Childrens Court of Queensland

Second Annual Report

1 September 1994 to 31 August 1995

CHILDRENS COURT OF QUEENSLAND

Chambers of the President

19 December 1995

The Honourable Matt Foley MLA
Minister for Justice and Attorney-General,
Minister for Industrial Relations and
Minister for the Arts

Sir,

In accordance with the requirements of s.22 of the *Childrens Court Act 1992*, I have the honour to submit to you for presentation in Parliament the second Annual Report of the Childrens Court of Queensland, which covers the period 1 September 1994 to 31 August 1995.

Judge McGuire
President of the Childrens Court of Queensland

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1. RECAPITULATION

This is the second annual report of the administration and operation of the Childrens Court of Queensland. The first report was submitted to the Honourable the Attorney-General in September 1994. The Childrens Court Act and its companion Act, the Juvenile Justice Act, were enacted in August 1992. They were proclaimed on 1 September 1993.

The first annual report is a discursive document. It touched on such matters as: right of election, sentencing powers, publication, cautioning, parental participation, procedures adopted, power of arrest, sentence reviews, pre-sentence reports, detention centres, legal and other representation, public education and information, home and school discipline, and statistical tables. The report also contained a philosophic dissertation under the rubric 'The Moral Dimension'.

In the report I made the following recommendations:

RIGHT OF ELECTION

1. That 'serious offence' be redefined to mean:
   (a) a life offence; or
   (b) an offence of a type that, if committed by an adult, would make the adult liable to imprisonment for seven years or more.
2. That the right of election (which applies only for serious offences) be abolished and children committed on serious offences be committed to a Childrens Court Judge.
3. That, to cope with the consequential increase in committals of children to a Childrens Court Judge, the President of the Childrens Court of Queensland be empowered to delegate Childrens Court jurisdiction to any District Court Judge according to the exigencies of each district.
4. That a Childrens Court Judge be appointed to Cairns and another to Rockhampton.

SENTENCING POWERS

1. That a Judge be empowered to accumulate individual sentences of detention for multiple non-serious offences for up to seven years and that a Childrens Court Magistrate be empowered to accumulate such sentences for up to one year.

2. That a Childrens Court Magistrate, a Childrens Court Judge and a Court of competent jurisdiction be empowered to sentence a juvenile to detention for up to six months with follow-up probation for a period not longer than one year.
3. That the maximum number of hours community service a child aged 13 to 15 may be ordered to serve be raised from 60 to 100, and for a child aged 15 to 17 from 120 to 200.
4. That a Court sentencing a juvenile for a single offence be empowered to order both probation and community service.

PUBLICATION

1. That publication of Magistrates' Childrens Court proceedings involving children aged 15 to 17 years be permitted, subject to the constraint on publication of any 'identifying matter' (*Juvenile Justice Act* 1992, s.62).
2. That attendance at Childrens Courts be included in the State School curriculum for all children over the age of 10 years, and to facilitate the implementation of this recommendation liaison officers from the Departments of Justice and Education be appointed.

CAUTIONING

1. That if a child has been cautioned for an indictable offence that would attract seven or more years imprisonment if he* were an adult, the caution be revealed to the Court if the child subsequently re-offends as a child.
2. That if a person has been found guilty of two or more indictable offences for which convictions were not ordered to be recorded and the offences are of a type that, if committed by an adult, would make the adult liable to imprisonment for seven years or more, then that part of his juvenile criminal history should be revealed to a Court when sentencing the person for an offence committed by him as an adult.
3. That the victim of an offence committed by a child be entitled to be advised of the outcome of the offence involving the victim, if the victim so requests.

* For ease of reading, and because the vast majority of children who come before the Courts are male (see the tables on pp. 52–83), the masculine pronoun has been used when referring to individual child offenders.

4. That Section 19 of the Juvenile Justice Act be repealed.
5. That a child who is cautioned be given a 'Notice' of caution instead of a 'Certificate' of caution.
6. That senior police officers of the rank of Inspector or above, if available, administer cautions to children for indictable offences.
7. That statutory recognition be afforded to Aboriginal elders and respected persons to administer cautions to children of their communities in appropriate cases in their own right.

PARENTAL PARTICIPATION

1. That where the parent of a child in a proceeding before a Court has failed to attend the proceeding and the Court is satisfied on reliable evidence placed before it that there are reasonable grounds for believing that the parent has neglected the child or has failed or refused without good cause to exercise proper parental control over, or responsibility towards, the child, the Court be empowered to cause the proper officer of the Court to give written notice to the parent requiring the parent to attend the Court as directed in the notice and, in default of attendance without reasonable excuse, the parent be considered in contempt of Court and be dealt with accordingly.
2. That the Department of Family Services and Aboriginal and Islander Affairs should assume the responsibility for ensuring that a parent of a child is advised of the time and place of the proceeding involving the child and that the Department should ensure, as far as practicable, that transport is provided for a reluctant or impecunious parent from his or her home to the Court and return.

POWER OF ARREST

1. That the power of arrest contained in s.20 of the Juvenile Justice Act be extended to cover a 'serious offence' as defined by the Act (or the recommended re-definition thereof).
2. That s.32(1) of the Juvenile Justice Act be amended to provide that, consistent with the requirements of service of an attendance notice on a parent, a complaint need not be served on a parent if the parent cannot be found after reasonable inquiry.

SENTENCE REVIEWS

That the prosecution be given an equal right to apply for a sentence review of a sentence order made by a Childrens Court Magistrate as a child or chief executive acting in the interests of the child presently has pursuant to s.88 of the Juvenile Justice Act.

EX OFFICIO INDICTMENTS

That where proceedings are commenced by *ex officio* indictment the child have the right to elect to be dealt with by a Childrens Court Judge.

CHILDRENS COURT BUDGET

That the *financial* administration of the Childrens Court of Queensland be brought under the Department of Justice and Attorney-General.

AURUKUN

1. That responsible and respected leaders of Aboriginal communities be empowered to participate actively in the juridical process and, in particular, be afforded statutory recognition as approved supervisors of probation and community service orders.
2. That there be created a position, designated 'Aboriginal Assistant to the Court', to act in an advisory capacity to a Magistrate or a Judge sitting on a community Court.

As far as I am aware, only three of the recommendations have so far been implemented. They are:

1. That the victim of an offence committed by a child who is cautioned be entitled to be advised of the outcome of the offence involving the victim if the victim so requests.
2. That where procedures are commenced by *ex officio* indictment the child be given the right to elect to be dealt with by a Childrens Court Judge.
3. That a Childrens Court Judge be appointed to Cairns and another to Rockhampton.

In all candour, the outcome of the recommendations has been disappointing. It would be presumptuous to expect that all or most of the recommendations would be adopted and implemented. It is

not, however, presumptuous to expect that a decision, one way or the other, would have been made about the recommendations by now.

In discussions with senior officers of the Department of Family and Community Services, I have been assured that the recommendations are under active consideration, but the Department's attitude is that the recommendations should be considered as part of a comprehensive biennial review of the legislation.

The Brisbane Childrens Court Magistrate, Mr Pat Smith, and I have in mind a number of additional recommendations for the improvement of the legislation, but it seems pointless to make any further recommendations until decisions have been made on the recommendations contained in the first report.

2. A CASE RESTATED

RIGHT OF ELECTION

The jurisdictional, procedural and administrative imbroglio to which the right of election has given rise persists in increasing degree. For a proper understanding of the meaning and effect of the right of election, it is necessary that I repeat here an abridged version of what I said on the subject in the first annual report:

> 'The legislation makes a twofold classification of indictable offences: serious offences and indictable offences (other than serious offences). A serious offence means a life offence (e.g. murder, robbery, and rape), or an offence of a type that, if committed by an adult, would make the adult liable to imprisonment for 14 years or more (e.g. housebreaking).
>
> Serious offences
>
> The procedure for dealing with a serious offence is set out in Division 2 of Part 4 of the Juvenile Justice Act (ss. 68–75). A child charged with a serious offence cannot be committed for trial or sentence unless a Childrens Court Magistrate is satisfied after a committal proceeding has been conducted that the child has a case to answer. At this point the child, if legally represented, has the right to elect to be committed for trial before a Childrens Court Judge sitting without a jury or, if the child pleads guilty at committal, to be committed for sentence before a Childrens Court Judge; or he may elect to be committed for trial or sentence, as the case may require, before a court of competent jurisdiction (i.e. the Supreme Court or the District Court, depending on the nature of the charge).
>
> If the child is not legally represented, the Magistrate must commit the child for trial before a court of competent jurisdiction.
>
> Non-serious indictable offences
>
> In a proceeding before a Childrens Court Magistrate in which a child is charged with an indictable offence (other than a serious offence) and is legally represented, the child may elect to have the committal proceeding discontinued and any further proceeding conducted as a hearing and determination of the charge summarily by the Court; otherwise the proceeding must continue as a committal proceeding. If the child enters a plea of guilty at the committal proceeding, the child may elect to be committed for sentence before a Court of competent jurisdiction or to be sentenced by the Childrens Court Magistrate (ss.76–79).
>
> If the child is charged with an indictable offence (other than a serious offence) and the child is not legally represented, the Magistrate must conduct a full committal proceeding before calling on the child to elect. The child then has the same right of election as when he is legally represented.

A Childrens Court Magistrate, however, must refrain from exercising summary jurisdiction where a child elects to be dealt with summarily for a non-serious indictable offence unless the Magistrate is satisfied that the charge can be adequately dealt with summarily by him or her. The Magistrate should refrain from dealing summarily with the non-serious indictable offence if it involves complex questions of law and/or fact.

The position with non-serious indictable offences then may be summarised thus. A Childrens Court Magistrate can, in the circumstances adumbrated above, exercise summary jurisdiction over a child who elects to be dealt with summarily, but may refrain from so doing in a complex case. Alternatively, the child may elect to be committed for trial or sentence, as the case may require, to a Court of competent jurisdiction, that is the Supreme Court or the District Court, according to the jurisdiction of the Court to try or sentence the child for the charge on which he has been committed.

The jurisdiction of a Childrens Court Judge

In the result, the jurisdiction of a Childrens Court Judge is restricted to trying or sentencing a child for a serious offence where there has been an election at committal to be committed for trial or sentence to a Childrens Court Judge. In all other cases where the child is committed for trial or sentence on an indictable offence (whether serious or non-serious), except when, in the case of an indictable non-serious offence, the child elects to be dealt with summarily, the jurisdiction to try or sentence is vested in either the District Court or the Supreme Court, that is, in a jurisdiction other than a Childrens Court Judge.

There is one notable exception to this general statement of the position. Section 127 of the Juvenile Justice Act provides:

'127.(1) If, in a proceeding for the sentencing of a child for an offence, a Childrens Court Magistrate considers that the circumstances require the making of a sentence order—

(a) beyond the jurisdiction of a Childrens Court Magistrate; but

(b) within the jurisdiction of a Childrens Court Judge; the Magistrate may commit the child for sentence before a Childrens Court Judge.

(2) In relation to a committal under subsection (1), the Childrens Court Magistrate may make all orders and directions as if it were a committal following a committal proceeding.

(3) The Childrens Court Judge may exercise sentencing powers to the extent mentioned in section 120 (Sentence orders—general).'

Here, it would plainly seem, a Childrens Court Magistrate can refer to a Childrens Court Judge only a sentence which the Magistrate considers his or her limited sentencing powers cannot adequately deal with. The

child's right of election is in such a situation abrogated. The child is not asked whether he elects to be dealt with by a Childrens Court Judge. In an appropriate case, the sentencing power is unilaterally transferred by the Magistrate to a Childrens Court Judge regardless of the wishes of the child. This exception to the general rule points up the anomalous position to which the right of election entrenched in the Act has given rise.

Disadvantages of the right of election

As President of the Childrens Court I have had great difficulty in coming to terms with the right of election. The philosophic basis for making it a significant feature of the legislation appears to be to give the child freedom of choice. But if that is the rationale for the right of election then, in my opinion, it is, while noble in concept, misguided in practice. If it is a policy decision to set up a new court with new powers to deal with serious juvenile crime, then to properly fulfil its charter that court should deal with all serious crime, and not such portions of it as children choose to allow it to deal with.

With all due respect, there is, in my considered opinion, no point in creating a special Court and appointing special Judges to deal with serious juvenile crime if the newly created Court does not exercise exclusive jurisdiction over juvenile offenders. One might as well revert to the old system of having all juvenile offenders committed on indictable offences (whether serious or non-serious) to the District Court or the Supreme Court according to the nature of the offence; and, in that event, 31 District Court Judges and 20 Supreme Court Judges would between them exercise jurisdiction over all juveniles committed to higher Courts on indictable offences. If the real object and the true intent of the enlightened new legislation is to devise a better means than before for dealing with juvenile crime, then juvenile crime should be dealt with exclusively by Childrens Court Judges.

Let me give an example of how farcical the right of election can appear in practice. Under the present system it is both theoretically and practically possible for a child who has elected to be committed for sentence before a Childrens Court Judge for, say, robbery, to be sentenced by the Childrens Court Judge in one courtroom, and for another child also charged with robbery who has elected to be committed for sentence before a court of competent jurisdiction, namely the District Court, to be sentenced by a District Court Judge in an adjacent courtroom on the same day. Can this be right? Does this reflect the true spirit of the legislation? I think not.

Section 5 of the Juvenile Justice Act defines terms used in the Act. 'Concurrent jurisdiction' means:

(a) in relation to a Childrens Court Judge—the jurisdiction of the Judge when constituting a District Court for a proceeding in its criminal jurisdiction; or

(b) in relation to a District Court—the jurisdiction of the Judge when constituting the Childrens Court.'

The *Childrens Court Act 1992* defines a Childrens Court Judge to mean a District Court Judge appointed to the Childrens Court. The appointment of a person as a Childrens Court Judge does not affect the person's appointment as a District Court Judge or the person's powers as a District Court Judge. In appointing a District Court Judge as a Childrens Court Judge, regard must be had to the appointee's particular interest and expertise in jurisdiction over matters relating to children (s.11). A Childrens Court Judge therefore wears two hats which are interchangeable.

The Juvenile Justice Act was proclaimed on 1 September 1993. Because of the existence of the right of election, it was impossible to predict how this right would in practice be exercised by children committed for serious offences. I decided to treat the first six months of the life of the Act as an experimental period.

At the end of that period it became apparent that a good proportion of serious crime was going to the District Court, that is , children charged with serious offences were electing to be committed to the District Court rather than to a Childrens Court Judge. This, to some extent, was understandable. It is not at all uncommon for persons charged with indictable offences (whether as adults or as children) to choose to be committed for trial before a Judge and jury, which means, of course, that the committal must be to either the District Court or the Supreme Court. Quite frequently, indeed I understand in about 80% of cases, persons committed for trial by jury change their pleas close to the assignment of a trial date and the case is disposed of by the District Court or the Supreme Court as a sentence, and not as a trial. The reason that criminal litigants choose this course is to enable their legal representatives to consider the committal evidence in detail and to advise whether the litigant should stand trial or change his not guilty plea to one of guilty, and plead in mitigation of sentence. This, as I say, is what frequently happens.

Now, the Juvenile Justice Act does not allow for a withdrawal or a reversal of an election once made at committal stage, with two exceptions. First, if the child elects to be committed for trial by a Childrens Court Judge sitting alone without a jury (i.e. if he elects to waive his right of trial by Judge and jury) he may withdraw his election to be tried before a Childrens Court Judge without a jury at any time before arraignment, (i.e. before the commencement of the trial). In that event, the child will be tried by a District Court or Supreme Court

Judge and jury. Second, a child who is committed for sentence before a Childrens Court Judge on an indictable offence is entitled to reverse his plea and enter a plea of not guilty and, although the relevant section is silent on the matter, it would appear by necessary implication that he should then stand trial before a District Court Judge and jury (s.73).

At the end of the experimental period of six months from the inception of the Act I was concerned that the 'right of election' question was a source of serious administrative problems. I therefore spoke to officers of the Family Services Department about proposed resolutions of the problems. I also wrote to the then head of the District Court, His Honour Chief Judge Helman, in the following terms:

> '8 March 1994
>
> Chief Judge Helman
>
> District Court
>
> BRISBANE Q 4000
>
> Dear Chief Judge,
>
> I request that in future you identify and segregate juvenile criminal cases committed to the District Court at call-overs and list them for hearing before myself or Judge McMurdo.
>
> In my opinion, it is highly desirable that Childrens Court Judges sit on all juvenile cases—both sentences and trials—even though they have not been committed to a Childrens Court Judge.
>
> As you are aware, a Judge of the Childrens Court is not divested of District Court jurisdiction in relation to juvenile crime. He (or she) wears two hats, which are easily interchangeable.
>
> Yours faithfully,
>
> McGUIRE D.C.J.'

The Chief Judge replied:

> 'March 23, 1994
>
> His Honour Judge F. McGuire,
> Judges' Chambers,
> District Court,
> BRISBANE Q 4000
>
> Dear Judge,
>
> I have your letter dated March 8, 1994 in which you requested that in future I identify and segregate 'juvenile criminal cases' committed to a District Court and list them for hearing before you or Her Honour Judge McMurdo.
>
> Having considered the matter at some length and bearing in mind the provisions of the *Juvenile Justice Act 1992*—and in particular ss.70 and 71, I have concluded that I should not do as you requested. As I construe ss. 70 and 71 of the Juvenile Justice Act it

was not intended that the effect of an election, or s.70(6)(a), should be circumscribed in the way you have suggested.

The present practice is that cases are listed before any available judge of District Courts, including of course judges who are also Childrens Court judges. I do not propose to take any steps to bring about an alteration to that practice. I see no point of principle that would require such a course. If the Parliament had intended that all children who elect to be committed to a District Court should go before a judge of District Courts who is also a Childrens Court judge it would no doubt have included a provision to that effect in the Act.

I have discussed this matter with the Director of Prosecutions, Mr R.N. Miller QC, who has told me that in his opinion the provisions of ss.70 and 71 preclude a judge of District Courts who is also a Childrens Court judge from hearing in a District Court a matter in which a child is the accused person. As will be apparent from the above I do not share Mr Miller's opinion, but I think you should be aware of it.

Yours faithfully,

CHIEF JUDGE'

I then wrote to the Director-General of Family Services as follows:

'28 March 1994

The Director-General
Department of Family Services
and Aboriginal and Islander Affairs
GPO Box 806
BRISBANE Q 4001

Dear Director-General,

In our recent discussion you will recall that I raised the problem associated with a child's right under the *Juvenile Justice Act* to be tried or dealt with by a Childrens Court Judge or a District Court Judge. It seems to me that the right of election frustrates the whole purpose of the legislation, which is to constitute a Childrens Court to deal exclusively with juvenile crime.

I have made a genuine attempt to sort the matterout at an administrative level with the Chief Judge of the District Court, but alas! to no avail (see attached correspondence). I should say that I think the Director of Prosecution's opinion, assuming it is accurately recounted in the Chief Judge's letter, is a rather strained interpretation of the relevant provisions of the Act.

As a consequence of the legislation and the Chief Judge's attitude as disclosed in his letter, you have not only in effect, but in fact, two heads of court administering juvenile justice. In my opinion,

the head of the Childrens Court should have complete control over the administration of juvenile justice in Queensland: nothing short of that will do. The present administrative arrangements are, I must say emphatically, wholly unsatisfactory and should not be allowed to continue. If the present dual arrangements are not terminated I cannot be expected to accept responsibility—as I am prepared to do—for the administration of juvenile justice State-wide.

I am adamant in the view that the new Childrens Court should deal with ALL juvenile crime—otherwise public confidence in the new legislation and the Court will be seriously and perhaps irreparably undermined. The public perception is that a special court is dealing exclusively with juvenile crime, and, if I may say so, despite criticism from certain quarters, which is likely to persist, there seems to be a generally favourable public reaction to the new approach to juvenile crime. A report, such as appeared in the Courier-Mail, 23 March, would, I think, tend to quickly disabuse the public of that perception (report attached).

I regard the matter of sufficient importance to seek a conference with your Minister and also the Attorney-General. It seems to me that the relevant legislation should be reviewed with a view to correcting what I believe is a fundamental flaw in the management of juvenile justice.

I should foreshadow that in my annual Report to Parliament I will be obliged to make conspicuous reference to the anomalous position which has arisen, albeit unintentionally, unless, of course, in the meantime, the matter is corrected either administratively or legislatively.

I refer to the following observation I made in my inaugural address (pp.11—12) on 6 July 1993, before the Act was proclaimed: 'A Childrens Court Judge is empowered, inter alia, to review sentence orders made by Magistrates and to try serious offences sitting alone without a jury. *There is, however, a severely limiting feature to the exercise of this jurisdiction: the child must be legally represented and consent to conferring the jurisdiction on a Childrens Court Judge.*' (Emphasis added).

Turning to another topic, it will be of interest to you to know that I am presently making arrangements to visit Aurukun during the week commencing 30 May 1994, where I intend to conduct Childrens Court cases and speak to the local population, including the elders. I understand that the Justice Department is agreeable in principle to meet the costs of the visit.

I should be pleased to confer with you at a mutually convenient time about these and any other matters of concern or interest.

It would be appreciated if you could give your urgent attention to the matters raised in this letter.

Yours truly,

President, Childrens Court of Queensland'

Discussions with officers of the Department ensued. I once again highlighted the problems and advised abolition of the right of election save where a child elects to be tried by Judge and jury. Trial by jury clearly raises a fundamental constitutional question about which I hold the firmest views. Waiver of right to trial by jury must be the result of an informed, conscious and free decision. Nothing short of that will suffice. There is therefore not the slightest suggestion that the right to elect for trial by Judge and jury should be abolished.

In my discussion with the officers of the Department of Family Services, there seemed to be general agreement in principle to the adoption of the advice I gave. However, there were other related problems of an administrative character which needed talking about and resolving before abolition of the right of election could be contemplated.

Following my discussion with Departmental officers I received a formal written reply to my letter to the Director-General quoted above. The Director-General's reply was in these terms:

'15 August 1994

His Honour Judge F. McGuire,
President,
Children's Court of Queensland,
Judges Chambers,
District Court,
PO Box 167 Brisbane,
ALBERT STREET 4002

Dear Judge,

I refer to your letters of 28 March and 29 April 1994. Please accept my apology for the delay in replying to your letters. You can be assured that I have taken steps to ensure prompt replies in future.

I share your concern about present arrangements with respect to children who elect jury trial in the District Court. I have recently written to Barry Smith, Director-General, Department of Justice and Attorney-General on this very issue in response to his request for clarification. In summary, I advised in the following terms:

- The *Juvenile Justice Act 1992* retained a child's right to elect to be dealt with summarily by a Childrens Court Magistrate or jury trial before a District Court Judge for an indictable offence other than a serious offence.

- The jurisdiction of the Childrens Court Judge was conceived of as a new summary jurisdiction for dealing with 'serious' indictable offences that previously could only be dealt with by the Supreme Court or the District Court acting with jurisdiction delegated by the Supreme Court.
- The possibility of Childrens Court Judges holding jury trials for children who elect has merit and I could see no policy objections to it as a concept. Indeed it would further the intentions of the Act for children to be tried before judges with a declared interest and expertise in dealing with matters affecting children. I recall that the idea was not pursued during the development of the legislation because resources were likely to extend only to the creation of one additional full-time equivalent judge and the workload implications of the judge's summary and appellate jurisdiction were not known. The main issue will be the ability of Childrens Court Judges to deal with the workload and cost implications for the Department of Justice and Attorney-General of such an approach.
- Cost implications aside, it would be possible to achieve the desired outcome by the establishment of administrative arrangements to co-ordinate the appearance of children who have elected jury trials before Childrens Court Judges sitting in their concurrent District Court jurisdiction.
- The creation of a separate list of children appearing in higher courts drawn up in consultation with the President of the Childrens Court would appear to be essential to facilitate this.

I finally indicated that I would strongly support such an approach as it would also have the potential to reduce the time it takes a child to get a date for trial.

I am awaiting the outcome of this letter before I consider further options including the need for amendment to the Act. You will be advised of any developments as they emerge.

I am aware that you recently discussed this matter with senior officers of the Department and reiterated your wish to meet with the Honourable the Minister and myself about the issue. Perhaps your Clerk could contact my Executive Support Officer, Ms Liane Kinlyside, on telephone number 224 7038 to arrange a meeting at a mutually convenient time.

Congratulations on your recent visit to Aurukun which, I understand was a success and helped to make the new Childrens Court a tangible reality for that community. I am pleased to hear that my staff were of assistance to you during the visit.

