice systems.

High rates are commonly seen in countries that operate under what is often termed a 'justice model', which emphasises accountability and punishment. Lower rates are seen in countries that operate under a 'welfare model', which focuses on rehabilitation and meeting the needs of the young person (Noetic Solutions 2010).

Some countries have alternated between the justice and welfare models, and aspects of both approaches are increasingly used in many countries. The Australian youth justice system has typically used elements of both the welfare and justice models (Richards 2011).

Countries with lower rates of young people in detention tend to adopt the principle of custody as a last resort (Hazel 2008).

International information on numbers of young people involved in youth justice systems as a whole is limited, but some is available on numbers and rates of young people in detention in selected countries.

On an average day in 2015–16, the rate of young people in youth detention in Australia (3.4 per 10,000 young people) was higher than in England and Wales (1.9 per 10,000), but lower than in Canada (5.0 per 10,000) and the United States of America (13.9 per 10,000). (see Table 2 footnotes for the differences in measurement).

Rates of young people in detention are similar to or lower than the previous reporting periods for Australia (3.3 per 10,000), England and Wales (2.0), the United States (15.9), and Canada (6).

**Table 2: Young people aged 10–17 in detention on an average day, selected countries, 2015–16**

	Australia <sup>(a)</sup>	England and Wales	Canada <sup>(b)</sup>	United States of America
<b>Number</b>	789	959 <sup>(c)</sup>	998	46,061 <sup>(d)</sup>
<b>Number per 10,000</b>	3.4	1.9	5	13.9

(a) Data for 2015–16, including non-standard data for the Northern Territory.

(b) Data for young people aged 12–17 in detention on an average day during 2015–16. The rate is available to the nearest whole number only.

(c) Average daily number in youth detention between April 2015 and March 2016.

(d) Number in youth detention on 23 October 2013.

Sources: Juvenile Justice Minimum Data Set tables S76 and S77; Office for National Statistics 2017 Sickmund et al. 2015; Statistics Canada 2017; US DHHS CDC & National Center for Health Statistics 2016; Youth Justice Board & Ministry of Justice 2016.

## References

- CRIN (Child Rights International Network) 2016. Minimum ages of criminal responsibility around the world. London: Child Rights International Network. Viewed 10 April 2017, <[www.crin.org/en/home/ages](http://www.crin.org/en/home/ages)>.
- Hazel N 2008. Cross-national comparison of youth justice. London: Youth Justice Board for England and Wales.
- Noetic Solutions 2010. Review of effective practice in juvenile justice: report for the Minister for Juvenile Justice. Sydney: New South Wales Department of Human Services. Viewed 10 April 2017, <[www.juvenile.justice.nsw.gov.au/Documents/Juvenile%20Justice%20Effective%20Practice%20Review%20FINAL.pdf](http://www.juvenile.justice.nsw.gov.au/Documents/Juvenile%20Justice%20Effective%20Practice%20Review%20FINAL.pdf)>.
- Office for National Statistics 2017. Population estimates for England and Wales, mid-2014. Newport: Office of National Statistics. Viewed 10 April 2017, <[www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland](http://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalescotlandandnorthernireland)>.
- Richards K 2011. What makes juvenile offenders different from adult offenders? Trends & issues in crime and criminal justice no. 409. Canberra: Australian Institute of Criminology.
- Sickmund M, Sladky TJ, Kang W & Puzzanchera C 2015. Easy access to the Census of Juveniles in Residential Placement: 1997–2013. Pittsburgh, PA: National Center for Juvenile Justice. Viewed 10 April 2017, <[www.ojjdp.gov/ojstatbb/ezacjrp](http://www.ojjdp.gov/ojstatbb/ezacjrp)>.
- Statistics Canada 2017. Youth correctional statistics in Canada, 2015–2016. Ottawa: Statistics Canada. Viewed 10 April 2017, <[www.statcan.gc.ca/pub/85-002-x/2017001/article/14702-eng.htm](http://www.statcan.gc.ca/pub/85-002-x/2017001/article/14702-eng.htm)>.
- UN (United Nations) 1985. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Geneva: Office of the United Nations High Commissioner for Human Rights. Viewed 10 April 2017, <[www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf](http://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf)>.
- UN 1989. Convention on the rights of the child. Geneva: Office of the United Nations High Commissioner for Human Rights. Viewed 10 April 2017, <[www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)>.
- UN Committee on the Rights of the Child 2007. General comment no. 10: children's rights in juvenile justice. Geneva: Office of the United Nations High Commissioner for Human Rights. Viewed 10 April 2017, <[www2.ohchr.org/english/bodies/crc/docs/GC10\\_en.doc](http://www2.ohchr.org/english/bodies/crc/docs/GC10_en.doc)>.
- US (United States) DHHS CDC (Department of Health and Human Services Centers for Disease Control and Prevention) & National Center for Health Statistics 2015. Bridged-race population estimates on CDC Wonder online. Atlanta: CDC. Viewed 10 April 2017, <<http://wonder.cdc.gov/bridged-race-v2012.html>>.
- Youth Justice Board & Ministry of Justice 2017. Youth justice annual statistics: 2015–2016. Viewed 10 April 2017, <<https://www.gov.uk/government/statistics/youth-justice-statistics-2015-to-2016>>.

### Box 1: Youth justice supervision fact sheets

This is 1 of a series of fact sheets on youth justice supervision in 2015–16 published by the Australian Institute of Health and Welfare. These fact sheets can be downloaded free of charge from: <[www.aihw.gov.au/youth-justice/fact-sheets](http://www.aihw.gov.au/youth-justice/fact-sheets)>.

The fact sheets form part of the *Youth justice in Australia 2015–16* release, which also includes a bulletin, supplementary tables, and web pages released in multiple stages throughout the year (see: <[www.aihw.gov.au/publications/youth-justice](http://www.aihw.gov.au/publications/youth-justice)>).

The supplementary data tables (those with a prefix of 'S') referred to in this fact sheet can be downloaded from: <[www.aihw.gov.au/publication-detail?id=60129558624&tab=3](http://www.aihw.gov.au/publication-detail?id=60129558624&tab=3)>.

For more information about young people under youth justice supervision, see: <[www.aihw.gov.au/youth-justice](http://www.aihw.gov.au/youth-justice)>.

### Box 2: Technical notes

1. This fact sheet uses an 'average day' measure to illustrate the number of young people under supervision. The average day measure reflects the number of young people under supervision on a typical day during the year, and indicates the average number of young people supported by the supervision system at any 1 time. It is a summary measure that reflects both the number of young people supervised, and time they spent under supervision.
2. Population rates allow for the comparison of different groups while taking into account differences in population sizes. Rates are restricted to those aged 10–17, due to differences between states and territories. They exclude young people where necessary data items were unavailable, and were not calculated where there were fewer than 5 people, due to a lack of statistical reliability.

Further technical and data quality information, including definitions of key terms in this fact sheet, is available from: <[www.aihw.gov.au/youth-justice/data-quality](http://www.aihw.gov.au/youth-justice/data-quality)>.

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