# Childrens Court of Queensland

## Fifth Annual Report 1997-1998

# CHILDRENS COURT OF QUEENSLAND

Chambers of the President

November 1998

The Honourable Matt Foley MLA
Attorney-General and Minister for Justice 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 Fifth Annual Report of the Childrens Court of Queensland for 1997-98.

F. McGuire

Judge McGuire
President of the Childrens Court of Queensland

Childrens Court, 30-40 Quay Sreet, Brisbane, Q, 4000.
Telephone: (07) 3365 9841 Facsimile: (07) 3365 9890

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# JUVENILE CRIME: TRENDS IN 1997-98

- 7,404 juveniles had their cases disposed in all Queensland courts in 1997–98, an increase of 891 (13.7%) over 1996–97.
- 24,652 charges against juveniles were disposed in all Queensland courts in1997–98, an increase of 4,538 (22.6%) over last year.
- 13,579 police cautions were administered to juveniles for offences committed in 1997-98, a decrease of 1,524 (10.1%).
- In 1997–98, the Magistrates Court disposed 86.2 per cent of juvenile defendants, the Childrens Court of Queensland 1.8 per cent, the District Court 11.8 per cent and the Supreme Court 0.1 per cent.
- There was a 32.8 per cent reduction from 1996–97 in the number of defendants before the Childrens Court of Queensland (from 201 to 135).
- The proportion of boys to girls before the courts in 1997–98 was 84.5 per cent boys to 15.5 per cent girls.
- The worst offending age group was 16 year olds (2,745) and 15 year olds (1,885). Together they made up 62.5 percent of defendants.
- Twenty-three children aged ten years appeared before the court in 1997–98.
- Penalties imposed: 5.0 per cent of offenders received a detention order; 3.2 per cent received a suspended detention order (referred to as an immediate release order); and 39.1 per cent received community based orders (probation or community service); no penalty or reprimand was the outcome for 22.1 per cent.
- The most common offence types in 1997–98 were breaking, entering and stealing (including car theft), 14,315 charges compared with 11,245 in the previous year, an increase of 27.3 per cent.
- In 1997–98, 1,177 drug charges against juveniles were disposed in all courts – an increase of 243 (26.0%) from 1996–97. 2,371 cautions were administered by police for drug offences – a decrease of 162 (6.4%) from 1996–97.
- 271 robbery charges were disposed in 1997–98 compared with 248 in 1996–97 – an increase of 9.3 per cent.
- 8 homicide charges against juvenile (five *murder* and three *attempted murder*) were disposed in 1997–98 compared with 9 in 1996–97.

[For full details refer to *Statistical tables* pp. 98-154]

# INTRODUCTION

In their original conception juvenile courts were designed to rehabilitate and reform delinquent juveniles rather than punish them.

The first juvenile court was created in America in Chicago Illinois in 1899. It was founded on the assumption that the State as parens patriae would act on behalf of youths and provide them with treatment to ensure that they overcame their youthful mistakes and adopted acceptable social values. The overriding rationale for the juvenile court was rehabilitation and the paramount question was the youth's amenability to treatment.

Other countries followed the Illinois example and established juvenile courts of one form or another.

Until the 60s in the United States and perhaps the 80s in Australia the system was driven by judicial efforts to protect juveniles. Recent changes are being driven by legislative efforts to protect society from offending juveniles.

As we approach the millennium the image of juvenile offenders has changed. There is a significant number of criminally inclined children who can no longer be viewed as misguided children who simply need to be pointed towards the straight and narrow path. They fall into the incorrigible category and in their own interests and the interests of society must be restrained.

## Divided opinion

On the one hand, there is a sector of society (often referred to as conservatives) who are frustrated with the perceived kid glove treatment of serious offenders. On the other hand, there is a sector (often referred to as reformers) who still believe in the juvenile justice system based on rehabilitation.

Thus attempts to change the prevailing law and practice need to take into account the potential resistance - tug-of-war, if you like - of the protagonists of the two schools of thought.

## The role of the Courts

There has been of late a spate of much publicised offending by youngsters. I need only name two types of prevalent offences: housebreaking and car-stealing. And regrettably there have been some instances of sensationally violent offences committed by the very young - at times against the very elderly.

The Courts see the end result of criminal activity - the committed crime - and must deal with it as best they can. The causes of juvenile crime are varied and complex. There are often socio-economic factors involved.

# INTRODUCTION

**Legislative re-direction**

The Childrens Court Act 1992 and its companion Act the Juvenile Justice Act 1992 were proclaimed on 1 September 1993. This legislation replaced the predominantly "welfare" system of juvenile justice with the "due process" system. Nevertheless the legislation places emphasis on the rehabilitation of offending children and their reintegration into society.

**Looking back**

The 1st September 1998 marked five years of the Court's operation. It is time to look back over those five years to see what, if anything, has been achieved. I also wish to refer to the issues which loom large in any discussion of the Juvenile Justice system. In the process there will inevitably be some recapitulation of what has appeared in the four previous reports.

On taking up the position of President of the Childrens Court of Queensland I stated that I 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.

**The horse has bolted**

Experience in the Courts over many years 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 appearance 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.

Interestingly, some five years after I made these observations (First Annual Report 1993-4, pp. 5 & 6) an English Government White Paper (November 1997, CM 3809) on the proposed reform of the laws governing young offenders adopted the sense of what I said:

# INTRODUCTION

> "One of the depressing things about visiting adult prisons is seeing and hearing how many inmates started offending as children. By nipping youth crime in the bud we will be preventing today's young offenders graduating into tomorrow's career criminals."

After five years of mauling in the arena I emerge with head bloodied but unbowed: I stand by that view.

Despite what one hears from certain quarters, juvenile crime, with some yearly fluctuations for certain types of offending, is, on the whole, in the ascendant.

## Statistics

The latest figures on juvenile crime in Queensland show generally an upward trend. In 1997-98

- 7,404 juveniles had their cases disposed of in all Queensland Courts, up 13.7% on last year.
- 24,652 charges against juveniles were disposed of, up 22.6% on last year.

In my reference to statistics I am not unmindful of the fact that official statistics can be ambiguous and open to manipulation. Nevertheless, there can be little doubt that crime is a worsening social plague. Recorded crime is merely the tip of the iceberg; the real rate is much higher.

We search for answers to the problem of juvenile crime and juvenile delinquency. Despite the best efforts of governments, the welfare and social system and juvenile courts juvenile crime persists. Everyone agrees that prevention is better than cure. But it has to be faced that the present elaborate paraphernalia for dealing with juvenile delinquency and juvenile crime - the welfare system, social workers, the police, the courts - has not noticeably succeeded.

## Public concern

I am convinced that there is a high level of public concern over the failure of the established system to eliminate juvenile crime, or at least bring it under reasonable control. There are two aspects to this concern. On the one hand, there is concern for the destructive nature of juvenile crime both to the community and to the offender. On the other hand, there is deep concern that the prevalence of juvenile crime portends a crumbling society, a society in danger of disintegration.

It is generally recognised - certainly by the sensible, silent majority - that pervasive juvenile crime is symptomatic of a decadent society, a society cracking at its foundations.

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## INTRODUCTION

Crime does not exist in a social vacuum. It is often correlated to social disadvantage and poverty. People living in deprived circumstances are at greater risk of being perpetrators - and victims - of crime.

### Key factors

The key factors related to youth criminality are: the dysfunctional family - poor parenting and lack of supervision; poor discipline in the family and the school; associating with delinquent friends (peer pressure); unemployment and resultant boredom; school truancy and expulsion; criminal parents and siblings; drug addiction. But the single most important factor in explaining criminality is the quality of a child's homelife.

My experience leads me to the conclusion that in about seven out of ten cases the primary cause of a child's criminal conduct is family breakdown and associated lack of discipline.

# REFORMS IN BRITAIN AND CANADA: a model to follow

In Britain juvenile crime has reached such alarming proportions that the Blair Labor Government reacting to public opinion decided to act.

The English Audit Commission's report (20 November 1996) entitled "Misspent Youth" created a stir in political and justice administration circles. I understand that the Audit Commission is a respected, prestigious body which carries clout in the corridors of power.

Of an estimated seven million offences a year committed by 10 to 17 year olds only 19% are recorded by the police; 5% are cleared up; 3% lead to an arrest; 1.8% to a caution and an infinitesimal 0.6% result in punishment by the courts.

## A 'crime timebomb'

These shocking statistics are revealed by the Audit Commission, which monitors spending for the government. It calls for a radical overhaul of the whole system to avert what it describes as a "crime timebomb".

The battle against juvenile crime costs police, social services and the courts nearly £1 billion a year. The crimes cost victims a further £3 billion.

In November 1997 Mr Jack Straw, the Home Secretary, presented to Parliament a White Paper entitled "No more excuses - a new approach to tackling youth crime in England and Wales".

## Proposed reforms

The White Paper was the precursor to the Crime and Disorder Bill 1997 which was enacted by the English Parliament on 22 June 1998. It may be of interest to quote certain desultory extracts from the White Paper to demonstrate where the emphasis is placed in the proposed reforms:

1. The excuse culture has developed within the youth culture system. It excuses itself for its inefficiency, and too often excuses the young offenders by implying they cannot help their behaviour because of social circumstances. The system allows them to go on wrecking their own lives as well as disrupting their families and communities.
2. The youth justice system is currently weighted too heavily towards dealing with young offenders whose behaviour has been allowed to escalate out of control rather than intervening early to prevent and reduce crime and anti-social behaviour.
3. If community intervention does not work and for young offenders found guilty of serious crime, custodial sentences are necessary to protect the public. Public protection is best served

if punishment is combined with rehabilitation so that young offenders are equipped to lead law-abiding and useful lives once they are released from custody.

4. The Government believes that there has been confusion about the purpose of the youth justice system and the principles that should govern the way in which young people are dealt with by youth justice agencies. Concerns about the welfare of the young person have too often been seen as in conflict with the aims of protecting the public, punishing offenders and preventing offending. This confusion creates real practical difficulties for practitioners and has contributed to the loss of public confidence in the youth justice system.

5. A simplistic, deterministic view of the causes of crime is not supported by the facts and risks both insulting those in deprived circumstances who do not commit offences and making excuses for those who do.

## Public protection first

As recently as 12 May 1998 Ann McLellan the Canadian Minister of Justice and Attorney-General released the Government's proposed strategy for youth justice renewal. It is the Government's intention to pass new legislation which will give effect to the recommendations made in a recent report by the House of Commons Standing Committee on Youth Crime.

As with the current English legislation, the emphasis will be on prevention and public protection. The Minister stated:

> "Canadians want a youth justice system that protects society and that helps youth avoid crime and turn their lives around if they become involved in crime."

Key proposals include a new youth Criminal Justice Act that will put public protection first, and that will command respect, foster values such as accountability and responsibility, and make it clear that criminal behaviour will lead to meaningful consequences.

## Measures in the Crime and Disorder Bill

With a view to implementing the policy aims enunciated in the English White Paper the Government has incorporated, inter alia, the following measures in the Crime and Disorder Bill:

1. The abolition of the doli incapax rule which presumes that children under 14 do not know the difference between right and wrong.

2. A tightening of caution procedures.

3. The insistence on greater parental responsibility by empowering courts to make parenting orders which will require

parents to attend parenting classes if their child aged 10 to 17 is sentenced for a crime. The parenting order will last for a maximum of three months and would require parents to attend counselling and guidance classes at least once a week. Courts will also be able to order that their children are at home between certain hours or are escorted to school. (School escorts are designed to halt the high truancy rate). The consent of parents will not be needed for the order to be imposed and a breach will make a parent liable of a fine of up to £3,000.

4. Local Councils are to be given the power to create curfew areas that bar children from parts of neighbourhoods at specific times.
5. Courts will be empowered to make child safety orders in relation to children under 10. The Local Authority can apply for the order where it fears a child is at risk of involvement in crime because, for example, he or she is out late at night or failing to attend school.
6. Courts will be empowered in appropriate cases to make: (a) detention and training orders; and (b) drug treatment and testing orders.
7. Procedural changes including engaging offenders and families and giving greater voice to victims.

The Crime and Disorder Bill 1997 (with some minor amendments) was passed by the English Parliament on 22 June 1998 to become the Crime and Disorder Act 1998.

It is not possible to deal with each of these new policy directions in detail. In the course of this report I shall content myself with elaborating on the doli incapax rule, cautions, the correlation between drug addiction and crime and sentencing.

## Queensland legislators should take note

I believe that the more stringent measures being taken in England, Canada and elsewhere to curb juvenile crime are a realistic approach to a very practical and pressing problem. Queensland legislators would do well to study these measures with a view to adopting them, or at least some of them. After all, society has not only the right but the duty to protect itself against those who seriously interfere with the orderly and peaceable existence of law-abiding citizens. Unfortunately police and courts are necessary expedients.

On the question of prevention, it has to be realised that the courts see the end result of criminal activity - the committed crime - and must deal with it as best they can. At the time a youthful offender arrives at the door of the court charged with an offence prevention has obviously failed. Talking about prevention at that stage is like crying over spilt milk. It should be remembered that courts cannot make people good or more responsible to one another; nor can governments. The Archbishop of Canterbury Dr Carey in a 1995 article in the British Police Journal stated:

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

### Strategies – short and long term

In my opinion, to combat juvenile crime there should 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. The short-term strategy requires an acceptance of the reality that crime is pervasive. 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. Government budgets must make provision to alleviate the plight of the poor, the disadvantaged and the unemployed. But closely related to crime prevention is a reassertion of family and community values with the good influences they bring to bear on the life of the nation.