Yours sincerely,

R.L. Matchett (Ms)
Director-General'

I have to concede that there were initially good pragmatic reasons for inserting the 'right of election' provisions in the *Juvenile Justice Act*. The plain fact was that with so restricted a number of appointees as Childrens Court Judges it was, in practical terms, quite impossible to service the whole State, especially when one bears in mind that there are 30 District Courts in Queensland. However, I have proposed a plan to overcome these formidable practical difficulties. The plan I have in mind is revealed in recommendations made later in this section of the Report.

The above lengthy preamble leads me to make the following recommendations:

1. The right of election (which applies only for serious offences) should be abolished and children committed on serious offences should be committed to a Childrens Court Judge.
2. A Childrens Court Judge should be appointed to Cairns and another to Rockhampton.
3. To cope with the consequential increase in committals of children to a Childrens Court Judge, I, as President of the Court, should be empowered to delegate Childrens Court jurisdiction to any District Court Judge according to the exigencies of each district. This means that if, for example, a child is committed to a Childrens Court Judge at Charleville on a serious offence for a particular sittings of the District Court at that place, and a Childrens Court Judge is not available to go to Charleville to hear the case, then I, as President, should be empowered to delegate jurisdiction to hear and determine the case to a District Court Judge visiting Charleville to do the regular District Court sittings there in accordance with the legal arrangements for the year. It is only in this way that proper control can be exercised over Childrens Court work in every part of the State.

The head of the Childrens Court of Queensland should be in a position to report to the head of the District Court and to the responsible Minister the precise state of juvenile crime in any place in Queensland, and in Queensland as a whole, on at least a quarterly basis.

Delegation of jurisdiction is not a novel concept. Section 126 of the Juvenile Justice Act provides for a Childrens Court Judge's extended sentencing powers in respect of detention and probation to be delegated to a Magistrate in a particular case. Where the Magistrate considers that the maximum period of probation or detention would be inadequate in the circumstances of the case, the Magistrate may

request a Childrens Court Judge to delegate increased sentencing power. In country centres, where the Court sits infrequently, such a delegation may prevent a child from being subjected to lengthy adjournments and possible remand in custody.

The point I make is this: the head of the Childrens Court of Queensland must have complete control over the management of juvenile crime; otherwise he cannot be expected to accept responsibility for juvenile crime State-wide. Under the present arrangement of dual control, neither the head of the District Court nor the head of the Childrens Court of Queensland can hope properly to advise the government of the day on the true state of affairs. Either the position of President of the Childrens Court of Queensland should be abolished or he should be given full control over the management of juvenile crime in Queensland. I made this point strongly, it will be recalled, in my letter to the Director-General of Family Services which is quoted in full above.

The Chief Judge of District Courts, his Honour Judge Shanahan, and I have conferred on ways and means of eliminating, or at least reducing, the problems associated with the right of election. As a result, the Chief Judge wrote to the Honourable the Minister for Family and Community Services on 7 April 1995 in the following terms:

> 'Dear Minister,
>
> Since my appointment as Chief Judge of District Courts on 17 July 1994, it has become apparent to me that the 'right of election' afforded children under the *Juvenile Justice Act* has resulted in serious jurisdictional and procedural problems which have made the administration of the District Court and the Childrens Court of Queensland, over which I as head of Court have general superintendence, difficult.
>
> I have discussed these problems with the President of the Childrens Court, Judge McGuire, on a number of occasions and have carefully studied his analysis of the problems to which the right of election has given rise in the First Annual Report of the operation of the Childrens Court of Queensland.
>
> It seems to me that Judge McGuire's arguments for the abolition of the right of election are persuasive and I endorse his
>
> It comes down to this—the Childrens Court should deal with all children who are to be tried and/or sentenced for indictable offences.
>
> At present we have two systems operating side-by-side—the District Court and the Childrens Court.
>
> This leads to inefficiencies, waste of court time and resources and unnecessary expense.

The problem has been around for a while now and I believe that it is time that a decision, one way or the other, should be made.

Yours sincerely

CHIEF JUDGE'

The Minister's reply dated 19 May 1995 is as follows:

'Dear Justice Shanahan,

Re: *Juvenile Justice Act 1992*—Right of Election

I refer to your letter in relation to the 'right of election' afforded children under the *Juvenile Justice Act 1992*.

I have noted your endorsement of Judge McGuire's recommendation that the right of election be removed. I am familiar with Judge McGuire's concerns regarding the current arrangements. This matter has been raised by the Judge with me and officers of my Department on a number of occasions.

On 15 August 1994, the Director-General of my Department wrote to the Judge, indicating that the Department had no policy objections to the concept of Childrens Court Judges conducting jury trials. However, as there would potentially be resource implications arising from the implementation of such a change, this matter will require the support of my colleague, the Honourable Dean Wells, MLA, Minister for Justice and Attorney-General and Minister for the Arts. I have therefore forwarded a copy of your letter to him for his consideration.

In his Annual Report, Judge McGuire raised a number of issues relating to the function and operation of the *Juvenile Justice Act 1992*, suggesting legislative amendment. These and other matters will be considered in the context of the comprehensive review of the Act to be undertaken following two years of operation, that is, after September 1995. In the interim, I strongly support the establishment of a separate listing for children with an arrangement involving children being dealt with by Childrens Court Judges sitting in their concurrent District Court jurisdiction. I understand this matter is currently being given consideration.

I thank you for bringing your views on this matter to my attention. If any additional information is required, please contact Mr Steve Armitage, Manager, Legislation and Policy, Juvenile justice Branch, on telephone number 224 2567.'

There the matter stands. I unreservedly accept the Department's assurance that the matter of the right of election is under active consideration as part of a comprehensive biennial review of the legislation. I am the first to acknowledge that in the difficult and sensitive area of juvenile crime criticism comes easily; solutions are harder to come by. Good faith is not at issue—it is a question of when?

For the reasons adumbrated above, a decision on the right of election issue is required urgently.

3. PARENTAL RESPONSIBILITY

SHOULD PARENTS BE RESPONSIBLE FOR THE CRIMINAL ACTS OF THEIR CHILDREN?

Crime prevention begins at home. Parents have the most powerful influence on their children's development. While most parents carry out their parental responsibilities adequately, there is nevertheless a significant number of parents who fall short of the duty cast on them to ensure that their children understand the difference between right and wrong and grow into adulthood as responsible law-abiding citizens. When effective family control is lacking, children are more prone to errant behaviour. When children offend, the law has a part to play in reminding parents of their responsibilities.

An English Home Office White Paper entitled 'Crime, Justice and Protecting the Public' (Cmnd. 965 (1990)) proposed that parents of children charged with criminal offences should be compelled to attend court with their children unless there was some overriding reason why they could not. The White Paper stated:

> 'Attendance at Court, is a powerful reminder to parents of their duty both to their children and the wider community. It marks the degree of responsibility which the law regards parents as having for the behaviour of their children ... Parents who take their responsibilities seriously would wish to make every effort to attend, whether or not the law requires them to do so. Some do not. The Government believes that parents should always attend Court with their children, unless there is some overriding reason why they cannot. The legislation will make it a requirement for Courts to order the parents to attend unless it is unreasonable to do so.'

Under the *Children and Young Persons Act 1933 (Eng.)*, s.55, the court was empowered to order that the parent or guardian of an offending child pay a fine imposed on the child or compensation awarded to the victim of the crime, unless it was satisfied that the parent or guardian could not be found or that the order would be unreasonable in the circumstances. However, in practice, the power was rarely used.

Nevertheless, the White Paper reasserted the need for parents to take financial responsibility for their children's pecuniary penalties:

> 'The Government considers the imposition on the parents of the formal requirement to pay (fines and compensation) has an important effect. It brings home to them the reality of the consequences of their children's behaviour and the implications of their own actions. To strengthen the impact of the order, the legislation will put beyond

doubt that, in deciding upon the level of the payment to be made, Courts must take account of the parents' means, and not just the means of their children.'

Following on the White Paper in which the Government expressed its view of the importance of parents attending and taking responsibility for financial penalties, the *Criminal Justice Act 1991* was enacted. Inter alia, it provides:

1. That where a child is charged with a criminal offence the Court must require a parent to be present in Court unless, in all the circumstances, this would be unreasonable;
2. That the Court has a duty to require parents to pay financial penalties imposed on their child, unless it would be unreasonable to do so.

These powers have been severely criticised by civil libertarians and others chiefly on the ground that it is wrong to impose liability on parents for the criminal actions of their children.

The view expressed in the White Paper and enshrined in the *Criminal Justice Act 1991 (Eng.)* accords with the view I took in the first annual report. At p. 85 of the report under 'Orders against parents' I stated:

> 'Section 197 of the Juvenile Justice Act enables a Court to make a compensation order against a parent of a child whose wilful failure to ensure proper care of, and supervision over, the child has substantially contributed to the child's offence. This is a salutary power, but so far no compensation order against a parent has been made. It is, of course, difficult to prove that a parent has, through want of care or supervision over a child, substantially contributed to the child's offence; and, in any event, in many instances the parent of a delinquent child does not have the means to satisfy compensation orders. Often parents of a delinquent child are themselves delinquent, and impecunious to boot. However, there have been cases where parents of offending children have voluntarily paid compensation to the victims of their children's offences. I have more than once appealed to parents, where there is no legally enforceable obligation, to accept the moral obligation to pay compensation attributable to their child's crimes and I have reason to believe, in light of undertakings given to the Court, that such payments have been made.
>
> Where parents of an offending child have a demonstrated capacity, whether by way of income or assets, to pay reasonable compensation to the victim of their child's crime, I would like to think that the Courts could make an enforceable order against the parents to pay

> compensation notwithstanding that it cannot be established that they have substantially contributed to the child's crime by their failure to exercise proper control over the child's activities. However, where no fault can be shown in the parents, the compensation payable should in fairness have a ceiling. I would arbitrarily fix the limit at $5,000.00. If a compensation order is made against a parent with a demonstrated capacity to pay, the amount should be recoverable by the person in whose favour the order is made as a debt in the Magistrates Court.'
>
> I know I have strayed into a controversial area. Nevertheless, I think the idea is worth looking at. I invite informed debate on the issue. Because of the recognised controversial nature of the issue, I make no concrete recommendation in respect of it.'

Fortified by the English attitude about parental financial responsibility for the crimes of their children, of which I was not expressly aware at the time of writing the first report, I feel emboldened to reaffirm the principle of qualified parental financial responsibility for the crimes of their children as expounded in the first annual report.

4. PARENTAL PARTICIPATION

Although under the existing legislation the Court has no legal coercive power to ensure that the parents of a child charged with an offence attend the Court proceeding, if the parents are not present, the Court is entitled to an explanation for their absence and may adjourn the proceeding to enable the parents to be present at the time and place to which the proceeding is adjourned. I place great importance on the presence in Court of both parents, or at least one parent, of an offending child. Although the Court lacks legal coercive power, the Court has not been slow in using moral coercion to shame recalcitrant parents into attending a Court proceeding involving their child.

I have asked the Department of Family and Community Services to assume primary responsibility for advising the parents of the Court's insistence that they attend the proceeding. The Department has cooperated splendidly in this regard and the results have been very gratifying. It is now only in exceptional cases, and then for understandable though not necessarily excusable reasons, that at least one parent fails or refuses to attend. As I have observed more than once before, I have usually derived great assistance from parental attendance and their active participation in the proceeding. Not infrequently pleas by parents on their child's behalf have persuaded me to moderate a view I had tentatively formed of the case, to the ultimate benefit of the child and his parents.

I am indebted to the Department for taking appropriate measures to facilitate and encourage the attendance of parents. I regard parental confrontation in Court with their child's criminality an essential first step towards the acceptance of some moral responsibility for the child's offending. Parental attendance, in my opinion, is one of the cornerstones of the new model criminal justice system.

It will be recalled that in the first Annual Report (p.195) I recommended:

> 'That where the parent of a child in a proceeding before a Court has failed to attend the proceeding and the Court is satisfied on reliable evidence placed before it that there are reasonable grounds for believing that the parent has neglected the child or has failed or refused without good cause to exercise proper parental control over, or responsibility towards, the child, the Court be empowered to cause the proper officer of the Court to give written notice to the parent requiring the parent to attend the Court as directed in the notice and, in default of attendance without reasonable excuse, the parent be considered in contempt of Court and dealt with accordingly.'

As I have remarked elsewhere, when children offend, the law has a part to play in reminding parents of their responsibilities. Unless the Court is equipped with the power to compel parental attendance, there is a danger that it will be seen as ineffectual. In my opinion, the power is indispensable to the proper discharge of the Court's charter, and I reaffirm the recommendation.

5. LEGAL AND OTHER REPRESENTATION

In the first annual report under this heading I stated:

> Quite apart from the role played by Childrens Court Judges under the new legislation, there are important roles to be played by legal and departmental representatives. Whether the Court can fulfil its role adequately will depend, in large measure, on the assistance that is forthcoming from the responsible offices and Departments—the Director of Prosecutions Office, the Legal Aid Offices, the Department of Family Services and Aboriginal and Islander Affairs, and the Police Service.

In the Childrens Court not only is there representation on behalf of the prosecution and the defence, but there is also representation on behalf of the Department of Family and Community Services. The child is usually represented by a legal officer of the Legal Aid Office (LAO) or, if the child is an Aborigine, by an officer of the Legal Aid Service (LAS).

As I have observed elsewhere, the Department representation is now of a good standard. Also, the representation of the LAO is of a good standard. The majority of cases are handled by Mr Mark Green of the LAO. He is a well-informed, well-motivated, reliable and dedicated officer whose submissions are always admirably assembled. Over the past year his assistance to the Court and the cause of juvenile justice has been significant. It is here acknowledged.

There remain, however, two weak links in the chain of representation. The Director of Prosecutions Office has failed to measure up to the standard of representation expected of it. Repeatedly, it sends ill-informed, ill-equipped and inexperienced barristers to the Childrens Court even though I have made a number of requests to the Office to select suitable barristers for briefing in the Court. To treat a prosecution in the Childrens Court as a routine prosecution in an adult Court demonstrates a dismal misconception of the purpose and function of Childrens Courts. In my opinion, the Childrens Court is by far the most sensitive and important Court in the whole Court structure. It deserves much better Crown representation than has hitherto been the case. There has, however, been a significant improvement on the administration side since the appointment of Mr Ian Grant as Childrens Court clerk.

The Aboriginal Legal Aid Service (LAS) is the second weak link in the chain of representation. There has been a degree of disorganisation in this office which has impacted adversely on the

efficient running of the Court. I am told that due to financial strictures the Service has cut back on its staffing, with the consequence that Court representation has suffered. While fully conscious of the problems of the Service, I remain hopeful of a significant improvement in the quality and consistency of representation in the year ahead.

The Childrens Court can function efficiently only if all four regular participants in the juridical process—the Prosecution, the LAO, the LAS and the Department of Family and Community Services—are functioning at a high and consistent level of efficiency. It requires only one weak link in the chain to disrupt the process.

6. PRE-SENTENCE REPORTS

PSYCHIATRIC AND PSYCHOLOGICAL REPORTS

There have been inordinate delays in the obtaining of psychiatric and psychological reports in relation to disturbed children. Such reports are sometimes requested in conjunction with a pre-sentence report under s. 110 of the Juvenile Justice Act.

In a recent case (*R v. P*, September 1995) I made the following statement about the delays experienced in the preparation and presentation of the reports:

> 'HIS HONOUR: I wish to make the following statement about the unhappy situation which has arisen with respect to psychiatric and psychological reports. In this case, on 14 August 1995 I ordered a pre-sentence report and, in addition, I ordered a psychological report and a psychiatric report. I adjourned the further hearing of the matter to today, 21 September.
>
> Psychological and psychiatric reports so ordered are normally compiled by the Adolescent Forensic Unit of the Queensland Health Department, Brisbane North Region. I have been advised in writing by Dr Barbara McGuire, Consultant, Psychiatric Adolescent Forensic Unit, that she is unable to complete the report before 28 November 1995. A similar position obtains in respect of four other children where psychiatric or psychological reports have been ordered pursuant to s.110 of the *Juvenile Justice Act 1992*. So far as is material, s.110 provides:
>
> Presentence report
>
> 110.(1) A court, before it sentences a child found guilty of an offence, may order the chief executive to give to the court a presentence report concerning the child.
>
> (2) The court may request that the report contain specified information, assessments and reports relating to the child or the child's family or other matters.
>
> ...
>
> (5) The chief executive must cause the presentence report to be prepared and given to the court expeditiously and, in any case, no later than 15 working days of the department.
>
> (6) The limit of 15 days may be extended by the court at any time if the chief executive satisfies the court that this would be in the interests of the child.

The minimum time from the ordering of the report to its completion is now of the order of three months. The new Childrens Court of Queensland prides itself on the expeditious disposal of Childrens Court matters. Indeed, the Juvenile Justice Act (s.4(f)) stipulates that one of the general principles underlining the operation of the Act is

that 'a decision affecting a child should, if practicable, be made and implemented within a time-frame appropriate to the child's sense of time'. Expedition is therefore the order of the day. As the great Francis Bacon once said, 'Swift justice is best.' This is particularly true with children. If justice is delayed with children, the impetus is lost and the child is left in a state of suspense. Such a position is bad enough for an adult, but it is so much worse for a child.

I have in the past spoken with officers of the Family and Community Services Department about delays in obtaining psychiatric reports. The Department says, in effect, that the reports are prepared by a different department, namely Health, over which it has no control. I have suggested that the two Departments collaborate with a view to remedying the position. So far, I regret to say, nothing has happened. Indeed, the position has worsened.

Dr Barbara McGuire (who, I should say, is not related to me) informs me that her unit cannot cope with the present volume of work and urgently needs additional help. It is suggested that another psychiatrist be engaged so that the unit may fulfil its responsibilities with due expedition. I express the hope that something will be done, and done quickly.

For myself, I sparingly order psychiatric or psychological reports for Childrens Court matters. There are, however, a number of cases where such reports would, in all probability, assist the Court in the proper discharge of its duties. It has to be accepted that there are some children who, through neglect or drug addiction or some other cause, are in need of psychiatric assessment and assistance. Because I consider a delay of three months unacceptable, I have cancelled the reports I have ordered. Naturally, consequences flow from that. There is, however, nothing to prevent the various Legal Aid Offices arranging their own reports, but I am told that the time factor is not improved by private reference. If anything, it is even more protracted.

Finally, I earnestly hope that the Departments of Family and Community Services and Health will collaborate with a view to remedying the present very unsatisfactory state of affairs. I would like to inject some urgency into the Department's considerations.'

When a pre-sentence is ordered it is generally delivered within the time constraints imposed. I am grateful to the Department of Family and Community Services for the efficient dispatch of these reports. The standard of reporting is generally gratifyingly good. However, the reporter should leave all sentencing options open to the sentencing Court. In some bad cases, which in my opinion are easily identifiable, the reporter should not foreclose the sentencing option of an Immediate Release Order (i.e. a suspended detention sentence order). Under s. 179 of the Juvenile Justice Act a pre-

sentence report must support an Immediate Release Order. There have been times when in the Court's opinion an Immediate Release Order would be appropriate but the Court is prevented from making such an order because the reporter does not support it. The reporter should not be in a position to deprive the Court of the power of making a particular sentence order which it considers appropriate in the circumstances.

The pre-conditions for the making of an Immediate Release Order are essentially the same as those for the making of a Community Service Order under s. 146. They are: (a) that the child is a suitable person for the making of the order; (b) that an appropriate program can be devised; and (c) that the child is willing to comply with the requirements of the order. Very seldom, if ever, have I heard it suggested that a child is not a suitable candidate for community service. Why then is there this apparent reluctance to support an Immediate Release Order?

It seems to me that the pre-sentence reporter should put up the various sentencing options to the Court for the Court's consideration and determination. There can be no objection, in my view, to the reporter favouring one option over another after assigning reasons for the preferred position. But in the final analysis the Court takes the responsibility for the sentence disposition, not, it should be emphasised, the Department.

There are two other points I should like to make about pre-sentence reports. First, there are times when the reporter takes a too idealistic view of the case. There is a need to inject a sense of realism into reporting on serious repeat offenders. The second point is about reporting on any impact of the offence on a victim. This in my experience is rarely done. Under s.109 of the Juvenile Justice Act the sentencing principles a Court *must* have regard to in sentencing a child for an offence include 'any impact of the offence on the victim'.

Recently, I sentenced a 13-year-old schoolboy who stabbed another 13-year-old boy at a school dance for the offence of grievous bodily harm. I requested a pre-sentence report before sentencing. The report made no reference at all to the impact of the offence on the victim. A knife was used against the victim. It was thrust into the upper abdomen of the victim penetrating the right lung and heart. But for timely and efficacious surgery the victim would have died. The father of the victim told the Court that Family Services did not approach them. I think this is pre-eminently a case where the pre-

sentence reporter should have spoken to the injured boy and his parents and included some reference in the report to the impact of the offence on the victim and his family.

However, these critical observations apart, the Department of Family and Community Services through their able Court representatives, Ms Barbara Flynn PSM and Ms Robyn Wills, have rendered conspicuous service to the Court in the past year. The Court acknowledges with gratitude the assistance of those two officers.

7. PUBLIC EDUCATION AND INFORMATION

As I said in the first annual report, I have been concerned to educate the community about juvenile crime by imparting as much information as possible through public addresses and also by remarks in certain cases before the Court which from time to time are relayed to the public by courtesy of the media.

The Childrens Court of Queensland, in addition to its judicial role, has an educative role. This educative role for too long has been neglected. One of the persisting problems with the judiciary is its perceived isolation and remoteness. The judiciary should move with the times.

The great benefits to be derived from informing the public of our system of justice have been espoused by, in particular, three distinguished Australian Judges. In a recent address to the Law Society of the Australian Capital Territory the Chief Justice of the Federal Court of Australia, Justice Black, said:

> 'The Courts have a role to play—a very important role—in the processes by which the community can be assisted to have a better understanding of our system of justice, of the functions of the Courts and the way in which they work, and the values our system of justice seeks to uphold. There can be no doubt about the importance of informing the public about our system of justice or about the need for that task to be undertaken. ... The present unprecedented level of critical interest in the system of justice in this country should, in my view, be seen as providing an excellent opportunity to promote a much better understanding of the system.'

The Chief Justice of South Australia, Justice King, at the 1991 Australian Legal Convention said:

> 'The only guarantee of the continued survival of the Court system is the support of an informed public opinion... If the public is apathetic or antagonistic, the foundations which underpin the independent judicial system are in danger of being eroded.'

And in 1992 Mr Justice McGarvie (now Governor of Victoria) observed:

> 'There is a great paradox in the Australian judicial scene today. While opinion is unanimous that the judicial system must have the confidence of the community and that its real, as distinct from its formal, authority comes from that confidence, practically nothing is done to provide the public with the information from which that confidence would grow.'

On 29 June 1995 at the opening of a conference of District and County Court Judges of Australia the Honourable Richard

McGarvie, Governor of Victoria, delivered the keynote address, entitled 'The Standing and Future of the Judiciary.' In that address he expanded on what he said in 1992. He remarked:

> 'For years our education system has given little knowledge of our judicial system, its essential character or requirements. Judges, as members of school councils or law faculties, or as speakers, should use persuasion to have that knowledge provided. They should not forget that, despite adverse impressions absorbed from the media, judges do earn a moral authority from doing their work fairly and well and there is much community respect for them.
>
> Students should be encouraged to visit courts during trials. An advantage of the popularity of Legal Studies in Victorian secondary schools is that organised visits are arranged. This is good for the court and the students.
>
> Judges who are unable to cope with the media are unable to cope with the modern world. Time and effort must be spent to have a balanced picture of the judicial system portrayed through the media. It is hard but it can be done and judges can do it. A court media liaison officer is an obvious necessity but judges themselves must become media friendly. They must understand how the media works and the difficulties, pressures and practical realities facing those in it. They must learn how to convey information which the media can use quickly and easily.'

I am in complete concurrence with his Excellency's views as well as those of Chief Justice King and Chief Justice Black.

In furtherance of this educative objective I have during the last year given a number of public addresses, which, on the whole, had a beneficial effect:

1. '7.30 Report' interview
2. Address to the Kenmore and Indooroopilly Rotary Clubs
3. Address to mark Law Week at John Paul College
4. Address to the State Conference of the Australian Family Association
5. Address to the State Conference of Queensland Magistrates.

I am especially convinced that the best educative process for children is to attend Childrens Courts and witness first-hand the tragedy and pathos of child crime. I repeat here the recommendation I made in the first annual report: that attendance at Childrens Courts be included in the State School curriculum for all children over the age of 10 years. To facilitate the implementation of this recommendation, liaison officers from the Education Department and the Department of Justice and Attorney-General should be appointed.

