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Abstract | This paper outlines a retrospective follow-up study of all Victorian children aged 10 to 13 years with police contact for alleged offending in 2017 ($N=1,369$). The sample comprised relatively few 10- and 11-year-olds, while boys and Aboriginal and Torres Strait Islander children were over-represented. Most alleged offending was non-violent (71%), particularly among 10-year-olds (82%). Most matters did not proceed to court (80%), including 55 percent of matters which received police cautions. Of matters proceeding to court, 37 percent were struck out or dismissed, and a further 53 percent had outcomes not involving youth justice supervision. Half of children (49%) had no alleged offending in the following two years.

Police and Children's Court outcomes for children aged 10 to 13

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Responses to younger children with offending behaviours have been a subject of considerable recent debate across Australia. In this research 'children charged with early offending' are those aged 10 to 13 years at the time of alleged offending. Two major legislative provisions guide Australian criminal justice responses in this area: the minimum age of criminal responsibility (currently 10 years of age across most Australian jurisdictions) and the principle of *doli incapax*. This principle requires that, to be held responsible for offending, a child aged less than 14 years at the time of offending must understand that their actions are 'seriously wrong' rather than merely 'naughty or mischievous' (Fitz-Gibbon & O'Brien 2019). *Doli incapax* is a rebuttable presumption. This means that children aged under 14 years must be presumed to be incapable of such understanding, unless the prosecution can provide evidence refuting this presumption. While reforms to the minimum age of criminal responsibility are advocated for by legal, human rights and health bodies, and are being considered by Australian legislators, there is little local data to inform these considerations. The Australian Institute of Criminology funded this research, via a Criminology Research Grant (CRG 41/20–21), to address these research gaps and expand the evidence base concerning 10–13-year-old children charged with offending.



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Children charged with early offending: A high-risk and vulnerable group

While 10–13-year-old children comprise a minority of children charged with offending and under youth justice supervision, evidence suggests they are more likely than other justice-involved children to experience future youth justice involvement (Australian Institute of Health and Welfare (AIHW) 2013; Sentencing Advisory Council 2016). For example, the AIHW (2013) reported that 85 percent of young people born in 1993–94 who came under youth justice supervision at age 10 to 14 returned to (or continued under) supervision when they were aged 15 to 17.

The available research also shows greater vulnerability and more complex needs among children charged with early offending across several domains. For instance, children charged with early offending are more likely to be Aboriginal and/or Torres Strait Islander, to have child protection involvement and to have a neurodisability (AIHW 2020; Baidawi 2020; Baidawi & Piquero 2020). The greater risk and complexity further support the need to strengthen Australia's evidence base concerning this group. At the same time, supportive and preventative interventions are likely to have the greatest impact for children charged with early offending, by virtue of their youth and reduced entrenchment in criminal justice systems and pro-criminal relationships. Understanding and implementing effective responses to younger children with police and justice system contact should therefore be a priority for Australian jurisdictions.

Background: A national picture of children charged with early offending

Children aged 10 to 13 years comprised 18.4 percent of the 45,210 children aged 10 to 17 years proceeded against by police in 2021–22 (Australian Bureau of Statistics (ABS) 2023). Since 2018, this figure has remained stable, with 10–13-year-olds comprising between 17.0 percent (2018–19) and 18.5 percent (2020–21) of 10–17-year-olds charged with offending during this period (ABS 2023, 2022, 2021, 2020).

Australian Bureau of Statistics data from 2021–22 (ABS 2023) also indicate the following:

- **Age:** Among 10–13-year-olds proceeded against by police, few were aged 10, 11 or 12 years (8.0% of all 10–17-year-olds proceeded against, and 43.5% of 10–13-year-olds proceeded against), and most were aged 13 years (56.5% of 10–13-year-olds proceeded against, and 10.4% of all 10–17-year-olds proceeded against).
- **Sex:** 5,498 boys and 2,785 girls aged 10 to 13 years were proceeded against by police, representing 17.4 percent of boys and 20.6 percent of girls aged 10 to 17 years proceeded against by police during that period. Girls comprised a greater proportion of 10–13-year-olds proceeded against police, compared with children aged 14 years and older proceeded against by the police (33.5% vs 29.2%, $p < 0.05$).

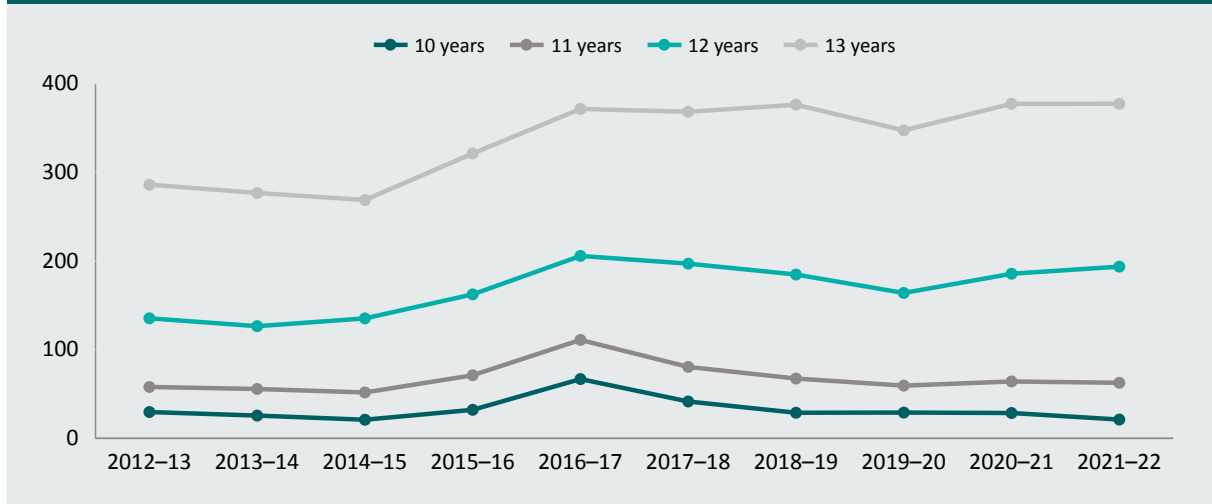
- **Principal offence type:** Children aged 10 years were most often proceeded against by police in relation to unlawful entry with intent (29.7% of 10-year-olds proceeded against), while children aged 11 to 13 years and older were most often proceeded against in relation to acts intended to cause injury (23.1–27.6% of children aged 11, 12 or 13 years).
- **Principal offence against the person:** Children aged 10 to 13 years comprised 21.3 percent of children aged 10 to 17 years proceeded against by police in relation to principal offences against the person, with most of those charged with these offences being children aged 13 years.