### Governments and the moral issue

There is, I think, a belated recognition that governments cannot continue to keep the moral issue at arms length if we are to have good government. 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 moral renewal must find its well springs within the community itself, governments can point the way and perhaps facilitate the process with financial assistance to help alleviate the distress of the poor and the needy, but governments cannot imbue the family and the community with the spirit which is of the soul.

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# THE AUGUST AMENDMENTS

The amendments to the Juvenile Justice Act 1992 contained in the Juvenile Justice Legislation Amendment Act 1996 have enhanced the juvenile justice system. The changes to the legislation were necessary and, in their practical application, have proved salutary. I mention here some of the more significant changes to the law.

The August amendments expanded sentencing options.

It is now possible to order both probation and community service for a single offence. It is also possible to order up to six months detention with follow up probation for one year for a single offence. The maximum number of hours of community service a court can order has been increased so that for 13 to 15 year-olds a Court can order up to 100 hours and for 15 to 17 year- olds up to 200 hours.

In certain defined circumstances cautions can be disclosed to the sentencing Court if the child re-offends as an adult, as can offences for which a conviction was not ordered to be recorded.

A recalcitrant parent can be ordered to attend a court proceeding involving his or her child under penalty of a fine for disobedience to the order.

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

In certain defined circumstances a parent can be ordered to pay compensation to the victim of a personal or property offence of which his or her child has been found guilty.

There can now be publication of Magistrates Childrens Court proceedings subject to no identifying matter being published.

The power of arrest has been enlarged to cover any "serious" offence.

Community conferencing has been introduced as a Court diversionary process additional to cautioning.

Most of these measures accord wholly or substantially with recommendations made by me in the annual reports.

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# THE RIGHT OF ELECTION: flawed and discredited

## An 'optional' court

I have been hyper-critical of the right of election from the first day that the Childrens Court commenced its operation. So far the Parliament has been impervious to my pleas to abolish the right of election. The reasons for its abolition are set out in considerable detail in every annual report. In the last annual report I referred to the court as "an optional court" without precedent anywhere in the civilised world and made a further vehement plea for the abolition of the flawed and discredited principle enshrined in the right of election. It is a statistical fact that the Childrens Court of Queensland presently deals with only one-tenth of all serious offences committed to higher courts. This, on any reckoning, is an alarming statistic!

## A subversive element

The problem has been compounded by the attitude adopted by a small subversive element within the bureaucracy who took advantage of the absurd right of election rule to divert cases properly the responsibility of the new court away from it to the District Court for the ostensible reason that the new court was setting standards and imposing sentences which were considered by this small but influential element to be "too hard". I utterly refute any such suggestion.

## Side-stepping the Court

Side-stepping the court has also been put on another basis, equally alarming: children must have choices, it is said. I would remind the advocates of this theory that the District Court and the Childrens Court of Queensland administer the same Act: the Juvenile Justice Act 1992. The procedures and sentencing powers laid down in the Act apply equally to all courts. The only difference between the District Court and the Childrens Court of Queensland is that the Childrens Court of Queensland is a specialist court. The other is not; it is a court of general jurisdiction. Indeed, the raison d'etre for the establishment of the Childrens Court of Queensland was that it would act as a specialist court presided over by specially selected specialist judges.

I regard the position as wholly unsatisfactory. What has to be emphasised is that I, as President of the Childrens Court of Queensland, have no control whatever (administrative or otherwise) over what happens to most indictable offences committed to higher courts.

## Administrative imbroglio

Unless all juvenile crime dealt with in higher courts is brought under one control the administrative imbroglio to which I have repeatedly drawn attention will continue to blight the proper administration of the juvenile justice system in Queensland.

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## THE RIGHT OF ELECTION: flawed and discredited

If the task of controlling juvenile crime is to be tackled in a proper and effective manner there has to be a person put in charge of the whole operation, and not, as now, of a small fraction of the operation. The public perception is that the Childrens Court of Queensland deals with all indictable offences committed by magistrates to higher courts. It would, I suspect, come as a great surprise to the trusting public to learn that in fact the new Court deals with a minority of such offences and that the great majority is spread over a large amorphous system beyond the control of the head of the Childrens Court of Queensland.

### A grave deception

I think the time is long overdue for the removal of this grave misapprehension, nay, deception (albeit unintended).

The proper administration of juvenile justice will suffer, and suffer irretrievably, if the right of election continues unabated.

### Perplexed

I am completely perplexed by the inaction of governments, past and present, to abolish the right of election. The argument that is sometimes put forward that there is a resource implication in the abolition of the right of election is utter and complete nonsense. The volume of juvenile cases in higher courts remains constant no matter what court they are dealt in. If the Childrens Court of Queensland is to be a specialist court, as it is trumpeted to be, then there can be no reason in logic or commonsense why all matters within the court's jurisdiction are not channelled to it.

As head of the Childrens Court of Queensland I absolutely refuse to accept responsibility for something over which I have no control. I trust steps will be taken to remedy this most unsatisfactory situation without further delay.

### Clear choices

The choices are clear: empower the Court or abolish it.

(For a detailed discussion on the Right of Election see First, Second, Third and Fourth Annual Reports).

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# THE AGE OF CRIMINAL RESPONSIBILITY (The Doli Incapax rule)

If you have read what I had to say on this topic in my various reports to Parliament in the past four years you would have gathered that I am not enamoured of the doli incapax (incapable of crime) rule. I here set out the views I expressed long before the Crime and Disorder Bill saw the light of day.

Simply put, the doli incapax rule is that a child aged between 10 and 15 years (14 since 1 July 1997) is presumed not to have the capacity to commit a crime but the presumption can be rebutted by the prosecution proving beyond a reasonable doubt that at the time the child did the act constituting the crime he knew that what he was doing was seriously wrong as opposed to being merely naughty or mischievous.

Section 29 of the Criminal Code which deals with the age of criminal responsibility lay quiescent for many years until it was suddenly enlivened by the bold decision of the House of Lords in C (a minor) v. The Director of Public Prosecutions (1995) 2 WLR 383.

The Divisional Court stated the following case for the consideration of the House of Lords:

> "Whether there continues to be a presumption that a child between the ages of 10 and 14 is *doli incapax* and, if so, whether that presumption can only be rebutted by clear positive evidence that he knew that his act was seriously wrong, such evidence not consisting merely in the evidence of the acts amounting to the offence itself."

The House of Lords answered the question "Yes". Lord Lowry (with whom Lord Jauncey, Lord Bridge, Lord Ackner and Lord Browne-Wilkinson agreed) was of the view that the imperfections which had been attributed to the doctrine of *doli incapax* could not provide justification for saying the presumption was no longer part of the common law of England. To sweep it away under the doubtful auspices of judicial legislation was impracticable.

## Criticisms of the rule

The rule has come under severe criticism by academic writers and certain members of the judiciary. Laws J. who sat on the Divisional Court in the C case described the rule as "unreal and contrary to common sense". Professor Glanville Williams in an article in (1954) Crim.L.R. 493 said:

> "Thus at the present day the `knowledge of wrong' test stands in the way not of punishment, but of educational treatment. It saves the child not from prison, transportation, or the gallows, but from the probation officer, the foster-parent, or the approved school. The paradoxical result is that, the more

> warped the child's moral standards, the safer he is from the correctional treatment of the criminal law. It is perhaps just possible to argue that the test should now be regarded as even legally obsolete.
>
> Some magistrates interpret this rule so strictly that if the prosecution gives no evidence of this knowledge, they find that there is no case to answer. Now, if the police have not interrogated the child before the trial, to obtain an admission from him, they may be wholly without evidence of the child's knowledge. As a matter of policy it is highly desirable that a child who has committed what, for an adult, would be a crime, should be put to answer, even if he is afterwards acquitted on the ground that he did not know his act to be wrong."

Even the members of the House of Lords who held that the doli incapax rule still constituted part of the common law of England felt ill at ease with their decision. For example, Lord Lowry said at p.403:

> "But the judges in the court below have achieved their object, at least in part, by drawing renewed attention to serious shortcomings in an important area of our criminal law. Forty years have passed since the article by Professor Glanville Williams and the years between have witnessed many criticisms and suggested remedies, but no vigorous or reasoned defence of the presumption. I believe that the time has come to examine further a doctrine which appears to have been inconsistently applied and which is certainly capable of producing inconsistent results, according to the way in which courts treat the presumption and depending on the evidence to rebut it which is available in each case."

In his speech Lord Bridge said at p.385:

> "In today's social conditions the operation of the presumption that children between the ages of 10 and 14 are doli incapax may give rise to anomalies or even absurdities. But how best to remedy this state of affairs can, in my view, only be considered in the context of wider issues of social policy respecting the treatment of delinquency in this age group. These issues are politically controversial and this is pre-eminently an area of the law in which Parliament alone is competent to determine the direction which any reform of the law should take."

And in his speech Lord Jauncey made observations about the desirability of retaining the presumption in its present form. He said at p.385:

> "It is, no doubt, undesirable that a young person who commits an offence and who genuinely does not know that he is doing something seriously wrong should suffer the rigours of the criminal law. But is a blanket presumption such as exists in England and Wales at the moment the best way to achieve protection for such a person? There must be many youthful offenders under the age of 14 who are very well aware that what they are doing is seriously wrong. Indeed it is almost an affront to common sense to presume that a boy of 12 or 13 who steals a high powered motor car, damages other cars while driving it, knocks down a uniformed police officer and then runs away when stopped is unaware that he is doing wrong.
>
> The presumption has been subject to weighty criticism over many years, by committees, by academic writers and by the courts as explained in detail in the speech of my noble and learned friend. I add my voice to those critics and express the hope that Parliament may once again look at the presumption, perhaps as part of a larger review of the appropriate methods in the modern society of dealing with youthful offenders."

Since the decision in C was handed down on 16 March 1995, the English Divisional Court has had cause to consider the doli incapax rule on four separate occasions: see CC (a minor) v. DPP (1996) 1 Cr.App.R. 375; L (a minor) v. DPP and Ors (1996) 2 Cr.App.R. 501; A v. DPP (1977) 1 Cr.App.R. 27; DPP v. K & B (1997) 1 Cr.App.R. 37. In the first of those cases decided one month after C the Divisional Court slavishly followed C, but in the other three cases decided in quick succession about a year later the variously composed Divisional Courts with deft ingenuity skirted around C and circumvented the doli incapax rule.

And in a recently decided case the Queensland Court of Appeal took a decidedly robust view of the practical application of the doli incapax rule. The Court held that evidence of surrounding circumstances including conduct closely associated with the act constituting the offence may be considered for the purpose of proving capacity. The Court also held that the Crown is permitted to negative the presumption by evidence of previous dealings by the accused with the police and also evidence of previous convictions if probative of capacity even though such evidence would not answer the description of similar fact evidence. See R v. F, A.G. reference (unreported, CA No. 20 of 1998, 19 May 1998).

As we have seen, there are strong arguments that the presumption should be swept away, or alternatively, that in recognition of its frailties the courts should by judicial intervention effect a change by laying it down that the prosecution's initial burden of showing a prima facie case against a child should be the same as if the accused were an adult but that the child should be able by evidence to raise as a defence the issue that he was doli incapax. It would then be for the prosecution to prove to the criminal standard that he was doli incapax.

## Connolly recommendation rejected

It is of interest to observe that the O'Regan Criminal Code Review Committee in its interim report (March 1991) made no recommendation for changes to s.29. However, the Connolly Criminal Code Advisory Working Group in their report (July 1996) recommended that s.29 be amended to read:

> "29. Immature age
>
> (1) A person under the age of ten years is not criminally responsible for any act of omission.
>
> (2) A person under the age of 14 years is criminally responsible for an act or omission, unless it is proved by the accused person that at the time of doing the act or making the omission he did not have the capacity to know that he ought not do the act or make the omission."

However, in the Criminal Law Amendment Act 1997 the Connolly recommendation was not adopted. The only change made to the existing s.29 was to lower the age of criminal responsibility from 15 to 14 years.

In 1990 the Review of Commonwealth Law Committee recommended that a child under the age of 14 years should not be guilty of an offence if he is unaware that what he did was an offence or seriously wrong, but that the evidential onus of the absence of awareness should rest on the child defendant.

My first preference is that the rule be swept away altogether, but if a compromise is thought more appropriate, with respect, I favour the wording of the Commonwealth recommendation over the Queensland recommendation referred to above. The Commonwealth wording is simpler and more readily understood by a cross-section of the community comprised in a jury.

## THE AGE OF CRIMINAL RESPONSIBILITY (The Doli Incapax rule)

The plain fact is, as the law now stands, (subject to the gloss put on it by the recent decision of the Court of Appeal in R v. F supra) a child aged under 15 (now 14) can steal cars and house break with impunity unless the prosecution as part of its case proves beyond a reasonable doubt that the child knew at the time he did the acts constituting the offence that what he did was seriously wrong as opposed to being merely naughty or mischievous. As I apprehend a series of cases on the subject culminating with C (a minor) v. D.P.P. (supra) a court is not entitled to draw an inference of serious wrongdoing from the objective facts alone. The result of this rule is that children criminally inclined astutely advised would refuse to be interviewed lest they fall into the trap of admitting that they knew that what they did was seriously wrong.

Since the decision in C (a minor) v. D.P.P. (supra), there has been an increasing tendency to raise the issue of capacity in the Childrens Court of Queensland.

### Undesirable consequences of the rule

In R v. B an arson case decided by me on 6 December 1996, I held that the Crown had failed to prove that the child had the requisite capacity at the relevant time and discharged him.

One of the undesirable consequences of this decision is that although the child has admitted that he lit the fire he will leave the court with both impunity and immunity: impunity in the sense that the court cannot punish the child, and immunity in the sense that no restraining hand can be placed on him. The court cannot order restraint, treatment, supervision or counselling. The child is left to go his own way as if nothing had happened. This cannot be right.