8. OVER REPRESENTATION OF ABORIGINALS AND TORRES STRAIT ISLANDERS IN DETENTION CENTRES

In the Criminal Justice Commission's Research Paper on 'Children, Crime and Justice in Queensland' released on 26 September 1995, it is stated that between 1 September 1993 and 31 August 1994 160 distinct children were sentenced to a detention order. Fifty-six per cent of these orders were made against Aboriginal and Torres Strait Islander children and 44 per cent against non-Aboriginal children. In 1993–94 one-third of all final appearances of children in Childrens Courts in Queensland were Aboriginal and Torres Strait Islander children, even though such children constituted only 3.6 per cent of persons aged 10 to 16 years in Queensland.

In the media release accompanying the Research Paper prominence was given to this feature of juvenile crime. The media release observed:

> 'Aboriginal and Torres Strait Islander children are dramatically over-represented in the Queensland juvenile justice system, according to a Criminal Justice Commission (CJC) research study published today.
>
> One-third of final appearances by children in the Queensland courts in 1993–94 were by Aboriginal and Torres Strait Islander children, even though they represented only 3.6 per cent of people aged 10 to 16 years.
>
> The CJC research paper, *Children, Crime and Justice in Queensland,* also reveals that a disproportionate number of Aboriginal and Torres Strait Islander children receive higher penalties, accounting for around half of detention and community service orders in 1993–94.
>
> They are 30 times more likely to be on a detention order than other children.
>
> CJC Research and Co-ordination Division Director, Dr David Brereton, said that a consequence of this over-representation of Aboriginal and Torres Strait Islander children in the juvenile justice system is that they enter the system earlier than other children.
>
> Unfortunately, early entry into the juvenile system, and particularly into detention centres, is a predictor of long-term contact with the criminal justice system, he said.'

In the statistical tables presented in this Report no attempt is made to distinguish between Aboriginal and non-aboriginal children. But even accepting at face value the statistical information provided by the sources on which the CJC has placed reliance, I think the CJC's analysis and conclusion of the high incidence of Aboriginal juvenile offending require some comment. In the form in which the information is presented I think it is misleading. There appears to be an implication that both the police and the courts unfairly discriminate against Aboriginal children. The implication is not based on fact and is unfair. My own experience over two years as head of the Childrens Court of Queensland is that indeed the

opposite is the case. Aboriginal children appearing before the Courts are, if anything, given more lenient treatment than non-Aboriginal children in comparable cases. At the very least they are treated on a parity with non-Aboriginal children.

I have discussed this matter with three experienced Magistrates who regularly do Childrens Court work (including Mr Pat Smith, the much respected Brisbane Childrens Court Magistrate) and the five Childrens Court Judges and they are all of the same opinion.

The plain, unpalatable fact is that a good number of Aboriginal children are more prone to criminal conduct because they are more vulnerable. Their vulnerability stems from complex cultural and social causes which are easier to identify than to correct. Among other things, the Aboriginal community feels a sense of rejection and isolation and a painful hostility to the established system.

Some Aboriginal leaders and historians attribute the destruction of the structured Aboriginal family to white man's influence and white man's law, pointing particularly to dispossession followed by dispersion and displacement. I think there may well be much truth in these theories. On the other hand, it would not be right to say that the modern Aboriginal community should not accept responsibility for their own errant children. And indeed the same can be said about the non-Aboriginal community. In all civilisations and cultures parents should accept primary responsibility for their own children at least until they reach the age of discretion.

I have considerable sympathy for the perceived oppression of the Australian Aboriginal community. But to blame the Courts for the plight of Aborigines is hardly fair. Courts see the end result of criminal activity—the committed crime—and must deal with it as best they can. Courts cannot make people good or more responsible to one another. That responsibility rests with the family and the community.

I have a feeling that the traditional Aboriginal extended family is disintegrating and maybe close to collapse. This fact accounts in part for the apparent inability of the Aboriginal community to effectively manage their own delinquent children. When a Childrens Court returns to the community an offending child by ordering probation or community service, the community quite often seems to lack the capacity to control and rehabilitate the child. Of course, these remarks apply with equal force to non-Aboriginal families and communities. Indeed, in the first annual

report I made repeated reference to family breakdown and the abdication of parental responsibility as being the prime causes of juvenile crime.

It is suggested that the Courts should make fewer detention orders and more community-based orders such as probation and community service. It is only in exceptional circumstances, such as cases of extreme violence, that a Childrens Court would make a detention order against a youthful first offender. In the first annual report (pp.16 and 17) I lay down the following policy guidelines for the imposition of detention sentences, and as far as I am aware, these guidelines have generally been adhered to:

> 'So far as juvenile offenders are concerned, a sentence of detention will be reserved for those guilty of serious crimes, and for those repeat, incorrigible and intractable offenders who have proved to be impervious to community-based orders and who treat the Courts with defiance and contempt.
>
> If a young offender has been given the benefit and assistance of probation, has been conditionally discharged, has been given a community service order, what, I ask you, is the Court to do if he comes back again, again, and again! Short of repeating the same threats and wagging the same finger once more, there must surely be a custodial sanction available.'

I would respectfully suggest to the compilers of the CJC Research Paper that it might prove revealing if the criminal histories of Aboriginal children sentenced to detention were investigated before making generalised statements about 'Aboriginal children being over-represented in the juvenile justice system' and 'a disproportionate number of Aboriginal children receiving higher penalties accounting for around half of detention orders.' If such investigation were undertaken—as it should have been—to determine the reason why Aboriginal children constitute a disproportionate number of detainees, I have no doubt that it would have been discovered that the children had been given community-based orders at least once before, and probably more than once, and that they had accumulated significant criminal histories for serious offences. The implied claim of unequal or racist treatment by the Courts is not made out unless it is demonstrated that like cases are dealt with differently because of racist attitudes on the part of the Courts.

In my own experience over the last two years, during which time I would have dealt with some 300 juvenile cases, not once has there been an application to have confessional evidence excluded on the

ground that it was unfairly obtained or obtained by police oppression. It is of interest to note that most juvenile cases depend on confessional evidence. If there are allegations of police oppression they should be brought to the Court's attention in proceedings before it. If established, appropriate action will be taken.

The CJC Paper also states that about half of all juvenile offenders are cautioned. Prima facie, this does not suggest to me police oppression; indeed it suggests the reverse. What the Paper fails to do is to inform the reader of the percentage of cautions administered by police to Aboriginal children.

My own, I hope, benevolent attitude towards the Aboriginal people is sufficiently chronicled in two sections of the first report entitled 'Aurukun' and 'Aboriginal Customary Law—Recognition?'. In the report I recommended the appointment of an Aboriginal Assistant to the Court. On page 159 I stated:

> 'I would like to see respected Aborigines empowered by law to supervise community-based Court orders. And I would go further. There should be created a position, designated 'Aboriginal Assistant to the Court', to act in an advisory capacity to the Magistrate or Judge sitting on a community Court. The visible presence in Court of an Aboriginal Assistant with advisory powers will, I think, be tangible evidence to the Aboriginal people of their own kin participating in the juridical processes of the law. Such visible participation should inspire greater respect for, and confidence in, the criminal justice system as it impinges upon Aborigines.
>
> The proposal for the appointment of an Aboriginal Assistant to the Court is not put forward as a panacea. Indeed, there is no panacea. However, it should, among other things, have the incidental, and therefore good effect, of reducing the painful hostility of the Aboriginal people to the established system.'

The report also recommended (p. 194 and 196):

> 'That statutory recognition be afforded to Aboriginal elders and respected persons to administer cautions to children of their communities in appropriate cases in their own right;

and

> That responsible and respected leaders of Aboriginal communities be empowered to participate actively in the juridicial process and, in particular, be afforded statutory recognition as approved supervisors of probation and community service orders.'

The CJC paper, having baldly stated the unhappy plight of Aboriginal children in the criminal justice system, has failed to offer any solutions. It may be helpful in future if the people who write papers of this sort spend more time in Court.

9. DETENTION CENTRES

Since writing the first annual report the Government has approved the building of a new detention centre to replace Westbrook, which was partially destroyed by fire, and to handle an increase in the number of detainees. I understand $24 million has been allocated for the building and equipping of the new centre.

If I may say so, it is of paramount importance that there be wide consultation as to the concept and design of the new centre. A detention centre is essentially a place of restraint. Once a child is placed under restraint in a detention centre he or she should be made to comply with a strict daily regime, which should include as its principal components schooling and trade and vocational training; in other words, the child should be usefully occupied. To that end, there should be extensive quality trade and other vocational training facilities. For example, workshops staffed by tradesmen along the lines of Boystown should have a high priority. If the primary object of detention is to restrain the child, the secondary, but equally important object, is to school him and trade-train him in a disciplined way so that when he is released he will be equipped to conform to societal norms.

I am convinced that children in detention centres should have their time fully occupied doing interesting and beneficial things so that time does not hang heavily on their hands. This is the *modus operandi* of Boystown. I would respectfully suggest to the Department that it give serious thought to modelling the new detention centre on Boystown. The only essential difference should be that the detention centre be surrounded by an escape-proof fence, which Boystown, not being a detention centre, does not have.

The number of escapes from centres such as Oxley in the past year has been disquieting, but I understand remedial measures have been taken to prevent, or at least minimise, such escapes. It makes a mockery of detention if poor or inadequate security makes escapes look easy.

10. A DRUG-ADDICTED GENERATION

Of increasing concern is the clear correlation between serious youthful offending and drug addiction. It is no longer uncommon in cases of serious repeat offenders to be told that they are addicted to heavy drugs (e.g. heroin) and that the crimes they have committed are drug-driven. It is no exaggeration to say, based on my own experience over two years, that most of the worst cases involve children from 14 to 16 years whose compulsive urge for drugs impels them to crime. It is no secret that heavy drugs are expensive. One hears from time to time of children spending hundreds of dollars a week to satisfy their drug habit. The money to purchase drugs is derived from criminal enterprise—generally house-breaking, shop-breaking and car stealing.

There are sufficient children today in the drug-addicted category with criminal tendencies who, unless they are adequately treated, will form the hard core of professional criminals of tomorrow. It should be borne in mind that adult professional criminals persistently causing the greatest damage to society started their careers as juveniles. If their criminal tendencies had been curbed or controlled through judicious management of the juvenile justice system, society would have benefited beyond measure and would have been spared untold anguish and expense.

In a recent case before me, a drug-addicted 16-year-old boy pleaded guilty to serious property offending on a large scale (over 200 offences involving over $300,000 in property loss). I quote the following from my remarks on sentence:

> 'The pre-sentence report compiled by the department officer states that you have had a most serious drug addiction and that the cost of satisfying this addiction has been of the order of $400 to $600 per week. You are mainly addicted to heroin.
>
> ...
>
> The offending is attributed mainly to your drug addiction ... I accept that there is a direct correlation between your offending and your serious drug addiction. You took to drugs at an early age, starting with marijuana, and gradually graduating to heroin.
>
> ...
>
> This is a worrying case. It is indeed frightening to reflect that one person in so short a time span can be responsible for causing so much devastation to society, and also to himself. I have said before, and I say again, this Court sees its responsibilities as threefold. They are (1) to protect the community; (2) to act in the best interests of the welfare of the child; and (3) to uphold the dignity of the law and public faith in the judicial system.

> On my understanding of this case, it seems to me that, whilst subjective considerations are very important, the predominant consideration is the protection of the public. The public needs protection against offenders who, because of the multiplicity and gravity of their current crimes and their criminal histories, are a serious nuisance, and even danger, to society. It is wrong to close one's eyes to the reality that serious, repetitive offending evokes community outrage or fear which only punitive sanction will mollify. Law-abiding citizens look to the Courts to protect them from those who would disrupt, disturb or diminish their peaceable and orderly existence.
>
> ...
>
> Now, this is a case of wholesale criminality. It fills one with foreboding. It is easy to say that, so far, you have proved an intractable, incorrigible and intransigent child, but one must never let the flame of hope die out. The reports do not predict a quick remedy to your problem.
>
> You have to be treated for your very serious drug addiction ... The authorities should pay more attention to child drug addiction and make more strenuous efforts than hitherto to correct these wrong tendencies at an early stage.'

The effective sentence was detention for three years in a detention centre. I recommended to the authorities that while in detention the boy be given urgent and persistent treatment for his drug addiction. The moral to be drawn from this story is: It is better to expend time, effort and money to salvage this boy by curing him of his drug habit (if possible) than, by neglecting curative treatment, to risk returning him to the world after he has served his time, to continue his criminal depredations. Which course is the more cost-effective?

Winston Churchill showed remarkable prescience when in 1910 as Home Secretary he said:

> 'The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm, dispassionate recognition of the rights of the accused against the State and even of convicted criminals against the State: a constant heart-searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their due in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerative processes, unfaltering faith that there is treasure, if you can only find it, in the heart of every man—these are the symbols which, in the treatment of crime and criminals, mark and measure the stored up strength of a nation and are the sign and proof of the living virtue in it.'

The problem, as I perceive it, is not that there is a large number of children committing a small number of crimes, but rather that there is a small number of children committing a large number of serious crimes. This, I venture to think, is not properly appreciated in certain quarters.

Because I have been troubled by the apparent lack of adequate facilities to treat drug-addicted children and the impact it was having on their rehabilitation, I requested the Legal Aid Office, which represents many children appearing in the Childrens Court, to inform me of the facilities currently available for the treatment of drug-addicted children. With their permission, I quote the information they have imparted, as well as their expressions of opinion as to how improvements can be effected to the existing system:

> '28 September 1995
>
> Legal Aid Office
> (Queensland)
>
> His Honour Judge F. McGuire
> President, Children's Court of Qld
>
> Dear Judge,
>
> Drug Rehabilitation Services for Juveniles
>
> As a defence representative for young people charged with criminal offences, and as a representative for young people the subject of care and protection applications, I have come into contact with an increasingly large number of young people who have suffered from serious drug addiction.
>
> The anecdotal evidence from all of these young people has been that they have not been able to access any appropriate drug treatment or rehabilitation services to assist them in escaping their addiction.
>
> Due to the number of young people appearing in the Children's Court who instruct that their criminal behaviour is the result of a drug addiction, this area has become one of more importance. Accordingly, I provide the following information for your consideration.
>
> In the course of examining available facilities for the general treatment, counselling and rehabilitation of drug addicted people, only five agencies would appear to have programs directed at, and accepting of, young people. These are the Dept of Health youth program, called The Hot House, located at Auchenflower; Salvation Army Youth Outreach Services at Stone's Corner; Drug Arm at Milton; Kingdom Life Ministries at Mt Warren Park and the Royal Brisbane Hospital.

All of the available programs for young people are limited to counselling services, the only exception being the Royal Brisbane Hospital. The program offered by the Royal Brisbane Hospital is for a period of one week, and is a detoxification program which accepts young addicts. After the completion of this in-patient program, the young person is then referred to one of the agencies mentioned above. There are no other in-patient services available to young people to my knowledge; nor are there any other programs that include a component of treatment.

Anecdotal information received from young people has also indicated a perceptual problem with places such as The Hot House at Auchenflower. In considering whether young persons are to be accepted, one of the criteria is that they have to have a commitment to being drug free. Most young people I have spoken to have understood that this means they must be 'drug-free' before they will be accepted into such counselling. I can further indicate that this has also been reported to me by parents on occasion.

Due to their understanding of the situation, they have avoided or not attended such programs as are offered, as generally they feel they do not have the ability to break their addiction on their own.

Programs available to adult addicts at places such as Mirikai or Logan House include in-patient facilities, detoxification programs and medical treatment coupled with counselling programs. There are no such comprehensive programs that will accept young people as a matter of course. I understand that places such as these will accept young people in special circumstances, but this is very limited.

These adult rehabilitation centres will not accept young people as in-patients for two main reasons. The first is that there are concerns over the legal consequences in providing the treatment offered to adults to young people under 17 years of age. The second is that the centres do not accept that young people are genuine drug addicts, but rather people who use drugs experimentally.

The latter assertion does not accord with the experience I have had with young people in the role of co-ordinator of the Youth Legal Aid Section, and it would be my submission that it does not accord with the experience of the Courts. One of the predominant characteristics of the young offenders who have a persistent history of offences against property is that young persons have been drug addicted for some years, and their offending behaviour is linked to that addiction. In particular, those young offenders who have committed large numbers of property offences at a time, generally give accounts of the extent of their addiction being daily usage of a significant quantity, over periods of months to years.

The view taken by such centres is also an example of how young people are generally discriminated against in the area of public services. It would be in accord with my experience to state that more young people are reporting 'heavy' drug use at earlier ages, and over periods of time. And further, that they cannot get access to appropriate services to assist in breaking their addictions.

The availability of counselling is only relevant when considering young people who are in fact only 'experimentally' involved in drug use. It would be my submission that those who are long-term users of 'heavy' drugs need more than that service if they are to break their addiction. Offending youths who are drug addicted have an accompanying life-style built around drug use, and in association with others who are drug addicted. It is apparent that longer term in-patient facilities are needed to address the issues of this life-style and the possible peer pressure they may encounter in their social circle. Medical treatment can assist with the physical symptoms of withdrawal from drug use, and perhaps make the transition to counselling and education easier, and less confrontational.

Accompanying the drug use are parallel issues of life-style as aforementioned. Most of the long-term serious drug users have an absence of appropriate and adequate adult supervision, generally having been excluded from the education system and without any real social support structures. Many of them also have underlying mental health issues which have not been identified or addressed prior to seeking counselling. These are contributing factors to their drug use, and it would seem obvious that unless these issues are addressed, there is little hope that any of the current services available to young people would be of any long-term value.

Turning to young people in detention, it would be fair to say that the position that exists in the centres now is greatly improved upon those previously available. I am aware of the group and individual counselling that is now available.

Any programs that exist in detention centres cannot prevent the external factors aforementioned from acting again upon young persons when they are released into the community environment whence they came, particularly given the limited availability of programs upon release.

In conclusion, our Office has had one young person accepted into a program conducted by Teen Challenge in Victoria, which, as I understand it, has a set up similar to that of Boystown. Their drug rehabilitation program addresses life-style issues as well, and aims at providing the young person with educational and vocational skills. Their residential program runs for a year, on my information; however I do not have the details to include at this stage. I am hoping for some

more information to arrive in the near future, which I shall forward to you.

It is clear that unless the availability, content and quality of drug rehabilitation programs greatly improve, the current situation can only worsen, resulting in young people reaching the adult system as entrenched addicts with equally entrenched offending life-styles. This not only increases the loss of property in the immediate future, but increases the likelihood of offending after becoming adults.

It would be my submission that the long term cost to the community of crime and imprisonment would far outweigh expenditure on appropriate rehabilitative programs for young drug addicted offenders. Having regard to the fact that most offenders who have an extensive court history for property offences, and are amongst the most serious offenders in quantity of charges, report a drug-addicted history, the availability of appropriate programs should have direct consequences in crime reduction.

Yours faithfully,

LEGAL AID OFFICE (QUEENSLAND)

per...

Mr M A Green
Barrister-At-Law
Youth Legal Aid Section'

It is not at all surprising that there have been no facilities for the treatment of youthful drug-addicted offenders, as until recently there was no serious juvenile drug problem in Queensland; there has been no need for such facilities. But all that has changed. It has to be faced that the insidious infiltration of drugs into our society is affecting the health and well-being of our young. It is a pernicious evil. There is now an urgent and desperate need to provide adequate resources in both physical facilities and trained personnel to help the casualties of the destructive forces at work in society. I hope something will be done about it soon.

Table 3 cont'd

Offence Category	10–14 years	15 years	16 years	17 years
Knowingly participate in	0	0	0	0
Public soliciting	0	0	0	0
Procuring prostitution	0	0	0	0
Permit minor to be at place	0	0	0	0
Advertising prostitution	0	0	0	0
Other prostitution offences	0	1	0	0
Liquor offences	**25**	**69**	**112**	**0**
Gaming offences	**0**	**1**	**0**	**0**
Racing and betting offences	**0**	**0**	**0**	**0**
Vagrancy offences	**2**	**7**	**11**	**0**
Total good order offences	**27**	**15**	**15**	**1**
Indecent behaviour	1	1	1	1
Language offences	4	3	4	0
Disorderly behaviour	3	2	3	0
Resist, incite, hinder, obstruct	5	5	1	0
Fare evasion	12	4	6	0
Other good order offences	2	0	0	0
Total stock related offences	**0**	**0**	**0**	**0**
Possess skin, carcass	0	0	0	0
Branding offences	0	0	0	0
Other stock offences	0	0	0	0
Traffic and other related offences	**17**	**11**	**8**	**0**
Dangerous driving	1	4	3	0
Drink driving offences	1	4	3	0
Disqualified driving	0	0	0	0
Interfere with mechanism of MV	**15**	**3**	**2**	**0**
Miscellaneous offences	**205**	**105**	**83**	**0**

It is clear that cautioning is being liberally used, not only for simple offences but also for indictable offences. On analysis, the statistics disclose:

1. That for the second year of the Court's operation 15,906 cautions were administered.
2. That of this total number:
   (a) 818 were for offences against the person;
   (b) 11,820 were for offences against property;
   (c) 408 were for handling stolen goods;
   (d) 1,837 were for drug offences;

(e) 1 was for a prostitution offence;

(f) 206 were for liquor offences;

(g) one was for a gaming offence;

(h) 20 were for vagrancy offences;

(i) 58 were for good order offences;

(j) 36 were for traffic and traffic-related offences;

(k) 701 were for miscellaneous offences (e.g. being unlawfully on premises or in a yard, escaping from lawful custody, possession of an unlicensed firearm, and other offences under the Weapons Act.)

Of particular relevance is that of the property offences: 1,752 were breaking and entering offences, 369 were motor vehicle thefts (otherwise described as unlawful use of a motor vehicle), and 7,725 were stealing offences.

The number of cautions administered in the second year of the Court's operation exceeded by some 3,000 the number administered in the first year. These figures indicate quite clearly that there is an upward trend in cautioning. This is both good and bad. It is good in the sense that it diverts children from the Court process; it is bad in the sense that there is a greater tendency to caution rather than prosecute especially for indictable offences. My greatest concern is that of the 15,000-odd cautions administered during the current year about one-half were for indictable offences.

As I have stated elsewhere, cautions do not appear on a child's criminal history should he reoffend. Police cautioning for indictable offences may be curbed or even cancelled if the legislative policy continues to be that cautions are hidden from the sentencing court in cases where a cautioned child reoffends. It will be recalled that in the first annual report I recommended that, if a child has been cautioned for an indictable offence that would attract seven or more years imprisonment if he were an adult, the caution be revealed to the Court if the child subsequently reoffends as a child.

My comments on the use of the cautioning procedure by the police for the current year are the same as they were last year. I quote the following from the first annual report:

> 'In my opinion the generous use of cautioning reflects creditably on the Police Service. The Police Service have entered into the spirit of cautioning in accordance with the parliamentary intendment as enacted in the Juvenile Justice Act. I think it is reasonable to deduce

from police cautioning practices that they have generally adopted a benevolent attitude to youthful first offenders and have concentrated their main effort on prosecuting persistent offenders. Subject to my recommendation as to the use which should be made of cautions for repeat offenders, this is as it should be.

It may concern some people that cautions are being administered for indictable offences. However, to cite but two examples, a child may be guilty of housebreaking but the circumstances may be that he caused no physical damage to property and stole a loaf of bread or a bottle of soft drink; or a child may be guilty of the unlawful use of a motor vehicle by going for a joyride as a passenger with a person who unlawfully took the car. In these cases, if the child had not come under the adverse notice of the police before, a caution may not be inappropriate.

But having given my general approbation to cautioning in appropriate circumstances, I should sound a note of warning.

Under the legislation, if a child is cautioned, the caution cannot be used for any purpose whatsoever against the child in the future. Should the child reoffend, the sentencing Court is not entitled to know that a caution has been administered for an offence previously committed by the child. As a condition precedent to the administering of a caution, the child must admit the commission of the offence.

Certain consequences flow from the confidentiality attaching to cautions (s.18). One is that a sentencing Court, when sentencing for a subsequent offence, cannot be informed of the offence for which the child was cautioned (s.113).

...

With regard to cautions, I think that, if a child has been cautioned for an indictable offence which would attract seven or more years imprisonment by way of punishment if he were an adult, the caution should be revealed to the Court if the child subsequently reoffends as a child, but not as an adult. And I so recommend. Section 113 of the Juvenile Justice Act should be amended to effectuate this recommendation. If the recommendation is not adopted, it is likely that police will be reluctant to caution for indictable offences; they will restrict cautioning to minor infractions of the criminal law. And that will tend to defeat or at least limit the purpose of the cautioning provisions of the Act.

