

Year 12 HSC Legal Studies · Part I

Crime Workbook

Key points, case summaries and practice questions for every lesson of the Crime video course. Watch each lesson, then complete its pages.

Name _____

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The meaning of crime

Syllabus: the meaning of crime

Key points

- A crime is an act or omission that harms the community as a whole and is punishable by the State.
- It differs from a civil wrong in who brings the case, the standard of proof and the aim.
- Criminal law comes from State statutes, Commonwealth statutes within its powers, and the common law.
- What counts as a crime changes with community values: moral and ethical standards, and law reform.

Check your understanding

Circle the best answer.

1. Which feature best distinguishes a crime from a civil wrong?

A. It always involves a victim	C. It must involve violence
B. It is a wrong against the community, prosecuted by the State	D. It is decided in a court
2. In the case name *R v Smith*, what does "R" refer to?

A. The respondent	C. The Crown, representing the State
B. The victim	D. A reference number
3. Which law would most likely govern an offence of preparing for a terrorist act?

A. Criminal Code Act 1995 (Cth)	C. Common law only
B. Summary Offences Act 1988 (NSW)	D. A local council by-law

Apply it

4. Read the scenario and answer the question.

Scenario

Mia leaves her phone on a café table. Jordan slips it into his pocket and walks out.

Which parts of the definition are met?

Exam practice

5. Distinguish between a crime and a civil wrong.

3 marks

Distinguish: note the differences between two things. Every sentence should set one against the other.

The elements of crime: actus reus and mens rea

Syllabus: elements of crime: actus reus, mens rea

Key points

- The actus reus is a voluntary act, or an omission where there is a legal duty to act.
- Mens rea ranges from intention, to recklessness, to criminal negligence.
- Ryan, Crabbe and Lavender illustrate voluntariness, recklessness and negligence.
- Both elements must be proved beyond reasonable doubt, and must coincide.

Cases

Case	Summary
<i>Ryan v The Queen</i> (1967) (1967) 121 CLR 205 · High Court of Australia	Facts: Ryan held up a service station with a loaded, cocked rifle. While he was trying to tie the attendant up, the attendant moved suddenly, the rifle fired and the attendant was killed. Issue: Ryan argued the shot was an involuntary reflex, so there was no voluntary act. Decision: The High Court refused special leave to appeal, so the murder conviction stood. Loading, cocking and pointing the rifle were all voluntary acts. Significance: A sudden or panicked reaction is not the same as an involuntary act. Voluntariness is part of the actus reus, but it is hard to deny where the accused chose a dangerous course of conduct.
<i>R v Crabbe</i> (1985) (1985) 156 CLR 464 · High Court of Australia	Facts: After being thrown out of a motel bar in the Northern Territory, Crabbe drove a prime mover truck into the bar. Five people were killed. Issue: Could he be guilty of murder if he did not intend to kill, but knew people might be hurt? Decision: Recklessness for murder requires foresight that death or grievous bodily harm was probable, not merely possible. The High Court upheld the order for a new trial. In NSW: Under s 18 of the Crimes Act 1900, reckless murder is narrower: the accused must foresee that death was probable (<i>Royall v The Queen</i> 1991).
<i>R v Lavender</i> (2005) (2005) 222 CLR 67 · High Court of Australia	Facts: Lavender was operating a front-end loader at a sand mine near Newcastle. He chased trespassing boys into scrub, and ran over and killed a 13-year-old boy. Issue: Could he be guilty of manslaughter when he never intended to hurt anyone? Decision: Yes. The High Court restored his conviction. Manslaughter by criminal negligence requires a great falling short of the standard of care a reasonable person would show, with a high risk of death or grievous bodily harm. Malice did not have to be proved. Significance: Gross negligence can supply the fault for manslaughter, even with no intention to harm.
<i>R v Thomas Sam; R v Manju Sam</i> [2009] NSWSC 1003 NSW Supreme Court · omission and gross negligence	Facts: The parents of nine-month-old Gloria Sam relied on homeopathy to treat her severe eczema, and did not get conventional medical care as she deteriorated. She died of infection and malnutrition in 2002. Issue: Could their failure to act be manslaughter by gross criminal negligence? Decision: Yes. A jury convicted both parents of manslaughter. Significance: An omission can be the actus reus where there is a legal duty, and gross negligence can supply the mens rea.

Check your understanding

Circle the best answer.

1. A driver has an unexpected seizure and the car hits a pedestrian. Which element is most likely missing?
A. A voluntary act
B. A result
C. A victim
D. Nothing is missing
2. Which level of mens rea involves foreseeing a risk of harm and taking it anyway?
A. Intention
B. Recklessness
C. Negligence
D. Strict liability
3. Which case held that recklessness for murder requires foresight of a probable result, not a merely possible one?
A. *Ryan v The Queen*
B. *R v Lavender*
C. *R v Crabbe*
D. *Fagan v Metropolitan Police Commissioner*

Apply it

4. Read the scenario and answer the question.

Scenario

Sam is running late, speeds through a red light and hits a cyclist, who is badly injured. Sam never wanted to hurt anyone.

Identify the actus reus. What level of mens rea might apply?

Exam practice

5. Explain the role of actus reus and mens rea in establishing criminal liability.

4 marks

Explain: relate cause and effect; show why and how.

Causation

Syllabus: causation

Key points

- Result crimes need proof that the act caused the result.
- The test: a substantial or significant cause, still operating (Royall).
- Ordinary events and reasonable medical care do not break the chain (Hallett, Swan).
- A free, informed choice by the victim can (Burns). The thin skull rule always applies.

Cases

Case	Summary
<i>R v Hallett (1969)</i> [1969] SASR 141 · Supreme Court of South Australia	Facts: Hallett attacked the victim on a beach and left him unconscious at the water's edge. The tide came in and the victim drowned. Issue: Did the incoming tide break the chain of causation? Decision: No. The tide was an ordinary operation of nature. Hallett's act was still a substantial cause of death, and his murder conviction stood. Significance: Ordinary natural events do not break the chain. Only an extraordinary, overwhelming event might.
<i>Royall v The Queen (1991)</i> (1991) 172 CLR 378 · High Court of Australia	Facts: During a violent assault by Royall in a sixth-floor flat, his girlfriend fell from the bathroom window and died. Issue: Was Royall the cause of her death, when she fell trying to escape? Decision: Yes. The High Court upheld his murder conviction. Her attempt to escape was a response to a well-founded fear of his violence. Significance: Where a victim is harmed escaping the accused's violence, the accused can be the legal cause of the result.
<i>Swan v The Queen (2020)</i> [2020] HCA 11 · High Court of Australia	Facts: Swan and an accomplice broke into the home of a 78-year-old man and severely assaulted him. Months later he broke his hip. Because of his very poor condition after the assault, a decision was made not to operate, and he died. Issue: Did the decision not to operate break the chain of causation? Decision: No. The High Court dismissed Swan's appeal and his murder conviction stood. The assault was still a substantial or significant cause of death. Significance: Reasonable medical and family decisions that follow from the accused's violence do not break the chain.
<i>Burns v The Queen (2012)</i> (2012) 246 CLR 334 · High Court of Australia	Facts: Burns supplied methadone to a man at her home. He chose to take it, along with other drugs, and died. Issue: Was the supply of the drug the legal cause of his death? Decision: No. The High Court quashed her manslaughter conviction. His own free and informed decision to take the drug was the cause in law. Significance: A victim's free, voluntary and informed choice can break the chain. Compare Royall, where escape was driven by fear.

Check your understanding

Circle the best answer.

1. What is the legal test for causation?

- A. The act was the only cause
- B. The act was a substantial or significant cause

- C. The result was intended
- D. The result was reasonably foreseeable in every case

2. In *R v Hallett*, why did the tide not break the chain?

- A. It was an ordinary operation of nature
- B. The victim chose to stay on the beach

- C. Hallett intended the victim to drown
- D. The tide was a third party

3. Which case shows a victim's free and informed choice breaking the chain?

- A. *Royall v The Queen*
- B. *Swan v The Queen*

- C. *Burns v The Queen*
- D. *R v Hallett*

Apply it

4. Read the scenario and answer the question.

Scenario

Alex punches Ben outside a club. Ben falls and hits his head. He is treated properly in hospital, but dies a week later.

Did Alex cause Ben's death?

Exam practice

5. Outline the role of causation in criminal law.

3 marks

Outline: sketch in general terms; give the main features.

Strict liability offences

Syllabus: strict liability offences

Key points

- Strict liability offences need only the actus reus; absolute liability removes the mistake defence too.
- Honest and reasonable mistake of fact is a defence to strict liability (*Proudman v Dayman*).
- Serious offences are presumed to need mens rea (*He Kaw Teh*).
- Strict liability is efficient and promotes compliance, but can punish without fault.

Cases

Case	Summary
<i>Proudman v Dayman (1941)</i> (1941) 67 CLR 536 · High Court of Australia	Facts: Proudman was charged with permitting an unlicensed person to drive a motor car. She said she believed the driver held a licence. Issue: Is there any defence to a strict liability offence when the accused did not know the true facts? Principle: An honest and reasonable belief in facts which, if true, would make the act innocent, is a defence to a strict liability offence. Significance: Strict liability is not liability without any excuse. But the mistake must be about facts, honest, and reasonable.
<i>He Kaw Teh v The Queen (1985)</i> (1985) 157 CLR 523 · High Court of Australia	Facts: He Kaw Teh arrived in Australia with heroin concealed in his luggage, and said he did not know it was there. He was charged with importing and possessing heroin under the Customs Act 1901 (Cth). Issue: Did the prosecution have to prove he knew the heroin was there? Decision: Yes. Serious offences are presumed to require mens rea unless Parliament clearly displaces that presumption. The test: Courts consider the words of the statute, the subject matter of the offence, and whether strict liability would help enforce the law.

Check your understanding

Circle the best answer.

- What must the prosecution prove for a strict liability offence?

A. Actus reus and mens rea

B. Actus reus only

C. Mens rea only

D. That the accused knew the law
- Which defence is available for strict liability, but not absolute liability, offences?