Longitudinal trends in recorded violent crime

ABS recorded crime data in relation violent crime occurring between 2012–13 and 2021–22 (ABS 2014–2023) indicated the following:

- **Principal offence of homicide or related offences:** From 2012–13 to 2021–22, no children aged 10 to 12 years were charged with homicide or related offences. There were also no 13-year-old girls charged with these offences during this period, though for four out of 10 of these years, between three and seven 13-year-old boys were charged with homicide or related offences each year.
- **Principal offence of acts intended to cause injury:** Despite some minor fluctuations from 2012–13 to 2021–22, the rate of principal offence of acts intended to cause injury (per 100,000 persons for age group of interest) remained relatively stable for 10- and 11-year-olds, though some increases were evident for 12- and 13-year-olds (Figure 1).

Figure 1: Principal offence of acts intended to cause injury by age, 2012–13 to 2021–22 (rate per 100,000 in relevant age group)



Source: ABS 2014–2023

Children aged 10 to 13 years under youth justice supervision

The AIHW (2023) reported that children aged 10 to 13 years comprised 7.4 percent of all children under statutory youth justice supervision (667 of 8,982 children under supervision) in 2021–22. However, the proportion of youth justice clients who were aged 10 to 13 years varied considerably between jurisdictions, from 1.9 percent in Victoria to 14.8 percent in the Northern Territory. Table 1 outlines the number and proportion of children aged 10 to 13 years under youth justice supervision in each state and territory in 2021–22.

Table 1: Number and proportion of children aged 10 to 13 years under youth justice (YJ) supervision during the year by age and jurisdiction, 2021–22

Age	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Australia
10–13 years (<i>n</i>)	115	26	207	181	61	10	10	57	667
% of all children under YJ supervision	4.8%	1.9%	7.9%	12.9%	11.8%	5.3%	7.8%	14.8%	7.4%
14+ years (<i>n</i>)	2,291	1,320	2,400	1,222	456	180	118	328	8,315
Total under YJ supervision (<i>N</i>)	2,406	1,346	2,607	1,403	517	190	128	385	8,982

Source: AIHW 2023

AIHW data also indicate that some jurisdictions (notably Victoria and New South Wales) had substantial reductions between 2017–18 and 2021–22 in the proportion of 10–13-year-olds under youth justice supervision who were Aboriginal and/or Torres Strait Islander (AIHW 2023). In Victoria, the proportion of children aged 10 to 13 years under youth justice supervision on an average day who were Aboriginal and/or Torres Strait Islander reduced from 27.6 to 8.6 percent during this period. Conversely, other jurisdictions such as Queensland, South Australia, Western Australia and the Northern Territory saw little change in the proportion of 10–13-year-old supervised by youth justice who were Aboriginal and/or Torres Strait Islander children during this period. (For further details, see Baidawi et al. 2023.)

Methodology

This paper presents selected findings from a broader study, focusing on the analysis of Victoria Police and Victorian Children’s Court data. The broader study (Baidawi et al. 2023) also included an analysis of a sample of Victorian Children’s Court Clinic *doli incapax* assessment reports, as well as consultations with a range of legal, criminal justice, clinical, and child and family welfare professionals. Conducted in partnership with the Victorian Children’s Court and Children’s Court Clinic, the study set out to generate new knowledge about children between the ages of 10 and 13 years who are charged with offending. Specifically, it sought to investigate:

- the characteristics and support needs of children charged with early offending;
- the application of *doli incapax* provisions to this group; and
- the offending, court outcomes and criminal justice trajectories of children charged with early offending.

This paper focuses on findings addressing the final research aim of the broader study.

Data collection and analysis

A retrospective follow-up study was conducted of all children aged 10 to 13 years who had contact with Victoria Police in relation to alleged offending in 2017. This was the year in which Victoria implemented its statewide Children's Court Youth Diversion Program (Children's Court of Victoria 2021).

Case identification and data linkage

The Children's Court of Victoria identified all children who came before any Victorian Children's Court in relation to alleged offending in 2017 when they were aged 10 to 13 years (Children's Court sample, $n=272$). Victoria Police then identified a broader group of all children who came to police attention in relation to alleged offending in 2017 when they were aged 10 to 13 years but who did not appear in the court sample (police sample, $n=1,097$).

Data collection

For each child in the Children's Court sample, the Children's Court of Victoria supplied sociodemographic characteristics (age and sex) and data on each child's index matter (the first matter for which they came before the court in relation to alleged offending occurring in 2017 when aged 10 to 13 years), including the court outcome and finalisation date.

In relation to each child's index matter in both the Children's Court sample (the first matter for which they came before the Victorian Children's Court in relation to alleged offending occurring in 2017 when aged 10 to 13 years) and the police sample (the first matter for which they had contact with Victoria Police in relation to alleged offending occurring in 2017 when aged 10 to 13 years), Victoria Police provided the following data:

- sociodemographic characteristics—age, sex and Aboriginal and/or Torres Strait Islander status (algorithmic data based on most frequent counting rule; see Crime Statistics Agency 2023);
- police charge(s) and police result (eg processed/not authorised);
- method of processing (eg caution, summons, arrest);
- bail/remand status;
- number of prior charges/prior charges for offences of violence, and intervention orders; and
- subsequent police incidents as an alleged offender until the end of 2019.