...

In my opinion, cautioning, sensibly administered, will, on balance, be productive of more good than harm, and should be encouraged. Happily, most juvenile crime is not serious, not repetitive, and not predictive of future criminal careers.

I think the present practice of an 'authorised officer' administering cautions for both trivial and indictable offences should be reviewed. In my opinion, cautions for indictable offences should be administered by an officer of at least the rank of Inspector. In the metropolitan area I would like to see a committee of three officers of the rank of Superintendent or above administer cautions to children guilty of indictable offences. The solemnity of the occasion would tend to impress on the child's mind the significance of his wrongdoing. With the caution should go a warning that, should the child reoffend, he will be dealt with by a Court of law. In country stations where there are no commissioned officers the most senior officer available at the station should administer the caution. And I recommend accordingly.'

12. STATISTICS

For a proper understanding of this section, reference should be made to 'A Case Restated' (pp. 10–21) where the court structure and the classification of offences are explained. It may also be helpful to refer back to the first annual report under the rubric 'Statistical Tables' (pp. 128–146) for some of the underlying assumptions and general principles which govern the compilation of the statistical data.It should be borne in mind that an unknown number of crimes committed by children are not reflected in this report. This is because these crimes are either not reported or not detected.

EXPLANATORY NOTES

Period — The statistical data cover the period 1 September 1994 to 31 August 1995, the second year of operation of the *Juvenile Justice Act 1992*. Data from the previous report are included in this report for the purpose of comparison.

Data Collection — The data were collected from courts in Queensland. Data were extracted from the computerised Case Register System (CRS) and manual returns provided by courts not yet operating under CRS.

Definitions

Charge — A formal accusation of an offence being committed.

Child — A person who has not turned 17 years.

Childrens Court — A court in which a child is dealt with in respect of criminal charges.

Childrens Court of Queensland — A court constituted by a Childrens Court judge.

Committal — A magistrates court outcome which results in the matter being referred to a court of higher jurisdiction.

Dealt with — Where a matter has come before a court and has been finalised. In these statistics, this includes cases finalised by dismissal or withdrawal.

District Court — A court constituted by a District Court judge.

***Ex-officio* indictment** — An indictment filed by the Attorney-General committing an accused person for trial even though there has been no committal, or even if there has been a committal and a magistrate has found no case to answer.

Higher Courts — District and Supreme Courts.

Juvenile — A person who has not turned 17 years.

Magistrates Court	A court constituted by a stipendiary magistrate or two justices of the peace.
Offence	Act or omission which renders the person doing the act or making the omission liable to punishment. Offences are categorised into regulatory and criminal offences.
Offence Classification	The grouping of offences into classes or categories according to the nature of the offences. The Queensland Offence Classification is used in this report.
Outcome	Decision resulting from a court hearing or sentence and includes the method of disposal and punishment.
Serious offence	An offence that, if committed by an adult, would make the adult liable to imprisonment of 14 years or more.
Supreme Court	A court constituted by a Supreme Court judge.

SUMMARY

The Childrens Court of Queensland first annual report covered the first 11 months of operation of the *Juvenile Justice Act 1992* (1 September 1993 to 31 July 1994). This report covers the second year of operation of the Childrens Court of Queensland (1 September 1994 to 31 August 1995).

The total number of charges against juveniles dealt with in all jurisdictions in the year covered by this report, excluding committals to higher courts, was 13,159. It is not possible to compare this figure with the total number of charges dealt with in the first year of operation, because data were not available for the higher courts outside Brisbane (except Southport and Townsville) in the first year.

Magistrates Courts dealt with 7,142 charges (excluding committals) against juveniles in the first 11 months of operation, and 9,918 in the second year, an increase of 27.3% (when the first 11 months are converted to a full-year estimate). There were 1,803 charges committed to higher courts and the Childrens Court of Queensland in 1994–95 by the Magistrates Courts, compared to 1,952 committals in 1993–94, a decrease of 15.3% (after converting the first 11 months to a full year). During the last two years, the average number of charges dealt with per case in the Magistrates Courts decreased from 2.5 to 2.0 (excluding committals).

The Childrens Court of Queensland dealt with 917 charges in the first year of operation and 1,030 in the second year, an increase of

12.3%. In 1994–95, the Childrens Court of Queensland dealt with an average of 3.9 charges per case, a decrease from 5.1 in the previous year.

There were 2,211 charges against juveniles dealt with in higher courts in 1994–95. On average, 4.3 charges were dealt with per case.

Some 5,719 juveniles were dealt with (excluding committals) in all courts. The majority of juveniles dealt with were males, 4,748, or 84.8% of all juveniles. Females accounted for 824, or 14.4% of that total. The sex of the remaining 48 juveniles was not recorded.

When comparing the number of juveniles dealt with by age, older juveniles predominated, particularly 16 year olds. Of all cases in 1994–95, 32.8% involved 16 year olds. The offence category with the greatest number of charges in all jurisdictions during the last 12 months was *theft, break and enter.*

Table 4 **Number of juveniles dealt with, by court and sex, 1994–95**

Court	Males	Females	Unknown	TOTAL
Magistrates Courts	4149	763	35	4947
Childrens Court of Queensland	237	17	8	262
Higher courts	461	44	5	510
TOTAL	4847	824	48	5719

THE EXTENT OF JUVENILE CRIME

In order to quantify the extent of juvenile crime, it is necessary to consider the number of juvenile offenders as well as the number of offences. To count the number of *offenders* in a given period, individuals need to be able to be identified so that they are not counted more than once where they are repeat offenders. To date this has not been possible. The closest approximation is the number of persons appearing before the courts. This will include instances of an individual having previously been before a court in the same year. The number of *offences* includes:

- offences which are recorded as being dealt with in a court and for which an outcome is recorded
- reported offences for which a caution is administered
- other offences taken into account—'schedule' offences.

For a detailed discussion on 'schedule' offences, refer to the section of this report entitled 'Taking other offences into account' (p. 84).

CAUTIONS

For a detailed discussion on cautions, refer to the section in this report entitled 'Cautioning' (p. 46). Data available from the Queensland Police Service (QPS) showed 12,777 cautions administered in 1993–94 and 15,906 in 1994–95, an increase of 24.5%. The following table shows QPS cautions data by offence category. *Theft, break and enter* comprised the majority of cautions administered in 1993–94 (66.8%) and 1994–95 (64.4%). Within *theft, break and enter* the largest number was for *stealing*.More detail is provided in Table 10.

Table 5 **Charges proceeded against by caution, by offence, Queensland, 1993–94 and 1994–95**

Offence	1993–94[a]	1994–95[b]	Percentage change
Homicide	—	—	—
Assault	686	748	9.0%
Robbery and extortion	29	35	20.7%
Fraud and misappropriation	320	283	-11.6%
Theft, break and enter	8,539	10,249	20.0%
Stealing	5,987	8,089	35.1%
Breaking and entering	2,319	1,752	-24.5%
Receiving stolen property[c]	233	408	75.1%
Property damage	1,309	1,696	29.6%
Driving, traffic and related offences	14	36	157.1%
Other offences	1,880	2,859	52.1%
Drug Offences	1,375	1,837	33.6%
Total	12,777	15,906	24.5%

Source: Queensland Police Service

(a) 1 September 1993 to 26 August 1994

(b) 1 September 1994 to 31 August 1995

(c) Includes possession of stolen goods and bringing stolen goods into Queensland

OFFENCES BEFORE THE COURTS

For all cases dealt with by the courts, a record is kept of the number of charges and outcomes for each offender, but it is not possible to identify repeat offenders from the data received from the courts.

The statistical tables in the Childrens Court of Queensland first annual report covered the first 11 months of operation of the *Juvenile Justice Act 1992* (1 September 1993 to 31 July 1994). The data from 1993–94 has been scaled up from 11 to 12 months when calculating percentage change to the second year of operation of the Childrens Court of Queensland (1 September 1994 to 31 August 1995).

The topics covered in this commentary are in the following order:

- Magistrates Courts—charges dealt with (excluding committals)
- Magistrates Courts—charges dealt with by committals
- Childrens Court of Queensland—charges dealt with
- Higher courts—charges dealt with
- District Courts—charges dealt with
- Supreme Courts—charges dealt with.

Magistrates Courts—charges dealt with (excluding committals)

The number of charges dealt with in Magistrates Courts (excluding committals) was 7,142 in the first year of operation and 9,918 in the second year. Table 6 shows a summary of charges dealt with by Magistrates Courts (excluding committals). Table 15 displays more detail of offences.

Theft, break and enter contained the largest number of charges in the first and second years of operation (42.0% and 39.6% of total charges respectively). The offence category *theft, break and enter* includes *stealing, receiving stolen property, housebreaking, burglary* (housebreaking after 9:00 pm) and *break and enter* (other than houses).

A further dissection of *theft, break and enter* in 1994–95 indicated that the most frequent offence was stealing (1,983), followed by *break and enter* (1,051). Charges for *burglary, house breaking* and *break and enter* offences dealt with in Magistrates Courts represented 41.4% of the total *theft, break and enter* offence category and 16.4% of all charges dealt with in Magistrates Courts.

Table 6 **Magistrates Courts, charges dealt with, by offence, Queensland, 1993–94 and 1994–95**

Offence	1993–94[a] 11 Months	Estimated 1993-94[b]	1994–95[c]	Percentage change
Homicide	—	—	—	—
Assault	338	369	508	37.8%
Robbery and extortion	[d]	—	57[e]	—
Fraud and misappropriation	[d]	—	62	—
Theft, break and enter[f]	2,999	3,272	3,930	20.1%
Stealing	1,583	1,727	1,983	14.8%
Property damage	589	643	837	30.3%
Driving, traffic and related offences	1,347	1,469	1,671	13.7%
Unlawful use of motor vehicle	545	595	612	2.9%
Other offences	1,869	2,039	2,853	39.9%
Drug offences	468	511	578	13.2%
Total charges	7,142	7,791	9,918	27.0%

(a) 1 September 1993 to 31 July 1994

(b) Scaled up from 11 to 12 months to estimate 1 September 1994 to 31 August 1995

(c) 1 September 1994 to 31 August 1995

(d) 1993–94 figures not available separately, included in 'other offences'

(e) All charges dismissed or withdrawn

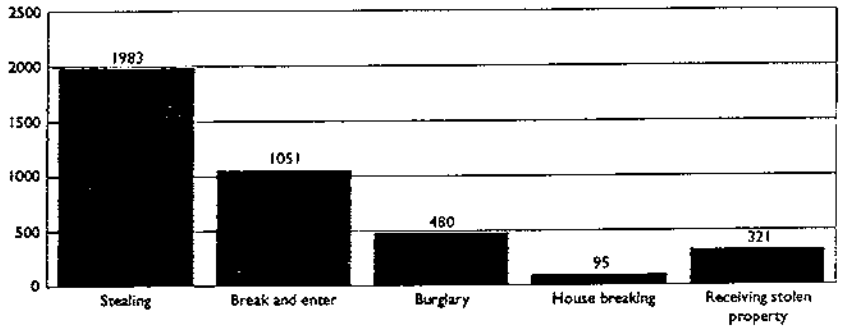
(f) Further dissections of break and enter offences not available in 1993–94

Figure 1 shows the total number of charges dealt with for the *theft, break and enter* offence category in 1994–95.

Other offences contained the second largest number of charges in the first and second years of operation (26.2% and 28.8% of total charges respectively). A further dissection of *other offences* in 1994–95 indicated that the largest type was *behaviour offences* (594), followed by *drug offences* (578).

Charges for *drug offences* represented 20.3% of other offences and 5.8% of all Magistrates Courts charges in the second year of operation.

Figure 1 **Magistrates Courts, charges dealt with, for *theft, break and enter* offences, Queensland, 1994–95**



Magistrates Courts—charges dealt with by committal

The number of charges dealt with by committal in magistrates courts was 1,803 in 1994–95, compared with 1,952 in the previous year. Table 7 displays Magistrates Courts charges committed to higher courts. Table 13 displays more detail of offences.

Table 7 **Magistrates Courts, charges dealt with by committal, by offence, Queensland, 1993–94 and 1994–95**

Offence	1993–94[a] 11 months	Estimated 1993–94[b]	1994–95[c]	Percentage change
Homicide	4	4	11	152.1%
Assault	205	224	157	-29.8%
Robbery and extortion	94	103	90	-12.2%
Fraud and misappropriation	[d]	—	16	—
Theft, break and enter [e]	1,046	1,141	1,055	-7.5%
Stealing	498	543	404	-25.6%
Property damage	168	183	172	-6.2%
Driving, traffic and related offences	299	326	186	-43.0%
Unlawful use of motor vehicle	255	278	170	-38.9%
Other offences	136	148	116	-21.8%
Drug offences	9	10	16	63.0%
Total charges	1,952	2,129	1,803	-15.3%

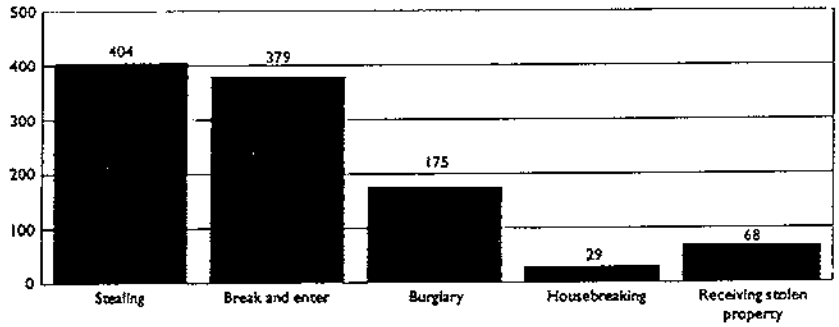
(a) 1 September 1993 to 31 July 1994
(b) Scaled up from 11 to 12 months
(c) 1 September 1994 to 31 August 1995
(d) 1993–94 figures not available separately, included in other offences
(e) Further dissections of *break and enter offences* not available in 1993–94

Theft, break and enter offences contained the largest number of charges committed for trial or sentence in the first and second years of operation (53.6% and 58.5% of total charges committed to higher courts). A further dissection of *theft, break and enter* in 1994–95 indicated that the most frequent offence was *stealing* (404) followed by *break and enter* of places other than houses (379).

Charges committed for trial or sentence for *burglary, house breaking* and *break and enter* type offences by Magistrates Courts represented 55.3% of the total *theft, break and enter* offence and 32.3% of total charges committed by Magistrates Courts in the second year of operation.

Figure 2 shows the number of charges committed for trial or sentence for *theft, break and enter* offences.

Figure 2 **Magistrates Courts, charges committed for trial or sentence, for *theft, break and enter* offences, Queensland, 1994–95**



Driving, traffic and related offences contained the second largest number of charges committed for trial or sentence in the first and second years of operation (15.3% and 10.3% of total charges committed respectively). A further dissection of *driving, traffic and related offences* in the second year of operation indicated that the most frequent offence was *unlawful use of a motor vehicle* (170) followed by *dangerous driving* (including *dangerous driving causing death*) (9).

Committals to the supreme court for trial or sentence for *homicide* in the first two years of operation of the Juvenile Justice Act increased from 4 to 11. *Homicide* represented 0.6% of all the charges committed to higher courts in Queensland in the second year of operation.

Childrens Court of Queensland—charges dealt with

The Childrens Court of Queensland dealt with 917 charges in 1993–94 and 1,030 in 1994–95. Table 8 shows Childrens Court of Queensland charges dealt with. Table 18 displays more detail of offences.

Table 8 **Childrens Court of Queensland, charges dealt with, by offence, Queensland, 1993–94 and 1994–95**

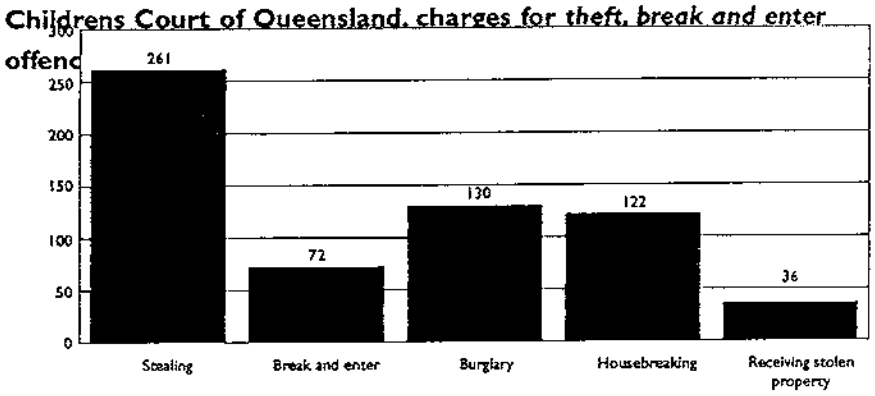
Offence	1993–94[a] 11 months	Estimated 1993–94[b]	1994–95[c]	Percentage change
Homicide	1	1	—	—
Assault	51	56	63	13.2%
Robbery and extortion	46	50	47	-6.3%
Fraud and misappropriation	[d]	—	4	—
Theft, break and enter[e]	564	615	621	0.9%
Stealing	226	247	261	5.9%
Property damage	78	85	116	36.3%
Driving, traffic and related offences	123	134	125	-6.8%
Unlawful use of motor vehicle	110	120	117	-2.5%
Other offences	54	59	54	-8.3%
Drug offences	7	8	9	17.9%
Total charges	917	1,000	1,030	3.0%

(a) 1 September 1993 to 31 July 1994
(b) Scaled up from 11 to 12 months
(c) 1 September 1994 to 31 August 1995
(d) 1993–94 figures not available separately, included in *other offences*
(e) Further dissections of *break and enter* offences not available in 1993–94

Theft, break and enter contained the largest number of charges in the first and second years of operation (61.5% and 60.3% of total Childrens Court of Queensland charges respectively). A further dissection of *theft, break and enter* in the second year of operation indicated that the most frequent offence was *stealing* (261), followed by *burglary* (130).

Figure 3 shows the number of charges for *theft, break and enter* offences dealt with in the Childrens Court of Queensland in 1994–95.

Figure 3



Charges for *burglary, house breaking* and *break and enter* type offences represented 52.2% of the *theft, break and enter* offences and 31.5% of all charges dealt with by the Childrens Court of Queensland in the second year of operation.

Higher courts—charges dealt with

It is not possible to compare higher courts charges dealt with in the first and second years of operation of the Juvenile Justice Act, because the data recorded in the Childrens Court of Queensland first annual report excluded higher courts outside Brisbane (except Southport and Townsville).

The higher courts dealt with 2,211 charges in 1994–95. Table 9 shows higher court charges dealt with. Table 22 displays more detail of offences.

Table 9 **Higher courts, charges dealt with, offence by type of court, Queensland, 1994–95**

Offence	Supreme Court	District Court	Total charges	Percentage of total charges
Homicide	2	—	2	0.1%
Assault	2	191	193	8.7%
Robbery and extortion	—	99	99	4.5%
Fraud and misappropriation	—	38	38	1.7%
Theft, break and enter	2	1,350	1,352	61.1%
Stealing	1	521	522	23.6%
Breaking and entering	—	163	163	7.4%
Burglary	1	321	322	14.6%
House breaking	—	272	272	12.3%
Receiving stolen property	—	73	73	3.3%
Property damage	1	228	229	10.4%
Driving, traffic and related offences	2	223	225	10.2%
Unlawful use of motor vehicle	2	209	211	9.5%
Other offences	8	65	73	3.3%
Drug offences	8	—	8	0.4%
Total charges	17	2,194	2,211	100.0%

District Courts—charges dealt with

There were 2,194 charges dealt with in District Courts in the second year of operation of the Juvenile Justice Act. Table 22 provides more detail of charges dealt with by District Courts.

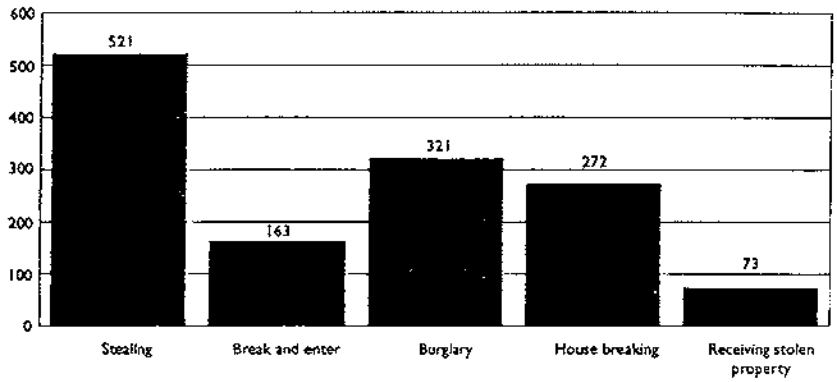
Theft, break and enter offences contained the largest number of charges (61.5% of total charges dealt with in District Courts). A further dissection of *theft, break and enter* indicated that the most frequent offence was *stealing* (521), followed by *burglary* (321).

The total charges for *burglary, house breaking* and *break and enter* offences represented 56.0% of the *theft, break and enter* offences and 34.5% of all charges dealt with in District Courts.

Figure 4 shows the number of charges dealt with in District Courts for *theft, break and enter* offences in 1994–95.

Figure 4

District Courts, charges for *theft, break and enter* offences, Queensland, 1994–95



Property damage offences comprised the second largest number of charges (10.4% of total charges dealt with in District Courts).

Supreme Court—charges dealt with

The Supreme Court dealt with 17 charges in the second year of operation of the Juvenile Justice Act.

OUTCOMES OF CASES

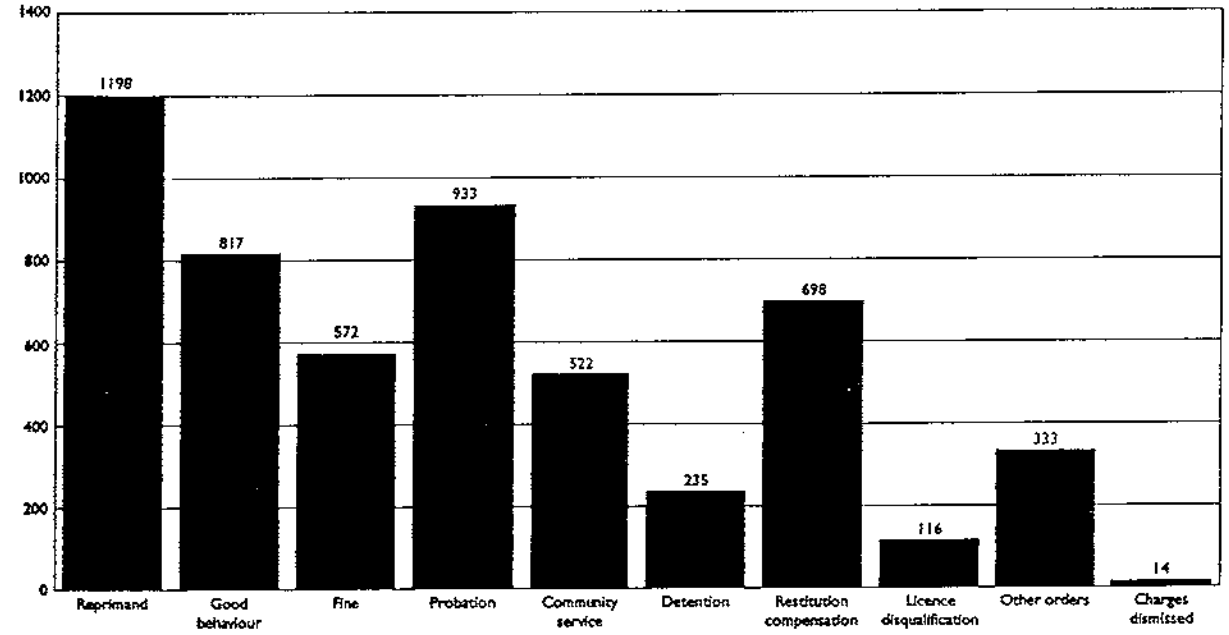
Not uncommonly, where a court is sentencing for multiple charges against a single offender, concurrent sentence orders will be made. For example, a juvenile may be charged in the one indictment on three counts of housebreaking and three counts of unlawful use of a motor vehicle. The court may order, say, six months detention for each of the housebreaking offences (concurrent) and one year probation for each of the motor vehicle offences (concurrent). The 'outcome' statistic for this example should count one detention order and one probation order. However, there is evidence to suggest that in some instances the 'outcome' statistic may disclose three distinct detention orders and three distinct probation orders. Thus outcomes may be artificially inflated and not necessarily reflect the true position. This should be taken into account when using these statistics.