A. Self-defence

B. Honest and reasonable mistake of fact

C. Ignorance of the law

D. Provocation
- In *He Kaw Teh* (1985), what did the High Court hold?

A. All drug offences are strict liability

B. Serious offences are presumed to require mens rea

C. Mistake of law is a defence

D. Customs offences are absolute liability

Apply it

4. Read the scenario and answer the question.

Scenario

Priya drives at 72 km/h in a 60 zone. The speed sign was knocked down the night before, and she honestly believed the limit was 80.

Is Priya guilty of speeding?

Exam practice

5. Assess the fairness of strict liability offences.

5 marks

Assess: make a judgement of value, quality or outcome.

Categories of crime, part 1: against the person and the sovereign

Syllabus: categories of crime

Key points

- The syllabus lists seven categories of crime, and they can overlap.
- Offences against the person range from common assault (s 61) to murder (s 18, max life).
- Manslaughter is voluntary (partial defence) or involuntary (dangerous act or negligence).
- Crimes against the sovereign threaten the state: treason, espionage, foreign interference, terrorism.

Cases

Case	Summary
From Loveridge to s 25A NSW · law reform after one-punch deaths	Problem: Courts found death was not a foreseeable result of a single punch, so offenders such as Kieran Loveridge were convicted of manslaughter rather than murder. Reaction: The sentences prompted public outrage. Reform: The Crimes and Other Legislation Amendment (Assault and Intoxication) Act 2014 created assault causing death (s 25A), with an 8-year mandatory minimum for intoxicated offenders (s 25B). Evaluation: It closed a perceived gap, but its speed and mandatory sentencing reduced judicial discretion.
R v Lodhi (2006) NSW Supreme Court · Commonwealth terrorism offences	Facts: Faheem Lodhi, a Sydney architect, bought maps of the electricity grid, sought information about chemicals that could be used to make explosives, and held a manual on making poisons and explosives. Issue: Could he be convicted when no attack had taken place, or even been fully planned? Outcome: Yes. A jury convicted him of three offences of preparing for a terrorist act, and he was sentenced to 20 years' imprisonment. Significance: Preparation offences let police act before an attack. Critics argue they punish people for intentions, a sharp example of the tension between community safety and individual rights.

Check your understanding

Circle the best answer.

- What is the maximum penalty for murder in NSW?

A. 25 years

B. Life imprisonment

C. 20 years

D. 14 years
- Which best describes voluntary manslaughter?

A. A killing with no intent and no negligence

B. A killing where murder's elements exist but a partial defence applies

C. A killing caused by criminal negligence

D. A death in a car accident

3. Which offence is a crime against the sovereign?

- A. Assault occasioning actual bodily harm
- B. Coercive control

- C. Preparing for a terrorist act
- D. Larceny

Apply it

4. Spot the category

Situation	Your answer
A man punches a stranger at a bus stop, breaking his nose.	
A woman buys materials to build a bomb to attack Parliament House, to force a change in government policy.	
Two men threaten a shop owner with a knife and take the cash register.	

Exam practice

5. Describe crimes against the sovereign.

3 marks

Describe: provide characteristics and features.

Categories of crime, part 2: economic, drug, driving, public order, preliminary

Syllabus: categories of crime

Key points

- Economic offences range from larceny and fraud to white-collar and cyber crime.
- Drug offences: possession, supply, import. EDDI diverts some users, but police discretion shapes who.
- Driving offences are mostly strict liability; public order laws must respect the implied freedom (Kvelde).
- Preliminary crimes punish attempt, conspiracy and incitement before harm occurs.

Check your understanding

Circle the best answer.

1. Under the Early Drug Diversion Initiative, what happens if a person completes the health intervention?
A. They receive a criminal conviction
B. The \$400 fine is waived
C. They must attend the Drug Court
D. Nothing changes
2. What did the Supreme Court decide in *Kvelde v State of NSW* (2023)?
A. Protest is never lawful
B. Parts of the s 214A protest law were invalid
C. All public order offences are invalid
D. Offensive language is not a crime
3. Two people agree to commit a burglary but are arrested before acting. What crime have they committed?
A. Attempt
B. Conspiracy
C. Larceny
D. No crime

Apply it

4. Spot the category

Situation	Your answer
An employee secretly transfers \$40,000 from her company's account to her own.	
Two friends agree to rob a service station next week, but are arrested before they go.	
A man swears loudly at police outside a pub.	
A driver records a blood alcohol reading over the legal limit at a random breath test.	

Exam practice

5. Explain the purpose of preliminary crimes.

3 marks

Explain: relate cause and effect; show why and how.

Summary and indictable offences

Syllabus: summary and indictable offences

Key points

- Summary offences: Local Court, magistrate, no jury, lower penalties.
- Indictable offences: District or Supreme Court, often a jury, up to life imprisonment.
- Table 1 and 2 offences can be dealt with summarily; strictly indictable ones cannot.
- Fixed discounts of 25%, 10% and 5% reward early guilty pleas (s 25D).

Check your understanding

Circle the best answer.

1. Who decides guilt in a summary hearing?
A. A jury
B. A magistrate
C. A judge and jury
D. The Director of Public Prosecutions
2. For a Table 2 offence, who can elect to have it tried on indictment?
A. The accused only
B. The prosecution only
C. Either party
D. The magistrate
3. What discount applies to a guilty plea entered in the Local Court before committal?
A. 5%
B. 10%
C. 25%
D. 50%

Apply it

4. Apply it

Situation	Your answer
Mel is charged with offensive language outside a nightclub.	
Ari is charged with a Table 1 offence and wants a jury.	
Bo is charged with a Table 2 offence and wants a jury.	
Cal is charged with murder and pleads guilty in the Local Court.	

Exam practice

5. Compare summary and indictable offences.

4 marks

Compare: show how things are similar and different.

Parties to a crime

Syllabus: parties to a crime

Key points

- Four parties: principals in the first and second degree, accessories before and after the fact.
- Second-degree principals and accessories before the fact can be punished as the principal (ss 345, 346).
- Joint criminal enterprise makes each party liable for crimes in the agreed plan.
- Extended JCE adds incidental crimes foreseen as possible (McAuliffe; kept in Miller).

Check your understanding

Circle the best answer.

1. A lookout stands at the door during a burglary. What party are they?
A. Principal in the first degree
B. Principal in the second degree
C. Accessory before the fact
D. Accessory after the fact
2. Under extended joint criminal enterprise, what must a participant have foreseen?
A. That the incidental crime was certain
B. That the incidental crime was probable
C. That the incidental crime was a possible consequence
D. Nothing at all
3. What did the High Court decide in *Miller v The Queen* (2016)?
A. To abolish joint criminal enterprise
B. To keep extended joint criminal enterprise
C. To follow *R v Jogee*
D. To abolish accessories after the fact

Apply it

4. One robbery, four people

Situation	Your answer
Cy lends Ben a gun the day before, knowing about the plan.	
Ben walks into the bank and takes the money at gunpoint.	
Ava waits outside in the getaway car.	
Dee lets Ben hide at her house afterwards, knowing what he did.	

Exam practice

5. Explain how a person who did not commit the criminal act can still be liable for a crime. 4 marks

Explain: relate cause and effect; show why and how.

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Factors affecting criminal behaviour

Syllabus: factors affecting criminal behaviour

Key points

- Six factors: social, economic, political, genetic, self-interest and psychological.
- Factors interact; they contribute to the risk of offending rather than cause it.
- Lombroso's "born criminal" theory is discredited.
- How we explain crime shapes the response: deterrence, health diversion or community investment.

Check your understanding

Circle the best answer.

1. Rational choice theory is most closely linked to which factor?

A. Genetic	C. Political
B. Self-interest	D. Psychological
2. Which statement about genetic factors is most accurate?

A. Lombroso proved some people are born criminals	C. Modern research looks at genes interacting with environment
B. Genes alone determine criminal behaviour	D. Genetics has no place in criminology
3. Which is the best way to describe the link between factors and crime in an exam?

A. Poverty causes crime	C. Crime has a single cause
B. Factors contribute to the risk of offending	D. Only individuals are responsible

Exam practice

4. Explain how TWO factors may contribute to criminal behaviour.

4 marks

Explain: relate cause and effect; show why and how.

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Crime prevention: situational and social

Syllabus: crime prevention: situational and social

Key points

- Situational prevention reduces opportunity: CCTV, lighting, design, alcohol restrictions.
- Social prevention addresses causes: education, jobs, family support, justice reinvestment.
- Situational measures risk displacement and privacy costs; social measures take time.
- Maranguka (KPMG 2018) shows promising one-year results; combine both approaches.

Cases

Case	Summary
Maranguka Justice Reinvestment Bourke, NSW · Aboriginal-led, place-based · KPMG impact assessment 2018	Idea: Justice reinvestment: redirect money from prisons into community-led programs that address the causes of offending. Results: In one year: 23% fewer police-recorded domestic violence incidents, a 31% rise in Year 12 retention, and 42% fewer days spent in custody. Value: KPMG estimated a gross economic impact of \$3.1 million in 2017. Caution: The assessment covered a single year and was not a full outcomes evaluation, so long-term effects still need evidence.

Check your understanding

Circle the best answer.

1. What is displacement?

- | | |
|--|-----------------------------|
| A. Crime moving to a different place or target | C. A type of social program |
| B. Moving offenders to another prison | D. Relocating victims |

2. Justice reinvestment is an example of which approach?

- | | |
|----------------|-------------------|
| A. Situational | C. Deterrence |
| B. Social | D. Incapacitation |

3. Why should Maranguka's results be used with some caution?

- | | |
|---|------------------------------|
| A. They were negative | C. The project was abandoned |
| B. The assessment covered only one year | D. There was no data |

Apply it

4. Situational or social?

Situation	Your answer
Installing CCTV cameras at a train station.	
A free after-school sports program in a suburb with high youth crime.	
Better lighting and fencing in a shopping centre car park.	
Job training for young people leaving detention.	

Exam practice

5. Evaluate the effectiveness of crime prevention strategies.

6 marks

Evaluate: make a judgement based on criteria.

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Police powers and police discretion

Syllabus: police powers

Key points

- Most NSW police powers come from LEPR: search, arrest, move-on directions and reasonable force.
- Many powers need reasonable suspicion: more than a possibility, with a factual basis (Rondo).
- Discretion allows flexibility but risks inconsistency and bias.
- Oversight comes from the LECC, the courts and LEPR's own safeguards.