Data analysis

Data were entered into SPSS for simple descriptive analysis. Tests of statistical significance are reported at the $p<0.05$ (2-tailed) level unless indicated otherwise.

Results

Demographic characteristics

Table 2 presents an overview of the demographic characteristics of the study sample. There were relatively few 10- and 11-year-olds in the study sample. As expected, the proportion of 10- and 11-year-olds was higher in the police sample (16.8%, $n=185$) relative to the Children's Court sample (8.8%, $n=24$; Table 2). On average, the study sample were aged 12.4 years. While the Children's Court sample were older on average (12.6 years), this difference is insubstantial in a practical sense. Overall, 70.9 percent of the children in the sample were boys and there was no significant sex difference between the police and Children's Court samples. While 13.7 percent of the overall sample were Aboriginal and/or Torres Strait Islander children, those whose matters proceeded to Children's Court were significantly more likely to be Aboriginal and/or Torres Strait Islander than those whose matters did not proceed to Children's Court (21.3% vs 11.8%, $p<0.001$).

Table 2: Demographic characteristics of study sample

	Police sample ($n=1,097$) n (%)	Children's Court sample ($n=272$) n (%)	All children ($N=1,369$) n (%)
Age at index matter in 2017			
10 years	75 (6.8%)	9 (3.3%)	84 (6.1%)
11 years	110 (10.0%)	15 (5.5%)	125 (9.1%)
12 years	231 (21.1%)	62 (22.8%)	293 (21.4%)
13 years	681 (62.1%)	186 (68.4%)	867 (63.3%)
Sex			
Male	774 (70.6%)	197 (72.4%)	971 (70.9%)
Female	323 (29.4%)	75 (27.6%)	398 (29.1%)
Indigenous status			
Non-Indigenous children	908 (82.8%)	206 (75.7%)	1114 (81.4%)
Aboriginal and/or Torres Strait Islander children	129 (11.8%)	58 (21.3%)	187 (13.7%)
Unknown	60 (5.5%)	8 (2.9%)	68 (5.0%)

Among the study sample, compared with those aged 13 years at their index matter, those aged 10 years were more likely to be Aboriginal and/or Torres Strait Islander children, and less likely to be girls (Figure 2).

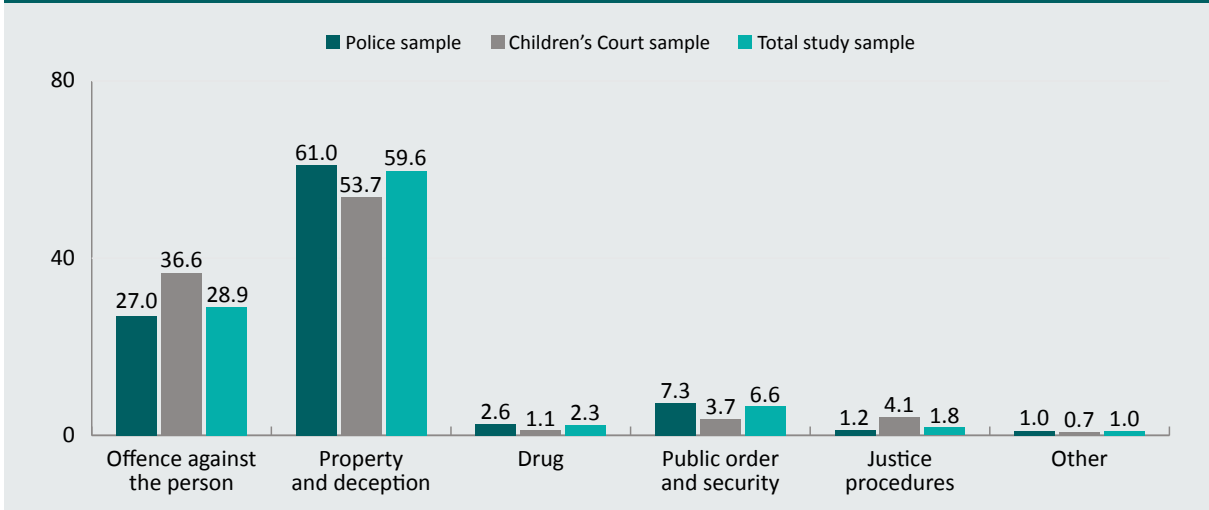
Figure 2: Demographic characteristics of study sample by age in years (%)



Offence types of index matters

Each child's index matter was classified using the Australian and New Zealand Standard Offence Classification (ABS 2011; see Baidawi et al. 2023 for further details). Figure 3 shows the most serious charge in children's index matter, demonstrating that most alleged offending related to property offences (59.6%) and offences against the person (28.9%). Compared with children in the police sample, those in the Children's Court sample more often had a most serious charge involving an offence against the person (36.6% vs 27.0%, $p < 0.01$).

Figure 3: Index offence type (most serious charge), 2017 (%)



Index offence types also varied by the child's age (Figure 4). Compared with 11–13-year-olds, 10-year-old children were more likely to have a most serious charge related to property and deception offences, and less likely to have a most serious charge related to offences against the person.

Figure 4: Index offence type (most serious charge) by age in years (%)