The total number of outcomes for all jurisdictions in the second year of operation was 6,446. It is not possible to compare this figure with the total number of outcomes for all jurisdictions in the first year of operation, because the data available for higher courts excluded those courts outside Brisbane (except for Southport and Townsville).

Magistrates Courts—outcomes (excluding committals)

The number of Magistrates Courts outcomes (excluding committals) was 5,468 in 1994–95. Figure 5 displays the range of outcomes for Magistrates Courts. Table 16 displays more detail of orders.

Figure 5 **Magistrates Courts, outcomes, Queensland, 1994–95**



Reprimands increased from 1,097 in 1993–94 to 1,198 in 1994–95. In 1994–95 *reprimands* represented the largest outcome of charges dealt with by Magistrates Courts (21.9%).

The next two largest outcome categories were *probation orders* (17.1%) and *good behaviour bonds* (14.9%).

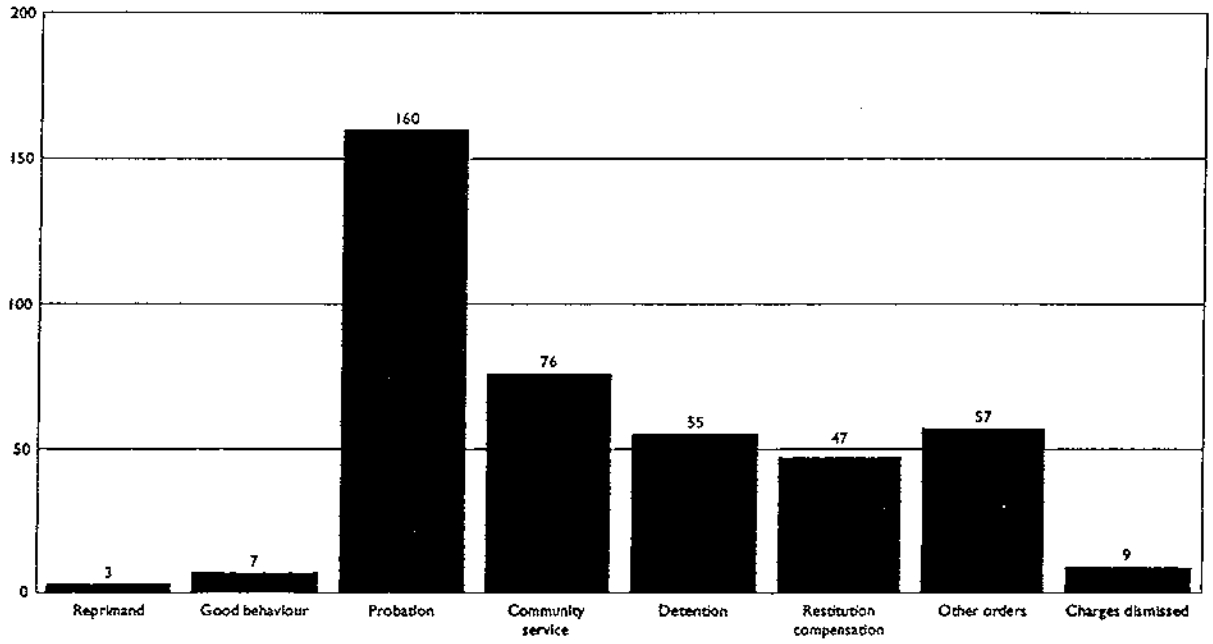
Detentions totalled 235 in 1994–95 compared to 159 in 1993-94, an increase of 35.5% (1993–94 data was scaled up from 11 to 12 months before calculating the percentage change). In 1994–95, *detention* represented approximately 4.3% of outcomes from charges dealt with by Magistrates Courts.

Childrens Court of Queensland—outcomes

Magistrates courts committed 1,803 charges to the higher courts (including the Childrens Court of Queensland).

The number of Childrens Court of Queensland outcomes in the second year of operation was 414. Figure 6 displays the range of outcomes for the Childrens Court of Queensland. Table 19 displays more detail of orders.

Figure 6 **Childrens Court of Queensland, outcomes, Queensland, 1994–95**



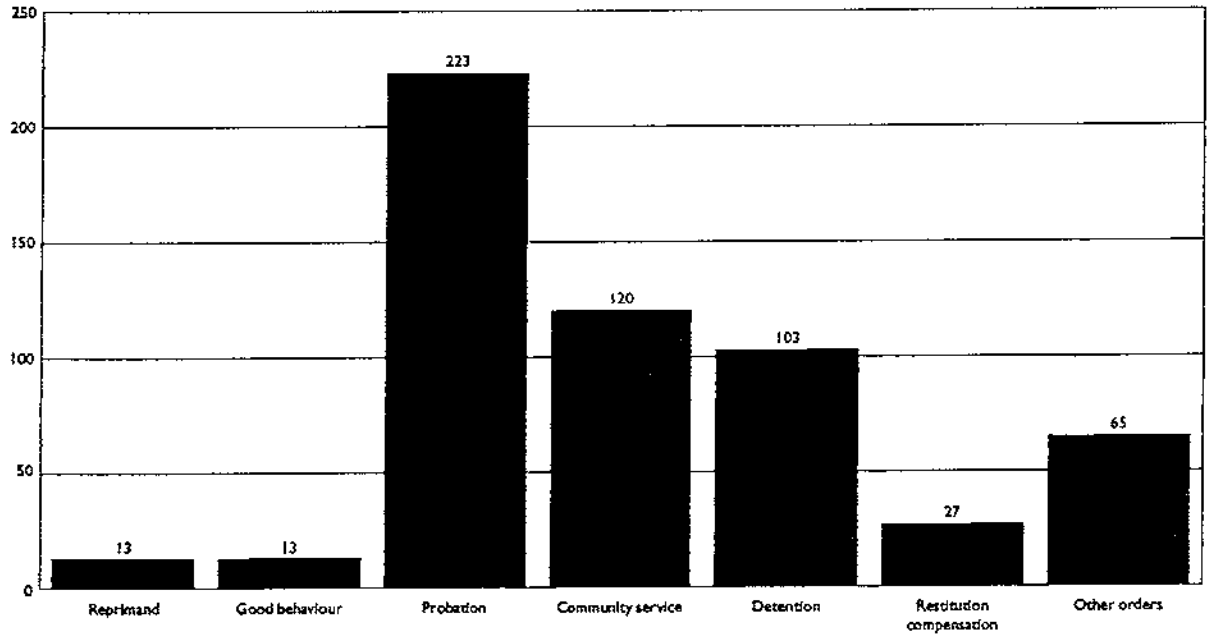
Probation orders represented the largest outcome of charges dealt with by the Childrens Court (38.6%) in 1994–95. There were 160 *probation orders* in 1994–95 compared to 109 in the previous year, an increase of 46.8%.

The next largest outcome categories in 1994–95 were *community service orders* (18.4%), *other orders* (13.8%), *detention* (13.3%) and *restitution* (11.4%). There were 55 outcomes of *detention* in 1994–95 compared to 31 in 1993–94. This increase may be partly explained by concurrent orders as discussed at the beginning of this section.

Higher courts—outcomes

The number of higher courts outcomes in the second year of operation of the Juvenile Justice Act was 564. Figure 7 displays the range of outcomes for higher courts. Table 23 displays more detail of offences.

Figure 7 **Higher courts outcomes, Queensland, 1994–95**



Probation orders represented the largest outcome of charges dealt with in higher courts in 1994–95 (39.5%). The next two largest outcome categories in 1994–95 were *community service orders* (21.3%) and *detentions* (18.3%).

DETAILED TABLES

Table 10 **Charges dealt with by police caution or courts, by offence category 1994–95**

Offence	Cautions[a]	Charges dealt with by court				
		Magistrates[b]	Childrens	District	Supreme	Total
Homicide	—	—	—	—	2	2
Assault	748	508	63	191	2	764
Serious assault	367	107	10	22	1	140
Minor assault	263	368	39	143	1	551
Rape and attempted rape	—	12	3	5	—	20
Other sexual offences	118	21	11	21	—	53
Robbery and extortion	35	57[c]	47	99	—	203
Armed robbery	1	17	19	36	—	72
Robbery	19	40	28	63	—	131
Extortion	5	—	—	—	—	—
Kidnapping and abduction	10	—	—	—	—	—
Fraud and misappropriation	283	62	4	38	—	104
Theft, break and enter	10,249	3,930	621	1,350	2	5,903
Stealing	8,089	1,983	261	521	1	2,766
Breaking and entering	1,752	1,051	72	163	—	1,286
Burglary	—	480	130	321	1	932
Housebreaking	—	95	122	272	—	489
Receiving stolen property	408	321[d]	36	73	—	430
Property damage	1,696	837	116	228	1	1,182
Arson	40	11	13	12	1	37
Damage	1,656	826	103	216	—	1,145
Driving, traffic and related offences	36	1,671	125	223	2	2,021
Dangerous driving	8	38	6	14	—	58
Drink driving	8	127	1	—	—	128
Unlawful use motor vehicle	—	612	117	209	2	940
Licence offences	—	378	1	—	—	379
Fail to wear helmet	—	208	—	—	—	208
Other traffic offences	20	308	—	—	—	308
Other Offences	2,859	2,853	54	65	8	2,980
Drug offences	1,837	578	9	—	8	595
Behaviour offences	58	594	—	—	—	594
Breach community orders	—	171	18	29	—	218
Breach of the Bail Act	—	305	1	—	—	306
Custody offences	—	97	1	5	—	103
Liquor offences	206	181	—	—	—	181
Police offences	—	548	11	—	—	559
Weapon offences	—	67	7	5	—	79
Miscellaneous offences	758	312	7	26	—	345
Total	15,906	9,918	1,030	2,194	17	13,159

(a) Provided by the Queensland Police Service
(b) Magistrates Court data excludes committals
(c) Magistrates Court Robbery and Extortion data includes charges withdrawn or struck out
(d) Includes possession of stolen goods and bringing stolen goods into Queensland
— Indicates zero

Figure 8 **Cases dealt with by police cautions and courts, 1994–95**

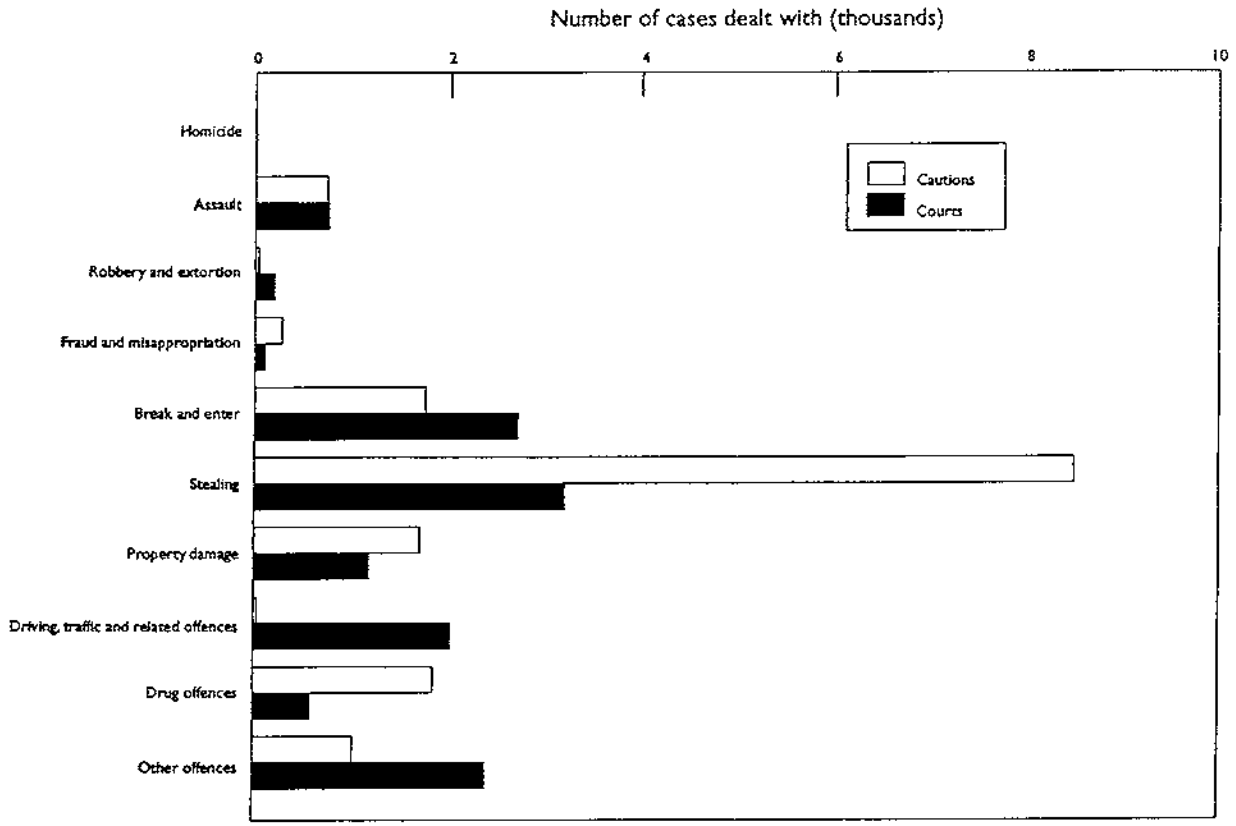


Table 11 **Distribution of serious and non-serious offences for Queensland, 1994–95**

Court	Serious offences[a]	Non-serious offences	Total
Childrens Court of Queensland	110	920	1,030
District Court	290	1,904	2,194
Supreme Court	4	13	17
Total	404	2,837	3,241

(a) Under the Juvenile Justice Act (Section 8), a serious offence is defined as an offence which attracts 14 or more years imprisonment for an adult. A non-serious offence covers all other indictable offences. For example, break and enter is a serious offence if the value of the property stolen exceeds $500. Otherwise, it is a non-serious offence.

Figure 9 **Distribution of serious offences for Queensland, 1994–95**

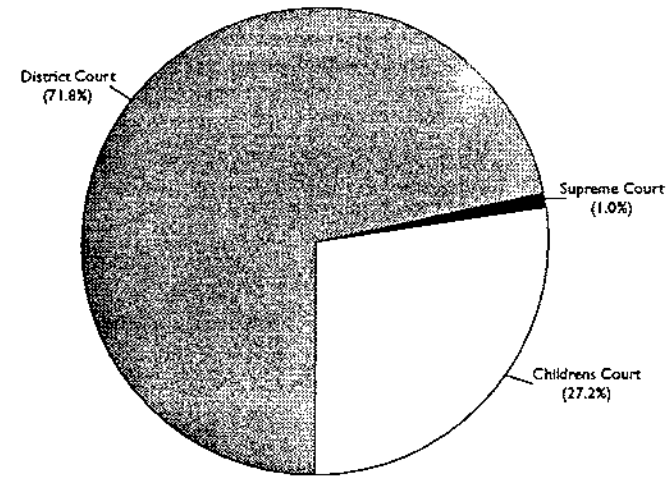


Figure 10 **Distribution of non-serious offences for Queensland, 1994–95**

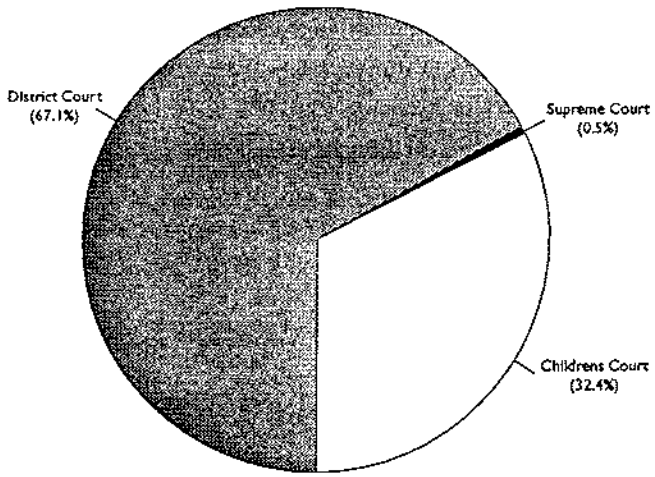


Table 12 **Magistrates Courts committals, by age and sex, 1994–95**

Age	Brisbane				Non-Brisbane				Queensland			
	M	F	U	Persons	M	F	U	Persons	M	F	U	Persons
10	—	—	—	—	1	—	—	1	1	—	—	1
11	—	—	—	—	3	—	—	3	3	—	—	3
12	—	—	—	—	7	1	—	8	7	1	—	8
13	4	1	—	5	18	1	—	19	22	2	—	24
14	20	1	—	21	34	6	—	40	54	7	—	61
15	46	6	—	52	104	8	1	113	150	14	1	165
16	72	4	—	76	155	12	—	167	227	16	—	243
=>17	79	6	—	85	82	8	—	90	161	14	—	175
Unknown	12	—	—	12	5	1	—	6	17	1	—	18
Total	233	18	—	251	409	37	1	447	642	55	1	698

M = males, F = females, U = unknown, Persons = males + females + unknown,
— indicates zero

Figure 11 **Magistrates Courts committals, by age and sex, 1994–95**

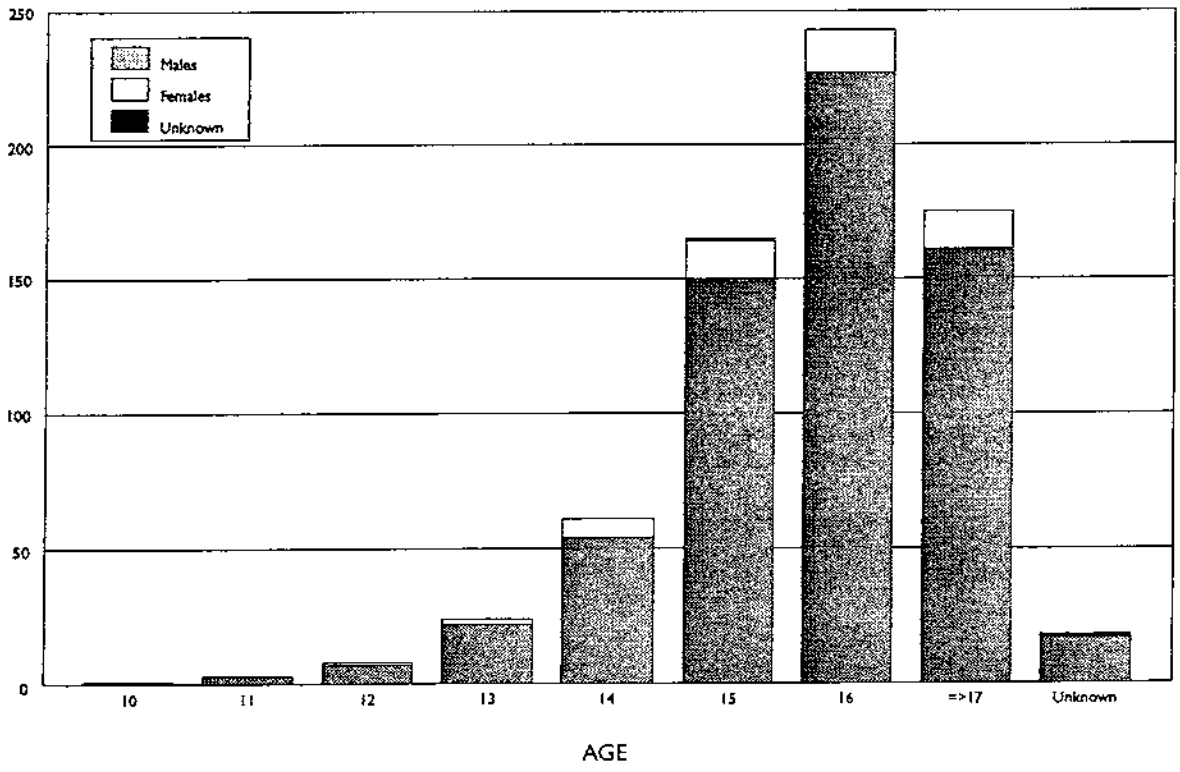


Table 13 **Magistrates Courts charges on committal, by offence category and sex, 1994–95**

Offence	Brisbane				Non-Brisbane				Queensland			
	M	F	U	Total	M	F	U	Total	M	F	U	Total
Homicide	5	2	—	7	4	—	—	4	9	2	—	11
Assault	40	1	—	41	108	8	—	116	148	9	—	157
Common assault	5	—	—	5	21	—	—	21	26	—	—	26
Assault with bodily harm	23	1	—	24	44	6	—	50	67	7	—	74
Grievous bodily harm	1	—	—	1	4	—	—	4	5	—	—	5
Rape	1	—	—	1	5	—	—	5	6	—	—	6
Serious assault	10	—	—	10	25	2	—	27	35	2	—	37
Sex offences	—	—	—	—	9	—	—	9	9	—	—	9
Robbery and extortion	38	—	—	38	48	4	—	52	86	4	—	90
Armed robbery	5	—	—	5	10	1	—	11	15	1	—	16
Robbery	33	—	—	33	38	3	—	41	71	3	—	74
Fraud and misappropriation	6	—	—	6	10	—	—	10	16	—	—	16
Theft, break and enter	219	17	—	236	757	51	11	819	976	68	11	1,055
Breaking and entering	76	6	—	82	272	19	6	297	348	25	6	379
Burglary	26	—	—	26	141	8	—	149	167	8	—	175
Housebreaking	5	—	—	5	22	2	—	24	27	2	—	29
Stealing	96	9	—	105	275	19	5	299	371	28	5	404
Receiving stolen property	16	2	—	18	47	3	—	50	63	5	—	68
Property damage	42	1	—	43	114	15	—	129	156	16	—	172
Arson	1	—	—	1	16	1	—	17	17	1	—	18
Damage	41	1	—	42	98	14	—	112	139	15	—	154
Driving, traffic and related offences	56	2	—	58	122	6	—	128	178	8	—	186
Dangerous driving	3	—	—	3	6	—	—	6	9	—	—	9
Licence offences	2	—	—	2	1	—	—	1	3	—	—	3
Unlawful use motor vehicle	48	1	—	49	115	6	—	121	163	7	—	170
Other traffic offences	3	1	—	4	—	—	—	—	3	1	—	4
Other Offences	61	7	—	68	45	3	—	48	106	10	—	116
Behaviour offences	1	—	—	1	2	—	—	2	3	—	—	3
Breach community orders	17	3	—	20	8	—	—	8	25	3	—	28
Breach of the Bail Act	9	2	—	11	7	—	—	7	16	2	—	18
Drug offences	8	2	—	10	4	2	—	6	12	4	—	16
Custody offences	11	—	—	11	1	—	—	1	12	—	—	12
Police offences	11	—	—	11	0	1	—	1	11	1	—	12
Weapon offences	2	—	—	2	7	—	—	7	9	—	—	9
Miscellaneous offences	2	—	—	2	16	—	—	16	18	—	—	18
Total charges	467	30	—	497	1,208	87	11	1,306	1,675	117	11	1,803

M, F, U = males, females and unknown sex respectively

— indicates zero

Figure 12 **Magistrates Courts charges on committal, by offence category and sex, 1994–95**

