

'Not guilty and yet not innocent: Police attitudes towards bail compliance and the consequences for children and young people.'  
Courtney Young, 2010

**Abstract:**

Bail plays an indispensable role in any criminal justice system purporting to be democratic, fair and just. Yet, in a political environment where increasing incarceration rates are considered to be a mark of distinction, it is no wonder the development of bail over the past three decades provides little cause for optimism. Despite an escalating juvenile remand population, children and young people continue to be subject to increasingly harsh, inappropriate and invasive conditions, the flaws in which are compounded by overt police monitoring. Subsequently, children and young people are unnecessarily and counterproductively exposed to the NSW criminal justice system. This essay seeks to explore the relationship between police attitudes towards bail compliance and the consequences children and young people experience as a result of having their liberty needlessly constrained by non financial bail conditions. To this end, the framework provided by the *Bail Act* 1977 NSW and government and police policies for the administration of conditional bail will be reviewed. Furthermore, a snapshot of the strategies, opinions and attitudes of officers 'on the ground' will be examined through the lens of legal professionals from a country NSW town.

Hence, it is abundantly clear that for children and young people, the attachment of non financial conditions to grants of bail has the potential to encroach upon their right to liberty, pre-empt the sentencing paradigm and entrench disadvantage. If the attention currently being paid to bail is sustained; tempered, rational and productive reform may be possible. However, this will be a mammoth task, requiring both sustained consideration of the unique needs and limitations of different geographical locations, in addition to an unwavering belief in the fundamental principle that an accused child or young person, though on bail, is innocent until proven guilty.

**Full paper available on request.**