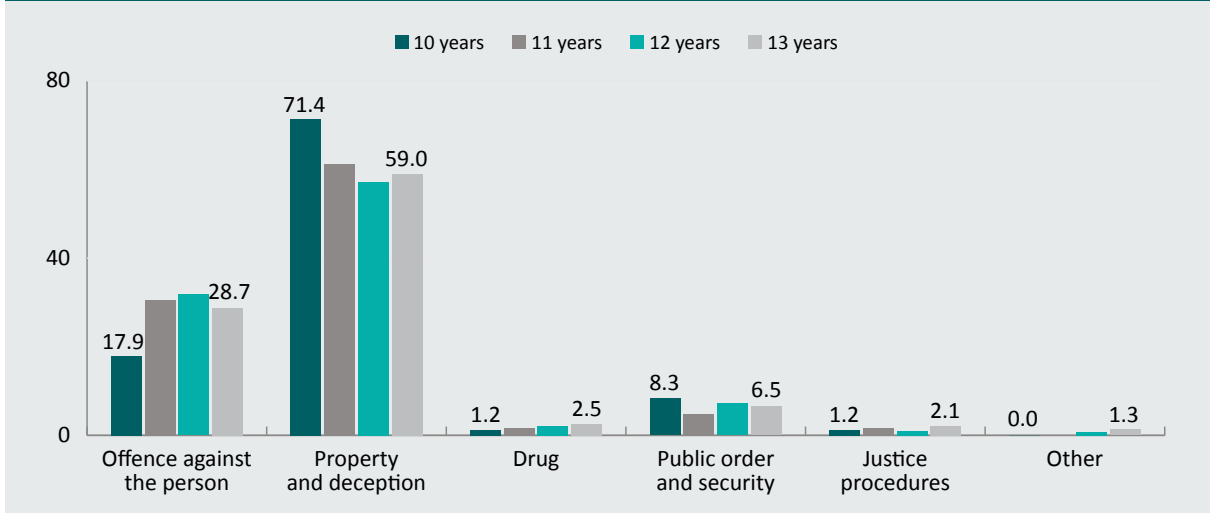
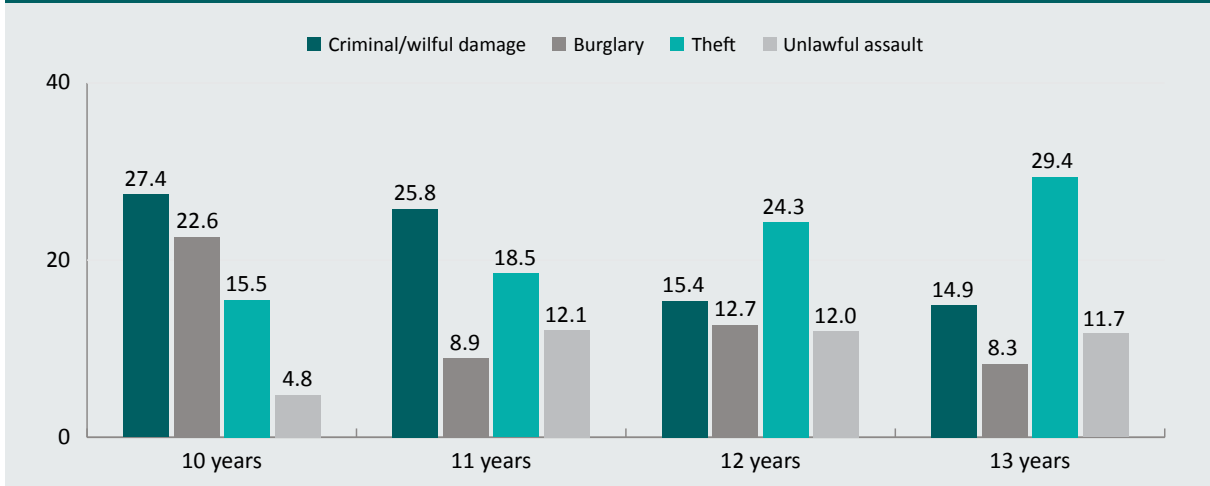


Figure 5 presents the four most common charges (most serious charge type) by age group across the sample. These common charge types were consistently criminal/wilful damage, burglary, theft, and unlawful assault across all ages. Together these four charge types accounted for 64 to 70 percent of index most serious charges across the sample.

Figure 5: Index offence type (most serious charge) by age in years (%)



Prior police charges and incidents

Table 3 outlines children's prior police charges and prior police incidents (defined as charges occurring on the same day). Overall, 74.2 percent of children had no police contact in relation to alleged offending prior to their index matter. Compared with children whose index matter did not proceed to court, children whose matter did were significantly more likely to have any prior police charges (68.4% vs 15.2%, $p < 0.001$) and prior police charges involving offences against the person (32.7% vs 6.6%, $p < 0.001$). Additionally, boys were more likely to have prior charges (but not prior charges for offences against the person) relative to girls (28.0% vs 20.4%, $p < 0.01$), and Aboriginal and/or Torres Strait Islander children were more likely to have prior charges (but not prior charges for offences against the person) compared with non-Indigenous children (39.6% vs 24.5%, $p < 0.001$).

Table 3: Prior police charges and police incidents			
	Police sample (<i>n</i>=1,097) <i>n</i> (%)	Children's Court sample (<i>n</i>=272) <i>n</i> (%)	All children (<i>N</i>=1,369) <i>n</i> (%)
Prior police charges			
None	930 (84.8%)	86 (31.6%)	1,016 (74.2%)
1	76 (6.9%)	48 (17.6%)	124 (9.1%)
2	20 (1.8%)	39 (14.3%)	59 (4.3%)
3+	71 (6.5%)	99 (36.4%)	170 (12.4%)
Prior police incidents			
None	930 (84.8%)	86 (31.6%)	1,016 (74.2%)
1	76 (6.9%)	51 (18.8%)	127 (9.3%)
2	20 (1.8%)	39 (14.3%)	59 (4.3%)
3+	71 (6.5%)	96 (35.3%)	167 (12.2%)
Prior police charges involving offences against the person			
None	1,025 (93.4%)	183 (67.3%)	1,208 (88.2%)
1	28 (2.6%)	26 (9.6%)	54 (3.9%)
2	9 (0.8%)	17 (6.3%)	26 (1.9%)
3+	35 (3.2%)	46 (16.9%)	81 (5.9%)
Prior police incidents involving offences against the person			
None	1,025 (93.4%)	183 (67.3%)	1,208 (88.2%)
1	28 (2.6%)	35 (12.9%)	63 (4.6%)
2	9 (0.8%)	17 (6.3%)	26 (1.9%)
3+	35 (3.2%)	37 (13.6%)	72 (5.3%)

Prior intervention orders

At the time of their index matter, half of children (49.2%, $n=673$) had a prior intervention order (IVO), including 33.0 percent ($n=452$) solely as a complainant (person in need of protection), one percent ($n=14$) solely as a respondent (person whom the order was made against) and 15.1 percent ($n=207$) as both a complainant and a respondent. Among children with a previous IVO at their index matter, 96.7 percent were the complainant (victim-survivor) in their first IVO, while 3.3 percent were the respondent.