### Cruel irony

The cruel irony of the doli incapax rule is that the more warped or underdeveloped a child's moral standards are the safer he is from the correctional treatment of the criminal law. In my opinion, the adjudicating court which discharges a child for want of capacity under s.29 of the Criminal Code should, in appropriate circumstances, be empowered to make an order placing the child under the supervision of the Department of Families, Youth and Community Care for a stipulated period. If the child is found to be suffering from a serious psychiatric condition the relevant provisions of the Mental Health Act should be invoked. And I so recommended in the Third Annual Report.

### My own recommendation

I also recommended that the doli incapax rule be abolished by the repeal of s.29 of the Criminal Code. Alternatively, I recommended that s.29 be repealed and replaced with:

A child under the age of 14 is not guilty of a criminal offence if he is unaware that what he did was an offence or seriously wrong, but the evidential onus of proving the absence of awareness rests on the person charged.

Neither recommendation has been adopted.

## The English reaction

I now turn to the Crime and Disorder Bill 1997 (Eng.) which was enacted on 22 June 1998. Clause 27 of the Bill provides:

> "The rebuttable presumption of criminal law that a child aged 10 or over is incapable of committing an offence is hereby abolished."

In the House of Lords debate on the Bill on 12 February 1998 Lord Goodhart moved to amend clause 27 to read as follows:

> "Where a child aged 10 or over is accused of an offence, it shall be a defence for him to show on the balance of probabilities that he did not know that his action was seriously wrong."

Speaking in support of the amendment Lord Goodhart said:

> "I think the complete abolition of the doli incapax rule is wholly inappropriate ... A better solution is not to abolish the presumption but in effect reverse it."

## Parliamentary debate

Lord Williams of Mostyn in opposing the proposed amendment said on behalf of the Government:

> "Everyone who has spoken this evening agrees that the ancient presumption of doli incapax is wholly out of date. It is historically based on an attempt to mitigate the savagery and barbarism of the criminal law. As the noble and learned Lord, Lord Ackner, indicated in his citation, that was intended to protect children from the gallows, from transportation and from gross punishment.
>
> Here we are saying that the Crown Prosecution Service has a duty to decide, in conjunction with the police, whether or not a caution is sufficient or whether or not the sanction of the criminal law needs to be invoked. If it needs to be invoked, the presumption of doli incapax has gone. We then need to demonstrate that the child has the appropriate mens rea and that the act itself was committed ...
>
> I know that principled people can honourably differ in their view. I simply add that we consulted widely. We put forward our consultation document Tackling Youth Crime. Of the 180 who responded on this point, 111 felt that the presumption

> should be abolished; 48 felt that it should be reversed, and 21 felt that it should be retained in its present form. Therefore, we have not reached our conclusion without very careful and anxious thought."

And in the adjourned debate on 19 March 1998 Lord Williams again stated that there seemed to be no disagreement that the presumption was in need of reform: "Therefore, the question seems to be: Should it be reversed or should it be abolished?"

He went on to say:

> "What one wants here is early intervention, not early savage punishment, but early assistance. It does a child no favours to let it drift on without knowing, especially in a modern sophisticated society, that if it commits criminal acts there will be a sanction. It may well be a sanction by way of intervention and rehabilitation, not punishment, but that a sanction is required upon these occasions is beyond doubt."

When Lord Goodhart's amendment was put to the vote in the Lords it was defeated 105-32.

In the House of Commons debate on doli incapax on 8 April 1998 there was again general agreement that the rule in its present form was out of date and defied common sense. I refer particularly to the strong remarks of Sir Nicholas Lyell, the Attorney-General in the former Conservative Government. He said:

> "I strongly support the abolition of doli incapax ... We should probably get rid of it altogether and not seek to include alternative presumptions or any undue complexity. It never featured until recently, and it has begun to be used as a defence trick sometimes at the instance of the young offender, and sometimes at the instance of lawyers. It simply holds up cases - while a teacher or someone who knows the youth in question is brought to court to give evidence that they plainly understand. It is outdated, and should go."

## Follow by example

As we have seen, the present English Government has responded to the trenchant criticisms of the doli incapax rule by introducing legislation to abolish the rule. Now that England has acted surely Queensland and the other Australian States can follow by example. The sooner the better.

## SENTENCING: the value of guidelines

In the sensitive and difficult area of juvenile crime, I find the question of appropriate sentences most difficult to determine. There are so many considerations including the effect on the public mind. There are so many pitfalls. The question of sentences is always difficult.

The public generally only hear about the "worst case" situations and are often disturbed by the apparently light sentences imposed. The plain fact is that about 95 per cent of cases proceed through the criminal justice system normally, that is to say within acceptable public perception parameters.

### An earnest plea

I make an earnest plea for informed debate on the vexed question of juvenile crime, especially in its punitive aspects. As a precondition to informed debate the public must not be whipped into a state of hysteria. What is required, especially from the Courts, is a measured response which will have long-term beneficial effects and not short-term hysterical responses. Occasionally, Judges do err in their judgment. They are not infallible. As Jacob Bronowski said in the Ascent of Man "Every judgment stands on the edge of error."

The Courts, of course, are not immune from criticism; they are not above reproach. Lord Atkin, a respected Judge, put it well over 50 years ago when he said: "The path of criticism is a public way: the wrong-headed are permitted to err therein. ... Justice is not a cloistered virtue and must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men."

I expect the debate on juvenile crime, and crime generally, will go on unabated. I think it is a good thing that it should. However, to be ill-informed armchair critics, I trust I will be pardoned if I repeat and adopt Oliver Cromwell's exhortation: "I beseech you, in the bowels of Christ, think it possible you may be mistaken."

### Truth in sentencing

In recent times the public have been saturated with the implorations of "truth in sentencing" proponents. There is a significant body of opinion which is critical of present sentencing patterns for certain types of prevalent offending such as burglary and car stealing. The view is expressed that the public require protection from persistent offenders. If that means long-term incarceration, so be it; at least they are out of the way. And if a hardening of sentencing attitude also acts as a deterrent to others, that is an added bonus. Not everyone, of course, agrees with this point of view.

As will be seen from what follows Governments are reacting to public opinion and legislating for stiffer sentences including in some cases mandatory sentences.

## Detention and Training orders (England)

The detailed provisions of Detention and Training orders are contained in clauses 60-65 of the Crime and Disorder Bill 1997 (Eng.). Suffice to say that the rationale for enlarging the possibilities of detention orders rather than community based orders is a belated recognition that public protection against serious and persistent juvenile offenders has in the past in practice been a secondary consideration only; the primary consideration generally has been the welfare of the child with an emphasis on rehabilitation. Regrettably, experience in recent times has shown beyond doubt that the long-suffering public are clamouring for protection against serious and persistent offenders. For such offenders the only publicly acceptable and effective sentence is that the child be placed under restraint for a specified period both in his own interest and in the public interest.

## Public clamouring for protection

The justification for this hardening of sentencing attitude by the government is explained by Lord Williams when debating the relevant clauses of the Bill in the House of Lords. He said:

> "I agree we need to steer young people away from crime if we can. The melancholy truth is that for some children, a relatively small number, a degree of positive constructive custody has to be provided but only if we have discharged our community obligations to nip offending in the bud early and not simply allow the system to be abused by delay, compounded by inappropriate penalties, so that although the child is not actually encouraged to continue to be a criminal he is not assisted to stop and sees no constructive purpose in stopping.
>
> We believe that custodial sentences should not be regarded as an end in themselves but that they are sometimes needed to protect the public by removing the young offender ...
>
> Quite often in the past young offenders have been sentenced to custody at too late a point for it to be of assistance to them. If one leaves custody too late, it does no service to the offender but simply increases the likelihood of further offending ...
>
> It is a sad proposition but there are circumstances when it is the only adequate remedy to protect the public from serious harm. That being so, I would suggest, with great respect, that there is another moral and social obligation that any

> government have, namely to protect the public so far as is consistent with decent progressive regimes for those who have to be incarcerated.
>
> No one wants to see a child incarcerated. If all were well, all came from good families, and all had the opportunities we in the House have had, there would be no need for custody. But this is not the world in which we presently live."

For the present, detention and training orders apply to over 12 year olds. However there is provision in the Bill for the Secretary of State to extend the order to include under 12-year-olds "if experience demonstrates that that is required to assist with a positive constructive regime for the offender, even of that young age, or for public protection".

However, before imposing a detention and training order on an offender the court would have to be satisfied of three things: that the offending is serious enough to justify the use of custody under the tests of the Criminal Justice Act 1991; that the offending is persistent; and additionally that only a custodial sentence is adequate to protect the public from further offending by him.

Lord Williams concluded his remarks by saying:

> "These are not welcome responses to concerns that I recognise as sincerely held and legitimate. However, that is the government policy. I believe it is a soundly based policy which should prove useful in assisting very young people and protecting the public."

## Rationale for mandatory sentences

Recently, the former Conservative Government in Britain introduced legislation to compel Courts to pass minimum sentences of imprisonment on, inter alia, thrice-convicted home burglars. The measure is contained in the Crime (Sentences) Bill 1996.

### Britain

The Government's position was put by the Lord Chancellor, Lord Mackay. The reason for the Government's change of policy, he said, "was the realisation of the extent to which actual crime results from persistent offending. We are not free to ignore public opinion. The Government of the day must take careful note of public expectations and concerns in framing their policies because the structure of law and order in a democratic society rests on broad consent of the population to the way their safety and rights are safeguarded."

Lord Irvine, who succeeded Lord Mackay as Lord Chancellor, said: "Almost every aspect of the administration of justice is politically controversial these days. Even though sentencing is part of the administration of justice, it is not the unique province of the Judiciary: Parliament is fully entitled to deal with it by way of legislation."

## Western Australia

By the Criminal Code Amendment Act (No 2) 1996 (W.A.) it was enacted that an offender convicted for the third time of a home burglary must suffer a mandatory minimum sentence of 12 months' imprisonment if an adult and 12 months' detention if a juvenile.

## Northern Territory

The Sentencing Amendment Act (No 2) 1996 (N.T.) requires a Court to impose compulsory imprisonment on an adult offender found guilty of a property offence of not less than 14 days. Property offenders found guilty for a second time are to be imprisoned for not less than 90 days, and property offenders found guilty for the third time are to be imprisoned for not less than 12 months. In addition to the penalty of imprisonment, the Court may make a punitive work order in certain circumstances.

And under the Juvenile Justice Amendment Act (No 2) 1996 (N.T. ) a juvenile who has attained the age of 15 years and who has been found guilty of a property offence once or more before shall be detained for not less than 28 days. The court may also make a punitive work order in respect of a juvenile property offender.

## An emotive issue

Whether mandatory sentences are a good or a bad thing has been hotly debated. It has become a very emotive issue. I have previously expressed the view that mandatory sentences are, on the whole, undesirable. In the Fourth Annual Report I stated:

> "The obvious criticisms against the Parliament fixing minimum sentences of imprisonment or detention are that it deprives the Court of flexibility in sentencing, could result in fewer pleas of guilty, could work injustices in hard cases, and would inevitably increase the prison population.

On the one hand, the politicians maintain that it is the rightful role of the duly elected Parliament, representative of the people, to reflect community concerns about sentencing attitudes which should be adopted for certain types of offending. On the other hand, the Courts have traditionally adopted the role of determining the appropriate level of sentencing or in fixing the tariff, as it is called, for pervasive crime after dispassionately taking into account all relevant factors, including the prevalence of a particular crime, and public concerns about it. ...

## Force of public opinion

Courts ignore or treat as irrelevant the force of popular sentiment at their peril. It is my belief that the courts have not paid sufficient regard to the force of public opinion when fixing sentencing tariffs. A consequence has been that there has been a perceptible loss of public confidence in the criminal justice system. In Queensland, the tariffs are, for all practical purposes, ultimately set by the Court of Appeal. This, I think, is not understood by the public.

As Lord Mackay said 'We are not free to ignore public opinion'. Courts must have regard to genuine public expectations and concerns, otherwise they will fail to maintain confidence in the criminal justice system.

In my opinion, it is precisely this failure of the Courts to have sufficient regard to the force of public opinion that has forced the English Parliament and in our country the Parliaments of Western Australia and the Northern Territory to enact generally undesirable laws making it mandatory on Courts to impose minimum sentences for certain prevalent types of offending. These Parliaments, it seems to me, were doing no more than reacting to public opinion in the area of law enforcement. If the Courts in the future pay proper regard to the force of public opinion by changing sentencing tariffs for certain classes of prevalent offences it may well be that such legislation - objectionable in principle as it is - will be repealed."

## Sentencing guidelines

It is gratifying to notice that the power of public opinion was expressly recognised and given effect to by the New South Wales Court of Criminal Appeal in a most recent "guideline" judgment on sentencing for offences of dangerous driving causing death or grievous bodily harm (R v. Jurisic NSWSC 423 12 October 1998).

Spigelman CJ, with the concurrence of the four other judges who constituted the Appeal Court, made statements to this effect:

> "It has long been accepted that denunciation of criminal conduct is a relevant factor in the sentencing process. In the course of such denunciation, courts do and should have regard to the moral sense of the community and to community expectations of appropriate punishment. Courts are, however, aware that the requirements of justice and the requirements of mercy are often in conflict, but that we live in a society which values both justice and mercy."
>
> ...

> "Public confidence in the administration of criminal justice requires consistency in sentencing decisions. ... Inconsistency is a form of injustice."
>
> ...
>
> "The Courts must show that they are responsive to public criticism of the outcome of sentencing processes."

The Chief Justice also cited with approval dicta of the present Lord Chief Justice of England Lord Bingham and a former Lord Chief Justice Lord Lane.