Cases

Case	Summary
<i>R v Rondo [2001] NSWCCA 540</i> NSW Court of Criminal Appeal · the leading case on reasonable suspicion	Facts: Police stopped Rondo, who was driving his mother's car, and searched it after he leaned over to the glovebox. They found drugs. Issue: When does a police officer have a "reasonable suspicion"? Principle: A reasonable suspicion is less than a reasonable belief but more than a possibility. It is not arbitrary: there must be some factual basis for it. Significance: The court found the initial stop was unlawful. The test still guides every LEPR power that depends on reasonable suspicion.
The LECC strip search inquiry Law Enforcement Conduct Commission · 2018 to 2020	Background: From 2018, the Law Enforcement Conduct Commission investigated police strip searches, with a focus on music festivals. Findings: In 2020 it found complainants had been unlawfully strip searched, including a 16-year-old girl at a festival in 2018. Officers were inadequately trained in the law. Response: Its final report in December 2020 made 25 recommendations. Police changed policies and training. Significance: Wide powers plus discretion can lead to unlawful searches, which is why independent oversight matters.
<i>R v Kristian White (2024–2025)</i> NSW Supreme Court · police use of force	Facts: In May 2023, Senior Constable Kristian White was called to an aged-care home in Cooma, where Clare Nowland, a 95-year-old woman with dementia who used a walking frame, was holding a steak knife. Within minutes he fired his Taser; she fell, struck her head and died a week later. Issue: Was this a lawful use of reasonable force, or manslaughter? Outcome: A jury convicted White of manslaughter in November 2024. In March 2025 he received a two-year Community Correction Order. A Crown appeal against the sentence was dismissed in July 2025. Significance: Police powers to use force are limited to what is reasonable, and police can be prosecuted when they go beyond it.

Check your understanding

Circle the best answer.

1. Which Act is the main source of NSW police powers?

A. Crimes Act 1900

B. Law Enforcement (Powers and Responsibilities) Act 2002

C. Summary Offences Act 1988

D. Bail Act 2013

2. According to *R v Rondo*, a reasonable suspicion is...

A. Proof beyond reasonable doubt

B. A reasonable belief

C. Less than a reasonable belief but more than a possibility

D. Any hunch an officer has

3. What did the LECC find in its strip search inquiry?

A. All searches were lawful

B. Some searches of young people were unlawful

C. Strip searches were banned

D. Police had no search powers

Apply it

4. Read the scenario and answer the question.

Scenario

At 11pm, an officer sees a young man outside a train station. He looks nervous when he sees police. The officer searches him for drugs.

Did the officer have a reasonable suspicion?

Exam practice

5. Assess the effectiveness of police powers in balancing community safety and individual rights. 5 marks

Assess: make a judgement of value, quality or outcome.

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Reporting crime

Syllabus: reporting crime

Key points

- Most crime reaches police through victims and witnesses.
- Much crime is never reported: only 56% of physical assaults were reported in 2024–25 (ABS).
- Fear, shame, distrust and the court process deter reporting.
- Some reporting is compulsory: ss 316 and 316A, and mandatory reporters.

Check your understanding

Circle the best answer.

1. What is the "dark figure" of crime?

- | | |
|---|--------------------|
| A. Crime committed at night | C. Violent crime |
| B. Crime that is never reported or recorded | D. Organised crime |

2. In 2024–25, roughly what share of physical assault victims reported the most recent incident to police?

- | | |
|--------------|--------------|
| A. About 10% | C. About 90% |
| B. About 56% | D. 100% |

3. Since 2018, what does s 316A of the Crimes Act require?

- | | |
|--|--------------------------------------|
| A. Reporting all minor crime | C. Victims to report within 24 hours |
| B. Adults to report child abuse offences to police | D. Police to report to the LECC |

Exam practice

4. Explain why some crimes are not reported to police.

4 marks

Explain: relate cause and effect; show why and how.

[illegible]

Investigating crime: evidence and technology

Syllabus: investigating crime: gathering evidence, use of technology

Key points

- Evidence comes from people, physical traces and digital sources.
- Surveillance, interception, metadata and encryption powers are each regulated by law.
- Operation Ironside (2021) shows technology's power; Farah Jama's case shows its risks.
- Warrants and court testing protect against misuse and error.

Cases

Case	Summary
Operation Ironside (2021) Australian Federal Police and FBI · the ANOM encrypted app	Method: The FBI ran an encrypted messaging app, ANOM, that was secretly distributed to organised crime networks. The AFP decrypted messages in real time. Results: Announced 8 June 2021: 224 people arrested in Australia on 526 charges, with 104 firearms and almost \$45 million in cash seized. Law: The AFP said access was lawful under the 2018 Assistance and Access Act, its first use of those powers. Debate: A huge success against organised crime, but it shows how far surveillance powers can reach into private communications.
The wrongful conviction of Farah Jama Victoria · conviction quashed December 2009 · Vincent inquiry 2010	Facts: Jama was convicted of rape in Victoria based solely on DNA evidence. No other evidence placed him at the scene. Problem: The sample had been contaminated with his DNA from an unrelated test the day before. Outcome: The Court of Appeal acquitted him in December 2009, after he had spent about 15 months in prison. Lesson: A former judge, Frank Vincent, criticised the "mystical infallibility" given to DNA. Forensic evidence must be tested, not trusted blindly.

Check your understanding

Circle the best answer.

- How long must telcos keep metadata under the 2015 scheme?

A. Six months
 C. Ten years
 B. Two years
 D. Forever
- What went wrong in Farah Jama's case?

A. A false confession
 C. A biased jury
 B. A contaminated DNA sample
 D. No lawyer
- What did Operation Ironside rely on?

A. Fingerprints
 C. Witness statements
 B. An encrypted app secretly run by the FBI
 D. Strip searches

Apply it

4. Which power or safeguard?

Situation	Your answer
Police want to listen to a suspect's phone calls.	
A DNA sample is the only evidence linking the accused to the crime.	
Police want to take over an encrypted account used by a crime network.	

Exam practice

5. Assess the impact of technology on the investigation of crime.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a blank sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Search and seizure, and the use of warrants

Syllabus: search and seizure, use of warrants

Key points

- Police can search without a warrant on reasonable suspicion, with consent, or on arrest.
- Strip searches need seriousness and urgency, and extra protections for children.
- Warrants require reasonable grounds before an independent issuing officer.
- Courts may exclude improperly obtained evidence: s 138; *Ridgeway* (1995).

Cases

Case	Summary
<i>Ridgeway v The Queen</i> (1995) (1995) 184 CLR 19 · High Court of Australia	Facts: Australian Federal Police officers and an informant arranged for heroin to be imported into Australia, in breach of the law, to catch Ridgeway. Issue: Should evidence produced by unlawful police conduct be used against him? Decision: No. The High Court held the evidence should have been excluded on public policy grounds, and his conviction was quashed. Significance: Courts will not let police break the law to secure convictions. Parliament later created a legal framework for controlled operations.

Check your understanding

Circle the best answer.

1. Who issues a search warrant?

- | | |
|--|--|
| A. The police officer in charge | C. The victim |
| B. An independent issuing officer such as a magistrate | D. The Director of Public Prosecutions |

2. Under s 138 of the Evidence Act, what does a court weigh?

- | | |
|---|----------------------------|
| A. Guilt against innocence | C. The cost of the trial |
| B. The desirability of admitting evidence against the undesirability of how it was obtained | D. The views of the victim |

3. What did the High Court decide in *Ridgeway* (1995)?

- | | |
|---|------------------------------|
| A. Unlawful police conduct is acceptable | C. Informants cannot be used |
| B. Evidence from unlawful police importation should be excluded | D. Heroin is legal |

Apply it

4. Lawful or not?

Situation	Your answer
Police search a house for drugs with a warrant issued by a magistrate.	
Police search a car after a sniffer dog sits next to it, and see drugs on the seat.	
Police enter a home without a warrant or consent "to have a look around".	

Exam practice

5. Explain the role of warrants in protecting individual rights during investigations.

4 marks

Explain: relate cause and effect; show why and how.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Arrest and charge, summons and warrants

Syllabus: arrest and charge, summons, warrants

Key points

- People reach court by notice or summons, by arrest and charge, or by arrest warrant.
- Arrest without a warrant needs reasonable suspicion and necessity (LEPRA s 99).
- Arrest should be a last resort for minor offences (*DPP v Carr*).
- After charge, police decide whether to release the person or refuse bail.

Check your understanding

Circle the best answer.

1. Under LEPRA s 99, what must police have to arrest without a warrant?
A. A signed confession
B. Reasonable suspicion, and arrest being reasonably necessary
C. The victim's permission
D. A warrant
2. What did the court say in *DPP v Carr* (2002)?
A. Always arrest
B. Arrest should be a last resort for minor offences
C. Summonses are unlawful
D. Police need a warrant for every arrest
3. Who issues an arrest warrant?
A. Any police officer
B. A court or authorised officer
C. The victim
D. A lawyer

Apply it

4. Arrest or notice?

Situation	Your answer
A teenager is caught shoplifting a \$20 item. She gives her name and address and is cooperative.	
A man assaults his partner and police fear he will return to the house tonight.	
A suspect in an armed robbery is about to board a flight overseas.	

Exam practice

5. Explain why arrest should be used as a last resort.

3 marks

Explain: relate cause and effect; show why and how.

Bail or remand

Syllabus: bail or remand

Key points

- Bail is release before trial, often with conditions; remand is custody before trial.
- Bail is refused only for an unacceptable risk that conditions cannot reduce.
- Show cause offences, and 2024 reforms for young people and domestic violence, tighten bail.
- Remand detains people who are presumed innocent: a core rights tension.

Check your understanding

Circle the best answer.