Intervention orders include family violence intervention orders, issued where the respondent is a family member (partner, ex-partner, parent or sibling), and personal safety intervention orders (where the respondent is not a family member of the complainant). Among children with a previous IVO at their index matter ($n=673$), most had solely family violence intervention orders ($n=528$, 78.5%), while a smaller proportion had solely personal safety intervention orders ($n=42$, 6.2%) or both types ($n=103$, 15.3%). Therefore, intervention orders issued prior to children's index matters mostly related to violence occurring within their family relationships. As shown in Table 4, personal safety intervention orders were more common among children who had been the respondent in one or more intervention orders.

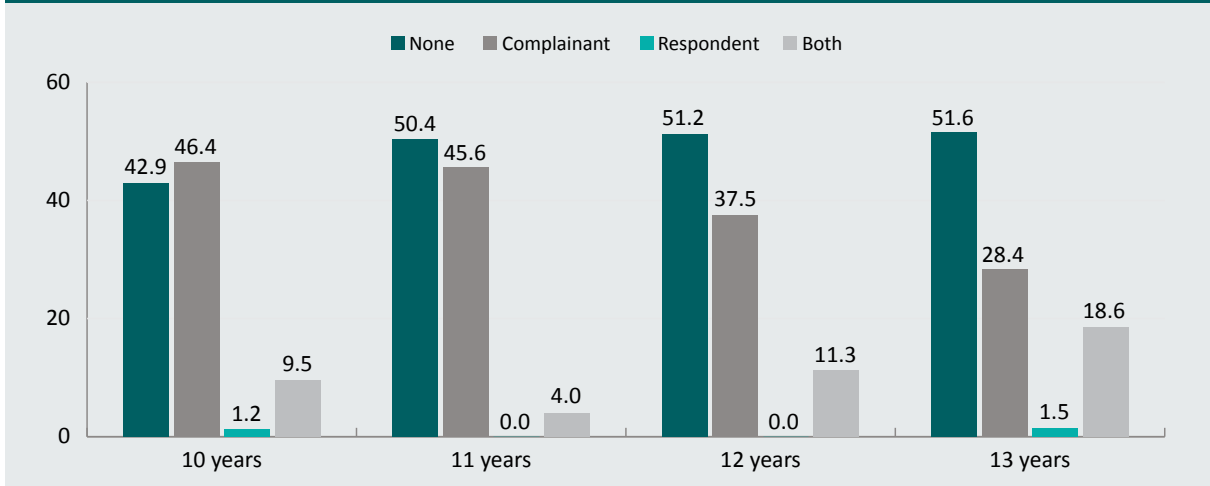
	Only complainant/ victim-survivor ($n=452$)	Respondent only ($n=14$)	Both complainant & respondent ($n=207$)
Family violence intervention order (FVIO)	381 (84.3%)	8 (57.1%)	139 (67.1%)
Personal safety intervention order (PSIO)	21 (4.6%)	5 (35.7%)	16 (7.7%)
Both FVIO & PSIO	50 (11.1%)	1 (7.1%)	52 (25.1%)
Total	100%	100%	100%

At the time of their index matter, certain groups of children were more likely to have had prior IVOs, including:

- children whose matters proceeded to court (63.6% vs 45.6% of children whose matters did not proceed to court, $p<0.001$);
- Aboriginal and/or Torres Strait Islander children (60.4% vs 48.0% of non-Indigenous children, $p<0.001$).

There was no difference in the proportion of children with prior IVOs at the time of their index matter based on sex or age. However, children aged 10 to 11 years at their index matter were significantly more likely to have prior intervention orders solely as complainants, compared with children aged 12 to 13 years at their index matter (45.9% vs 30.7%, $p < 0.0001$; Figure 6).

Figure 6: Prior intervention orders by age in years at index matter (%)



Manner of police proceeding and use of bail or remand

As shown in Table 5, among the police sample, most children received a caution (69.0%) or were not proceeded against (19.9%), with fewer children's matters proceeding via summons (6.1%) or arrest (4.5%). Conversely, among the Children's Court sample, index matters primarily proceeded via summons (61.0%) or arrest (38.9%). Eight children (0.6%) were remanded in relation to their index matter, including five whose index matter proceeded to Children's Court (1.8% of the court sample) and three whose index matter did not proceed to court (0.3% of the police sample). Furthermore, among the Children's Court sample, 13.6 percent ($n=37$) had been placed on remand between the time of their index matter and the Children's Court outcome in relation to these index matters (not shown in Table 5).

Table 5: Manner of police proceeding, index matter, children aged 10 to 13 years

	Police sample ($n=1,097$) n (%)	Children's Court sample ($n=272$) n (%)	All children ($N=1,369$) n (%)
Not proceeded against ^a	218 (19.9%)	0 (0.0%)	218 (15.9%)
Infringement	2 (0.2%)	0 (0.0%)	2 (0.1%)
Caution	757 (69.0%)	0 (0.0%)	757 (55.3%)
Intent to summons	67 (6.1%)	166 (61.0%)	233 (17.0%)
Arrest			
Bail	46 (4.2%)	101 (37.1%)	147 (10.7%)
Remand	3 (0.3%)	5 (1.8%)	8 (0.6%)
Unknown—data missing	4 (0.4%)	0 (0.0%)	4 (0.3%)

a: 'Not proceeded against' includes children found to be under 10 years, or whose matter was otherwise not authorised, including children for whom there were capacity concerns (eg due to intellectual disability)