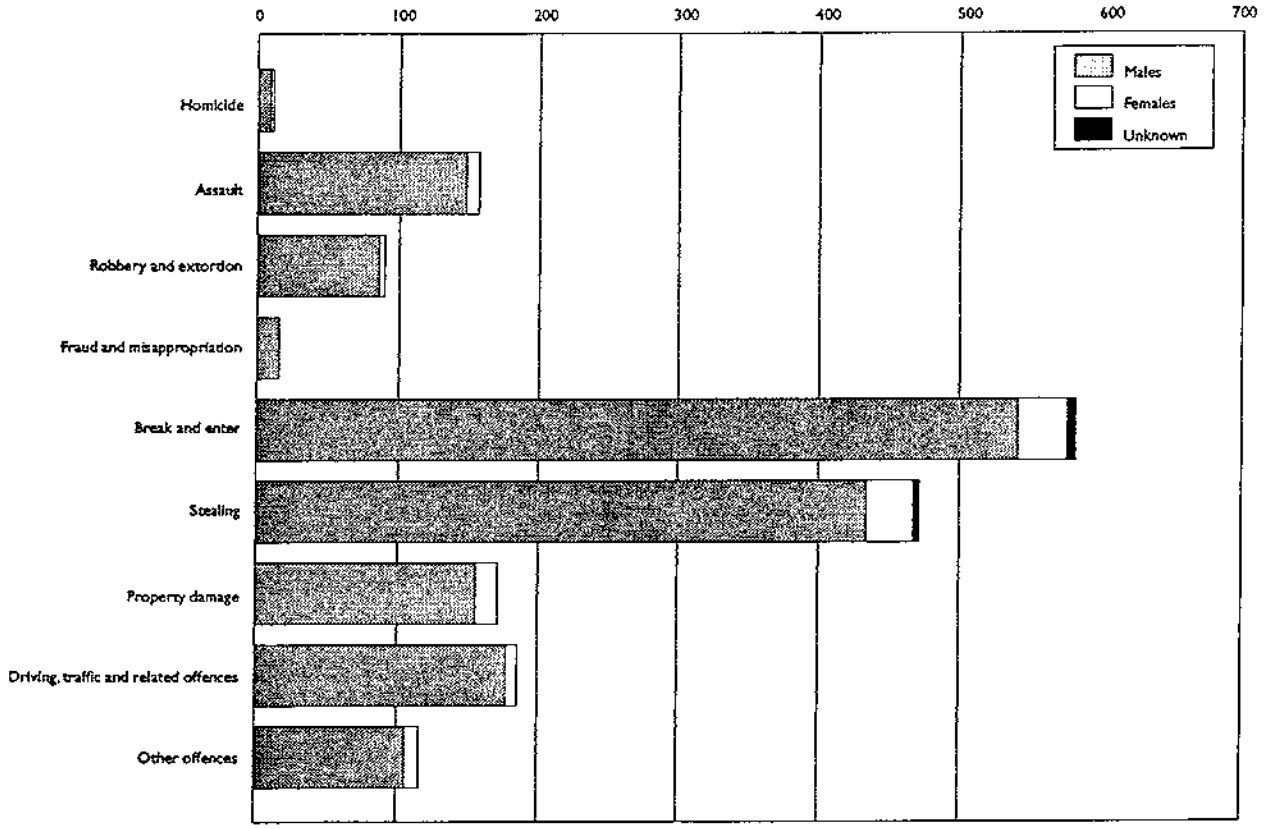


Table 14 **Magistrates Courts, juveniles by age and sex, 1994–95**

Age	Brisbane				Non-Brisbane				Queensland			
	M	F	U	Persons	M	F	U	Persons	M	F	U	Persons
10	—	—	—	—	11	3	—	14	11	3	—	14
11	5	—	—	5	30	2	1	33	35	2	1	38
12	14	3	—	17	91	4	—	95	105	7	—	112
13	35	4	—	39	203	38	3	244	238	42	3	283
14	63	22	—	85	414	76	4	494	477	98	4	579
15	145	44	—	189	731	131	15	877	876	175	15	1,066
16	249	50	1	300	1,144	203	8	1,355	1,393	253	9	1,655
=>17	245	49	—	294	567	78	2	647	812	127	2	941
Unknown	60	5	—	65	142	51	1	194	202	56	1	259
Total	**816**	**177**	**1**	**994**	**3,333**	**586**	**34**	**3,953**	**4,149**	**763**	**35**	**4,947**

M = males, F = females, U = unknown, Persons = males + females + unknown,
— indicates zero

Figure 13 **Magistrates Courts, juveniles by age and sex, 1994–95**

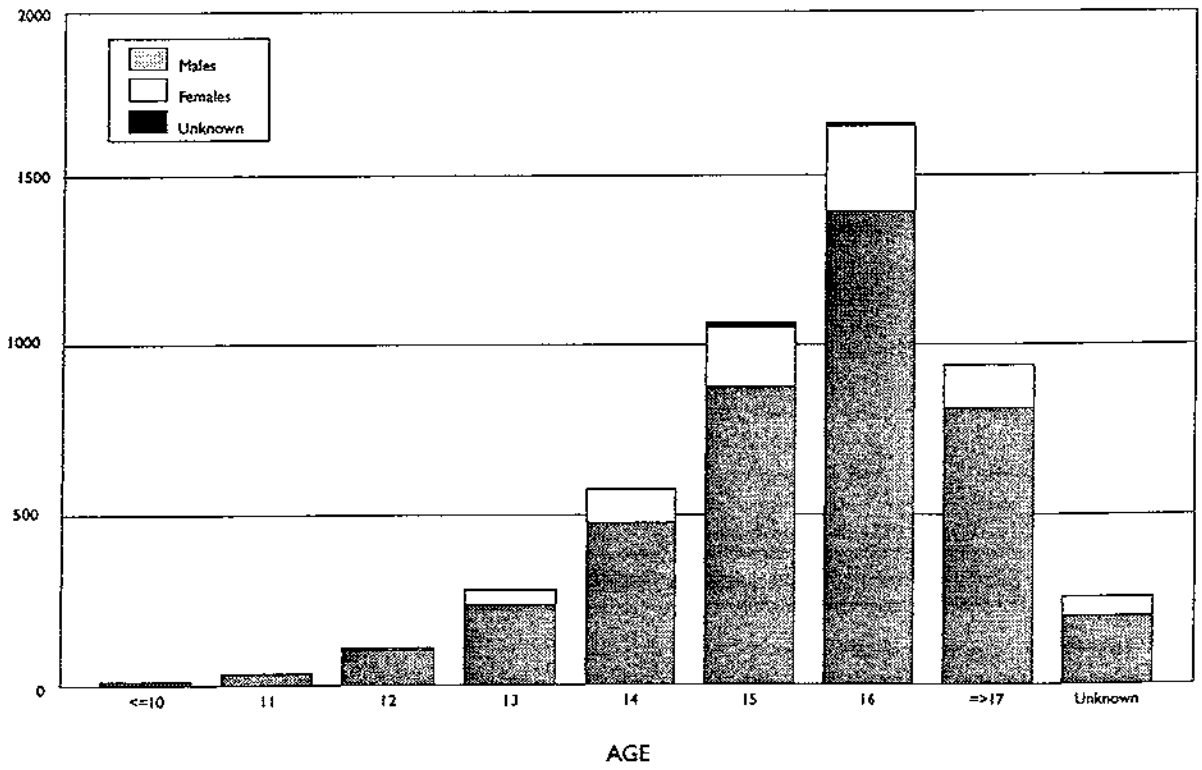


Table 15 **Magistrates Courts, charges dealt with, by offence category and sex, 1994–95**

Offence	Brisbane				Non-Brisbane				Queensland			
	M	F	U	Total	M	F	U	Total	M	F	U	Total
Homicide	—	—	—	—	—	—	—	—	—	—	—	—
Assault	98	15	—	113	316	75	4	395	414	90	4	508
Common assault	21	3	—	24	84	14	—	98	105	17	—	122
Assault with bodily harm	56	7	—	63	136	38	2	176	192	45	2	239
Grievous bodily harm	2	—	—	2	2	3	—	5	4	3	—	7
Rape	—	—	—	—	12	—	—	12	12	—	—	12
Serious assault	16	5	—	21	64	20	2	86	80	25	2	107
Sex offences	3	—	—	3	18	—	—	18	21	—	—	21
Robbery and extortion[a]	29	6	—	35	17	5	—	22	46	11	—	57
Armed Robbery	6	—	—	6	8	3	—	11	14	3	—	17
Robbery	23	6	—	29	9	2	—	11	32	8	—	40
Fraud and misappropriation	8	4	—	12	42	8	—	50	50	12	—	62
Theft, break and enter	437	92	—	529	3,044	326	31	3,401	3,481	418	31	3,930
Breaking and entering	129	13	—	142	840	58	11	909	969	71	11	1,051
Burglary	32	4	—	36	421	21	2	444	453	25	2	480
Housebreaking	2	—	—	2	90	3	—	93	92	3	—	95
Receiving stolen property[b]	47	8	—	55	232	33	1	266	279	41	1	321
Stealing	227	67	—	294	1,461	211	17	1,689	1,688	278	17	1,983
Property Damage	116	19	—	135	620	80	2	702	736	99	2	837
Arson	2	—	—	2	9	—	—	9	11	—	—	11
Damage	114	19	—	133	611	80	2	693	725	99	2	826
Driving, traffic and related offences	174	11	1	186	1,354	124	7	1,485	1,528	135	8	1,671
Dangerous driving	8	1	—	9	29	—	—	29	37	1	—	38
Drink driving	5	—	—	5	107	14	1	122	112	14	1	127
Fail to wear helmet	1	—	—	1	190	16	1	207	191	16	1	208
Licence offences	27	—	—	27	320	28	3	351	347	28	3	378
Unlawful use motor vehicle	99	7	—	106	451	54	1	506	550	61	1	612
Other traffic offences	34	3	1	38	257	12	1	270	291	15	2	308
Other offences	563	146	—	709	1,728	394	22	2,144	2,291	540	22	2,853
Behaviour offences	128	35	—	163	306	120	5	431	434	155	5	594
Breach community orders	43	7	—	50	110	10	1	121	153	17	1	171
Breach of the Bail Act	76	16	—	92	177	36	—	213	253	52	—	305
Drug offences	76	27	—	103	427	43	5	475	503	70	5	578
Custody offences	46	3	—	49	44	2	2	48	90	5	2	97
Liquor offences	13	6	—	19	138	24	—	162	151	30	—	181
Police offences	134	46	—	180	279	86	3	368	413	132	3	548
Weapon offences	16	0	—	16	46	2	3	51	62	2	3	67
Miscellaneous offences	31	6	—	37	201	71	3	275	232	77	3	312
Total	1,425	293	1	1,720	7,120	1,012	66	8,199	8,546	1,305	67	9,918

(a) Magistrates Court robbery and extortion—withdrawn or struck out

(b) Includes possession of stolen goods and bringing stolen goods into Queensland

M, F, U = males, females and unknown sex respectively, — indicates zero

Figure 14 **Magistrates Courts, charges dealt with, by offence category and sex, 1994–95**

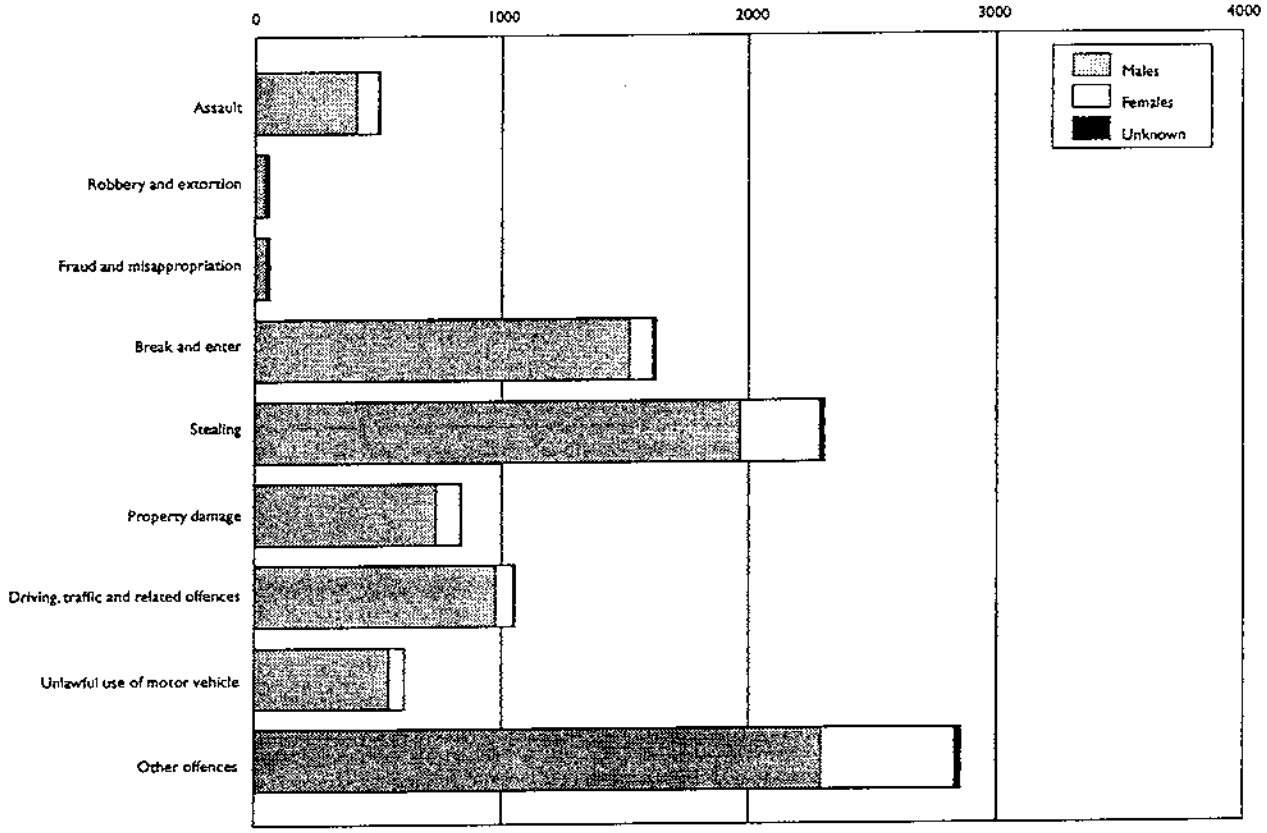


Table 16 **Magistrates Courts, outcomes, by order and sex, 1994–95**

Offence	Brisbane				Non-Brisbane				Queensland			
	M	F	U	Total	M	F	U	Total	M	F	U	Total
Reprimand	142	53	—	195	832	161	10	1,003	974	214	10	1,198
Good behaviour bond	174	31	1	206	506	101	4	611	680	132	5	817
Fine	44	4	—	48	473	49	2	524	517	53	2	572
Probation order	154	36	—	190	638	98	7	743	792	134	7	933
Community service order	75	12	—	87	416	44	5	465	491	56	5	552
Detention	60	6	—	66	154	11	4	169	214	17	4	235
Restitution / compensation	53	4	—	57	544	86	11	641	597	90	11	698
License disqualification	21	3	—	24	84	8	—	92	105	11	—	116
Other orders / outcomes	25	6	—	31	241	59	2	302	266	65	2	333
Dismissed	—	—	—	—	13	1	—	14	13	1	—	14
Total	748	155	1	904	3,901	618	45	4,564	4,649	773	46	5,468

M, F, U = males, females and unknown sex respectively, — indicates zero

Figure 15 **Magistrates Courts, outcomes, by order and sex, 1994–95**

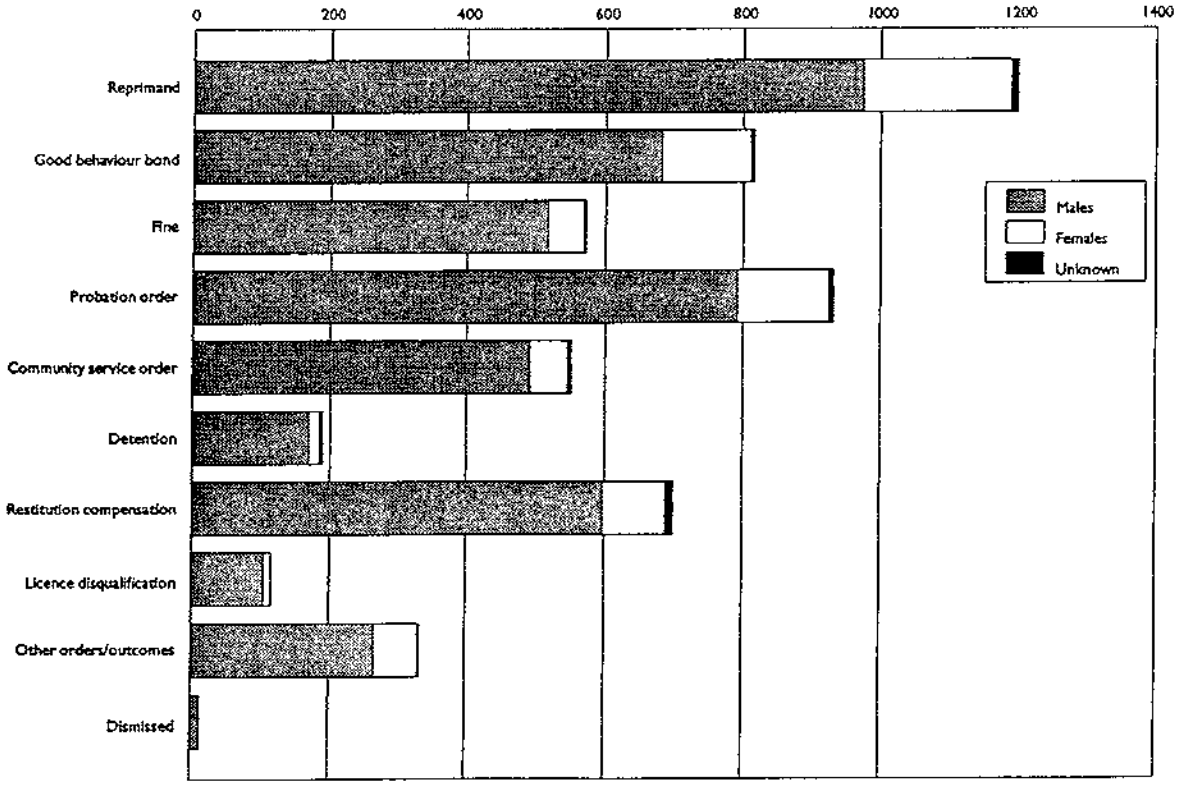


Table 17 **Childrens Court of Queensland, juveniles by age and sex, 1994–95**

Age	Brisbane				Southport				Townsville				Other				Queensland			
	M	F	U	P	M	F	U	P	M	F	U	P	M	F	U	P	M	F	U	P
10	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
11	2	—	—	2	—	—	—	—	—	—	—	—	—	—	—	—	2	—	—	2
12	2	—	—	2	1	—	—	1	1	—	—	1	—	—	—	—	4	—	—	4
13	5	—	—	5	1	1	—	2	—	—	—	—	1	—	—	1	7	1	—	8
14	5	—	—	5	1	—	—	1	12	—	—	12	4	—	—	4	22	—	—	22
15	21	2	—	23	3	2	—	5	15	—	—	15	3	—	—	3	42	4	—	46
16	35	1	8	44	9	1	—	10	13	—	—	13	10	1	—	11	67	3	8	78
=>17	67	6	—	73	1	—	—	1	10	—	—	10	—	—	—	—	78	6	—	84
U	9	2	—	11	—	—	—	—	2	—	—	2	4	1	—	5	15	3	—	18
Total	146	11	8	165	16	4	—	20	53	—	—	53	22	2	—	24	237	17	8	262

M = males, F = females, U = unknown, P (Persons) = males + females + unknown,
Other = Cairns and Rockhampton, — indicates zero

Figure 16 **Childrens Court of Queensland, juveniles by age and sex, 1994–95**

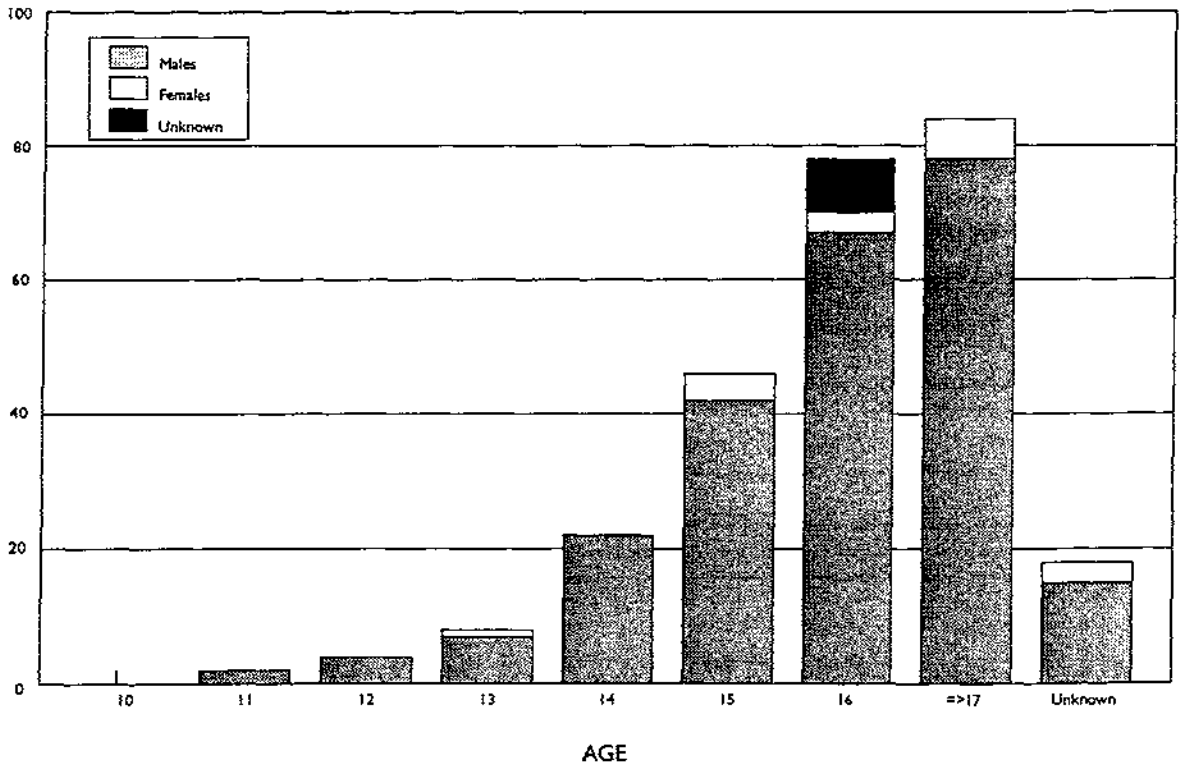


Table 18 **Childrens Court of Queensland, charges dealt with, by offence category and sex, 1994–95**

Offence	Brisbane				Southport				Townsville				Other				Queensland			
	M	F	U	Total	M	F	U	Total	M	F	U	Total	M	F	U	Total	M	F	U	Total
Assault	25	3	4	32	7	6	—	13	12	—	—	12	6	—	—	6	50	9	4	63
Common assault	3	—	4	7	—	—	—	—	1	—	—	1	2	—	—	2	6	—	4	10
Assault with bodily harm	11	3	—	14	3	5	—	8	4	—	—	4	—	—	—	—	18	8	—	26
Grievous bodily harm	2	—	—	2	—	1	—	1	—	—	—	—	—	—	—	—	2	1	—	3
Rape	—	—	—	—	—	—	—	—	2	—	—	2	1	—	—	1	3	—	—	3
Serious assault	6	—	—	6	2	—	—	2	2	—	—	2	—	—	—	—	10	—	—	10
Sex offences	3	—	—	3	2	—	—	2	3	—	—	3	3	—	—	3	11	—	—	11
Robbery and extortion	33	3	2	38	4	3	—	7	1	—	—	1	1	—	—	1	39	6	2	47
Armed robbery	15	—	2	17	1	1	—	2	—	—	—	—	—	—	—	—	16	1	2	19
Robbery	18	3	—	21	3	2	—	5	1	—	—	1	1	—	—	1	23	5	—	28
Fraud and misappropriation	2	—	—	2	—	—	—	—	2	—	—	2	—	—	—	—	4	—	—	4
Theft, break and enter	398	21	3	422	14	2	—	6	111	—	—	111	71	1	—	72	594	24	3	621
Breaking and entering	40	1	—	41	—	—	—	—	17	—	—	17	14	—	—	4	71	1	—	72
Burglary	76	4	—	80	4	—	—	4	26	—	—	26	20	—	—	20	126	4	—	130
Housebreaking	92	1	1	94	5	1	—	6	17	—	—	17	5	—	—	5	119	2	1	122
Stealing	173	14	1	188	5	1	—	6	38	—	—	38	29	—	—	29	245	15	1	261
Receiving stolen property	17	1	1	19	—	—	—	—	13	—	—	13	3	1	—	4	33	2	1	36
Property Damage	88	1	1	90	—	—	—	—	23	—	—	23	3	—	—	3	114	1	1	116
Arson	13	—	—	13	—	—	—	—	—	—	—	—	—	—	—	—	13	—	—	13
Damage	75	1	1	77	—	—	—	—	23	—	—	23	3	—	—	3	101	1	1	103
Driving, traffic and related offences	58	14	1	73	10	—	—	10	27	—	—	27	13	2	—	15	108	16	1	125
Dangerous driving	3	—	—	3	1	—	—	1	1	—	—	1	1	—	—	1	6	—	—	6
Drink driving	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	1	—	1
License offences	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	1	—	1
Unlawful use motor vehicle	55	14	1	70	9	—	—	9	26	—	—	26	12	—	—	12	102	14	1	117
Other offences	23	1	2	26	3	—	—	3	23	—	—	23	2	—	—	2	51	1	2	54
Breach community orders	8	—	1	9	—	—	—	—	7	—	—	7	2	—	—	2	17	—	1	18
Breach of the Bail Act	—	—	—	—	1	—	—	1	—	—	—	—	—	—	—	—	1	—	—	1
Drug offences	7	1	—	8	—	—	—	—	1	—	—	1	—	—	—	—	8	1	—	9
Custody offences	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	1
Police offences5	—	1	6	—	—	—	—	5	—	—	5	—	—	—	—	10	—	1	11	
Weapon offences	—	—	—	—	—	—	—	—	7	—	—	7	—	—	—	—	7	—	—	7
Miscellaneous offences	2	—	—	2	2	—	—	2	3	—	—	3	—	—	—	—	7	—	—	7
Total	627	43	13	683	38	11	—	49	199	—	—	199	96	3	—	99	960	57	13	1,030