1. What is remand?

- | | |
|--|-----------------------|
| A. Release with conditions | C. A type of sentence |
| B. Being held in custody until the case is decided | D. A police caution |

2. Which is NOT one of the unacceptable risks in the Bail Act?

- | | |
|---------------------------------|-------------------------------|
| A. Failing to appear | C. Being unemployed |
| B. Committing a serious offence | D. Interfering with witnesses |

3. Under s 22C (April 2024), what must a bail authority have to grant bail?

- | | |
|--|----------------------------|
| A. A guarantee from parents | C. A police recommendation |
| B. A high degree of confidence the young person won't commit a serious offence | D. Nothing extra |

Apply it

4. Bail or remand?

Situation	Your answer
A first-time offender charged with fraud, with a job, a family and no overseas ties.	
A man charged with a serious assault on his partner, who has threatened to "finish it" if released.	
A woman with no fixed address who missed court twice before.	

Exam practice

5. Evaluate the effectiveness of bail laws in balancing the rights of the accused and the community.

6 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Detention, interrogation and the rights of suspects

Syllabus: detention and interrogation, rights of suspects

Key points

- Detention after arrest: 6 hours, plus up to 6 more with a detention warrant.
- Suspects have rights to a caution, a lawyer, an interpreter and support persons.
- Admissions about indictable offences must generally be electronically recorded.
- The right to silence is limited by s 89A for serious offences.

Check your understanding

Circle the best answer.

1. What is the maximum investigation period after arrest, with a detention warrant?

A. 4 hours	C. 12 hours
B. 6 hours	D. 24 hours
2. When can a special caution under s 89A be given?

A. For any offence	C. Only to children
B. For serious indictable offences, with a lawyer present	D. Only after conviction
3. Since 2016, who must police notify when an Aboriginal person is taken into custody?

A. The victim	C. The media
B. The Aboriginal Legal Service	D. The High Court

Exam practice

4. Assess the extent to which the rights of suspects are protected during detention and interrogation.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

Evaluating the investigation process

Syllabus: effectiveness of the investigation process

Key points

- Evaluate against criteria: rights, safety, accuracy, fairness, efficiency, accountability.
- Strengths: legal thresholds, court control of evidence, technology, custody safeguards.
- Weaknesses: under-reporting, discretion, misuse of powers, erosion of rights.
- Write qualified judgements, supported by specific evidence.

Cases

Case	Summary
DPP v Carr [2002] NSWSC 194 NSW Supreme Court · discretion and arrest	Facts: In Wellington, Lance Carr swore at a police officer and walked away. The officer arrested him for offensive language, although he knew Carr's name and address and could have issued a court attendance notice. The officer said arrest was "far quicker". What followed: A struggle led to further charges of resisting, assaulting and intimidating police. The magistrate excluded that evidence as improperly obtained. Decision: Justice Smart upheld the magistrate: for minor offences, where identity is known and a summons would work, arrest should be a last resort. Use it: Strong evidence for discretion, and for how an unnecessary arrest can escalate into more charges.

Check your understanding

Circle the best answer.

1. Which is the best evidence of police discretion affecting outcomes?
 - A. Operation Ironside
 - B. The EDDI diversion rate
 - C. *R v Rondo*
 - D. The ABS reporting rate
2. What makes a paragraph evaluative rather than descriptive?
 - A. More cases
 - B. A judgement measured against criteria
 - C. Longer sentences
 - D. Quotes from the syllabus

Exam practice

3. Evaluate the effectiveness of the criminal investigation process in balancing police powers and the rights of suspects.

6 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Court jurisdiction

Syllabus: court jurisdiction

Key points

- Local Court, District Court and Supreme Court hear cases of increasing seriousness.
- The Court of Criminal Appeal and High Court hear appeals; the High Court needs special leave.
- Original jurisdiction is a first hearing; appellate jurisdiction reviews decisions.
- Specialist courts, like the Drug Court and Youth Koori Court, target causes of offending.

Check your understanding

Circle the best answer.

1. Which court hears most criminal matters in NSW?
A. High Court
B. Supreme Court
C. District Court
D. Local Court
2. What is appellate jurisdiction?
A. Hearing a case for the first time
B. Reviewing a lower court's decision
C. Investigating deaths
D. Granting bail
3. Where are Commonwealth offences such as terrorism usually tried?
A. Only in the High Court
B. In State courts exercising federal jurisdiction
C. In the Coroners Court
D. Overseas

Apply it

4. Which court?

Situation	Your answer
An adult charged with offensive language.	
An adult charged with murder.	
A 15-year-old charged with theft.	
An offender appeals a District Court sentence as too harsh.	

Exam practice

5. Outline the criminal jurisdiction of TWO NSW courts.

4 marks

Outline: sketch in general terms; give the main features.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

The adversary system

Syllabus: the adversary system

Key points

- Two parties, an impartial umpire, strict evidence rules, and the burden on the prosecution.
- The inquisitorial system uses an investigating judge seeking the truth.
- Strengths: protection of the accused and rigorous testing of evidence.
- Weaknesses: unequal resources and harm to vulnerable witnesses; reforms respond to both.

Check your understanding

Circle the best answer.

1. What is the judge's role in the adversary system?
A. Investigator
B. Impartial umpire
C. Prosecutor
D. Defence lawyer
2. Which is a weakness of the adversary system?
A. The presumption of innocence
B. Unequal resources between the parties
C. An impartial judge
D. Rules of evidence
3. In which system does a judge actively investigate the case?
A. Adversary
B. Inquisitorial
C. Both
D. Neither

Apply it

4. Which system?

Situation	Your answer
The judge questions witnesses and directs the police investigation.	
The defence cross-examines the prosecution's expert witness.	
The judge stays silent and rules only on objections.	

Exam practice

5. Assess the effectiveness of the adversary system in achieving justice.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a blank sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Legal personnel

Syllabus: legal personnel: magistrate, judge, police prosecutor, DPP, public defenders

Key points

- Magistrates decide Local Court matters alone; judges direct juries and sentence in higher courts.
- Police prosecutors handle the Local Court; the independent DPP handles serious matters.
- Solicitors, barristers and public defenders represent the accused.
- Each role has a duty to the court that supports a fair trial.

Check your understanding

Circle the best answer.

1. Who prosecutes most matters in the Local Court?
A. The DPP
B. Police prosecutors
C. Public defenders
D. Judges
2. Why is the DPP's independence important?
A. It saves money
B. Prosecution decisions are free from political influence
C. It makes trials faster
D. It replaces juries

Apply it

3. Who does what?

Situation	Your answer
Sentences an offender for offensive language in the Local Court.	
Prosecutes a murder trial in the Supreme Court.	
Decides whether the accused is guilty of murder.	
A State-employed barrister defending a legally aided accused.	

Exam practice

4. Outline the role of TWO legal personnel in a criminal trial.

4 marks

Outline: sketch in general terms; give the main features.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

Legal representation and legal aid

Syllabus: legal representation, including legal aid

Key points

- Representation matters because law is complex, the sides are unequal and the stakes are high.
- Legal Aid NSW (means and merit tests), the ALS and community legal centres provide help.
- Dietrich (1992): serious trials may be stayed if the accused is unrepresented through no fault of their own.
- The "missing middle" and less serious charges remain gaps.

Cases

Case	Summary
<i>Dietrich v The Queen</i> (1992) (1992) 177 CLR 292 · High Court of Australia	Facts: Dietrich was charged with importing heroin, a serious offence. He could not afford a lawyer, was refused legal aid, and was convicted after representing himself. Issue: Is there a right to a publicly funded lawyer? Decision: No such right exists. But where an accused faces a serious charge and is unrepresented through no fault of their own, the trial should usually be adjourned or stayed, because it would be unfair. His conviction was quashed. Significance: The right to a fair trial effectively forces legal aid to fund serious cases.

Check your understanding

Circle the best answer.

- What did the High Court hold in Dietrich (1992)?
 - A. There is a right to a free lawyer
 - B. A serious trial may be stayed if the accused is unrepresented through no fault of their own
 - C. Legal aid is unconstitutional
 - D. Accused people must represent themselves
- What two tests usually apply to a legal aid application?
 - A. Age and gender
 - B. Means and merit
 - C. Guilt and innocence
 - D. Speed and cost
- Who is the "missing middle"?
 - A. People who earn too much for legal aid but cannot afford a lawyer
 - B. Judges
 - C. Victims
 - D. Jurors

Apply it

4. Does Dietrich help?

Situation	Your answer
Ana is charged with murder, cannot afford a lawyer and is refused legal aid.	
Ben is charged with offensive language and cannot afford a lawyer.	
Cal refuses the legal aid lawyer he was given and wants a famous barrister.	

Exam practice

5. Explain the significance of *Dietrich v The Queen* (1992).

4 marks

Explain: relate cause and effect; show why and how.

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Pleas and charge negotiation

Syllabus: pleas, charge negotiation

Key points

- An accused pleads guilty (straight to sentence) or not guilty (the State must prove its case).
- Charge negotiation: a guilty plea to fewer or lesser charges, guided by ODPP guidelines.
- Fixed discounts of 25%, 10% and 5% reward early pleas (s 25D).
- It improves efficiency but raises concerns about transparency, victims and innocent pleas.

Check your understanding

Circle the best answer.

1. What does a not guilty plea require?

- A. The accused to prove innocence
- B. The prosecution to prove the case beyond reasonable doubt

- C. An immediate sentence
- D. A charge negotiation

2. What is charge negotiation?

- A. A jury deliberation
- B. Agreement on the charges between prosecution and defence

- C. An appeal
- D. A bail hearing

3. Which is a criticism of charge negotiation?

- A. It wastes court time
- B. It lacks transparency

- C. It always increases sentences
- D. It removes judges

Apply it

4. Read the scenario and answer the question.

Scenario

For an armed robbery, the judge decides the right sentence before any discount is 8 years. Mia pleads guilty in the Local Court; Leo pleads guilty on the first day of his trial.

What sentence does each receive?

Exam practice

5. Evaluate the role of charge negotiation in the criminal trial process.

5 marks

Evaluate: make a judgement based on criteria.

[illegible]

Burden and standard of proof

Syllabus: burden and standard of proof

Key points

- The burden of proof rests on the prosecution.
- The standard is beyond reasonable doubt, higher than the civil balance of probabilities.
- Woolmington (1935): the presumption of innocence is the "golden thread".
- Some laws shift the burden, such as deemed supply, which critics say erodes the presumption.