In a speech delivered by Lord Bingham to the Police Foundation on 10 July 1997, his Lordship said:

> "[W]hen differences of opinion arise on issues of sentencing between the judges and an identifiable body of public opinion, the judges are bound to reflect whether it may be that the public are right and they are wrong. In two instances which occur to me, rape and killing by dangerous driving, I think it is true that public opinion (reinforced in the latter case by legislation) brought home to the judges that they had on occasion failed in their sentences to reflect the seriousness with which society regarded these offences."

Chief Justice Spigelman's approbation of Lord Bingham's dictum was unreserved. "I agree with Lord Bingham", he said. "The seriousness with which society regards offences - reflected in the maximum permissible penalties, as amended from time to time - is an important consideration in sentencing decisions. Significant disparity between public opinion and judicial sentencing conduct will eventually lead to a reduction in the perceived legitimacy of the legal system."

And in Boswell (1984) 79 Cr.App.R. 277 at 281 (a causing death by reckless driving case) Lord Lane said:

> "The duty of the Court is to reflect the concern of Parliament and also, which is sometimes forgotten, to reflect the concern of the public about these matters."

**Stong vindication**

These pronouncements of high authority are, I believe, strong vindication of the views I ventured to express in the Fourth Annual Report 1996-97 (pp.29-40) on the need for courts to take heed of public opinion when sentencing for certain prevalent types of offending, e.g. burglary, car stealing, robbery.

**Judge shopping**

"Guideline" sentencing tariffs have a further and important benefit. They tend to prevent "Judge shopping" - something which though rarely spoken about and invariably denied nevertheless happens. The absurd right of election rule which applies to juvenile offenders particularly lends itself to Judge shopping. "Judge shopping" means trying by one procedural device or another to get a case before one of a number of Judges who, rightly or wrongly, have gained a reputation in practising circles for low or soft sentencing.

If sentencing guidelines help stop this obnoxious practice, which exists despite the best efforts of listing Judges to prevent it, that would be an additional bonus.

**Political rumblings**

The Jurisic guideline judgment was seen by some politico-legal commentators and editorial writers as a timely judicial method for heading off political rumblings to legislatively impose minimum mandatory sentences for certain publicly concerning offences. For instance, Bernard Lagan wrote in the Sydney Morning Herald, 13 October 1998:

> "The Chief Justice may have bolstered the independence of the judiciary by acting now. The Coalition stood ready - before yesterday - to impose stricter sentencing guidelines. Justice Spigelman has declared these are for the courts alone."

**The Courier Mail: idiosyncrasies and prejudices**

And the Courier-Mail in a perceptive editorial, 15 October 1998, stated:

> "Justice James Spigelman, the recently appointed Chief Justice of NSW, has taken an important initiative designed to ensure that judges remain in control of the sentences imposed on criminals, and that the sentences they impose are realistic and reflect community attitudes...
>
> The NSW Chief Justice is conscious of the need for judges to appreciate that decisions the Parliament makes about the level of penalties particular crimes should attract must be reflected in the general level of sentences imposed by trial judges. Where the community, through the Parliament, expresses its view about punishment, judges should not turn a blind eye. Of course, there will be occasions when the circumstances of a crime will demand a lower or a higher penalty than the range suggested. But the appellate courts should require judges to impose penalties which show that the courts are consistent in their approach, and that the sentences which a criminal will face will not depend on the idiosyncrasies and prejudices of a particular judge."

# SENTENCING: the value of guidelines

## Sentencing policy for juveniles

In my annual reports to Parliament I have attempted to define a sentencing policy for juveniles consonant with the sentencing principles enunciated in the Juvenile Justice Act 1992.

In the Fourth Annual Report I stated:

> "If there is one topic of equal concern to lawyer and layman alike, it is the high level of crime -especially juvenile crime - and how to deal with it.
>
> The Juvenile Justice Act prescribes sentencing principles for juveniles. The emphasis throughout is on rehabilitation and reintegration into the community. A custodial sentence - in the Act called a detention order - is an option of last resort.
>
> What, then, should be the aims of sentencing? They should be to treat, reform or rehabilitate the offender, to compensate the victim, to punish, to deter, and to protect the public. Not all these aims can be achieved by any given sentence. For example, if a custodial sentence is warranted, it would be illusory, in most cases, to combine it with a compensation order compensating the victim of the crime. There is, if I may say so, no such thing as an absolutely 'right' sentence.
>
> 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-service 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.
>
> There is a school of thought that society needs protection against offenders who, because of the gravity of their current crimes or their criminal histories, are a serious nuisance or, worse still, dangerous. In such cases it is contended that the emphasis should be on issues central to the criminal law, notably denunciation, retribution, deterrence and incapacitation. It is wrong to close one's eyes to the political reality that certain highly visible, serious offences evoke community outrage or fear which only punitive sanction can mollify. There are some crimes which, of their nature, are so serious, and so shocking to the conscience of the community,

> that anything short of a custodial disposition would do nothing to assuage community concerns. It is only realistic to recognise that society desires to place in long-term custody certain categories of young offenders whom it regards as dangerous."

These principles, it seems to me, substantially conform to the views expressed in the 6th United Nations Congress on the Prevention of Crime and Treatment of Offenders 1980:

> 'Juvenile offenders should not be incarcerated in a correctional institution unless adjudicated of a serious act involving, above all, violence against another person or of persistence in committing other serious offences; moreover, no such incarceration should occur unless it is necessary for their protection or unless there is no other response that will protect the public safety or satisfy the ends of justice and provide the juvenile with the opportunity to exercise self control.'

## The Juvenile Justice Act: sentencing principles

The Juvenile Justice Act 1992-1997 lays down certain sentencing principles. Section 4(c) provides that a child should be detained in custody for an offence (whether on arrest or sentence) only as "a last resort". Section 165 provides:

> A court may make a detention order against a child only if the court after -
>
> (a) considering all other available sentences; and
> (b) taking into account the desirability of not holding a child in detention;
>
> is satisfied that no other sentence is appropriate in the circumstances of the case.
>
> And section 109 provides that in sentencing a child for an offence, a court must, inter alia, have regard to -
>
> (d) the nature and seriousness of the offence;
> (e) the child's previous offending history; and
> (g) any impact on the victim.

In my experience the principle of "last resort" is sometimes used as an excuse or justification for failing to take firm action when firm action is clearly required. I would have thought that any experienced juvenile Judge would not sentence a child to detention unless he or she considered that detention was the only appropriate sentence. Indeed, it is implied in all sentencing that a custodial sentence should only be imposed when no other available sentence is considered appropriate. What I am saying is that if these express sentencing principles were not inserted in the Juvenile Justice Act they would certainly be implied and no sentencing Judge of experience worth his or her salt would contemplate detaining a child unless it was considered that having regard to the nature and seriousness of the offence and all other relevant factors detention was the only proper sentence to impose.

In deciding whether a detention order will be made, an experienced Judge will be guided by the volume, diversity and prevalence of offences he or she deals with regularly and will mark out the occasional very bad case for a custodial disposition. One must deal with a large volume and diversity of cases to be able to make an informed judgment in this area. It is, I stress, a specialist area. It is a question of, Where do you draw the line? The drawing of lines is very much a matter of judgment based on the considerations that I have mentioned above.

In summary, there are three fundamental responsibilities of a juvenile court judge: (1) to protect the community; (2) to act in the best interests of the child and his family; and (3) to uphold the dignity of the law and public faith in the judicial system.

It seems to me that this policy is broadly in line with policies presently being pursued in both England and Canada.

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## CAUTIONS - FINAL WARNINGS

### Statutory cautioning

A statutory form of police cautioning has been in vogue in Queensland since the passing of the Juvenile Justice Act 1992. Before a police officer decides whether a caution would be appropriate, the child must admit the commission of the offence and consent to being cautioned. Whether or not a caution is appropriate will depend, inter alia, on the circumstances of the offence and the child's criminal history. The legislation nowhere says that a police officer should never administer a caution for an indictable offence. In other words, the legislation does not restrict cautions to trivial or minor offences.

The August 1996 amendments to the Juvenile Justice Act ushered in the diversionary process of community conferencing. It is still in the experimental stages. Pilot programmes have been introduced in Logan, Ipswich and Palm Island. It is too early to forecast the long-term benefits of community conferencing.

At my invitation, Mr Gerard Palk, State Project Co-ordinator, Community Conferencing Juvenile Justice Branch, submitted a short report, for which I am grateful, on community conferencing: its purpose, how it works and how it has fared in 1997-98. The report is published at the end of this section.

### Over-use of cautions

I have been concerned for some time about the over-use of cautions. In the Third Annual Report I argued that cautions should be administered primarily for minor or trivial offences but that if cautions are administered for indictable offences, certain additional conditions precedent should be met. I recommended:

1. That generally cautions be restricted to trivial or minor offences.
2. That if a caution is considered appropriate for an indictable offence and especially a "serious" indictable offence such caution can beadministered only on the authority of an officer of or above the rank of Inspector who must state in writing his or her reasons for authorising the caution.

These recommendations have not been adopted.

Tables 1, 2, 3 and 4 (below) show the police caution statistics for the current year (1997-98) and the four preceding years, for comparative purposes.

Cautions for 1997-98 totalled 13,579 as compared with 15,103 for 1996-97, a decrease of 10 per cent.

**Table 1** **Offences against the person - Offenders proceeded against by caution, offence by age, 1993-98**

| Offences | 1993/94 | | | | | 1994/95 | | | | | 1995/96 | | | | | 1996/97 | | | | | 1997/98 | | | | | Total 1993-98 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | |
| Murder | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Attempted Murder | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Conspiracy to Murder | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Manslaughter (excl.M/V) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Driving Causing Death | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Total Homicide** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** |
| Serious Assault | 139 | 72 | 58 | 1 | 270 | 212 | 97 | 77 | 2 | 388 | 200 | 104 | 81 | 0 | 385 | 280 | 100 | 96 | 0 | 486 | 244 | 85 | 77 | 3 | 409 | 1938 |
| Minor Assault | 203 | 100 | 62 | 0 | 365 | 177 | 65 | 34 | 1 | 277 | 224 | 66 | 96 | 0 | 326 | 142 | 50 | 28 | 0 | 218 | 115 | 32 | 42 | 1 | 190 | 1376 |
| **Total Assault** | **342** | **172** | **120** | **1** | **635** | **389** | **162** | **111** | **3** | **665** | **424** | **170** | **117** | **0** | **711** | **432** | **150** | **122** | **0** | **704** | **359** | **117** | **119** | **4** | **599** | **3314** |
| Rape & Attempted Rape | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Other Sexual Offences | 102 | 44 | 34 | 0 | 180 | 47 | 40 | 21 | 0 | 108 | 63 | 15 | 16 | 2 | 96 | 51 | 13 | 26 | 1 | 90 | 47 | 12 | 7 | 0 | 66 | 540 |
| **Total Sexual Offences** | **102** | **45** | **35** | **0** | **182** | **47** | **40** | **22** | **0** | **109** | **64** | **15** | **16** | **2** | **97** | **51** | **13** | **26** | **1** | **90** | **47** | **12** | **7** | **0** | **66** | **544** |
| Armed Robbery | 2 | 2 | 2 | 0 | 6 | 0 | 0 | 0 | 0 | 0 | 5 | 1 | 0 | 0 | 6 | 17 | 0 | 4 | 0 | 21 | 8 | 3 | 6 | 0 | 17 | 50 |
| Unarmed Robbery | 12 | 8 | 1 | 0 | 21 | 12 | 4 | 5 | 0 | 21 | 11 | 6 | 2 | 0 | 19 | 9 | 6 | 3 | 0 | 18 | 14 | 5 | 4 | 0 | 23 | 102 |
| **Total Robbery** | **14** | **10** | **3** | **0** | **27** | **12** | **4** | **5** | **0** | **21** | **16** | **7** | **2** | **0** | **25** | **26** | **6** | **7** | **0** | **41** | **22** | **8** | **10** | **0** | **40** | **154** |
| Extortion | 7 | 0 | 3 | 0 | 10 | 4 | 3 | 0 | 0 | 7 | 2 | 3 | 0 | 0 | 5 | 4 | 1 | 0 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 27 |
| Kidnapping & Abduction etc | 0 | 0 | 0 | 0 | 0 | 6 | 3 | 2 | 0 | 11 | 1 | 1 | 1 | 0 | 3 | 3 | 2 | 0 | 0 | 5 | 1 | 1 | 1 | 0 | 3 | 22 |
| Other Offences Against the Person | 21 | 17 | 17 | 0 | 55 | 20 | 9 | 10 | 0 | 39 | 20 | 8 | 9 | 0 | 37 | 19 | 12 | 16 | 0 | 47 | 56 | 16 | 16 | 0 | 88 | 266 |
| **Total Offences Against the Person** | **486** | **244** | **178** | **1** | **909** | **478** | **221** | **150** | **3** | **852** | **527** | **202** | **145** | **2** | **876** | **535** | **184** | **171** | **1** | **891** | **485** | **154** | **153** | **4** | **796** | **4324** |