Children’s Court outcomes

Table 6 outlines the court outcomes of children’s index matter expressed as a percentage of the Children’s Court sample ($n=270$) and of the overall sample of children ($N=1,367$). Of children’s index matters that proceeded to court, only 10.0 percent received a sentence involving statutory youth justice supervision in the community or a sentence of detention. Another 37.0 percent of children had their index matters struck out or dismissed (including where the child was found *doli incapax*), and 45.2 percent received a court diversion or therapeutic treatment order (TTO). Therapeutic treatment orders are made in the Family Division of the Children’s Court and require a child with sexually abusive behaviours to participate in treatment. Where a TTO has been made, and the Criminal Division of the Children’s Court has not made a finding in the criminal proceedings, the court must adjourn those criminal proceedings for a period not less than the period of the TTO. When considering the entire sample of children aged 10 to 13 years who came to the attention of police in 2017 in relation to alleged offending, 17.7 percent had index matters which proceeded to court but for which the outcome did not involve a Children’s Court outcome with youth justice supervision, while two percent had a Children’s Court outcome that involved youth justice supervision in the community (1.9%) or a sentence of detention (0.1%).

Table 6: Children’s Court outcomes, court sample and all children in the study sample

	Outcome	Children’s Court sample ($n=270$)	All children 10–13 years ($N=1,367$)
No court	No court	0 (0.0%)	1,097 (80.2%)
Court outcome without youth justice supervision	Struck out	75 (27.8%)	75 (5.5%)
	Struck out— <i>doli incapax</i>	23 (8.5%)	23 (1.7%)
	Diversion/TTO ^a	122 (45.2%)	122 (8.9%)
	Dismissed	2 (0.7%)	2 (0.1%)
	Undertaking/good behaviour bond	21 (7.8%)	21 (1.5%)
Court outcome with youth justice supervision	Community youth justice order ^b	26 (9.6%)	26 (1.9%)
	Detention order	1 (0.4%)	1 (0.1%)

a: TTO=therapeutic treatment order

b: Includes probation orders, youth supervision orders and youth attendance orders

There was no difference in Children’s Court outcomes by sex or Aboriginal and/or Torres Strait Islander status, but outcomes differed by the child’s age (Table 7). Among children aged 10 to 12 years whose index matter proceeded to court, two-thirds had their charges struck out or dismissed, including where children were found *doli incapax* (65.9%). A further 27.1 percent of 10–12-year-olds whose index matter proceeded to court completed a diversion (which requires a child to acknowledge responsibility for the offence and engage with the Children’s Court Youth Diversion service) or a therapeutic treatment order (which requires contact with a clinical service provider). Only 2.4 percent of 10–12-year-olds whose matters proceeded to Children’s Court received an outcome that included statutory youth justice supervision in the community or a sentence of detention (all of whom were aged 12 years). This trend was different for 13-year-old children, who were more likely to have received a court outcome of diversion (53.5%) or a youth justice order in the community (13.0%) or sentence of detention (0.5%).

Table 7: Court outcomes by age in years at index matter, Children’s Court sample

	Outcome	10 years n (%)	11 years n (%)	12 years n (%)	13 years n (%)
Court outcome without youth justice supervision	Struck out	3 (33.3%)	6 (40%)	29 (47.5%)	37 (20%)
	Struck out— <i>doli incapax</i>	3 (33.3%)	3 (20%)	10 (16.4%)	7 (3.8%)
	Diversion/TTO ^a	2 (22.2%)	5 (33.3%)	16 (26.2%)	99 (53.5%)
	Dismissed	1 (11.1%)	1 (6.7%)	0 (0.0%)	0 (0.0%)
	Undertaking/good behaviour bond	0 (0.0%)	0 (0.0%)	4 (6.6%)	17 (9.1%)
Court outcome with youth justice supervision	Community youth justice order ^b	0 (0.0%)	0 (0.0%)	2 (3.3%)	24 (13.0%)
	Detention order	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.5%)
Total		9 (100%)	15 (100%)	61 (100%)	185 (100%)

a: TTO=therapeutic treatment order

b: Includes probation orders, youth supervision orders and youth attendance orders. Good behaviour bond/undertaking and TTO excluded from this analysis as outcome date may include completion of order

Given that the previous literature identifies concerns around the timeliness of *doli incapax* outcomes, further analyses were undertaken to determine the time to court outcomes. For children’s index matters, the average time to a court outcome involving a finding of *doli incapax* was significantly longer than that taken for an outcome of diversion ($p<0.001$) or a community youth justice order ($p<0.05$; Table 8). This was the case when considering time to court outcomes from either the date of alleged offending or the date of police charge.

Table 8: Time to court outcomes, Children’s Court sample

Outcome (n)	Average days from alleged offence to court outcome	Average days from police charge to court outcome
Struck out ^a	337 (n=73)	251 (n=73)
Diversion	249 (n=119)	182 (n=116)
Struck out— <i>doli incapax</i>	406 (n=23)	335 (n=22)
Community youth justice order ^b	255 (n=25)	208 (n=24)