Cases

Case	Summary
Woolmington v DPP [1935] AC 462 House of Lords, England · the "golden thread"	Facts: Woolmington was charged with murdering his wife, who had been shot. He said the gun went off accidentally. Issue: The trial judge told the jury that Woolmington had to prove it was an accident. Decision: The House of Lords quashed his conviction. It is the prosecution's duty to prove guilt; the accused does not have to prove innocence. Significance: The presumption of innocence is the "golden thread" running through the criminal law, and it applies in Australia.

Check your understanding

Circle the best answer.

- What is the standard of proof in a criminal trial?

A. Balance of probabilities
 C. Reasonable suspicion
 B. Beyond reasonable doubt
 D. Absolute certainty
- What principle does Woolmington (1935) establish?

A. Juries are optional
 C. Accidents are never a defence
 B. The prosecution must prove guilt; the accused need not prove innocence
 D. Judges decide guilt
- Which is an example of the burden shifting to the accused?

A. Common assault
 C. Murder
 B. Deemed supply of a traffickable quantity of drugs
 D. Larceny

Apply it

4. Who must prove it, and to what standard?

Situation	Your answer
Jo is charged with assault and says she acted in self-defence.	
Raj is found with a traffickable quantity of a drug and says it was for personal use.	
Lee raises mental health impairment at his murder trial.	

Exam practice

5. Explain the importance of the burden and standard of proof in a criminal trial.

4 marks

Explain: relate cause and effect; show why and how.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

Evidence and witnesses

Syllabus: use of evidence, including witnesses

Key points

- Witnesses give evidence in chief, are cross-examined, then re-examined.
- Rules such as relevance, hearsay and tendency keep trials fair (Evidence Act 1995).
- Vulnerable witnesses are protected by screens, CCTV, recorded evidence and support persons.
- Folbigg (quashed 2023) shows expert evidence can change with science.

Cases

Case	Summary
The Folbigg case Convicted 2003 · pardoned June 2023 · convictions quashed December 2023	Trial: In 2003, Folbigg was convicted of murdering three of her children and the manslaughter of a fourth. Her diary entries were used against her. New evidence: In 2018, scientists found two of her daughters carried a rare CALM2 genetic variant that could have caused their deaths. Outcome: An inquiry led by Tom Bathurst KC found reasonable doubt. She was pardoned in June 2023, and the Court of Criminal Appeal quashed her convictions in December 2023. Lesson: Courts depend on the science available at the time. The diary entries were found not to be reliable admissions of guilt.
Wood v The Queen [2012] NSWCCA 21 NSW Court of Criminal Appeal · flawed expert evidence	Facts: Gordon Wood was convicted of murdering his girlfriend, Caroline Byrne, whose body was found below The Gap at Watsons Bay in 1995. Evidence: An expert witness told the jury that Wood could have thrown her from the cliff. Decision: In February 2012 the Court of Criminal Appeal quashed the conviction and entered an acquittal: the expert evidence was seriously flawed, leaving reasonable doubt. Significance: Expert evidence can carry great weight with juries, so courts must test it carefully.

Check your understanding

Circle the best answer.

- What is cross-examination?

A. Questioning by the party who called the witness
 B. Questioning by the other party to test the evidence
 C. A judge's summary
 D. A jury's question
- Which protection allows a child witness to give evidence from another room?

A. A support person
 B. CCTV
 C. A closed court
 D. Hearsay
- What new evidence led to Folbigg's convictions being quashed?

A. A confession by someone else
 B. A rare genetic variant found in two daughters
 C. New CCTV footage
 D. A missing witness

Exam practice

4. Assess the effectiveness of the rules of evidence in achieving justice.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

Defences, part 1: complete defences

Syllabus: defences to criminal charges

Key points

- Complete defences lead to acquittal; partial defences reduce murder to manslaughter.
- Self-defence (s 418): a belief of necessity, and a reasonable response as perceived (Zecevic).
- Mental health impairment leads to a special verdict under the 2020 Act.
- Duress, necessity and automatism are also complete defences.

Cases

Case	Summary
<i>R v Williamson</i> [1972] 2 NSWLR 281 NSW · duress	Facts: The accused helped dispose of a body while under a threat of death. Decision: The threat was held to constitute duress. Limits: Duress requires a threat of death or serious harm that would overwhelm an ordinary person, and it is not a defence to murder. Significance: The law excuses people who act under genuine, overwhelming threats, but not those who choose to kill an innocent person.
<i>R v Dudley and Stephens</i> (1884) England · necessity	Facts: After a shipwreck, starving sailors adrift in a lifeboat killed the cabin boy, who was close to death, and ate his body to survive. Issue: Could necessity excuse murder? Decision: No. They were convicted of murder, although their death sentences were later commuted. Significance: Necessity can excuse some offences, but it is not a defence to murder.

Check your understanding

Circle the best answer.

- What does a successful complete defence lead to?

A. A reduced sentence

B. An acquittal

C. Manslaughter

D. A retrial
- Under s 418, self-defence requires...

A. Belief that the conduct was necessary, and a reasonable response as perceived

B. Proof of injury

C. Police approval

D. A weapon
- For which offence is duress NOT available?

A. Theft

B. Murder

C. Assault

D. Drug supply

Apply it

4. Which defence?

Situation	Your answer
Armed men threaten to kill Lena unless she drives their getaway car.	
Omar punches a man who is beating his friend with a bottle.	
During an epileptic seizure, Jess strikes a nurse.	
Sam breaks into a cabin during a blizzard to avoid freezing to death.	

Exam practice

5. Outline TWO complete defences to a criminal charge.

4 marks

Outline: sketch in general terms; give the main features.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

Defences, part 2: partial defences

Syllabus: defences to criminal charges

Key points

- Partial defences reduce murder to manslaughter: extreme provocation, substantial impairment, excessive self-defence.
- *Singh v R* (2012) triggered the 2014 reform of provocation.
- Extreme provocation needs a serious indictable offence by the deceased, and excludes non-violent sexual advances.
- The reform is a strong example of law reflecting community values.

Cases

Case	Summary
<i>Singh v R</i> [2012] NSWSC 637 NSW Supreme Court · the catalyst for reform	Facts: Chamanjot Singh killed his wife, Manpreet Kaur. He claimed she provoked him by telling him she had never loved him, and threatening to have him deported. Outcome: A jury accepted provocation, and he was convicted of manslaughter rather than murder. Reaction: Community outrage that words in a domestic setting could reduce murder to manslaughter. A parliamentary select committee reviewed the law. Reform: The Crimes Amendment (Provocation) Act 2014 replaced provocation with the much narrower "extreme provocation".
<i>R v Camplin</i> [1978] AC 705 House of Lords, England · the "ordinary person"	Facts: A 15-year-old boy killed his uncle with a frying pan, after the uncle had sexually assaulted him and then mocked him. Issue: Should the "ordinary person" test take account of the accused's age? Decision: Yes. The jury could consider how an ordinary person of the accused's age, in his position, would have reacted. His provocation defence succeeded. Significance: The ordinary person test considers some characteristics of the accused, which still matters under extreme provocation.
<i>R v Won</i> [2012] NSWSC 855 NSW Supreme Court · provocation before the reform	Facts: Joachim Won found his wife with his friend, and killed the friend by stabbing him with a kitchen knife. Outcome: Provocation reduced murder to manslaughter. He was sentenced to 7 years and 6 months, with a non-parole period of 5 years. Under s 23 today: Discovering a partner with someone else is not a serious indictable offence, so extreme provocation would not be available. Significance: Cases like Won and Singh show why the 2014 reform narrowed the defence.
<i>R v Blake Davis</i> [2021] NSWSC 235 NSW Supreme Court · how flexible "reasonable force" is	Facts: Blake Davis killed rapper Jett McKee with a samurai sword on a Sydney street after a botched drug robbery. Davis said McKee had threatened to kill him. Outcome: After a trial for murder, he was sentenced for manslaughter: five years, with a non-parole period of two years and nine months. Discount: He received a 25% discount for having offered to plead guilty to manslaughter before the murder trial. Significance: Your textbook uses it to show how what is "proportional and reasonable force" is a notoriously flexible concept.

Check your understanding

Circle the best answer.

1. What is the effect of a successful partial defence?
A. Acquittal
B. Murder reduced to manslaughter
C. A lighter fine
D. A retrial
2. Which case led to the 2014 reform of provocation?
A. Zecevic
B. *Singh v R*
C. Woolmington
D. Dietrich
3. Which can never amount to extreme provocation?
A. A violent assault
B. A non-violent sexual advance
C. A serious indictable offence
D. Long-term abuse

Apply it

4. Extreme provocation available?

Situation	Your answer
Dev kills his partner after she says she is leaving him.	
Mia kills a man moments after he violently assaulted her child in front of her.	
Tom kills a man who made a non-violent sexual advance to him.	

Exam practice

5. Explain how the law of provocation has been reformed in NSW.

4 marks

Explain: relate cause and effect; show why and how.

Juries and verdicts

Syllabus: the role of juries, including verdicts

Key points

- Juries decide facts and verdicts; judges decide law and sentence.
- Verdicts are usually unanimous; 11–1 majorities are allowed after 8 hours (since 2006).
- Judge-alone trials can avoid prejudice; jury misconduct can quash convictions (Skaf).
- Juries reflect community values but can struggle with complexity and publicity.

Check your understanding

Circle the best answer.

1. What does the jury decide?

- | | |
|------------------------------|-------------------------|
| A. The sentence | C. Questions of law |
| B. The facts and the verdict | D. Whether to prosecute |

2. When can an 11–1 majority verdict be accepted in NSW?

- | | |
|---|------------------------------|
| A. Immediately | C. Only for summary offences |
| B. After at least 8 hours of deliberation, if unanimity is unlikely | D. Never |

3. Why were the convictions quashed in *R v Skaf* (2004)?

- | | |
|--|-------------------------|
| A. New DNA evidence | C. The judge was biased |
| B. Jurors visited the crime scene without permission | D. A juror was a lawyer |

Apply it

4. Apply it

Situation	Your answer
A juror googles the accused's criminal record during the trial.	
After 9 hours, 11 jurors agree on guilty and one does not.	
A famous accused fears media coverage has prejudiced potential jurors.	