Table 2 Offences against property - Offenders proceeded against by caution, offence by age, 1993-98

| Offences | 1993/94 | | | | | 1994/95 | | | | | 1995/96 | | | | | 1996/97 | | | | | 1997/98 | | | | | Total 1993-98 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | |
| Breaking & Entering Dwelling | 369 | 193 | 131 | 1 | 694 | 401 | 163 | 121 | 4 | 689 | 357 | 106 | 95 | 0 | 558 | 367 | 129 | 129 | 0 | 625 | 393 | 142 | 106 | 4 | 645 | 3211 |
| Breaking & Entering Shop | 239 | 303 | 120 | 0 | 662 | 153 | 73 | 75 | 0 | 301 | 120 | 48 | 32 | 0 | 200 | 118 | 57 | 72 | 1 | 248 | 27 | 49 | 35 | 2 | 113 | 1524 |
| Breaking & Entering Other | 603 | 690 | 223 | 1 | 1517 | 634 | 159 | 138 | 2 | 1133 | 714 | 180 | 133 | 3 | 1030 | 657 | 199 | 188 | 2 | 1046 | 612 | 143 | 104 | 1 | 860 | 5586 |
| **Total Breaking & Entering** | **1211** | **1186** | **474** | **2** | **2873** | **1188** | **385** | **334** | **3** | **1910** | **1191** | **334** | **260** | **3** | **1788** | **1142** | **385** | **389** | **3** | **1919** | **1032** | **334** | **245** | **7** | **1618** | **10108** |
| Arson | 15 | 5 | 3 | 0 | 23 | 35 | 3 | 5 | 0 | 43 | 22 | 1 | 6 | 0 | 29 | 19 | 5 | 1 | 0 | 25 | 14 | 5 | 3 | 0 | 22 | 144 |
| Other Property Damage | 804 | 315 | 330 | 1 | 1450 | 994 | 345 | 336 | 5 | 1680 | 1002 | 390 | 312 | 4 | 1708 | 998 | 334 | 338 | 0 | 1672 | 951 | 298 | 233 | 5 | 1487 | 7997 |
| Motor Vehicle Theft | 169 | 126 | 128 | 0 | 423 | 141 | 114 | 109 | 1 | 365 | 181 | 118 | 145 | 0 | 444 | 148 | 90 | 87 | 0 | 325 | 171 | 107 | 101 | 0 | 379 | 1936 |
| Stealing from Dwelling | 193 | 54 | 45 | 1 | 293 | 156 | 51 | 46 | 1 | 254 | 146 | 41 | 47 | 0 | 234 | 114 | 60 | 42 | 2 | 218 | 94 | 20 | 21 | 1 | 136 | 1135 |
| Stealing from Shop | 2964 | 1015 | 674 | 5 | 4658 | 3451 | 1004 | 669 | 3 | 5127 | 2996 | 742 | 553 | 3 | 4294 | 2933 | 784 | 519 | 8 | 4244 | 2469 | 720 | 437 | 4 | 3630 | 21953 |
| Stock Stealing | 6 | 0 | 0 | 0 | 6 | 0 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 11 |
| Other Stealing | 948 | 371 | 421 | 3 | 1743 | 1060 | 335 | 518 | 4 | 1937 | 951 | 345 | 355 | 6 | 1659 | 790 | 312 | 367 | 3 | 1472 | 720 | 282 | 239 | 4 | 1245 | 8056 |
| **Total Stealing** | **4111** | **1440** | **1140** | **9** | **6700** | **4667** | **1390** | **1235** | **8** | **7300** | **4093** | **1128** | **955** | **9** | **6185** | **3840** | **1146** | **928** | **13** | **5927** | **3283** | **1022** | **697** | **9** | **5011** | **31123** |
| Fraud by Cheque | 5 | 2 | 6 | 0 | 13 | 18 | 5 | 17 | 0 | 41 | 10 | 1 | 1 | 1 | 13 | 11 | 6 | 4 | 0 | 21 | 5 | 16 | 5 | 0 | 26 | 114 |
| Fraud by Credit Card | 2 | 1 | 3 | 0 | 6 | 4 | 2 | 7 | 0 | 13 | 0 | 3 | 0 | 0 | 3 | 8 | 11 | 22 | 5 | 46 | 25 | 23 | 9 | 0 | 57 | 125 |
| Other Fraud | 160 | 53 | 86 | 0 | 299 | 120 | 28 | 65 | 0 | 213 | 123 | 20 | 27 | 2 | 172 | 189 | 149 | 48 | 3 | 389 | 179 | 73 | 110 | 2 | 344 | 1417 |
| **Total Fraud** | **167** | **56** | **95** | **0** | **318** | **142** | **35** | **89** | **0** | **266** | **133** | **24** | **28** | **3** | **188** | **208** | **166** | **72** | **8** | **454** | **209** | **112** | **124** | **2** | **427** | **1652** |
| Other Offences Against Property | 1 | 1 | 1 | 0 | 3 | 1 | 0 | 0 | 0 | 1 | 0 | 2 | 2 | 0 | 4 | 1 | 0 | 1 | 0 | 2 | - | - | - | - | - | 10 |
| **Total Offences Against Property** | **6478** | **3129** | **2171** | **12** | **11790** | **7169** | **2272** | **2108** | **17** | **11565** | **6622** | **1997** | **1708** | **19** | **10346** | **10346** | **6356** | **2127** | **1816** | **10325** | **5660** | **1878** | **1403** | **23** | **8944** | **52970** |

## Table 3 Other Offences - Offenders proceeded against by caution, offence by age, 1993-98

| Offences | 1993/94 | | | | | 1994/95 | | | | | 1995/96 | | | | | 1996/97 | | | | | 1997/98 | | | | | Total 1993-98 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | 10-14 | 15 | 16 | 17 | Total | |
| Handling Stolen Goods | 144 | 65 | 58 | 0 | **267** | 191 | 71 | 64 | 1 | **327** | 192 | 74 | 46 | 1 | **313** | 153 | 60 | 59 | 2 | **274** | 183 | 104 | 70 | 1 | **358** | **1539** |
| Drug Offences | 543 | 451 | 587 | 8 | **1589** | 750 | 467 | 561 | 6 | **1784** | 766 | 666 | 715 | 3 | **2150** | 972 | 704 | 847 | 10 | **2533** | 816 | 675 | 864 | 16 | **2371** | **10427** |
| Prostitution Offences | 0 | 0 | 0 | 0 | **0** | 0 | 1 | 0 | 0 | **1** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 1 | 1 | 0 | 0 | **2** | **3** |
| Liquor (excluding Drunkenness) | 10 | 20 | 50 | 1 | **81** | 22 | 44 | 84 | 7 | **157** | 20 | 46 | 70 | 3 | **141** | 36 | 39 | 90 | 9 | **174** | 31 | 71 | 145 | 3 | **250** | **803** |
| Racing & Betting Offences | 1 | 0 | 0 | 0 | **1** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | **1** |
| Gaming Offences | 2 | 0 | 0 | 0 | **2** | 0 | 1 | 0 | 0 | **1** | 0 | 0 | 0 | 0 | **0** | 3 | 1 | 0 | 0 | **4** | 0 | 0 | 0 | 1 | **1** | **8** |
| Vagrancy Offences | 3 | 0 | 2 | 0 | **5** | 3 | 8 | 9 | 0 | **20** | 9 | 4 | 9 | 0 | **22** | 12 | 5 | 2 | 0 | **19** | 167 | 101 | 52 | 2 | **322** | **388** |
| Good Order Offences | 29 | 16 | 23 | 0 | **68** | 28 | 17 | 14 | 0 | **59** | 39 | 12 | 21 | 0 | **72** | 58 | 37 | 18 | 0 | **113** | 49 | 42 | 28 | 0 | **119** | **431** |
| Stock Offences | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 0 | 0 | 0 | 0 | **0** | 0 | 1 | 0 | 0 | **1** | **1** |
| Driving Offences | 11 | 4 | 7 | 0 | **22** | 17 | 12 | 9 | 0 | **38** | 14 | 12 | 19 | 0 | **45** | 10 | 10 | 8 | 0 | **28** | 1 | 14 | 12 | 0 | **27** | **160** |
| Miscellaneous Offences | 234 | 124 | 108 | 0 | **466** | 296 | 167 | 139 | 1 | **603** | 360 | 120 | 125 | 4 | **609** | 396 | 196 | 145 | 5 | **742** | 166 | 102 | 117 | 4 | **389** | **2809** |
| **Total Other Offences** | **977** | **680** | **835** | **9** | **2501** | **1307** | **788** | **880** | **15** | **2990** | **1400** | **942** | **1005** | **13** | **3360** | **1640** | **1052** | **1169** | **26** | **3887** | **1414** | **1110** | **1289** | **26** | **3839** | **16578** |

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## CAUTIONS - FINAL WARNINGS

Table 4 Offenders Proceeded Against by Way of Caution, 1993-98

| Offence Category | 1993-94 | 1994-95 | 1995-96 | 1996-97 | 1997-98 | Total for 5 Years |
|---|---|---|---|---|---|---|
| Offences Against the Person | 909 | 852 | 876 | 891 | 796 | 4324 |
| Offences Against Property | 11790 | 11565 | 10346 | 10325 | 8944 | 52970 |
| Other Offences | 2501 | 2990 | 3360 | 3887 | 3839 | 16577 |
| YEARLY TOTAL | 15200 | 15407 | 14582 | 15103 | 13579 | 73871 |

### An analysis

On analysis, the 1997-98 statistics disclose:

1. That 13,579 cautions were administered.
2. That of the total number:
   (a) 796 were for offences against the person;
   (b) 8,944 were for offences against property;
   (c) 3,839 were administered for other offences, of which 2,371 were drug offences.

It is important to point out that of the property offences 1,618 were breaking and entering offences, 379 were motor vehicle thefts (unlawful use of a motor vehicle) and 5,011 were stealing offences. And of offences against the person, 40 were robbery offences (17 armed robbery).

It is clear that cautioning is not being restricted to trivial or minor offences. It is being used not only for simple offences but also for indictable offences.

I estimate that of the total cautions administered about one-half were for indictable offences including 'serious' offences as that term is defined in s.8 of the Juvenile Justice Act 1992.

It will be observed from a perusal of Table 4 (above) that in 1995-96 there was a decrease in cautions of about 5.3% from the previous year (1994-95).

I have tried to ascertain from Superintendent Reilly, the officer in charge of the Juvenile Aid Bureau, the possible explanation for the 10% drop in cautions for this year. He informs me that the present policy of the Police Service is to limit the number of cautions to repeat juvenile offenders. Whereas before it was not uncommon to administer two or more cautions to the one offender, the policy now is to restrict the number of cautions a repeat offender will receive. Also, there is a greater tendency to charge for 'serious' offences.

## CAUTIONS - FINAL WARNINGS

It would seem therefore that some heed has been taken of my concerns expressed in previous reports that cautions were sometimes being administered in inappropriate cases.

As the statistical tables show, there has been a significant increase in offenders and charges dealt with in Queensland Courts for the year 1997-98. However, it is not possible to offset one-for-one this increase against the decrease in cautions. Nevertheless it has to be acknowledged that there should be some, albeit small, set off. It should be remembered that the increase in charges was 4,538, whereas the decrease in cautions was 1,524. In any event, it is to be expected that there will be annual fluctuations in the cautions administered. As earlier pointed out, there were 15,407 cautions in 1994-95, which figure dropped to 14,582 in 1995-96 and then rose again to 15,103 in 1996-97.

**No victim involvement**

With cautions, there is practically no victim involvement, whereas with the newly introduced family conferencing there is full victim involvement.

**Cautioning v. community conferencing**

Cautioning has no built-in safeguards. Community conferencing has. The safeguards are:

1. The victim must consent to a community conference.
2. The convenor may refuse to conduct a conference if he or she considers the offence unsuitable for a community conference.
3. The victim, if he or she participates in the conference, must be signatory to a conference agreement.

My qualms about the liberal use of cautions are reflected in the sentiment expressed by Mrs Rosemary Thompson JP who has been described as England's leading Magistrate. In an article in *The Times* (25 October 1996) she stated:

**A 'mop up'**

> "One lad this morning, to my horror, had been cautioned twice, once after seven burglaries and once after four thefts of cars. Frankly, he really should have been in court before now. But really the court comes into the process far too late. Our youth court magistrates feel passionately that we can do little more than mop up. Young men have got thoroughly into offending before the court even gets at them."

And Mr Jack Straw, when Shadow Home Secretary in the Labor Opposition, in a report in The Times (3 October 1996) said: "A magistrate told me earlier this year of a young offender who had complained bitterly about being taken to court, 'because he hadn't had his five cautions yet'. However in half the cases that do finally reach the court the offender walks away with another warning. Is it any wonder that young offenders get a clear sense of their entitlement to commit crime with impunity from its consequences."

## A tightening of caution procedures in England

The English Crime and Disorder Act 1998 legislates for a tightening of the caution procedures. The police informal cautioning system has been replaced by a statutory scheme. Under the Crime and Disorder Act 1998 statutory reprimands and final warnings now replace informal police cautions hitherto administered to young offenders. The police will decide whether to reprimand a young offender, give a final warning or bring a criminal charge.

In general terms a reprimand will be given for a minor offence and a final warning for a serious offence. A first offence might be met with a police reprimand provided it is not serious. Any further offence would have to result in a final warning or a criminal charge: in no circumstances should a young offender receive two reprimands.

If a first offence results in a final warning, any further offence would automatically lead to a criminal charge, except where at least two years have passed since the final warning and the subsequent offence is minor. However, for any offence, depending on its seriousness, the police would have the option of pressing charges.

## Cautions cited in court

A youth convicted of a further offence within two years of receiving a final warning cannot receive a conditional discharge for the subsequent offence unless exceptional circumstances exist.

Of special significance is the fact that a reprimand or final warning may be cited in criminal proceedings in the same circumstances as a conviction may be cited.

In my First Annual Report (1993-1994) I stated:

> "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).

## CAUTIONS - FINAL WARNINGS

> 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."

This recommendation was ultimately accepted by the Government of Queensland (see Juvenile Justice Legislation Amendment Act 1996, s.18N).

In this regard it can be said that Queensland was one step ahead of England.