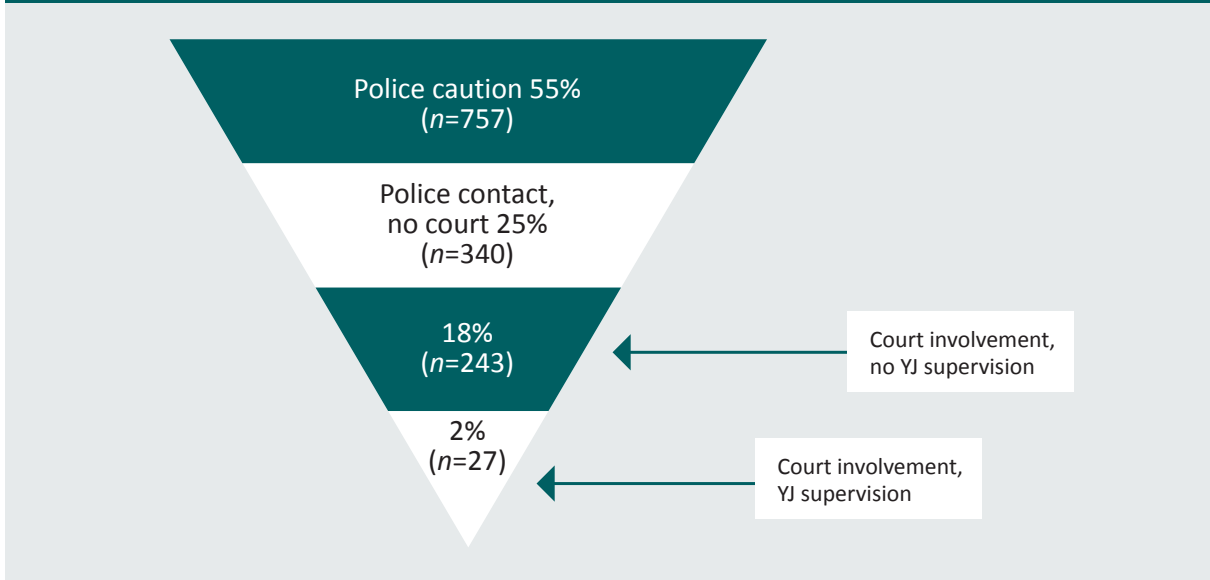
a: Excludes matters struck out by the court for reasons other than application to withdraw by the prosecution (n=2) (eg duplicate charges), and matters struck out due to *doli incapax* considerations

b: Includes probation orders and youth supervision orders, with a youth attendance order (n=1) excluded as an outlier

Note: Undertaking/good behaviour bond and TTO excluded from analysis as outcome date may include order completion

Figure 7 draws together data concerning police and Children’s Court outcomes across the study sample. In relation to their index matter, 55.4 percent of children were cautioned by police, one-quarter had police contact other than a caution (ie no court involvement) and one-fifth had index matters proceeding to court, the majority of whom received an outcome not involving statutory youth justice supervision in the community or a sentence of detention.

Figure 7: Police and Children’s Court outcomes for index matter, 10–13-year-old children, 2017



Police contact over the following two years

Table 9 shows the number of police charges, police incidents, charges and incidents involving offences against the person, and remand that children experienced in the two years following their index matter. It is emphasised that these charges relate to alleged offending and do not represent proven charges. Additionally, many of these subsequent matters (charges and incidents) were dealt with at the same time as the child’s index matter and consolidated in the same police or Children’s Court outcome. Charges and incidents in Table 9 therefore do not represent reoffending or recidivism following a police or court outcome but provide a longitudinal picture of police contact among younger children charged with offending.

Table 9: Police and remand contact within 24 months of index matter			
	Police sample (n=1,097) n (%)	Children's Court sample (n=272) n (%)	All children (N=1,369) n (%)
Police charges within 24 months			
None	632 (57.6%)	36 (13.2%)	668 (48.8%)
1	115 (10.5%)	21 (7.7%)	136 (9.9%)
2	51 (4.6%)	13 (4.8%)	64 (4.7%)
3–5	76 (6.9%)	34 (12.5%)	110 (8.0%)
6–10	64 (5.8%)	49 (17.7%)	113 (8.3%)
>10	159 (14.5%)	119 (43.8%)	278 (20.3%)
Police incidents within 24 months			
None	632 (57.6%)	36 (13.2%)	668 (48.8%)
1	160 (14.6%)	39 (14.3%)	199 (14.5%)
2	64 (5.8%)	18 (6.6%)	82 (6.0%)
3–5	92 (8.4%)	66 (24.3%)	158 (11.5%)
6–10	79 (7.0%)	43 (16.0%)	122 (9.0%)
>10	70 (6.4%)	70 (25.7%)	140 (10.2%)
Police charges involving offences against the person within 24 months			
% of all 24-month charges	25.5%	26.6%	26.1%
None	830 (75.7%)	101 (37.1%)	931 (68.0%)
1	67 (6.1%)	28 (10.3%)	95 (6.9%)
2	40 (3.6%)	24 (8.8%)	64 (4.7%)
3+	160 (14.8%)	119 (44%)	279 (20.2%)
Police incidents involving offences against the person within 24 months			
% of all follow-up incidents	28.3%	30.8%	29.5%
None	830 (75.7%)	101 (37.1%)	931 (68.0%)
1	119 (10.8%)	58 (21.3%)	177 (12.9%)
2	50 (4.6%)	29 (10.7%)	79 (5.8%)
3+	98 (9%)	84 (30.8%)	182 (13.3%)
Remanded			
n (%)	63 (5.7%)	55 (20.2%)	118 (8.6%)

After their index matter, approximately half of children ($n=668$, 48.8%) had no alleged offending in the subsequent two years. Furthermore, three-quarters (75.7%) of the police sample and 37.1 percent of the Children's Court sample had no police charges or incidents involving offences against the person in the subsequent two years. Higher proportions of the Children's Court sample had more than 10 subsequent police charges or subsequent police incidents (43.8% and 25.7% respectively), compared with children in the police sample (14.5% and 6.4% respectively). While 30.8 percent of the Children's Court sample had three or more violent subsequent incidents, this figure was only nine percent for the police sample.

The level of subsequent alleged offending did not differ by sex. Children who were older at their index offence, and Aboriginal and Torres Strait Islander children, had significantly more subsequent alleged police charges and incidents, but this alleged offending was not any more violent in nature. Finally, 8.6 percent of the entire sample were remanded at some point in the two years following their index matter, including 20.2 percent of the Children’s Court sample and six percent of the police sample. While there was no significant difference by sex or Aboriginal and/or Torres Strait Islander status in the likelihood of subsequent remand, children’s likelihood of subsequent remand increased with age (eg 0% for 10-year-olds vs 10.7% for 13-year-olds). Additionally, while children sentenced to youth justice orders (either in the community or in detention) in relation to their index matter were the most likely to have experienced remand in this period (50–100%), one-quarter of those initially found *doli incapax* were also remanded in the two years following their index matter (26.1%).