Exam practice

5. Evaluate the effectiveness of juries in achieving justice.

5 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

Evaluating the trial process

Syllabus: effectiveness of the criminal trial process

Key points

- Evaluate against fairness, victim protection, accuracy, access, efficiency and confidence.
- Strengths: the presumption of innocence, Dietrich, victim protections, law reform.
- Weaknesses: wrongful convictions, unequal resources, pressure to plead, jury limits.
- Write qualified judgements with specific evidence.

Check your understanding

Circle the best answer.

1. Which case best shows the risk of wrongful conviction?
A. Woolmington
B. Folbigg
C. Dietrich
D. Singh
2. Which is evidence of responsive law reform in the trial process?
A. Skaf
B. The extreme provocation reform after Singh
C. Woolmington
D. Majority verdicts in 1977

Apply it

3. Strength or weakness of the trial process?

Situation	Your answer
A child gives evidence by CCTV from another room.	
A man on a modest income is refused legal aid for a District Court trial.	
A conviction is quashed after new genetic evidence emerges, 20 years later.	

Exam practice

4. Evaluate the effectiveness of the criminal trial process in achieving justice.

6 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Statutory and judicial guidelines

Syllabus: statutory and judicial guidelines

Key points

- Statutory guidelines: maximum penalties, s 3A purposes, standard non-parole periods, rare mandatory minimums.
- Judicial guidelines: guideline judgments and appeal decisions.
- Markarian: instinctive synthesis; Muldrock: SNPPs are not a starting point.
- Guidelines balance judicial discretion against consistency.

Cases

Case	Summary
Muldrock v The Queen (2011) (2011) 244 CLR 120 · High Court of Australia	Facts: Muldrock, a man with an intellectual disability, was sentenced for a serious sexual offence that carried a standard non-parole period. Issue: Must judges start from the standard non-parole period and work up or down? Decision: No. The standard non-parole period is one factor among many, not a starting point. Judges must still apply instinctive synthesis. Significance: The High Court protected judicial discretion against a rigid, two-stage approach.
Magaming v The Queen (2013) 252 CLR 381 High Court of Australia · mandatory minimum sentences	Facts: Magaming, an Indonesian crew member on a boat carrying asylum seekers, was convicted of aggravated people smuggling, which carried a mandatory minimum of 5 years. Issue: Was the mandatory minimum invalid because the prosecutor's choice of charge effectively decided the sentence? Decision: By majority, the law was valid. The prosecutor's choice between offences did not take over the court's judicial power. Significance: Parliament can limit judicial discretion with mandatory minimums, which critics say can produce unjust results for low-level offenders.

Check your understanding

Circle the best answer.

- What did the High Court hold in Muldrock (2011)?

A. SNPPs are a mandatory starting point

B. SNPPs are one factor, not a starting point

C. SNPPs were abolished

D. Juries set sentences
- What is instinctive synthesis?

A. Adding and subtracting set amounts

B. Weighing all factors together to reach one sentence

C. Following the victim's wishes

D. Applying the maximum penalty
- Who issues guideline judgments in NSW?

A. Parliament

B. The Court of Criminal Appeal

C. The Local Court

D. The police

Exam practice

4. Assess the role of judicial discretion in sentencing.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Purposes of punishment

Syllabus: purposes of punishment

Key points

- Deterrence: specific (this offender) and general (everyone else).
- Retribution: punishment proportionate to the harm.
- Rehabilitation helps offenders change; incapacitation removes the opportunity to offend.
- Purposes often conflict; judges balance them through instinctive synthesis.

Cases

Case	Summary
McCartney v The Queen [2009] NSWCCA 244 NSW Court of Criminal Appeal · general deterrence	Facts: A 22-year-old man sexually assaulted a woman at his home after she had repeatedly refused sex. Both were intoxicated. He was sentenced to two years and six months' imprisonment. Sentencing: The judge said general deterrence was important: the court must send a message to the community that sexual assault is not acceptable. A victim impact statement showed her life and studies were disrupted. Appeal: He appealed, arguing too much weight was given to deterrence. The court explained deterrence was a very strong consideration, but not applied above all other purposes. Significance: Purposes are weighed together, but general deterrence carries great weight for serious offences.

Check your understanding

Circle the best answer.

- A harsh sentence intended to warn the public is an example of...

A. Specific deterrence

B. General deterrence

C. Rehabilitation

D. Incapacitation
- Which purpose focuses on punishment proportionate to the harm?

A. Retribution

B. Rehabilitation

C. Incapacitation

D. Deterrence
- Why might deterrence fail?

A. Offenders always weigh consequences

B. Many offences are impulsive or intoxicated

C. Prisons are too comfortable

D. Judges never use it

Exam practice

4. Explain how the purposes of punishment may conflict in sentencing.

4 marks

Explain: relate cause and effect; show why and how.

[illegible]

Aggravating and mitigating factors

Syllabus: factors affecting a sentencing decision: aggravating and mitigating circumstances

Key points

- Section 21A lists aggravating and mitigating factors.
- Aggravating: weapons, vulnerable victims, prior record, offending on bail or parole.
- Mitigating: no record, remorse, rehabilitation prospects, guilty plea.
- Fernando and Bugmy: disadvantage and deprivation can mitigate.

Cases

Case	Summary
<i>Bugmy v The Queen</i> [2013] HCA 37 High Court of Australia · deprivation and moral culpability	Facts: William Bugmy grew up in Wilcannia in a household where alcohol abuse and violence were rife. While in custody he assaulted a prison officer, Mr Gould, who lost the sight of his left eye. Issue: Does the mitigating effect of a deprived background fade with time and repeat offending? Decision: No. The effects of profound childhood deprivation do not diminish with time. But Aboriginality is not, by itself, a mitigating factor. The case was sent back to the Court of Criminal Appeal. Significance: It confirmed Fernando (1992): deprivation is relevant for any offender, and sentencing principles apply equally to everyone.

Check your understanding

Circle the best answer.

1. Which is an aggravating factor under s 21A?

- A. Genuine remorse
- B. A vulnerable victim
- C. No prior record
- D. A guilty plea

2. What did Bugmy (2013) decide?

- A. Aboriginality alone is mitigating
- B. The effects of childhood deprivation do not diminish over time
- C. Fernando was overruled
- D. Disadvantage is irrelevant

3. Which is a mitigating factor?

- A. Offending on parole
- B. Using a weapon
- C. Good prospects of rehabilitation
- D. Committing it in company

Apply it

4. Read the scenario and answer the question.

Scenario

Lee, 24, breaks into an elderly woman's home at night and threatens her with a knife. He has two prior convictions, pleads guilty early, and writes a letter of apology.

Which factors aggravate, and which mitigate?

Exam practice

5. Explain how aggravating and mitigating factors affect a sentencing decision.

4 marks

Explain: relate cause and effect; show why and how.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins or other markings on the paper.

The role of the victim in sentencing

Syllabus: the role of the victim in sentencing

Key points

- Victim impact statements describe the harm caused, and are voluntary.
- Family members can give statements when a person is killed.
- The Charter of Victims Rights (2013) guarantees respect, information and support.
- Victims inform sentencing but do not decide it.

Check your understanding

Circle the best answer.

1. What is a victim impact statement?

- | | |
|---|-------------------|
| A. A police report | C. A guilty plea |
| B. A statement of the harm the offence caused | D. A jury verdict |

2. Who decides the sentence?

- | | |
|--------------------------------|---------------|
| A. The victim | C. The jury |
| B. The judge, according to law | D. The police |

Apply it

3. Apply it

Situation	Your answer
The parents of a man who was killed want to read a statement in court.	
A victim tells the judge the offender must get the maximum penalty.	
A victim of assault does not want to make a statement.	

Exam practice

4. Evaluate the role of victim impact statements in sentencing.

5 marks

Evaluate: make a judgement based on criteria.

[illegible]

Appeals

Syllabus: appeals

Key points

- Appeals can challenge convictions or sentences, for errors or unreasonable outcomes.
- Routes follow the hierarchy, with the High Court requiring special leave.
- The prosecution can appeal against inadequate sentences.
- After Carroll (2002), NSW allowed retrials after acquittal in limited cases (2006).

Cases

Case	Summary
<i>R v Carroll (2002)</i> (2002) 213 CLR 635 · High Court of Australia	Background: Carroll was convicted of murdering a baby in 1985, but the conviction was quashed on appeal and he was acquitted. Second trial: Years later, with new evidence, he was prosecuted for perjury for denying the killing at his murder trial, and convicted. Decision: The High Court quashed the perjury conviction: it was really an attempt to retry the murder, contrary to double jeopardy. Reform: NSW passed double jeopardy reforms in 2006, allowing a retrial after acquittal in limited cases.

Check your understanding

Circle the best answer.

- Which court hears appeals from the District Court?

A. The Local Court

B. The Court of Criminal Appeal

C. The Children's Court

D. The Coroners Court
- What is double jeopardy?

A. Two judges in one trial

B. Being tried twice for the same offence

C. Two appeals at once

D. A hung jury
- Which case prompted double jeopardy reform in NSW?

A. *R v Carroll*

B. Dietrich

C. Muldrock

D. Zecevic

Apply it

4. Which appeal?

Situation	Your answer
Ella thinks the magistrate's fine for her offence was too harsh.	
The DPP thinks a Supreme Court sentence for armed robbery was far too lenient.	
Years after an acquittal for murder, new DNA evidence identifies the accused.	

Exam practice

5. Assess the effectiveness of the 2006 double jeopardy reforms in NSW.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

Types of penalties

Syllabus: types of penalties

Key points

- Penalties range from a s 10 dismissal and fines to imprisonment.
- In 2018, CROs, CCOs and ICOs replaced bonds, community service orders, home detention and suspended sentences.
- Diversion and infringement notices keep some matters out of the system.
- Forfeiture removes the proceeds of crime.

Check your understanding

Circle the best answer.