### A report on community conferencing by Gerard Palk

"Community conferencing was introduced into Queensland with the 1996 amendments to the *Juvenile Justice Act 1992*. A community conference is a meeting between an offender and the victim of his or her offence. The purpose of the meeting is to discuss the offence and negotiate an agreement satisfactory to both parties. The young person's parents or caregivers usually attend the conference. Support people for the victim may also attend.

The purpose of community conferencing is to:

- hold the young person accountable for their offending behaviour;
- put right the damage that has been done to the victim;
- involve the family, the victims, and the young person in the decision making about the offending behaviour.

A referral to a community conference may be made by the police if a young person admits to an offence or by the court following a finding of guilt. The court may take this action in place of sentencing or prior to sentencing. In every instance, the victim, if there was a victim, must consent to the referral.

Three conferencing pilot programs commenced operation in April 1997. The pilots were located at Ipswich, Logan City and Palm Island. During the 97/98 year the geographic catchment area of the South East Queensland pilots was expanded and the pilot period extended to the end of June 1998. An internal evaluation of the pilots was completed in December 1997. The Centre for

## CAUTIONS - FINAL WARNINGS

Crime Policy and Public Safety was commissioned to complete an external evaluation of the pilots.

In the 97/98 year there were 120 children conferenced in the pilot programs. 19 young people were conferenced at Palm Island, 43 were conferenced at the Ipswich pilot and 58 were conferenced at Logan. Almost all conferences were in relation to police diversionary referrals. There were two Indefinite court Referrals and two Pre-sentence Court Referrals. Agreements were reached in all conferences. 87.1% for children conferenced in the S.E. Queensland pilots in this period were males and 13.9% were of identified of Aboriginal or Torres Strait Islander descent.

Table 1 below presents a summary of the offences conferences at the S.E. Queensland pilots. Conference outcomes included verbal apologies (86%),written apologies (17%), commitments not to re-offend (33%), direct restitution (19%), work for the victim (19%) and voluntary work in the community (39%).

During the evaluation period over 350 people involved in community conferences (children, victims and support people) were invited to provide feedback about their experience of the conference process. Responses indicated that the pilots were highly successful in regard to the core goal of victim-offender reparation. 73.4% of victims and 90.7% of parents interviewed believed that conferencing helped the young person "make up" for what they did and 92.2% of victims and 98.8% of parents believed the young person had a greater understanding of their actions since attending the conference. 93.8%of victims and 98.2% of young people would recommend a conference to a friend in the same position.

At the time of preparation of this report the findings and recommendations of the final evaluation report for the pilot program were being considered by the Department of Families, Youth and Care."

Now that community conferencing is available one wonders whether in the future cautions should be administered for "serious" indictable offences.

## CAUTIONS - FINAL WARNINGS

*Summary of Offences conferenced in South East Queensland 1/7/97-30/06/98*

| | Ipswich | Logan | Total |
|---|---|---|---|
| **Assaults** | | | |
| Major assault | 7 | 5 | 12 |
| Minor assault | 7 | 4 | 11 |
| Other violation of persons | 1 | 1 | 2 |
| **Robbery and Extortion** | | | |
| Robbery | – | 4 | 4 |
| **Fraud and Misappropriation** | | | |
| Fraud and Forgery | 1 | – | 1 |
| **Theft, Breaking and Entering** | | | |
| Unlawful use of a motor vehicle | 3 | 23 | 26 |
| Other stealing | 15 | 23 | 38 |
| Receiving, unlawful possession | – | 1 | 1 |
| Burglary and housebreaking | 4 | 4 | 8 |
| Other breaking and entering | 3 | 16 | 19 |
| **Property Damage** | | | |
| Other property damage | 12 | 26 | 38 |
| **Driving traffic & related offences** | | | |
| Dangerous/negligent driving | – | 1 | 1 |
| Licence offences | – | 2 | 2 |
| **Other offences (including drug offences)** | | | |
| Possession or use of drugs | – | 1 | 1 |
| Dealing & trafficking in drugs | – | 1 | 1 |
| Manufacturing & growing drugs | – | 2 | 2 |
| Other drug offences | – | 1 | 1 |
| Offensive behaviour | 1 | – | 1 |
| Trespassing & vagrancy | 2 | 1 | 3 |
| Liquor offences | 3 | – | 3 |
| Other | – | 1 | 1 |
| **TOTAL** | **59** | **117** | **176** |

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# DRUGS AND CRIME

## The single greatest menance

In my opinion, the greatest single menace confronting Western civilisation is the widespread use of dangerous drugs.

There is no doubt that there is a direct correlation between drugs and crime. The effect drugs is having on children is such that unless it is brought under reasonable control there is a danger of its producing a wave of lawlessness of potentially catastrophic proportions.

## Queensland Drug Foundation Address

I should like to repeat here an edited version of an address I gave to the Queensland Alcohol and Drug Foundation's Ninth Winter School in the Sun on 3 July 1996:

"The apparent prevalence of drugs and the impact it is having on society have exercised the mind of the parliament, the church, the courts and health and education authorities around the world. There seems to be a general recognition that hard drugs, such as heroin, should be subject to legal proscription. Opinions differ, however, on the question of personal marijuana use.

Governments the world over have commissioned inquiries into the desirability of decriminalising possession of marijuana for personal use. Some have reported for and some against decriminalisation. In our own country there have been a number of such reports. The most recent is the report of the Victorian Drug Advisory Council, better known as the Pennington report. Inter alia, the report recommended that possession of up to 25 grams or the growing of 5 plants of marijuana for personal use should no longer attract penal sanctions. This recommendation is based substantially on the South Australian model. There is, however, an important difference. The Pennington recommendation makes the possession and growing of prescribed quantities of marijuana lawful. The South Australia model, on the other hand, substitutes civil out-of-court fines for the criminal process.

Arguments pro and contra the legalisation of the possession of prescribed quantities of marijuana for personal use are well publicised and I shall not take up your time by reiterating what you already know. Suffice to say that a reasonable rejoinder to the Pennington report (summarised in Professor Pennington's address to the Victorian Parliament on 31 May 1996) is to be found in the Newsletter of the Australian Family Association (Vol.12, No.3, May-June 1996).

One hears conflicting reports as to how the South Australian and the Netherlands' experiments are faring. B.A. Santamaria, for example, in an article in The Weekend Australian (June 8-9, 1996) commented: "The Netherlands, which, in fact if not in principle, follows the 'open slather' policy, is regarded as a cesspool. Its neighbours in the European union have indicated that if it does not tighten its rules, they will close their frontiers." For myself, I am sceptical of the claims made by the protagonists of these experiments. Although it is generally believed to be widespread, in the nature of things, the incidence of drug usage defies reliable statistical survey or analysis.

As to the Pennington report recommendation I would make these observations, for what they are worth:

First, the use of the drug will be lawful, yet it will be criminal to supply it. There is a patent contradiction in making lawful its use whilst imposing heavy penalties on suppliers of it.

Secondly, by making lawful a hitherto proscribed drug the impression will inevitably be created that as its use in prescribed quantities is not unlawful there can be no harm in dabbling in it. The likelihood is that many young people will become accustomed to the drug with the real risk that they will graduate to heavy drugs.

Thirdly, once the bans on the use of marijuana are lifted, so that it becomes socially acceptable, it will be virtually impossible to reverse the process.

Lastly, policing of the 'lawful' use of marijuana, if assiduously carried out, would in all probability impose a greater strain on law enforcement than under the existing regime.

In short, I harbour serious reservations about the efficacy of the "grow your own" or "home grower's" proposal. With respect to those of the opposite persuasion, I think it is doomed to failure. If it is thought to be socially expedient to make lawful the use of marijuana, the only way it can sensibly be done, in my opinion, is to go the whole hog and permit the manufacture of marijuana cigarettes of prescribed strength under strict government control; but even the Pennington report backed away from so radical a step. One only has to pause to reflect how fraught with danger the lawful marketing of marijuana would be."

## The drug epidemic

The drug epidemic is spreading but we are not doing anything effective about it.

It is estimated that there are 50,000 heroin addicts and 250,000 heroin users in Australia.

According to Australian economic forecaster Access Economics, the illegal drug industry in Australia has a $7 billion turnover. Yearly spending on tobacco and cigarettes amounted to $6.2 billion.

# DRUGS AND CRIME

A recent University of South Australia paper written by a former National Crime Authority intelligence analyst suggests that only 3.5 per cent of the heroin which entered Australia in 1995-96 was seized by authorities.

Recently the Federal Government announced its intention to expend sizeable sums on a drug prevention programme, a significant part of which is targeted at schools. According to a report in *The Australian* (31 October 1997) the Prime Minister, Mr Howard, stated there were a record 634 heroin- related deaths in 1996 (average age 36), up to 80% of property crime in NSW was drug related, prisons were rife with illicit drugs and at least 40,000 hospital bed days were illicit-drug related.

## Opinions from the Bench

Athol Moffitt, a distinguished former Judge and President of the New South Wales Court of Appeal, has co-authored a book recently released entitled "Drug Precipice". Moffitt headed a royal commission into organised crime in 1972-73. He therefore has good credentials to speak on the subject.

Moffitt is strongly opposed to the philosophies of the modernists and reformists who call for the legalisation of dope, decriminalisation or the relaxation of penalties. He acknowledges however that the drug enforcement authorities are losing the battle against supply. Supply of all kinds of illicit drugs is readily available. The strategy therefore should be to attack demand. Moffitt argues that side by side with the maintenance of prohibition should be an intensive educational program backed by governments to warn of the dangers of drug use and to promote a drug-free society. The educational program should be targeted primarily at children and adolescents.

## Promote a drug-free society

He says:

> "We must take stock where we stand, examine critically the forces behind the epidemic and determine what action must be taken. We have reached a precipice: wrong steps, such as abandoning the restraints of the law, would take Australia beyond the point of no return, especially if the present minority, which regards the use of drugs as normal or respectable or manageable or not very harmful, progresses to a majority."

Moffitt asserts that the epicentre of our present drug problem is adolescent drug use. The use of drugs at an early age is the point from which the drug epidemic is being sustained and intensified. There has been a marked failure to halt the constant recruitment of children. Those joining the ranks and involved in drug-related crime are getting younger and younger.

## DRUGS AND CRIME

The starting point must be a no-use approach to education in schools akin to that adopted in Sweden (1977) and more recently the United States. "There is an imperative need," the authors say, "for a massive sustained national campaign which targets demand and the reduction of the use of illicit drugs. Its aim must be a drug-free community that rejects options concerning use, so-called responsible or recreational use, or use in ways claimed to minimise harm."

To this end, the authors advocate the adoption of the following policy statement of the United States Department of Education (1998):

> "In order to combat drug use most effectively, the entire community must be involved: parents, schools, students, law enforcement authorities, religious groups, social service agencies and the media. They must transmit a single consistent message that drug use is wrong, dangerous and will not be tolerated. The message that must be reinforced through strong consistent law enforcement and disciplinary measures."

For users, the principal objective of the anti-drug laws is to deter and treat, not punish. If, however, a user refuses to undertake remedial measures, if ordered, Courts must not be deprived of the ultimate sanction of punishment: otherwise little regard would be paid to a `remedial measure' order by those reluctant to participate if it is not backed by compulsive power.

In my opinion Drug Precipice should be compulsory reading for politicians, church leaders, the judiciary, educationalists, school principals and teachers and parents. And with parental or teacher guidance children over the age of 14 years should be encouraged to read it.

The Chief Metropolitan Stipendiary Magistrate, Mr Peter Badge, who served 20 years as a `stipe' said in his valedictory remarks reported in *The Times* (5 August 1997) that one of the most fundamental changes in his time on the bench was the prevalence of drugs. "When I was first a stipendiary", he said, "I spent 13 years in the East End and it was relatively rare to have anything other than possession of cannabis. But every court now has drug cases by the bucketful. If resources were put into the very difficult problem of drug addiction, it would be infinitely more productive than building more prisons."

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# DRUGS AND CRIME

## Eight out of ten

I have been head of the Childrens Court of Queensland since its inception five years ago. During that time I have dealt with numerous serious juvenile offenders. In my considered opinion in about 8 out of 10 cases the offending can be directly related to drug abuse. It should be here noted that Childrens Court Magistrates deal with about 90% of all juvenile offences.

## A Drug addicted generation

In the Second Annual Report to Parliament on the Court's operations, under the rubric "A Drug-Addicted Generation", I made the following observations:

"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 hard 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 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 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."

Whatever the true statistics may be, my general experience leads me to believe that drug use is a major contributing factor in a significant proportion of all juvenile crime, and indeed of all adult crime. If one could take the drug factor out of offending the crime rate would drop dramatically right across the board.

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# DRUGS AND CRIME

## A policy decision

In R v. Rosenberger CA No 375 of 1994 the Court of Appeal held that ordinarily intoxication, whether by alcohol or drugs, will not mitigate penalty. The Court said, "The proper policy appears to be generally to decline to give any offender the benefit of a reduction in the sentence on the ground of his drunkenness (or intoxication by drugs) at the time of the offence."

With respect, I agree with that policy decision. If it were otherwise, offenders would be given credit on sentence for committing offences while under the influence of drugs ingested voluntarily. The position in law then is that self-ingestion of alcohol or drugs may explain the offence but not mitigate it.

Governments throughout the world have now come to the realisation that they must make strenuous efforts to tackle the drug problem.

## Drug treatment and testing orders

Clauses 72-76 of the Crime and Disorder Bill deal with drug treatment and testing orders. This worthy initiative may well be the first of its kind in common law countries. The key features of the provisions are:

(i) Instead of sentencing a young offender with a serious drug problem the court may make a drug treatment and testing order.

(ii) The order applies only to persons of 16 years of age or more.

(iii) The order will be for a period of not less than six months nor more than three years.

(iv) An order can only be made if the offender agrees to comply with the requirements of the order.

(v) The requirements include:

   (a) Periodic testing.