Children’s Court contact over the following two years

Of the Children’s Court sample, 83.0 percent did not have any further Children’s Court outcomes relating to alleged offending in the two years after their index matter, while for 6.7 percent the most serious Children’s Court outcome was struck out or dismissed (including those found *doli incapax*; Table 10). A further 5.9 percent had a most serious Children’s Court outcome of diversion or an undertaking/good behaviour bond, while 4.5 percent were sentenced to a statutory youth justice order in the community or to detention during this period.

Table 10: Children’s Court outcomes (most serious court outcome) within 24 months of index matter

Outcome		Children’s Court sample (n=270)
No court		224 (83.0%)
Court outcome without youth justice supervision	Struck out	10 (3.7%)
	Struck out— <i>doli incapax</i>	6 (2.2%)
	Dismissed	2 (0.8%)
	Diversion	7 (2.6%)
	Undertaking/good behaviour bond	9 (3.3%)
Court outcome with youth justice supervision	Community youth justice order ^a	8 (3.0%)
	Detention order	4 (1.5%)

a: Includes probation orders, youth supervision orders and youth attendance orders

There was no significant difference by age, sex or Indigenous status in children’s likelihood of receiving a Children’s Court outcome of diversion or a sentence relating to alleged offending in the 24 months after their index matter. Among children who received a court determination of *doli incapax* in relation to their index matter (n=23), most did not have any further Children’s Court contact in the 24 months after their index matter (n=16, 69.6%). The remainder received subsequent Children’s Court determinations of *doli incapax* (two children), or outcomes of withdrawal of charges (two children), *doli incapax* and withdrawal of charges (one child), or diversion (two children) in this period.

Discussion

The study findings add to the body of evidence concerning the characteristics, alleged offending and criminal justice outcomes of 10–13-year-old children who experience justice system contact.

Children’s characteristics and support needs

Despite some jurisdictional variations, contemporary national data indicate that children aged 10 to 13 years comprise around one-fifth of Australian children and young people proceeded against by police, and seven percent of those supervised by youth justice. Compared with children 14 years and older with police and justice system contact, those aged 10 to 13 years are more frequently Aboriginal and/or Torres Strait Islander and female, and most (56.5% of this group) are aged 13 years at the time of police charges. Among children aged 10 to 13 years proceeded against by police, both boys and Aboriginal and/or Torres Strait Islander children are most heavily over-represented among the 10-year-old age group, relative to 11–13-year-olds.

The study findings highlighted substantial levels of victimisation among younger children with alleged offending, with half of children already experiencing a prior intervention order (mostly as complainants/victim-survivors). Most intervention orders among the study sample related to interpersonal violence occurring within their family relationships, and children aged 10 to 11 years at their index matter were more likely to have prior intervention orders solely as complainants, compared with those aged 12 to 13 years. This suggests that the ages of 10 to 13 years, and perhaps some years prior, may constitute a critical developmental period for disrupting victim-to-perpetrator cycles of violence (Maxfield & Widom 1996). The broader study highlighted other characteristics and support needs of this group, including challenges with mental health, disability and disconnection from education (Baidawi et al. 2023).

Alleged offending, court outcomes and criminal justice trajectories

The study findings demonstrate that most alleged and proven offending among 10–13-year-old children relates to property offences, while around one-third relates to offences against the person. There are also important variations among younger children charged with offending. A key finding is that the alleged and proven offending of 10-year-olds is less likely to be violent in nature compared to that of 12- and 13-year-olds, and more often relates to property charges such as property damage or burglary/unlawful entry with intent. Victorian statewide data indicate that younger children who experience police contact in relation to alleged offending mostly do not come before the Children’s Court (80.1%). Consistent with a youth diversionary approach, this means that the vast majority of 10–13-year-olds encountering police in relation to alleged offending do not receive any formal intervention.

In relation to their trajectories, half of 10–13-year-old children (49.8%) had no further alleged offending in the two years following their index matter, and 68.0 percent had no violent alleged offending in the two years following their index matter. Still, a significant minority of children (around 20%) had more than 10 police incidents (charges occurring on the same day) and more than two police incidents involving offences against the person in the two years following their index police matter. Finally, of the children whose index matter proceeded to Children’s Court, the vast majority (89.7%) either did not return before the Children’s Court in the two years after their index matter or had all matters in this period struck out or dismissed. Only 4.5 percent were sentenced to youth justice orders in relation to offending in the two years after their index matter. These findings are consistent with those of other Australian research which found that a small proportion of 10–17-year-old children (less than 2% of those charged with offences), accounted for one-quarter of all youth offending over an eight-year period (Sutherland & Millstedt 2016).

Limitations

While this study has generated useful and novel findings regarding younger children charged with alleged offending, the Victoria Police and Children’s Court data analysed related to the period 2017 to 2019. As such, these data may not represent the current circumstances of or responses to this cohort in Victoria. Notably, the examined national data indicate there is likely to have been a decrease since this period in the rate of 10–13-year-olds with police contact in Victoria who were Aboriginal and Torres Strait Islander (AIHW 2023). Caution should also be exercised in generalising to other jurisdictions due to potential variations in alleged offending and police and court processes. Still, the nature of the alleged offending among Victorian children and justice system responses mirrored the available national data and findings in other states (Papalia et al. 2019), suggesting there are similarities across jurisdictions.

Conclusion

Current responses to 10–13-year-old children with alleged offending continue to criminalise this group—directly and indirectly—with little therapeutic or developmental benefit. These outcomes reflect a system that is rightfully focused on diverting younger children from formal justice processes. Yet significant resources are nonetheless expended in the investigation, prosecution, defence and legal adjudication of younger children charged with offending. The study findings suggest that justice responses (as opposed to youth justice statutory system responses) are not currently used as a last resort in responding to this group of children, and that there is significant scope to improve early therapeutic, educational and social support for 10–13-year-old children with alleged offending. The study findings lend support to raising the minimum age of criminal responsibility, while suggesting that consideration is required as to the alternative responses, particularly for the minority of 12- and 13-year-old children who engage in more serious or persistent offending behaviours.

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