M, F, U = males, females and unknown sex respectively,
Other = Cairns and Rockhampton
— indicates zero

Figure 17 **Childrens Court of Queensland, charges dealt with, by offence category and sex, 1994–95**

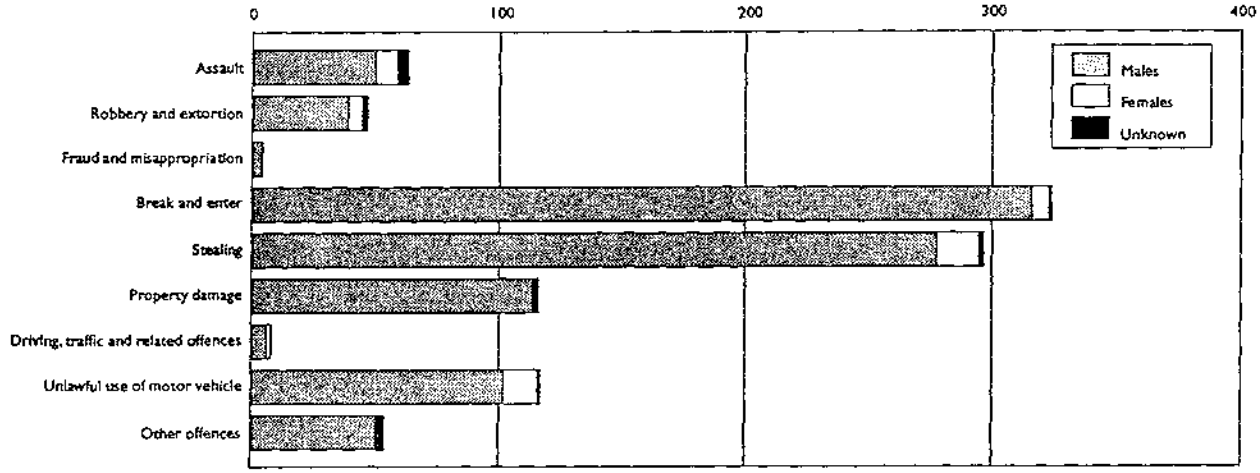


Table 19 **Childrens Court of Queensland, outcomes, by order and sex, 1994–95**

Order	Brisbane				Southport				Townsville				Other				Queensland			
	M	F	U	Total	M	F	U	Total	M	F	U	Total	M	F	U	Total	M	F	U	Total
Reprimand	1	—	—	1	—	—	—	—	—	—	—	—	1	1	—	2	2	1	—	3
Good Behaviour Bond	—	—	—	—	—	—	—	—	7	—	—	7	—	—	—	—	7	—	—	7
Probation Order	97	8	5	110	9	2	—	11	24	—	—	24	14	1	—	15	144	11	5	160
Community Service Order	43	6	1	50	9	1	—	10	5	—	—	5	11	—	—	11	68	7	1	76
Detention	38	1	2	41	3	1	—	4	10	—	—	10	—	—	—	—	51	2	2	55
Restitution / Compensation	32	5	—	37	2	1	—	3	2	—	—	2	5	—	—	5	41	6	—	47
Other Orders / outcomes	18	4	2	24	—	—	—	—	26	—	—	26	7	—	—	7	51	4	2	57
Not Proven	5	—	—	5	—	—	—	—	3	—	—	3	1	—	—	1	9	—	—	9
Total	234	24	10	268	23	5	—	28	77	—	—	77	39	2	—	41	373	31	10	414

M, F, U = males, females and unknown sex respectively,
Other = Cairns and Rockhampton, — indicates zero

Figure 18 **Childrens Court of Queensland, outcomes, by order and sex, 1994–95**

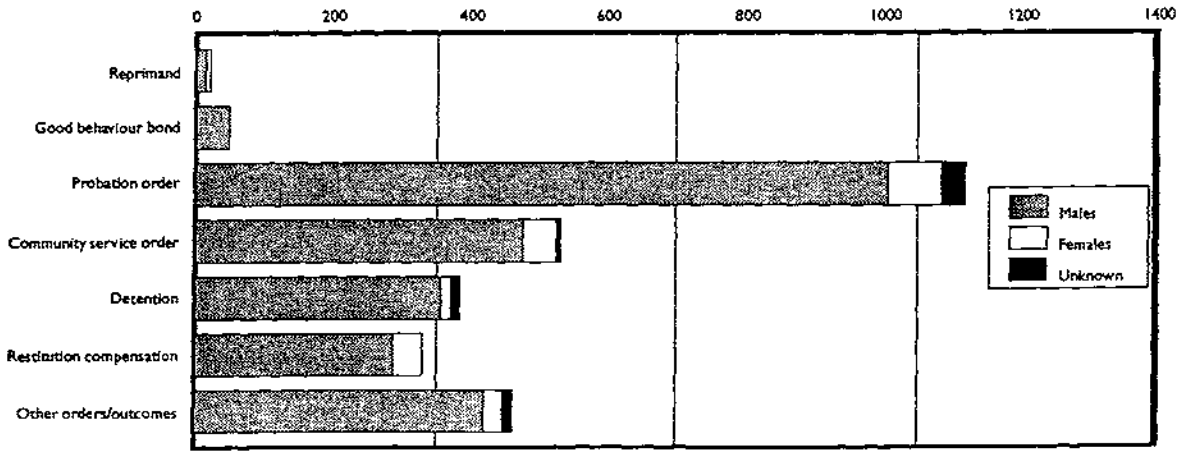


Table 20 **Higher courts, juveniles by court and age, 1994–95**

Age at date of committal	Supreme Court	District Court	Total
10	—	—	—
11	—	—	—
12	—	4	4
13	—	16	16
14	1	47	48
15	—	116	116
16	1	142	143
=>17	1	128	129
Unknown	2	52	54
Total	5	505	510

— indicates zero

Figure 19 **Higher courts, juveniles by court and age, 1994–95**

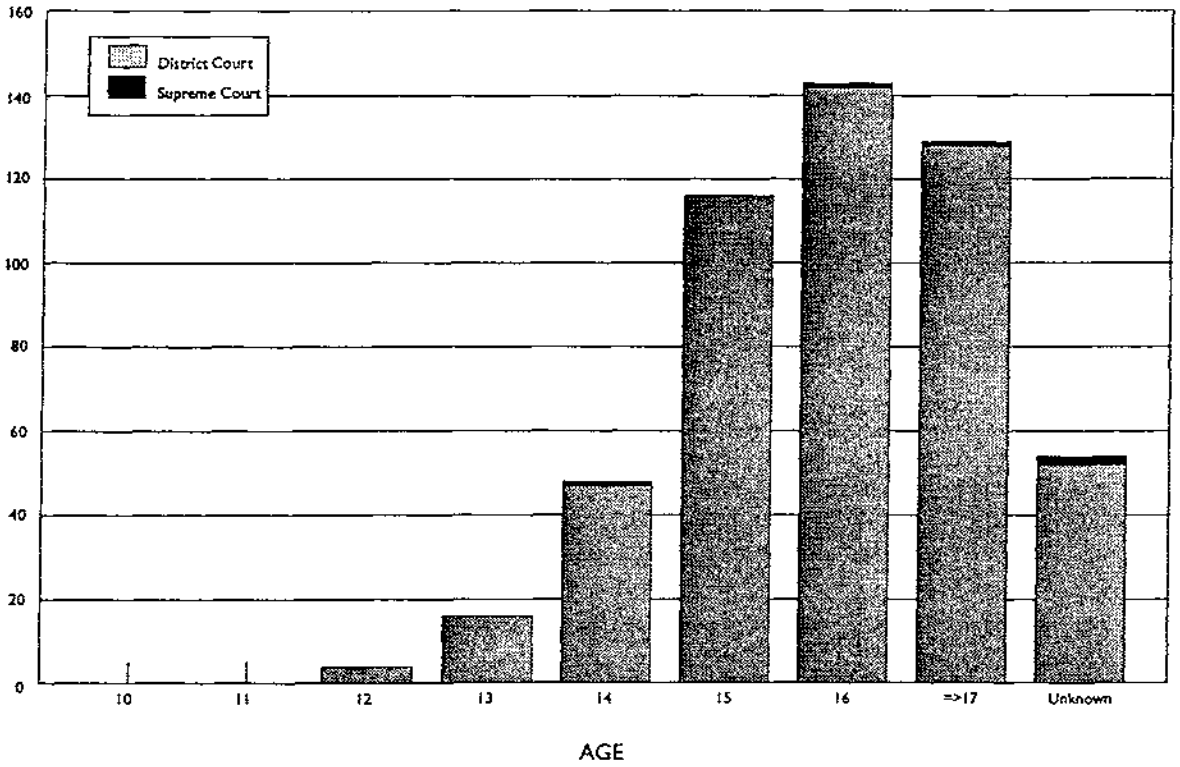


Table 21

Higher courts, juveniles by court and sex, 1994–95

Sex	Supreme Court	District Court	Total
Male	5	456	461
Female	—	44	44
Unknown	—	5	5
Total	**5**	**505**	**510**

— indicates zero

Figure 20

Higher courts, juveniles by court and sex, 1994–95

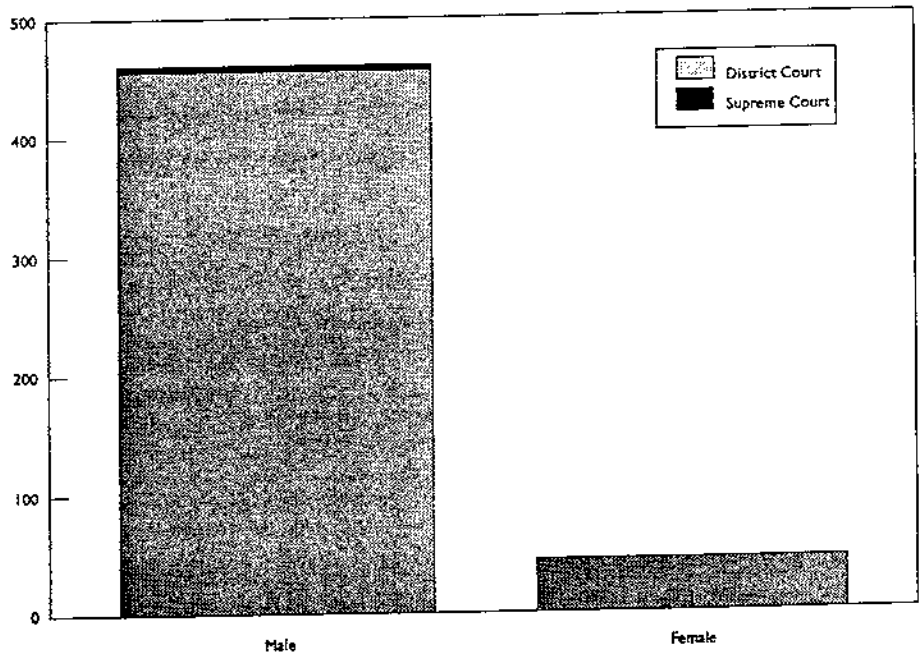


Table 22 **Higher courts, charges, by court and offence category, 1994–95**

Offence	Supreme Court	District Court	Total
Homicide	2	—	2
Assault	2	191	193
Common assault	—	35	35
Assault with bodily harm	—	105	105
Grievous bodily harm	1	3	4
Rape	—	5	5
Serious assault	1	22	23
Sex offences	—	21	21
Robbery and extortion	—	99	99
Armed robbery	—	36	36
Robbery	—	63	63
Fraud and misappropriation	—	38	38
Theft, break and enter, etc.	2	1,350	1,352
Breaking and entering	—	163	163
Burglary	1	321	322
Housebreaking	—	272	272
Stealing	1	521	522
Receiving stolen property	—	73	73
Property Damage	1	228	229
Arson	1	12	13
Damage	—	216	216
Driving, traffic and related offences	2	223	225
Dangerous driving	—	14	14
Unlawful use of a motor vehicle	2	209	211
Other offences	8	65	73
Breach community orders	—	29	29
Drug offences	8	—	8
Custody offences	—	5	5
Weapon offences	—	5	5
Other miscellaneous offences	—	26	26
Total	17	2,194	2,211

— indicates zero

Figure 21 **Higher courts, charges, by court and offence category, 1994–95**

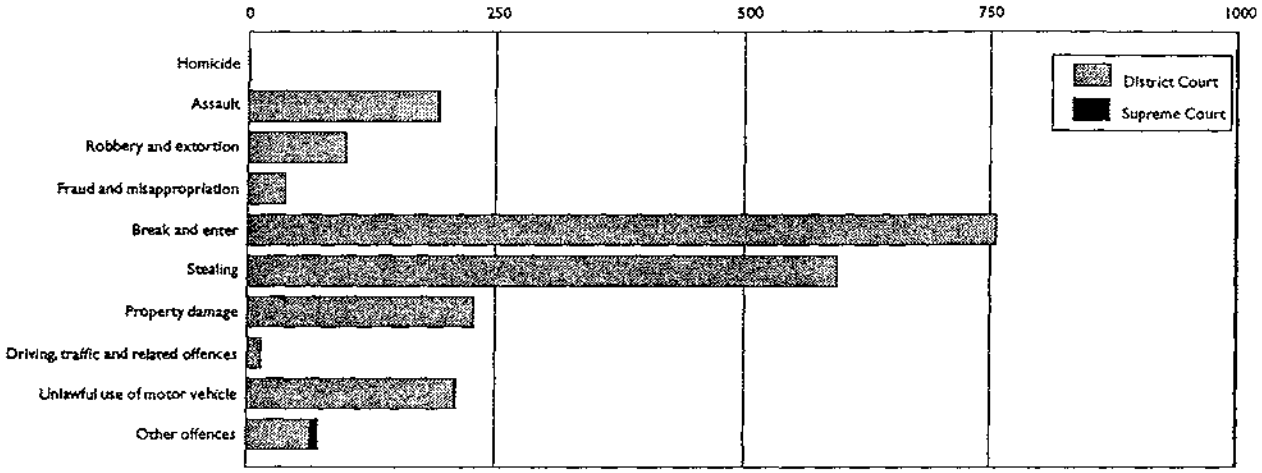
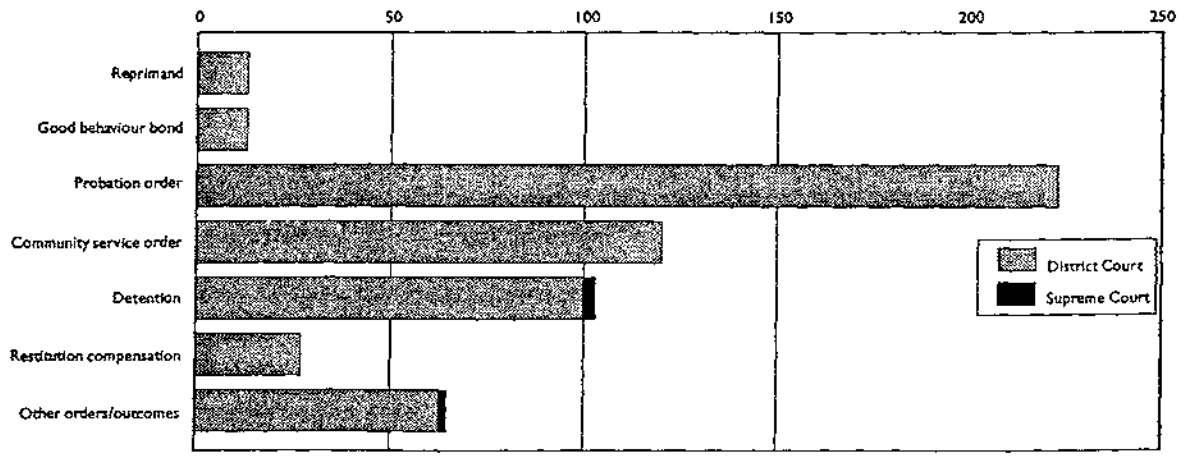


Table 23 **Higher courts, outcomes, by court and order, 1994–95**

Orders	Supreme Court	District Court	Total
Reprimand	—	13	13
Good Behaviour Bond	—	13	13
Probation Order	—	223	223
Community Service Order	—	120	120
Detention	3	100	103
Restitution/compensation	—	27	27
Other orders	2	63	65
Total	5	559	564

— indicates zero

Figure 22 **Higher courts, outcomes, by court and order, 1994–95**



13. TAKING OTHER OFFENCES INTO ACCOUNT

The following observations are relevant to the accuracy of the statistical information contained in this report.

In cases of multiple offending by children, the Director of Prosecutions Office is resorting more and more to charging sample offences in the indictment and treating the remainder as what is known as 'Schedule' offences to be taken into account in imposing sentence on the indictment offences. Section 189 of the *Penalties and Sentences Act 1992* which allows for this procedure for adults applies equally to juveniles by virtue of S. 117 of the *Juvenile Justice Act 1992*. A typical example would be to charge, say, 10 house-breaking offences on indictment with, say, 20 other similar schedule offences to be taken into account in imposing sentence on the indictment offences. The advantage to the offender of such a procedure is that, provided the offender admits his guilt to the schedule offences, those offences must not, because they were taken into account, be regarded for any purpose as offences of which the offender has been convicted. The 'taking other offences into account' procedure has the tendency to minimise the gravity of the total criminality. As far as I am aware, other offences taken into consideration have not so far appeared in any statistical analysis of juvenile crime in Queensland. All that appears in the statistical analysis are the indictment-charged offences, which very often are fewer in number than the other offences taken into consideration.

I am not necessarily suggesting any change in the procedure presently operating. I think the procedure serves a useful purpose in many cases in the administration of criminal justice, provided it is used with discretion; and this is especially true in juvenile cases. Rather, the point I wish to make is that we are deluding ourselves about the state of juvenile crime in Queensland if we fail to take into statistical reckoning other offences taken into account when charging arrangements of the kind outlined above are adopted. For example, the statistical tables appearing in this report for the second year of the Court's operation will not reflect 'other offences taken into account'. The reason is that facilities available to the Court have been inadequate to incorporate in the tables those sort of offences.

I have good grounds for believing that next year the newly created Crime Statistics Unit, which will be taking over juvenile crime statistical compilations, will contain such additional, essential information.

14. THE MORAL DIMENSION II

In the first annual report I devoted a significant section to 'The Moral Dimension', because it seemed to me then, as it seems to me now, that any discussion on the cause and effect of juvenile crime would be fundamentally flawed if it failed to address the moral issues involved. The response to this aspect of the first report has been overwhelmingly favourable. There is at last, I think, a widespread recognition in the community that children from an early age should be taught the virtues and what it is to be moral, and that the best teachers are the parents themselves. Unfortunately, family breakdown has undermined the traditional school for the teaching of morality, namely the home and the family. During the last two years of the operation of the Court it has been shown that in no less than seven cases out of ten family breakdown has been the major contributing cause of the child's criminal conduct.

By far the best antidote against juvenile delinquency is a strong, secure and unified home where parents exert good influences on their children.

Because of heartening public reaction to the dissertation on the Moral Dimension I have been encouraged to elaborate on the theme. On 22 July 1995 I was invited to give the keynote address to the State Conference of the Australian Family Association. The address is entitled 'We are perplexed but not in despair'. In view of the wide interest the address has attracted I publish it as a part of this report.

WE ARE PERPLEXED BUT NOT IN DESPAIR

There are fractures in our civil society, the moral order is breaking down, the family is failing: we are perplexed. Pervasive crime is undoubtedly a strong contributing factor to the malaise which presently afflicts our society. Some say there is a crime wave, crime is out of control: we are perplexed. Others say there is no crime wave, crime is not out of control: we are perplexed.

Others again say crime is decreasing. It is the public perception that crime is increasing that promotes fear: we are perplexed.

Where does the truth lie? Wherever the truth lies, crime is at an intolerable level. Statistics on crime bandied about from time to time are not always reliable and indeed there are times when they are deplorably undependable. It is no exaggeration to say that one in four crimes goes unreported, and one in three crimes goes undetected.

THE ROOSEVELT EXAMPLE

Franklin D. Roosevelt will be remembered for two famous statements. He took office on 4 March 1933 when the United States was in the grip of the great depression, when most of the nation's banks were closed, the economy had collapsed and thirteen million people were out of work. Poverty, anxiety, fear and a sense of hopelessness stalked the land. In his inaugural address Roosevelt promised prompt, decisive action and somehow conveyed to the nation his own unshakeable self-confidence. 'This great nation will endure as it has endured, will survive and will prosper', he asserted. '...the only thing we have to fear is fear itself.'

'The only thing we have to fear is fear itself.' That is the first famous statement.

Roosevelt set about removing the source of the people's fear: he offered work where there was no work; he gave hope where there was hopelessness. He galvanised the nation into becoming the greatest productive nation the world has ever known.

Roosevelt's second famous statement is: 'The Presidency is pre-eminently a place of moral leadership'. About which, more later.

Why do I mention these things? I sense a feeling of fear and hopelessness creeping into our community at the present time. This new fearfulness is symptomatic of a moral vacuum; and without hope no great initiative can be undertaken. There is a belief in certain quarters that nothing can be done about it, that things have drifted too far now for any remedial process to take effect. Nothing could be further from the truth. We can and we must do something about it before it is too late. The trend towards a more lawless and amoral society can be reversed.

FUTURE STRATEGIES

The task ahead is to remove the sources of fear and hopelessness. There must be put in place a short-term strategy and a long-term strategy, and most importantly and underpinning both, a reinforcing of the moral order.

You will, I hope, pardon me if I concentrate on the crime problem, but the essence of my remarks is of general application.

The short-term strategy requires an acceptance of the reality that crime is pervasive. Society has not only the right but the duty to protect itself against those who would violate the reasonable

expectation of a peaceable and orderly existence of all law-abiding citizens. It follows that we must have a strong and effective police force, courts of law and prisons. Increased expenditure in these areas is inevitable for the proper protection of society.

The long-term strategy is crime prevention. Closely related to crime prevention is a reassertion of family and community values with the good influences they bring to bear in the life of the nation.

I do not wish to be misrepresented. I do not speak nostalgically of a golden age that never was. Every period in history and every generation has been marred by the moral and social imperfections of the time. Poverty, social injustice, pernicious influences and crime exist now as they did before, but they are set against a background of despair that is both new and chilling. I am speaking of a dangerous widening of the cracks in the moral and social orders. The best time to reinforce the moral and social foundations of failing communities is not after they have collapsed, but when they are cracking.

All too often we hear the voice of despair saying, 'Nothing can be done about it, nothing works'. Let me tell you an anecdotal story. When, two years ago, I was asked to take on the newly created position of President of the Childrens Court of Queensland, I baulked. I consulted a few trusted colleagues. They counselled against it. I was told: 'You have been offered a poisoned chalice. Nothing can be done about child crime. You will never be out of trouble if you take it'.

I realised that the management and treatment of juvenile crime was a divisive and sensitive subject. One's philosophy, one's experiences, one's exposures to the raw edges of human existence, one's religious training, one's attitude towards life and family and their values, and the moral values one establishes and seeks to observe are likely to influence and colour one's thinking and conclusions on the subject.

On reflection, I decided to accept the position. My reasons for accepting were twofold. First, after a careful study of the juvenile justice legislation, I felt that it was comprehensive and enlightened legislation which provided the wherewithal to control juvenile crime. Second, I had harboured a belief for a long time that the present approach to combating crime generally was not proving very effective and was not producing the desired results. There was therefore something fundamentally wrong with the approach.