   (b) Supervision by a supervising officer.

(vi) The court is to receive periodic reports on the offender's progress or lack of it.

(vii) The court may order the offender be institutionalised while receiving treatment.

The ultimate sanction for failure to comply with the order is a revocation of the order, and a sentencing of the offender for the offence for which the order was originally made.

The English provisions have much to recommend them. I would favour the introduction of similar legislation in Queensland. At present, the Courts are powerless to order supervised remedial measures for drug addicted offenders with sanctions for non-compliance.

## Hope, not despair

I do not favour the legalisation of dangerous drugs. Some people in high places despair of stemming the tide. I do not counsel despair; I counsel hope. We should not run up the white flag: a symbol of defeat and despair. Rather, we should hoist the flag of "No Surrender": a symbol of resoluteness and hope.

What then can be done? Clearly we must provide ways and means of treating drug addicted children (and adults). That is the short-term strategy: the strategy for the here and now. The long-term strategy and the permanent solution lies elsewhere: in the moral dimension. It is to the moral dimension that we must turn to give hope for the future.

## THE DECLINE OF DISCIPLINE: Please, can I smack my child?

The worst hit children 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.

Closely related, in the public perception, to family breakdown and child neglect, is the decline in home and school discipline. The questions of child neglect and the decline in home and school discipline loom large in any discussion on the possible causes of juvenile delinquency.

### The right to dicipline

The right of a parent to discipline his child and the right of a school teacher to discipline a pupil are areas, I have discovered, clouded by obscurity and mystique. From time to time parents remark in my court that they are under the impression that the discipline of a child by a parent which has in whole or in part a physical component is prohibited by law and exposes the parent to criminal prosecution if discipline is administered in that form. Similarly, school teachers express grave uncertainty of the legal limits of their disciplinary powers over pupils.

In my court parents have on occasions said to me that if they had exercised effective discipline over their wayward or unruly children at an appropriate stage of their development it is unlikely that their children would have finished up in Court charged with a criminal offence. Effective discipline in this sense is meant to include corporal punishment.

### Exposition of the law

As the matter has some relevance to my work on the Childrens Court it may be timely to attempt to expound the law as to the legal limits of corporal punishment administered by way of discipline of a child by a parent or teacher. In recent times there has been a steady increase in complaints against parents and teachers alleging assaults on children and this, understandably, has caused serious concern to parents, teachers and the criminal justice system.

The non-consensual application of force by one person to another constitutes an assault, and an assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law; so that, if a parent hits a child or a teacher hits a pupil he or she is prima facie guilty of an assault unless there is lawful authorisation, justification or excuse for the assault.

# THE DECLINE OF DISCIPLINE: Please, can I smack my child?

## The common law

The common law has always recognised the right of a parent or a teacher to inflict reasonable punishment on a child in his or her charge.

In 1860, in R v. Hopley 2 F & F 202, Lord Chief Justice Cockburn said:

> "By the law of England, a parent or schoolmaster (who for this purpose represents the parent, and has parental authority delegated to him) may, for the purpose of correcting what is evil in the child inflict moderate and reasonable corporal punishment - always, however, with this condition: that it is moderate and reasonable."

In Mansell v. Griffin (1908) 1 KB 947, Phillimore J. laid down the principles on which the law judges a teacher's punishment:

> "A teacher of a class has the ordinary means of preserving discipline and, as between the parent of the child and the teacher, it is enough for the teacher to be able to say 'The punishment which I administered was moderate, it was not dictated by bad motives, it was such as is usual in the school, and such that the parent of the child might expect would receive if it had done wrong'".

In Cleary v. Booth (1893) 1 QB 465, it was held that the authority delegated by parents of a pupil to a schoolmaster to inflict reasonable personal chastisement upon him is not limited to misbehaviour by the pupil in the school but may extend to acts done by the pupil while on his way to and from school. Collins J. said: "It is clear law that a father has the right to inflict reasonable personal chastisement on his son. It is equally the law, and in accordance with very ancient practice, that he may delegate his right to the schoolmaster. Such a right has always commended itself to the commonsense of mankind. It is clear that the relationship of master and pupil carries with it the right of reasonable corporal punishment. As a matter of commonsense, how far is this power delegated by the parent to the schoolmaster?"

Collins J. concluded that the authority delegated to the schoolmaster is not limited to the four walls of the school.

These authorities suggest that the teacher's power to discipline a pupil stems from the fact that he is in loco parentis to the children in his charge and thereby assumes some of the rights - and duties - of the natural parent.

However, in Ramsay v. Larsen (1964-65) 38 ALJR 106 at 110 Kitto J. doubted whether parental delegation was the source of the teacher disciplinary authority. He stated that a schoolmaster's power of reasonable chastisement exists, at least under a system of compulsory education, not by virtue of a delegation by the parent at all, but by virtue of the nature of the relationship of schoolmaster and pupil and the necessity inherent in that relationship of maintaining order in and about the school. See also Hansen v. Cole (1890) 9 NZLR 272 and Murdock v. Richards (1954) 1 DLR 766 at 769.

## The Criminal Code

Section 280 of the Criminal Code embodies the common law. In its original form it provided: "It is lawful for a parent or a person in the place of the parent or for a schoolmaster or master to use by way of correction towards a child, pupil or apprentice under his care such force as is reasonable under the circumstances."

The section was amended by the Criminal Law Amendment Act 1997 (1 July 1997) to read as follows:

> "It is lawful for a parent or a person in the place of a parent, or for a schoolmaster or master, to use, by way of correction, discipline, management or control towards a child or pupil under the person's care such force as is reasonable under the circumstances."

An assault is unlawful and constitutes an offence unless it is authorised, or justified or excused by law. The common law, and now the statute law, (in Queensland s. 280 of the Criminal Code), authorises reasonable pupil discipline by a teacher and reasonable child discipline by a parent.

The conventional excusing or justifying pleas to an assault are provocation, self-defence and accident, depending on the circumstances of the case. However, s 280 (as amended) affords an additional defence based on the particular wording of the section.

In their book Australian Teachers and the Law the authors, Tronc and Sleigh, say:

> "Of the many issues that have arisen in modern education, few have evoked such warmth of feeling as the question of corporal punishment. Government decisions to abolish it in one State led to predictions from teachers that chaos would overtake the school system; Government reluctance to ban it in another State led to impassioned pleas from parents for teachers to come at last into the 20th Century."

Today's educational authorities seem to be limiting the use of corporal punishment in schools. Those not banning it completely are imposing severe restrictions on its use.

# THE DECLINE OF DISCIPLINE: Please, can I smack my child?

## Corporal punishment banned in scools

Until recently, only principals or those directly authorised by them could administer corporal punishment. I understand the position in Queensland up until the end of 1994 was that a school principal or a duly authorised deputy principal may administer corporal punishment to boys (only) for, inter alia, insolence, wilful and persistent disobedience and gross misconduct that in the principal's opinion is likely to prejudice the good order and discipline of the school. In 1994 corporal punishment in Queensland state schools was phased out altogether. The power of suspension or expulsion of a pupil in an extreme case remains unimpaired. Moreover, children with serious behavioural problems may be required to attend a special school designed to correct behavioural deficits.

According to The Sunday-Mail (18 October 1998) for the year to June 1998 almost 26,000 Queensland students from Year 1 to Year 12 were suspended or expelled, the vast majority for wilful disobedience and unruly behaviour. This, on any reckoning, is a disturbing figure.

Although there are no ideal solutions to the growing problem of lack of discipline in the classroom, there is a respectable body of opinion which holds that suspension or expulsion is not the appropriate response to grossly undisciplined and disruptive students. Experience shows that suspended, expelled or truanting children invariably turn to crime out of boredom, rejection or resentment, or because of genetic predisposition or environmental influences.

It should not be thought, however, that because a departmental regulation proscribes the use of corporal punishment in State schools a teacher who in contravention of the regulation inflicts corporal punishment on the pupil as a corrective measure and is charged with assault cannot avail himself or herself of a defence under s 280 of the Criminal Code: he or she can. But breach of the regulation may expose the teacher to departmental disciplinary proceedings in addition.

It is my belief that in the homes and schools of today the authoritarian figure of the parent and schoolmaster has all but disappeared. In the school context, the possible consequences of this shift of attitude is that teachers may become more vulnerable to false, malicious or vexatious complaints of assault, with or without sexual connotations, by disaffected or mischievous pupils - or worse, perverse pupils.

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# THE DECLINE OF DISCIPLINE: Please, can I smack my child?

## Fresh justice is sweetest

I myself do not want to get embroiled in the debate over whether, in general, corporal punishment is a good or a bad thing. I would simply say that the greatest advantage of punishment - if there is to be any - is that it should follow quickly on the offence. It is obvious that the desired impression is best brought about by a summary and immediate punishment. As the great Francis Bacon, sometime Lord Chancellor of England, said long ago: "Fresh justice is the sweetest."

Nothing I have said so far should be construed as condoning in the least child abuse. Hitting children out of anger or frustration, and not for justifiable corrective purposes, cannot under any circumstances be countenanced. Where there is credible evidence of excessive physical abuse of children the perpetrator should suffer the full rigour of the law and be severely punished if found guilty.

## Attitudes change

Standards of behaviour and attitudes towards the correction of children vary from generation to generation.

The uncompromisingly robust language of Ackner J. in a 1972 case is, I fear, a far cry from the present day attitude about corporal punishment. The facts of the case were as follows:

A 15-year-old pupil smoked during the morning break, made rude gestures at the teacher, swore at him, kicked him in the stomach, and then ran away. The master gave him a light blow, which broke his jaw. The master was charged with grievous bodily harm, later reduced to assault occasioning bodily harm.

In this corker of a summing up to the jury the Judge said:

> "Have we really reached the stage in this country when an insolent and bolshie pupil has to be treated with all the courtesies of visiting royalty? You may think we live in strange times. Whatever may be the view of our advanced, way-out theoreticians, the law does not require a teacher to have the patience of a saint. You may think that this a good thing. You may think that a superabundance of tolerance fails to produce a degree of self-discipline in any pupil. Nothing has happened to the boy concerned, although he could be brought before a Juvenile Court and receive a wide range of penalties. Yet a schoolmaster, a man of exemplary character and an able, efficient and conscientious teacher has been brought before the Court. This is why I say we live in strange times. The issue is not whether nowadays we suffer from an excess of sentimentality or sloppy thinking with regard to criminal responsibility of the young. It is whether the prosecution has proved the master guilty."

Needless to say, the master was acquitted. (The Times, 17 March 1972)

It should be noted that this statement by a member of the judiciary was made only one generation ago. I doubt whether such a statement from the Bench today would be received without censorious comment. I suspect the press would have a field day!

## A notable decision

Very recently (24 July 1998) an Ipswich Magistrate, Mr James Gordon, handed down a notable, well-reasoned decision on the question of the limits of domestic discipline. The facts of the case on which the decision turned were quite unique. It is not necessary for present purposes to relate them in detail. The father in question was charged under s 69 of the Childrens Services Act 1965 with ill-treating his son aged 9 in a manner likely to cause injury. In the result, the Magistrate acquitted the father of the charge.

The decision is useful not only for the assiduous research which has gone into it but also for a statement of propositions extracted from the authorities on the vexed question of domestic discipline. They include:

(a) The protection afforded by the law is not absolute. The force used for the purposes of correction, discipline, management or control of the child by the parent must be 'reasonable in the circumstances' . Indeed, as Lord Chief Justice Cockburn emphasised in Hopley's case for the force used to be reasonable it must be moderate.

(b) The punishment must bear due proportion to the age, physique and level of understanding of the child. The infliction of physical punishment on a child of very tender years can never be justified.

(c) The punishment must be for the purposes of correction, discipline, management or control of the child and not to vent passion or rage unconnected with the child's misconduct.

(d) What is reasonable chastisement in a particular case will depend inter alia on current social standards.

(e) There will be instances where cultural beliefs will be relevant on the question of reasonableness.

(f) A further consideration in deciding what is reasonable is the consequence or outcome of the correction. The question may be asked, Was it beneficial to the child in the sense that as a consequence of the chastisement the child mended his ways?

# THE DECLINE OF DISCIPLINE: Please, can I smack my child?

## European Court of Human Rights intervenes

In England a stepfather who caned his stepson for allegedly repeated misbehaviour was prosecuted for assault occasioning bodily harm. The stepfather's defence was that the caning was done in the course of "reasonable chastisement". He was acquitted by the English Court.
There was an appeal to the European Court of Human Rights. In late September 1998 the European Court handed down its judgment allowing the appeal.

The court held that to discipline the boy in this way constituted a violation of a child's human rights.

The decision has reignited the debate over physical punishment of children.

## The Times comments

The Times leading article of 24 September 1998 seems to echo the sentiment of many responsible, concerned parents. I quote the following excerpts from the leading article:

> "Should the hand which rocks the cradle, and packs the lunch box, ever be swung in reproof? The shadow of the cane no longer looms over schoolboys, and judicial corporal punishment is a distant memory, but the warning smack is still the weapon of last resort of many loving parents.
>
> ...
>
> The European Court of Human Rights has imposed itself between father and son to rule that a boy caned by his father was, contrary to the judgment of English courts, the victim of an assault.
>
> ...
>
> To confer upon children in their relationship with their parents the same rights that adults enjoy in their dealings with each other is hardly the most family-friendly of policies.
>
> ...
>
> The use of corporal punishment inspires strong feelings which are not easily translatable into universal codes. Many parents will feel passionately opposed to the use of any violence towards their children, considering that even a warning smack for a child who behaves recklessly is an admission of failure. Such restraint may be an admirable principle, but common sense confirms that there are many happy families where loving parents may, in extremis, physically chastise unruly children.
>
> Those who sadistically abuse their children should not be spared the full force of the courts' punishment. But it is

grotesque to conflate the smack of the concerned parent with the violence of the irresponsible adult. Neglect is usually the father of abuse. The smack, like the anger when a child returns after wandering without permission from view, is an expression of concern. That which we love, we place boundaries around.