1. Which penalty was abolished in NSW in 2018?

A. Imprisonment

B. Suspended sentences

C. Fines

D. Intensive Correction Orders

2. What is an Intensive Correction Order?

A. A fine

B. Imprisonment served in the community with strict conditions

C. A police caution

D. A dismissal

3. What does a s 10 dismissal mean?

A. A prison term

B. Guilt proven but no conviction recorded

C. A retrial

D. A large fine

Apply it

4. Which penalty fits?

Situation	Your answer
A first offender, 19, steals a \$30 item and is deeply remorseful.	
An offender needs supervision and should repay the community with unpaid work.	
A sentence of imprisonment is warranted, but the offender can be safely managed at home with strict conditions.	

Exam practice

5. Outline TWO types of penalties available to NSW courts.

4 marks

Outline: sketch in general terms; give the main features.

Alternative methods: circle sentencing and restorative justice

Syllabus: alternative methods of sentencing, including circle sentencing and restorative justice

Key points

- Restorative justice focuses on repairing harm, not just punishing.
- Circle sentencing involves Elders, victims and family, and began in Nowra in 2002.
- BOCSAR (2020): lower imprisonment and reoffending, interpreted with caution.
- It is limited to some courts and less serious offences.

Check your understanding

Circle the best answer.

1. Who sits with the magistrate in circle sentencing?

A. A jury

B. Aboriginal Elders, the offender, the victim and family

C. Police only

D. The DPP

2. What did BOCSAR find in 2020?

A. Circle sentencing increased reoffending

B. Participants were 9.3 percentage points less likely to be imprisoned

C. It had no effect

D. It was abolished

Apply it

3. Suitable for circle sentencing?

Situation	Your answer
An Aboriginal man, 22, pleads guilty to assault in the Local Court and wants to take part.	
A non-Aboriginal offender asks for circle sentencing.	
An offender charged with murder in the Supreme Court.	

Exam practice

4. Evaluate the effectiveness of circle sentencing as an alternative method of sentencing. 5 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Post-sentencing, part 1: classification, protective custody and parole

Syllabus: post-sentencing considerations

Key points

- Security classification decides where inmates are held, by risk.
- Protective custody separates vulnerable inmates, but can isolate them.
- Parole follows the non-parole period; the State Parole Authority decides for sentences over 3 years.
- No Body, No Parole (2022) denies parole to killers who hide victims' remains.

Cases

Case	Summary
Hughes v The Queen [2015] NSWCCA 330 NSW Court of Criminal Appeal · the limits of protective custody	Facts: Former television actor Robert Hughes was sentenced to 10 years and 9 months for child sexual offences. Custody: He was placed in protective custody because of the risk from other inmates. What happened: Despite protective custody, inmates at Goulburn were still able to attack him. Significance: Protective custody reduces, but cannot remove, the risks some prisoners face.

Check your understanding

Circle the best answer.

- Who decides parole for sentences over 3 years?

A. The jury
 B. The State Parole Authority
 C. The police
 D. The victim
- What does protective custody do?

A. Releases inmates early
 B. Separates inmates at risk from others
 C. Increases sentences
 D. Replaces parole

Apply it

3. Apply it

Situation	Your answer
Ava is sentenced to 2 years, with a 15-month non-parole period.	
Ben is sentenced to 8 years, with a 6-year non-parole period.	
Cal, convicted of murder, refuses to say where the victim's body is.	

Exam practice

4. Explain the role of parole in the criminal justice system.

4 marks

Explain: relate cause and effect; show why and how.

Post-sentencing, part 2: preventive and continued detention, registration, deportation

Syllabus: post-sentencing considerations

Key points

- Continuing detention and extended supervision orders can follow a sentence.
- Kable (1996) struck down a law aimed at one person; Fardon (2004) upheld a general law.
- Registration and s 501 deportation extend consequences beyond the sentence; NZYQ limits detention.
- These measures sharply test the balance between safety and rights.

Cases

Case	Summary
NZYQ v Minister for Immigration (2023) High Court of Australia · overruling Al-Kateb v Godwin (2004)	Before: In <i>Al-Kateb v Godwin</i> (2004), the High Court allowed indefinite immigration detention of a non-citizen who could not be removed. 2023: In NZYQ, a unanimous High Court overruled <i>Al-Kateb</i> : detention is valid only if reasonably necessary for a non-punitive purpose such as removal. Response: Around 150 people were released. Parliament quickly imposed strict visa conditions and created community safety orders in the Criminal Code. Significance: A clear example of the courts limiting detention, and Parliament responding with new post-sentence measures.

Check your understanding

Circle the best answer.

1. Why was the law in Kable (1996) invalid?

- A. It was too lenient

B. It targeted one person and undermined court independence
- C. It applied to all offenders

D. It was a federal law

2. What did the High Court decide in NZYQ (2023)?

- A. Deportation is unlawful

B. Indefinite immigration detention is unlawful where removal is not realistically possible
- C. Visas cannot be cancelled

D. Registration is invalid

Exam practice

3. Assess the effectiveness of post-sentence detention in protecting the community.

5 marks

Assess: make a judgement of value, quality or outcome.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Evaluating sentencing and punishment

Syllabus: effectiveness of sentencing and punishment

Key points

- Evaluate sentencing against consistency, individual justice, reoffending, safety, victims and fairness.
- Strengths: instinctive synthesis, circle sentencing results, victim impact statements.
- Weaknesses: limits of deterrence, post-sentence detention, over-representation.
- Combine accountability with rehabilitation in your judgements.

Apply it

1. Strength or weakness of sentencing?

Situation	Your answer
A victim's family reads a statement in court about their loss.	
A boat crew member receives a 5-year mandatory minimum for people smuggling.	
An Aboriginal offender is sentenced through circle sentencing and does not reoffend.	

Exam practice

2. To what extent does sentencing achieve justice for victims, offenders and society?

6 marks

To what extent: make a judgement of degree, supported by evidence.

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The age of criminal responsibility

Syllabus: age of criminal responsibility

Key points

- In NSW, no child under 10 can commit a crime.
- Doli incapax presumes 10 to 13 year olds incapable unless proven otherwise (RP 2016).
- The ACT and Victoria have raised the age; the NT raised then lowered it.
- The debate balances children's development and rights against community safety.

Cases

Case	Summary
<i>RP v The Queen (2016)</i> (2016) 259 CLR 641 · High Court of Australia	Facts: A boy aged 11 was charged with sexual offences against his younger brother. Issue: What must the prosecution prove to rebut doli incapax? Decision: That the child knew the act was seriously wrong, not merely naughty. Evidence of his upbringing and development did not prove this, and his convictions were quashed. Significance: Doli incapax is a real protection, and the prosecution must prove the child's understanding beyond reasonable doubt.
<i>R v LMW [1999] NSWSC 1343</i> NSW Supreme Court · doli incapax in action	Facts: LMW, aged 10, dropped six-year-old Corey Davis into the Georges River, knowing he could not swim. Corey drowned. Process: The Children's Court magistrate dismissed the case at committal, but the DPP took it to the Supreme Court. LMW was the youngest person in Australia charged with manslaughter. Outcome: A jury acquitted him. Justice Studdert confirmed doli incapax applied, and that the prosecution had to rebut it. Significance: Doli incapax can lead to an acquittal even where a death occurs, which fuels debate on both sides of raise the age.

Check your understanding

Circle the best answer.

1. What is the age of criminal responsibility in NSW?

- | | |
|-------|-------|
| A. 8 | C. 12 |
| B. 10 | D. 14 |

2. In *RP v The Queen*, what must the prosecution prove?

- | | |
|---|---------------------------|
| A. The child was 10 or older | C. The child had a lawyer |
| B. The child knew the act was seriously wrong | D. The child confessed |

Apply it

3. Read the scenario and answer the question.

Scenario

Kai, aged 11, takes a classmate's phone from her bag, hides it in his locker, and denies it when asked.

Can Kai be convicted of larceny?

Exam practice

4. Discuss the age of criminal responsibility in NSW.

5 marks

Discuss: identify issues and provide points for and/or against.

[illegible]

Rights of children when questioned or arrested

Syllabus: rights of children when questioned or arrested

Key points

- Children need a support person when questioned.
- Admissions without a support person are generally inadmissible (s 13).
- Children can access free legal advice, and diversion is preferred to arrest.
- Protections can still fail, as strip search findings showed.

Check your understanding

Circle the best answer.

1. When is a child's admission generally admissible?
A. Always
B. When a support person was present
C. Only in writing
D. Never
2. Under the Young Offenders Act, what must police consider before charging a child?
A. Detention
B. Warnings, cautions or conferences
C. A fine
D. Deportation

Apply it

3. Was the admission lawful?

Situation	Your answer
Police question a 15-year-old alone, and he admits a theft.	
A 16-year-old is questioned with her mother present, after being told about the Youth Hotline.	
A 14-year-old is never told free legal advice is available.	

Exam practice

4. Explain how the law protects children when they are questioned by police.

4 marks

Explain: relate cause and effect; show why and how.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Children and the criminal trial process

Syllabus: children and the criminal trial process: Children's Court procedures and operation

Key points

- The Children's Court hears matters for 10 to 17 year olds, with a specialist magistrate and no jury.
- Hearings are closed and children generally cannot be named.
- The Youth Koori Court involves Elders and addresses causes before sentence.
- Serious offences such as murder go to higher courts.

Check your understanding

Circle the best answer.

1. Who presides in the Children's Court?

A. A jury

B. A specialist magistrate

C. The police

D. A High Court judge

2. Where is a 16-year-old charged with murder dealt with?

A. The Children's Court

B. A higher court

C. The Local Court

D. The Coroners Court

Apply it

3. Apply it

Situation	Your answer
A 16-year-old is charged with break and enter.	
A journalist wants to name a 15-year-old accused in a news story.	
A 17-year-old is charged with murder.	

Exam practice

4. Describe the operation of the Children's Court.

4 marks

Describe: provide characteristics and features.

Penalties for children

Syllabus: penalties for children

Key points

- Section 6 principles prioritise rehabilitation, family and education.
- Section 33 penalties range from dismissal to control orders.
- Detention is a last resort.
- Remand and over-representation remain serious concerns.