Experience gained over 40 years in the practice of the legal craft (20 as a barrister and 20 as a Judge) told me that adult professional or career criminals persistently causing the greatest damage to our society started their careers as juveniles and that perhaps we were expending too much time, effort and money at the wrong end of crime control. It was, I thought, a case of closing the gate after the horse had bolted. What was needed was to attack crime at the right end: at its beginning, with the incipient young offender, and nip it in the bud, if possible, there and then, before it burgeoned out of control. So I concluded that the juvenile courts were probably the most important courts in the land. Long and bitter experience in the criminal courts had taught me that a high percentage of persistent professional criminals started as juvenile delinquents who made repeated appearances in the Childrens Court. If their criminal tendencies could have been curbed or controlled through a judicious management of the juvenile justice system, society would have benefited beyond measure and would have been spared untold anguish and expense.

It has not been easy, but I believe we are forging ahead. I have not succumbed to the philosophy nothing can be done about it. I have acted in accordance with such lights as have been granted me in this difficult, sensitive and important role. I see my responsibilities as threefold:

1. to act in the best interests of the welfare of the child and his family;
2. to protect the community; and
3. to uphold the dignity of the law and public faith in the judicial process.

I regard parental participation in the Court process as vital. Parents should be confronted with their child's criminality in the formal court setting. I have placed great importance on the presence of parents (or at least one parent) of the offending child so that they may witness the proceedings and actively take part in the final disposition of the case.

MORAL LEADERSHIP

As long ago as 1932 President Roosevelt stated as an article of faith: 'The Presidency is pre-eminently a place of moral leadership'. In recent times encouraging signs are emerging that our political leaders are beginning to grasp the concept of moral leadership and

are prepared to proclaim the principles of morality and duty as indispensable to the reversal of trends, both moral and social, which have gone too far down the wrong path. There is at last a recognition that governments cannot continue to keep the moral issue at arms length if we are to have good government. In his March 1959 Maccabaean Lecture on the Enforcement of Morals Sir Patrick Devlin, a distinguished English Judge, put the proposition with acute perspicuity:

> 'An established morality is as necessary as good government to the welfare of society. Societies disintegrate from within more frequently than they are broken up by external pressures. There is a disintegration when no common morality is observed and history shows that the loosening of moral bonds is often the first stage of disintegration.'

There is a perceptible change in the language of Western politics. Community values, the worth of the family, an acceptance that for every right there is a correlative duty—these are the themes which appear regularly on current political agendas. Only in the last few weeks we have witnessed political leaders in this State espouse the virtues of community, family, school and church. All right-minded people who, it is thought, constitute the silent majority so-called have been given a real fillip by the courageous public articulation of the moral principles that a good society should stand for. But I trust it will not stop now that the fire and the fervour associated with electioneering has dissipated. We must hope that our leaders will put those principles into practice. Indeed, I should like to see not only our political leaders, but also our religious, judicial and professional leaders exert whatever moral influence they have by virtue of the positions they hold to warn against bad trends and to promote good ones.

Moral leadership, after all, is about exemplifying excellence. Morality is about developing a now little understood and almost forgotten word—virtue. It is about faith, duty, courage, generosity, trust, self-discipline and love.

But having spoken in commendatory terms about the moral agenda embraced by our political leaders, it is right to point out that morality begins at home with the family. Governments do not raise children; parents do. You cannot legislate for morality. Laws can prevent us doing evil, but they cannot make us good. 'Duty,' said the historian Lord Acton, 'is not taught by the State.'

Many of the problems which beset us are beyond the reach of government. They are rooted in the loss of values and the breakdown of our families and our communities. Although, in the end, community values must spring naturally from within the community rather than be imposed from above by governments, governments can and should offer a lead. Although the moral renewal we talk about must, as I say, find its wellsprings within the community itself, governments can point the way and perhaps facilitate the process with financial assistance, but governments cannot imbue the family and the community with the spirit which is of the soul.

That may sound too solemn. Let me put it in the words of the song:

> 'I don't want to set the world on fire, I just want to start a flame in your heart.'

For 'spirit' substitute 'a flame in your heart'. No, we don't want to set the world on fire, but we do need to start flames in hearts. That's the ticket!

In my first annual report on the Childrens Court of Queensland presented in Parliament in January this year, I devoted a whole chapter to 'The Moral Dimension'. I there said: 'We search for answers to the present child crime problem. I have randomly collected the distilled views of some contemporary thinkers, opinion formulators and legislators.' I then quote edited versions of what they say, and conclude: 'There is a remarkable conformity of view among these thinkers, opinion formulators and legislators as to the answer to the moral dilemma: the moral dilemma can only be resolved by an acceptance of the moral imperative. What is needed is a moral renaissance, a moral reawakening, a return to the good and the right way—in short, a restoration of ordinary goodness.'

We are told nowadays that on matters of morals we must be careful not to be judgmental. But if we believe that morals matter then we should have the courage to make judgments, to commend some ways of life and point to the shortcomings of others, however much this offends against the canons of our own non-judgmental culture.

DEFINING THE FAMILY; MARRIAGE AND DIVORCE

The term family does not require to be defined, justified or explained. David Selbourne in *The Principle of Duty* spoke of the family as 'mankind's home and first refuge, school of the principle of duty in which is to be found the archetype of every form of responsibility: that of the individual to his fellows.'

As Brandeis University anthropologist David Murray put it: 'Cultures differ in many ways, but all societies that survive are built on marriage. Marriage is society's cultural infrastructure, its bridges of social connectedness. The history of human society shows that when people stop marrying their continuity as a culture is in jeopardy.'

An important function of the family is to provide emotional, psychic and physical security to its members. Temporary liaisons cannot afford these great benefits.

What I am saying does no more than restate ancient and simple truths. Yet for too long they have been forgotten and lost from sense and sight. But it would be short-sighted not to acknowledge that to an unmeasurable but nevertheless significant proportion of the population they sound like barren platitudes.

Sir Garfield Barwick was Chief Justice of the High Court of Australia for 17 years (from 1964 to 1981). He was Attorney-General of the Commonwealth from 1958 to 1963 during which time he was responsible for drafting and steering through Parliament the *Matrimonial Causes Act 1959*, an Act dealing with divorce. The grounds of divorce contained in the Act were based on the fault concept with one exception: irreconcilable breakdown based on the fact of separation for five years and upwards. Although a somewhat controversial figure, Barwick was one of Australia's most renowned lawyers who made it the hard way. His high school and university education was paid for by bursaries he won for academic achievement. At the grand age of 90 he penned his autobiography, *A Radical Tory*. In it he reflects on marriage and divorce with a rare perspective which the fullness of years affords. I think his observations are worth recording:

> 'My philosophy then and now was to regard marriage, and the creation and maintenance of a family, as basic to a stable and well-ordered community. I could not think that promiscuity and irregular and perhaps temporary liaisons were consistent with that stability and orderliness. Nor could I accept that children of a single parent born outside marriage would not be severely disadvantaged. I felt that the nurture of children in a family atmosphere and with t he guidance of both parents and the sense of mutual tolerance which a family can provide were all essential to the community's strength and the stability of its future. I also felt that in the development of a family there is great scope for the exercise of sound judgment, which I would place, along with wisdom, at the summit of the hierarchy of human talents.

> I am very conscious that as a rule it is the children of a broken marriage who suffer the most. Too easy it is for the estranged parents to place their own convenience before their children's welfare. One might expect that parents would do anything for their children, even to the point of honourably bearing the frustrations of an unsuccessful marriage, and many do.
>
> ...
>
> I am not unmindful of the view that children may suffer in a continuing atmosphere of matrimonial antagonism and that the termination of that atmosphere can benefit them. This view, it seems to me, concedes too much to selfish parents and lays insufficient emphasis on the great benefit home life, even if sometimes torrid, confers on young and adolescent children.'

In 1974 the Barwick Act was repealed and replaced by The Family Law Act, currently the matrimonial law of Australia. The Act abolishes grounds of divorce based on the fault concept and recognises one ground of divorce only: irretrievable breakdown based on the fact of separation for one year. About the new legislation Barwick had this to say:

> '... the operation of the Family Law Act, so far from tending to maintain the institution of marriage, tends to endanger it. The breakdown of family life in recent times owes something, I think, to the introduction and operation of the Family Law Act.'

ECOLOGY OF HOPE

Western civilisation is suffering from a strong sense of moral and spiritual exhaustion. There is now, I believe, a widely accepted view that we as a nation have abandoned many of our traditional values, and are living off our moral capital. But if we continue as we are, the residuum of moral capital will be exhausted and we will become morally bankrupt.

More and more people of all sorts and conditions—especially young people—are giving thought as to how we stand and where we are going. They recognise that there is no panacea just around the corner and that simplistic solutions do not work. But they are probing and searching for answers—answers not ephemeral but enduring.

The underlying theme of Dr Jonathan Sacks' remarkable book *Faith in the Future* is that the very survival of modern civilisation may ultimately depend upon three extraordinarily powerful assets: a sense of community, of family and religious tradition.

'There is such a thing as the ecology of hope,' Dr Sacks says. 'Hope is born and has its being in the context of family, community and religious faith. ... These values never die, though occasionally—as now—they suffer an eclipse.' I think Dr Sacks has put it in a nutshell, and it is for us to keep it there; he has got it exactly right.

LAW AND ORDER

The law and order debate goes on unabated. We are accustomed to looking to the police, the courts and the Parliament to take care of law and order in the community. The cost of maintaining law and order is escalating. It strains all government budgets.

As I remark elsewhere, society has not only the right but the duty to protect itself against those who wage war on it. There is nothing more detrimental to the civic order than that the wrongdoer should go undetected and unpunished. The Archbishop of Canterbury, Dr Carey, in a recent article in a British police journal stated:

> 'Wrongdoing needs to be named, acknowledged, appropriately punished and atoned for, not swept under the carpet and forgotten. That is part of the Biblical concept of justice. Mercy may temper it but not replace it.'

The image of the law would be seriously impaired and the civic order would disintegrate if the mugger smashes up old ladies and goes free, if the burglar plunders house upon house undiscovered, if the car thief drives into the sunset with impunity, if the sexual pervert molests little children and gets away with it.

The police and courts of law are necessary expedients. Courts see the end result of criminal activity and must deal with it as best they can. It should be remembered that courts cannot make people good and more responsible to one another. Nor can governments. The courts are only one of a number of social influences. Of far greater importance are the social influences of home and school.

A society which places the whole burden of law and order on the police, the courts and the Parliament has no reason to expect a significant lessening in the incidence of crime. To build a responsible society there has to be individual moral responsibility. We must start with moral parents who by principled example will teach their children the discipline of self-restraint. A law-abiding society comes about by the habits of self-restraint cultivated in early childhood and reinforced thereafter by the moral signals imparted in the home, the school, the church and the wider community.

Hence, the more morally viable communities and schools are the less need for policing. It has been said that every law enforced in the heart means one less policeman in the street.

LAW AND MORALS

The extent to which society will tolerate departures from moral standards varies from generation to generation. I think it fair to say that, overall, tolerance appears to be increasing. In the area of law this is certainly so. The following illustrates the point.

Until comparatively recent times the concept of family was centred around the institution of marriage. Thus in 1950 the Court of Appeal held in *Gammans v. Elkins* [1950] 2 KB 328 that a man who had lived with a woman for 20 years, adopting her name and calling himself her husband, was not a member of her family for the purpose of succeeding to his tenancy under the Rent Acts. Asquith, LJ said:

> 'To say of two people masquerading, as these two were, as husband and wife (there being no children to complicate the picture) that they were members of the same family, seems to be an abuse of the English language ...'

By 1975 the Court of Appeal felt able to say in *Dyson Holdings Ltd v. Fox* [1976] QB 503 that the popular meaning of the word family had changed to the extent of including at least the parties to a permanent relationship, even without the benefit of a marriage ceremony. Bridge, LJ said:

> '... between 1950 and 1975 there has been a complete revolution in society's attitude to unmarried partnerships of the kind under consideration. Such unions are far commoner than they used to be. The social stigma that once attached to them has almost, if not entirely, disappeared. The inaccurate but expressive phrases 'common law wife' and 'common law husband' have come into general use to describe them. The ordinary man in 1975 would, in my opinion, certainly say that the parties to such a union, provided it had the appropriate degree of apparent permanence and stability, were members of a single family whether they had children or not.'

It is often said by Judges that the law should reflect the social attitudes of the day. Sexual mores especially are rapidly changing. Should the courts be responsible for reflecting changes in social attitudes, or should it be the sole responsibility of the legislature? About this there is a marked divergence of opinion.

However, one great judge, Lord Denning, had no doubts about the connection between law and morals. In a lecture to the English Law Society in 1954 entitled 'Putting Principles into Practice' he said that justice is not the product of the intellect but of the spirit. Unless morality permeates the law there can be no true justice, for without morality there can be no just law. He went on to say: 'If religion perishes in the land truth and justice will also. We have strayed too far from the faith of our fathers. Let us return to it for it is the only thing that can save us.'

Hard Facts

Crime, and certainly juvenile crime, has grown to the point where there is a danger of being habituated to it. It has become a part of our normal expectation. If you have a car, it gets stolen. If you have a house, it gets broken into. And there is a risk of being robbed in the street. This state of affairs undermines our sense of security and trust.

It may be that we will have to adjust to higher levels of crime in the world of the future, just as we have to adjust to high levels of unemployment and the electronic age. A society of more and more armed police, of surveillance cameras on every corner, of alarms in every house, of barricaded shops and locked churches, a society in which people fear for their safety in public places, in which the rich surround themselves with walls of security and the elderly and the disabled are vulnerable to the ill-willed, is not one which we can look forward to without a sense of grave apprehension.

That is the position reached in certain places,for example parts of New York. Fortunately it has not happened to that extent in this country yet, but we must guard against complacency. It could happen here if present trends are not arrested and reversed.

We are at a loss to understand the pathology of today's violence. Crime is nowadays commonplace. Housebreaking, car stealing, robbery and other crimes of violence occur with such frequency that there is a danger that we will become inured to it.

Serious crime often merits only a bottom-of-column newspaper filler, and is instantly forgotten. 'Today, routine violence and a resigned habituation to killing make for deaths without solemnity, and wounds which no longer bleed,' says David Selbourne in *The Spirit of the Age*. He goes on to say that habituation to crime, fear of crime and the relative impunity of crime constitute a vicious circle.

In particular, propensity to violence of all kinds (in Britain, to go no further) seems plainly to be increasing year by year, even if the actual rate of increase fluctuates. The carrying of weapons is also increasing. In Britain a knife is used in about one-third of all street robberies.

A strengthening awareness

Because no-one wishes to live in such a world, there has been of late a strengthening awareness that we must do something about it before it is too late. What, we ask, are the causes of crime, the fractures of our social system? Regrettably, so far no-one has come up with the complete answer. Some say we need more police, sterner sentences, and an expansion of our prisons system to accommodate the growing antisocial, non-conforming criminal element in our community.

Morality and the family

No simple answer can be found to so complex a human phenomenon as crime. My belief is that we should turn the oft-asked question, 'Why do people commit crimes?' on its head, and ask instead, 'Why do people not commit crimes?' We should ask not why people break the law, but rather why people observe the law? The answer is simply that people who keep the law have been taught and know what it is to be moral. At the heart of morality is the family. The failure of the family is the central moral crisis of our time. It is from people—especially parents—that we learn what it is to be moral. Moral authority rests with families and communities which are the repositories of responsibility. There is a need to recapture the sense of duty. I adopt, with respect, the wise words of the Archbishop of Canterbury, Dr Carey: 'For children, the family is by far the most important influence for good or ill, though by no means the only one. It is extremely difficult to learn to be good without the love, support and guidance of parents.'

As Dr Jonathan Sacks so tellingly said in his recently published work *Faith in the Future*:

> 'Of all the influences upon us, the family is by far the most powerful. It is where one generation passes on its values to the next and ensures the continuity of civilisation. Nothing else—not teachers or schools, not politicians or the media—so shapes us and what we have a chance of becoming as our experience of early childhood.'

The worst-hit victims in our community have been children from broken homes. Allied to family breakdown is the alarming incidence of child neglect. If there is a fracture at the heart of our collective conscience, this is it. If anything is a moral issue, this is. No civilisation can survive which fails to provide its children with security, stability, a sense of morality and love.

We have reached this low point in our affairs not because we no longer value the family. It is that we have betrayed the principles of a cohesive social order and been foolish enough to believe that we can cope as independent, self-centred individuals. As the poet John Donne put it: 'No man is an island unto himself.'

One of the consequences of the collapse of the family has been an increase in juvenile crime. However, I do not wish to be misunderstood. I am not saying that the increase in juvenile crime can be attributed to the breakdown of family alone. Rather, I am suggesting that a complex of interrelated factors has taken place in which the breakdown of the family has been both a consequence and an accelerating cause.

My own experience gained over almost two years in the Childrens Court is that in no less than 80% of cases there is a discernible and verifiable connection between family breakdown and juvenile crime. I need no further proof. As that redoubtable jurist Lord Denning said:

> 'The child who has lost his sense of security feels that he must fight for his interests in a hostile world. He becomes antisocial and finally criminal. The broken home from which he comes is only too often a reflection of society itself, a society which has failed to maintain its standards of morality. When we try to reform a criminal we are only treating the symptoms of the disease. We are not tackling the cause.'

Moral education of the young

A good society has no more important role than the moral education of the young. Aristotle said that good habits formed in youth make all the difference. And Plato in the *Republic* said:

> 'You know that the beginning is the most important part of any work, especially in the case of a young and tender thing; for that is the time at which the character is being formed and the desired impression more readily taken ... Anything received into the mind at that age is likely to become indelible and unalterable, and therefore it is most important that tales which the young first hear should be models of virtuous thoughts.'

Because children are not born with an innate understanding of traditional virtues, they must be taught them. Virtues like honesty, faith, compassion, loyalty, self-discipline, friendship, courage, perseverance and work should be inculcated in children from an early age in the home, in the community and in the school. A teaching of the virtues is vital in shaping character. St Paul wrote:

> 'Whatever is true, whatever is honourable, whatever is right, whatever is pure, whatever is lovely, whatever is of good repute, if there be any excellence and anything worthy of praise, let the mind dwell on these things.'

William J Bennett, noted American author, and former Secretary of Education in the Reagan administration recently said:

> 'The greatest long-term threat to the well-being of children is the enfeebled condition of our character-forming institutions. In a free society, families, schools and churches have primary responsibility for shaping the moral sensibilities of the young. The influence of these institutions is determinative. When they no longer provide moral instruction or lose their moral authority, there is very little that governments can do. Among those three institutions, the family is pre-eminent. But the family of today is an agency of despair.'

And Karl Zinsmeister in the Journal *American Enterprise* has written:

> 'We talk about the drug crisis, the education crisis, and the problems of teen pregnancy and juvenile crime. But all these ills trace back predominantly to one source: broken families.'

Can government supply manners and morals if they are wanting? Of course not. Political solutions are not, ultimately, the answer to problems which are at root moral and spiritual. 'Manners', wrote Edmund Burke two centuries ago, 'are more important than laws. Upon them, in great measure, the laws depend.'

I return to the question, Why do children not commit crimes? The answer, as we have seen, is to be found in the moral order. We—the parents, the communities and the schools—must rediscover for ourselves the virtues and teach our children what it is to be moral. For therein lies the answer—the simple but so far elusive answer—to the question posed. We have spent too much time and effort in trying to answer the inverted question, Why do children commit crimes? For too long we have been asking the wrong question. It is time to change. Let us now concentrate our thinking and our teaching on why children do not commit crimes.

Hope, not despair

We should not become obsessed with dwelling on the down side of things. There is an up side. As *The Times* columnist Bernard Levin stated in *If You Want my Opinion*: 'However horrible the world gets, it still retains its lodes of beauty and happiness and art and love and unselfishness and honesty and goodness. It is true that those things make no noise and do not strut about to be seen, unlike the rest (but they do provide peace and solace in a troubled world).'

We must not despair. We must proceed with patience and perseverance, with pertinacity of purpose, and above all with hope and vision. There should be a principled rejection of despair. The long lesson of history has been that beyond every warning of catastrophe there is a distant horizon of hope. In those who undertake to guide us through the wilderness, pessimism is an abdication of responsibility, and we must reject it.

CONCLUSION

The title of this address, 'We are perplexed, but not in despair', is attributable to St Paul (2 Corinthians 4:9). The theme running through the address is that hope will triumph over despair. The spirit in man is unquenchable. In human kind's journey through history the human spirit has conquered worse crises than confront us today. We must have faith in the future. In God's mercy, goodness shall prevail. Like Christian in John Bunyan's memorable masterpiece *The Pilgrim's Progress*, when asked by Evangelist: 'Do you see yonder shining light?', I believe I can answer, 'I think I can.'

15. CONCLUSION

I have referred earlier in this report to the intractable jurisdictional, procedural and administrative problems to which the right of election has given rise. I request that a decision for or against the retention of the right of election be made by the Department without further delay.

Following recent conferences and correspondence with the present Minister for Family and Community Services, Mrs Margaret Woodgate, and the Director-General of the Department, Ms Jacki Byrne, I am brimful with hope that before long decisions will be made in the critical areas to which I have drawn attention in this report.

But I do not wish to magnify difficulties at the expense of the positive achievements of the Court. The Court can look back over the past two years of its administration and operation with justifiable pride. A new model of juvenile justice has been constructed in Queensland. It is a model which, I believe, has gained general public acceptance. The Childrens Court of Queensland is generally in good standing. With the modifications to the present model which I have suggested Queensland could emerge with a juvenile justice system which would be the envy of others. But there is always room for improvement, and there will always be detractors no matter what system is in place. And it should be emphasised that in this sensitive, difficult and important area of juvenile crime no-one is endowed with omniscience, least of all the Magistrates and Judges charged with the onerous duty of presiding over juvenile Courts. Mistakes are made; criticism has to be endured; what is good in the system is often overlooked; there is intolerance to the other point of view; and so on.

There is no panacea for child crime. Its root causes are moral and social, as I said in 'The Moral Dimension II'.

We must have faith in the future. And we must affirm our faith in our youth. As I have remarked elsewhere, the problem is not that there is a large number of children committing a small number of crimes, but rather that there is a small number of children committing a large number of serious crimes—mostly drug driven. These children, if found guilty after due process, need to be restrained, treated, taught and rehabilitated before they are returned to the community, otherwise the process will repeat itself over and over again.

If we treasure the blessings of the inheritance of children, if we regard the youth of the country as a national asset, then it behoves us to turn our errant young from the path of crime by punishing the wrongdoer, warning the unruly, encouraging the faint-hearted, supporting the weak and being patient to all.

We enter the third year of the Court's operation with faith, and in the hope that under Divine Providence the curse of child crime can be brought under reasonable control, if not expunged altogether from our society. There is, I fervently believe, a strengthening awareness that the ultimate solution can only be achieved by a moral renaissance to which we all must make a contribution.

16. ACKNOWLEDGMENTS

I gratefully acknowledge the courtesies extended to me by the Honourable the Attorney-General, Mr Matt Foley, the Honourable the Minister for Family and Community Services, Mrs Margaret Woodgate, the Acting Director-General of the Department of Justice and Attorney-General, Dr Ken Levy, the Director-General of the Department of Family and Community Services, Ms Jacki Byrne, the Honourable the Minister for Police and Corrective Services, Mr Paul Braddy, and the Police Commissioner, Mr J P O'Sullivan.

I wish to acknowledge the major contributions to the success of the Court of the other Childrens Court Judges who have discharged their duties with distinction: his Honour Senior Judge Trafford-Walker in Townsville, his Honour Senior Judge Hanger in Southport, her Honour Judge McMurdo in Brisbane, his Honour Judge White in Cairns and his Honour Judge Nase in Rockhampton.

The Queensland Magistracy, who do the bulk of Childrens Court work, have performed their duties very creditably. Their cooperation with me in order to achieve a coordinated effort throughout the State has been greatly appreciated. The Brisbane Childrens Court Magistrate, Mr Pat Smith, once again deserves special mention. In good and bad times he has been a tower of strength to me personally and also to his colleagues of the Magistracy.

My Associate, Mr Kerry Copley, has borne the brunt of the Court's administration stoically and indeed cheerfully. To him I owe a debt of gratitude.

Mr David Hook, Executive Director of Courts Division, has tempered my intolerance of bureaucratic inertia with sage good sense. More than once he has by sheer persistence broken down my resistance to bureaucratic obfuscation and restored my confidence in the system.

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Deserving of especial thanks is my secretary, Elizabeth Plummer, without whose patience, perseverance, diligence and good nature this report would never have materialised.

I should like to place on record my appreciation of the sterling efforts of the new Crime Statistics Unit headed by Mr Walter Robb. Without the Unit's assistance the statistical tables could not have been completed on time.

Last, but by no means least, I should like to express sincere thanks to the Chief Judge of District Courts, his Honour Judge Shanahan, for his abiding interest in the Court and his welcome advice and encouragement throughout the year.