Cases

Case	Summary
<i>R v GDP (1991) 53 A Crim R 112</i> NSW Court of Criminal Appeal · rehabilitation first	Facts: GDP, aged 14, and two friends caused about \$550,000 of damage: breaking in, drilling a safe, smashing furniture and lighting fires. He had no prior record. Sentence: The trial judge imposed a 12-month custodial sentence. Appeal: The Court of Criminal Appeal held the sentence was manifestly excessive. For young offenders, general deterrence and retribution matter less; rehabilitation is the primary aim. Significance: Custody would have damaged his rehabilitation. The case still guides sentencing of children.
<i>R v Pham & Ly (1991) 55 A Crim R 128</i> NSW Court of Criminal Appeal · the limits of leniency	Facts: Two young offenders broke into a home while the occupants were there, bound and gagged them with tape, and robbed the house. One was on bail, the other on probation. Sentence: The trial judge imposed 12 months. Appeal: The Court of Criminal Appeal held this was "wholly inappropriate" and inadequate, and sent the case back for resentencing. Significance: Even for young offenders, the sentence must be in reasonable proportion to the seriousness of the crime and the need to protect the community.

Check your understanding

Circle the best answer.

1. What is a control order?

- | | |
|--|--------------------------|
| A. A fine | C. A police caution |
| B. Detention in a Youth Justice Centre | D. A good behaviour bond |

2. Compared with adults, which purpose weighs more heavily for children?

- | | |
|-----------------------|-------------------|
| A. General deterrence | C. Rehabilitation |
| B. Retribution | D. Incapacitation |

Exam practice

3. Explain how courts balance rehabilitation and community protection when sentencing children.

4 marks

Explain: relate cause and effect; show why and how.

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Alternatives to court: the Young Offenders Act 1997

Syllabus: alternatives to court: Young Offenders Act 1997 (NSW)

Key points

- The Young Offenders Act 1997 creates warnings, cautions and conferences.
- Police must consider the least intrusive option first.
- Serious offences are excluded from diversion.
- Diversion avoids records and involves victims, but depends on discretion.

Check your understanding

Circle the best answer.

1. Which option requires the young person to admit the offence?
A. A warning
B. A caution
C. Neither
D. Both
2. What happens at a youth justice conference?
A. A jury decides guilt
B. The young person meets the victim and agrees an outcome plan
C. A fine is imposed
D. The child is detained

Apply it

3. Warning, caution or conference?

Situation	Your answer
A 13-year-old is caught writing graffiti for the first time.	
A 15-year-old admits shoplifting and has had one previous warning.	
A 16-year-old admits damaging a neighbour's car, and the neighbour wants to meet.	

Exam practice

4. Evaluate the effectiveness of the Young Offenders Act 1997 (NSW).

5 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Evaluating youth justice

Syllabus: effectiveness of the criminal justice system for young offenders

Key points

- Doli incapax protects young children (RP 2016); the Young Offenders Act diverts many young people from
- NSW keeps the minimum age at 10, below international standards of 14; the 2024 bail test (s 22C) was criticised as harsh
- Always measure the law against criteria.
- Write qualified judgements with specific evidence.

Cases

Case	Summary
The Don Dale Royal Commission (2016–2017) Royal Commission into the Protection and Detention of Children in the NT	Trigger: In 2016, ABC Four Corners broadcast footage of children being tear-gassed, hooded and restrained at Don Dale and Alice Springs youth detention centres. Findings: The final report (17 November 2017) found "shocking and systemic failures": detention centres failed to comply with basic human rights standards. Recommendations: Close Don Dale, raise the age of criminal responsibility from 10 to 12, detain children under 14 only for serious crimes, and shift to diversion and rehabilitation. Evaluation: A powerful case against punitive approaches. Yet the NT raised the age to 12 in 2023, then lowered it back to 10 in 2024.

Exam practice

1. Evaluate the effectiveness of the criminal justice system in dealing with young offenders. 6 marks

Evaluate: make a judgement based on criteria.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Categories of international crime

Syllabus: categories of international crime: crimes against the international community, transnational crime

Key points

- Crimes against the international community: genocide, crimes against humanity, war crimes, aggression.
- Nuremberg (1945–46) established individual responsibility; universal jurisdiction followed.
- Transnational crime: drugs, smuggling, trafficking, money laundering, cybercrime, in the Criminal Code.
- The Bali Nine show cooperation, and its tension with Australian values.

Cases

Case	Summary
The Bali Nine (2005) Transnational drug trafficking · Indonesia and Australia	Facts: In April 2005, nine Australians were arrested in Bali, Indonesia, attempting to smuggle more than 8 kilograms of heroin to Australia. Cooperation: The Australian Federal Police had passed information about the plan to Indonesian police before the arrests. Outcome: They were tried in Indonesia. The two organisers, Andrew Chan and Myuran Sukumaran, were executed in 2015. Significance: International cooperation catches transnational criminals, but can clash with Australia's opposition to the death penalty.

Check your understanding

Circle the best answer.

- Which is a crime against the international community?

A. People smuggling
 B. Genocide
 C. Money laundering
 D. Cybercrime
- What distinguishes human trafficking from people smuggling?

A. It is legal
 B. It uses force or deception to exploit people
 C. It only occurs at sea
 D. It involves no borders
- What principle did the Nuremberg trials establish?

A. States cannot be sued
 B. Individuals can be personally responsible for international crimes
 C. War crimes are legal in wartime
 D. Only soldiers can be tried

Apply it

4. Spot the category

Situation	Your answer
A militia kills thousands of civilians because of their ethnic group, intending to wipe the group out.	
A syndicate brings women to Australia promising jobs, then takes their passports and forces them to work unpaid.	
A hacker overseas locks a Sydney hospital's computers and demands payment.	

Exam practice

5. Distinguish between crimes against the international community and transnational crimes.

4 marks

Distinguish: note the differences between two things.

[illegible]

International measures

Syllabus: dealing with international crime: international measures

Key points

- The ICC (Rome Statute 1998) tries individuals, under complementarity.
- Lubanga (2012) was its first conviction; the Putin warrant (2023) shows its limits.
- Ad hoc tribunals, treaties, Interpol and extradition support cooperation.
- Sovereignty, enforcement and speed limit international justice.

Cases

Case	Summary
<i>Prosecutor v Thomas Lubanga Dyilo (2012)</i> International Criminal Court · the first ICC conviction	Facts: Lubanga led an armed group in the Democratic Republic of the Congo that recruited children under 15 and used them in fighting. Charge: The war crime of conscripting, enlisting and using child soldiers. Outcome: In 2012 he became the first person convicted by the ICC, and was sentenced to 14 years' imprisonment. Significance: It showed the ICC could convict, but it took a decade from the court's creation, highlighting how slow international justice can be.

Check your understanding

Circle the best answer.

1. What is complementarity?

- | | |
|---|-----------------------------------|
| A. The ICC replaces national courts | C. The ICC only hears civil cases |
| B. The ICC acts only when national courts are unwilling or unable | D. Countries must join the ICC |

2. Who was the first person convicted by the ICC?

- | | |
|-----------------------|-------------------|
| A. Slobodan Milošević | C. Vladimir Putin |
| B. Thomas Lubanga | D. Andrew Chan |

3. What is an Interpol Red Notice?

- | | |
|---|---------------|
| A. A conviction | C. A treaty |
| B. A request to locate and arrest a wanted person | D. A sentence |

Apply it

4. Which measure applies?

Situation	Your answer
A national government refuses to prosecute its general for mass killings of civilians.	
A fraud suspect wanted in Australia is believed to be hiding in Europe.	
Countries agree to criminalise trafficking and share evidence.	

Exam practice

5. Explain the role of the International Criminal Court in dealing with international crime. 4 marks

Explain: relate cause and effect; show why and how.

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Domestic measures

Syllabus: dealing with international crime: domestic measures

Key points

- Division 268 and the ICC Act 2002 bring international crimes into Australian law.
- The AFP, Border Force, AUSTRAC and the ACIC enforce them.
- Extradition requires dual criminality and protects against the death penalty.
- The Brereton Report and Schulz charge show complementarity, and its difficulty.

Cases

Case	Summary
The Brereton Report and its aftermath Inspector-General of the ADF inquiry · 2020 onwards	Findings: In 2020, the Brereton Report found credible information that Australian special forces soldiers had unlawfully killed 39 people in Afghanistan. Response: The Office of the Special Investigator was set up in 2021 to investigate possible criminal offences. Charges: Oliver Schulz, charged in 2023, was the first former ADF member charged with the war crime of murder; he has pleaded not guilty, with trial expected in 2027. Ben Roberts-Smith was charged with five counts in April 2026. Both are presumed innocent. Significance: Australia investigating its own soldiers shows complementarity in action, but these cases are slow and difficult.

Check your understanding

Circle the best answer.

1. What does Criminal Code Division 268 do?

- | | |
|---|--------------------|
| A. Abolishes the ICC | C. Regulates bail |
| B. Makes genocide, crimes against humanity and war crimes offences in Australia | D. Creates the AFP |

2. What is dual criminality?

- | | |
|--|-----------------------------|
| A. Being charged twice | C. Two judges hear the case |
| B. The conduct must be a crime in both countries | D. Two victims are required |

3. Which agency monitors money laundering?

- | | |
|-------------|-------------------------|
| A. AUSTRAC | C. The ICC |
| B. The LECC | D. The Children's Court |

Exam practice

4. Assess the effectiveness of Australia's domestic measures in dealing with international crime. 5 marks

Assess: make a judgement of value, quality or outcome.

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Key points

- ## Exam practice

6 marks

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The six themes and challenges

Syllabus: themes and challenges

Key points

- Six themes: discretion, compliance, moral standards, law reform, balancing rights, effectiveness.
- Each theme is supported by evidence from across the topic.
- One piece of evidence can support several themes.
- Themes turn knowledge into argument.

Apply it

1. Which theme does it show best?

Situation	Your answer
Only about 1 in 5 eligible people were diverted under EDDI.	
Provocation was narrowed in 2014 after Singh.	
A domestic violence accused is refused bail to protect the victim.	
Maranguka cut days in custody by 42% in one year.	

Exam practice

2. Plan: To what extent does the criminal justice system balance the rights of victims, offenders and society?

15 marks

To what extent: a judgement of degree, sustained across the whole response.

[illegible]

Writing the 15-mark Crime response

Syllabus: HSC extended response