One does not need, however, to sympathise with the occasional smacking of those parents in order to believe that this is a matter where courts, European or domestic, should tread carefully. As the wisest historians of the family have always argued, the institution has flourished best when interfered with least. One of the genuinely progressive gains of this century has been the post-Victorian recognition that parents are generally better equipped than nannies to raise children, especially when that nanny is either the State or the bench.

By conferring further rights on children who have not yet learnt how to exercise responsibilities, and allowing them to enforce these rights against their parents in court, the courts have sown serpent's teeth in quiet hearths. To transform further the intimate, organic, relations of family life into questions of legalistic obligation is deeply destructive of the exercise of good authority within the home on which families depend.

Fashioning rods out of writs for children to beat their parents with is more harmful than any caning."

## Model Criminal Code proposal

It is also of interest to observe that in its September 1998 release of a report on non-fatal offences against the person the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General recommended that a parent should not be held criminally responsible for conduct amounting to reasonable correction of a child - but with this caveat: causing harm to a child by use of a stick, belt or other object (other than an open hand) cannot be considered conduct amounting to reasonable correction.

The Committee further stated that conduct can amount to reasonable correction of a child only if it is reasonable in the circumstances for the purposes of the discipline, management or control of the child.

If therefore an Australian Model Criminal Code ever eventuates correction of a child by means other than slapping could render a parent liable to criminal prosecution. But this, as I have previously stated, is not the present position in Queensland.

Children are not born with an innate understanding of the difference between right and wrong. They must be taught the virtues and what it is to be moral just as they must be taught to speak. However, in the final analysis - and one cannot over-emphasise this - for physical correction to be reasonable it must be moderate. Therefore under s 280 of the Criminal Code the test of reasonableness is moderation.

I think it fair to say that the common law on child correction now embodied in the statute law reflects the wisdom of the ages going back to Biblical times.

## Biblical authority

"The rod and reproof give wisdom; but a child left to himself bringeth his mother to shame" (Proverbs 29:15)

"He that spareth his rod hateth his son; but he that loveth him chastiseth him betimes." (Proverbs 13:24)

I trust that this attempted analysis of the legal limits of domestic and school discipline has not further muddied the waters, but rather has gone some way towards clarifying the position in the minds of parents and teachers.

# PARENTAL RESPONSIBILITY AND PARENTAL PARTICIPATION

## Family first line of defence against crime

Because the family is the primary instrument of socialisation, it has been described as the first line of defence against crime. Parents have a crucial role in preventing their children committing criminal and anti-social acts. One of the most important needs of young children is the supportive involvement of parents and/or the extended family members.
When a child has been charged with an offence it is important that the parents be present during the court proceedings and that they be actively involved in the Court process.

## Dysfunctional parents

It is true that some parents are too dysfunctional or too disinterested in what happens to their offending children to want to be involved in court proceedings. In some cases the lack of parental participation can be a reflection on actual disinterest, parent-child conflict, or the chronic lifestyle of the parent. Parental dysfunction can be a difficult obstacle to overcome. It is recognised that there are exceptional cases where parental involvement can be damaging to the young person and therefore to the public interest. But most parents, properly encouraged, do wish to be involved. The problem has been that up until recently parents have not been actively encouraged to participate in the process.

There are cases it is true where full parental attendance is hampered by other considerations such as employment, the need to care for young children, the time and cost associated with travelling, embarrassment, and a sense of failure for being a 'bad' parent. Many parents see themselves at the fringes of the system. They feel they are mere observers in a complex, cumbersome and intimidating process.

## Parental involvement

A thread running through the Juvenile Justice Act is the involvement of parents of a child in all stages and phases of the procedures and proceedings up to the final disposition of the case in Court.

Of particular relevance are ss 56-58 of the Act. I review first the legislation as it stood before the Juvenile Justice Legislation Amendment Act 1996. Section 56 provides that if a parent of a child is not present when the child appears before it charged with an offence the court after due inquiry as to the whereabouts of the child's parent may adjourn the proceeding to enable the parent to be present at the time and place of the adjourned proceeding, and may recommend that the Department of Family Services provide financial assistance to a parent of the child to ensure that a parent is present at the proceeding.

## PARENTAL RESPONSIBILITY AND PARENTAL PARTICIPATION

If the proceeding is conducted and concluded adversely to the child in the absence of a parent and the parent satisfies the Court by application within 28 days of the conclusion of the proceeding that he or she was unaware of the time and place of the proceeding or, if aware, was unable to attend for sufficient reason, the Court may set aside the finding or order made against the child and grant a rehearing of the proceeding if it considers that it is in the interests of justice to do so, for example if it considers that the child's capacity to make an election or other decision relating to the proceeding was adversely affected. (s.57).

Section 58 provides that, in a proceeding before a Court in which a child is charged with an offence, the Court must take steps to ensure that, as far as practicable, the child and any parent of the child present have full opportunity to be heard and participate in the proceeding.

It is apparent from the above review of the relevant provisions of the Juvenile Justice Act that a Court had (ante the 1996 Amendment) no legal coercive power to force parents to attend. Nevertheless, parents of offending children were encouraged to be present at all Court proceedings involving their child.

I have myself placed great importance on the presence of both parents, or at least a parent, of the offending child in Court so that they may witness the proceeding and actively participate in the ultimate disposition of the case.

### The power to compel parental attendance

In the 1996 amendment to the Act, an important new section (s.56A) was inserted to this effect:

(1) A court before which a child appears charged with an offence may order a parent of the child to attend the proceeding as directed by the court.

(2) The order may be made on the prosecution's application or on the court's initiative.

(3) The court may cause the proper officer of the court to give written notice to the parent to attend as directed.

(4) If requested by the proper officer, the commissioner of the police service must help the proper officer to give the notice.

(5) The court may recommend the chief executive provide financial assistance to the parent to ensure the parent's attendance.

(6) A person must not contravene a notice given to the person under subsection (3).

Maximum penalty - 50 penalty units.

(7) A court that makes an order under subsection (1) may adjourn the proceeding to allow the parent to attend.

Section 56A owes its origin, I am vain enough to think, to the recommendation I made in my reports to Parliament. (See First Report p.107 and Second Report p.26).

However, Queensland is not a pacemaker in this regard.

## England leads the way

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."

Following on the White Paper in which the Government expressed its view of the importance of parents attending, the Criminal Justice Act 1991 was enacted. Inter alia, it provides 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 it would be unreasonable.

As I have said, before s.56A saw the light of day the Childrens Court had no legal coercive power to force recalcitrant parents to attend Court proceedings. Notwithstanding this lack of legal power to compel attendance I (as I assume others did too) often exercised what for want of a better phrase I might term "moral coercion" to shame recalcitrant parents into court to witness proceedings involving their children.

Now all that has changed: legal coercion exists to get the parents of offending children to court.

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## PARENTAL RESPONSIBILITY AND PARENTAL PARTICIPATION

I have a strong belief bordering on the obsessive that parents of offending children should be confronted with their child's criminality in the formal court setting where they will hear, often for the first time, invariably shocking, detailed evidence of their child's criminal conduct. The result is almost universally salutary.

When children offend, the law has a part to play in reminding parents of their responsibilities. Crime prevention begins at home. Parents have the most powerful influence on their children's development. Whilst most parents carry out their parental responsibilities adequately, there is nevertheless a significant (and ever growing) number who fall short of the duty cast on them to maintain effective control over their children's behaviour.

**Power to compel necessary but to be used wisely**

Unless the Court is equipped with the power to compel parental attendance there is a danger that it will be seen to be ineffectual. In my opinion the power is indispensable to the proper discharge of the Court's charter.

I am confident Childrens Court Judges and Magistrates will use the power to compel attendance sparingly and wisely and will have recourse to the ultimate sanction of a pecuniary penalty only in extreme cases.

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# PROCEDURES ADOPTED

At the outset I decided that generally speaking juvenile cases should be conducted in a formal court setting.

Whilst I respect the views of those who sincerely believe that juvenile court proceedings should be conducted in an informal atmosphere, I cannot myself accept that informality of atmosphere is conducive to the best result. Children, I have found, understand, subconsciously perhaps, the symbolism associated with an aura of authority. Criminous children should be made to realise the solemnity of the occasion. I have therefore refrained from embracing soppy sentimentality in the conduct of juvenile courts. That is not to say that compassion, humanity and a wise and understanding heart are discarded. Indeed they play an important part in the deliberative process.

## No soppy sentimentality

Although the proceedings are conducted in a formal Court setting, many of the procedures I have adopted are informal. I endeavour to conduct a relaxed Court. The procedures I adopt are designed to engender respect for, rather than fear of, the court and the law which it administers.

The child is not placed in the criminal dock, as is the case with an adult. The child is seated with his counsel at the Bar table, and his parents, if present, are seated behind him. The Court invites the child and his parents to participate in the process by making submissions on their own behalf. This practice has proved very beneficial indeed. Also present in the Court is a representative of the Family Services Department, whose function is to assist the Court and ensure that the welfare of the child is safe-guarded.

## Children on the Bench

I sometimes bring children onto the Bench and speak to them about themselves, their crimes, their fears and their hopes for the future.

I have been pleasantly surprised with the outpourings of children and parents when invited to tell the Court their side of the story. I have placed virtually no restraint on what the child or his parents can say.

The child often explains informally his position more revealingly and helpfully than the more formal exposition of his case by his barrister, and, surprisingly, the parent not uncommonly informs the Court of a facet of the child's make-up and the family history which casts a new light on the case. The full, free and informal participation of child and parent in the juridical process is of such vital and fundamental importance in achieving a just outcome of the case that I will openly confess that but for that participation the disposition of a particular case might have been different.

Let me give an example. The prosecution paints a black picture of the child's criminality. The child has been involved in serious crime. The child's barrister pleads in mitigation. The Department representative often urges moderation of penalty. The child then comes out and accepts full responsibility for what he has done and says he is sorry. The parent of the child persuades the Court that the child will in future live at home and be properly supervised. The Court at this point has to form an impression of the character of the child and his parent assisted by such information as is forthcoming from the Department representative and the child's barrister and has to make a decision. Will the Court play safe and order detention as it was first minded, or will it relent, take a calculated risk and order probation and perhaps community service as well? Judgments of this kind impose an enormous strain on the Court. But a decision has to be made. The Court cannot sit on the fence.

Speaking purely subjectively, and with the utmost candour, I have at times found the information imparted by the child and his parents in their own words the turning point in the decision-making process.

## A prohetic vindication

My long held view of the importance of parent and child participation in the juridical process is prophetically vindicated by Mr Jack Straw the present Home Secretary in the new Blair Labour Government. At the Labour Party Conference at Brighton on 25 September 1997 he said:

> "One of my major criticisms of the way the courts operate is that the offender and his parents - if they are there - are spectators. You see these young offenders and they are detached from what is going on. They are talked about but rarely, if ever, talked to."

Shortly thereafter the Labor Party was elected to office. High on the legislative agenda of the new Government was the reform of the juvenile justice laws. Included in the reform was a declared intention to open juvenile courts to more public scrutiny than had hitherto been the case and to engage offenders and their families more closely, as well as giving a greater voice to victims.

In its White Paper presaging the Crime and Disorder Bill 1997 the Government stated that it planned to encourage training for Magistrates to emphasise the value of talking directly to both the young offender and his parents during court proceedings even where the young offender has legal representation. It also proposed to remove obstacles in the court rules which prevented or discouraged Magistrates from questioning defendants about the reason for their behaviour before reaching a final decision on sentencing.

The Home Secretary, Mr Straw, elaborated on the White Paper in a Parliamentary statement which, inter alia, said:

"Despite the obvious commitment of the people working in the system, the unavoidable conclusion is that it is not operating effectively. Offenders are rarely asked to account for themselves. They are bystanders in a process, at best bemused by the obscure theatre of the occasion. Parents are not confronted with their responsibilities, victims have no role and the public are excluded ... Today, young offenders are spectators in legalistic, adversarial court proceedings and frequently all they hear are lawyers making excuses for their offending."

It will be evident from my detailed description of the procedures I have adopted in my Court since its inception in 1993 that the things the Home Secretary now talks about and places emphasis on have been in vogue in the Childrens Court of Queensland for the past five years.

Perhaps we have shown greater foresight than our English counterpart!

## A model court

In the time I have spent on the Court I have endeavoured to devise a model juvenile Court with model practices and procedures, which hopefully will gain general acceptance and in time make its mark in the management and control of juvenile crime.

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# PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

## Justification for banning publication

The usual justification for banning publication of Childrens Court proceedings is that it should be the law's policy to hide youthful errors from the full gaze of the public and bury them in the graveyard of the forgotten past. I do not think anyone would quarrel with this policy if it did not have blanket application. Children found guilty of trivial or relatively minor offences, especially first offenders, should be protected from their offending becoming public information. But what of serious and persistent offenders? Do the public have a right to know about such offenders or should they be shielded from exposure under any circumstances?

In my first annual report 1993/94 I set out the position in Queensland as regards publication of Childrens Court proceedings and argued for a relaxation of the strict non-publication rule as it then applied in Magistrates Childrens Courts. I reproduce here an edited version of what I there said:

## The statute law

"Section 62 of the Juvenile Justice Act is a strangely titled section - it is titled 'Publication prohibited' - and yet it permits publication of a criminal proceeding against a child subject only to nothing being published which would identify the child. I set the section out in full:

> Publication prohibited
>
> 62.(1) In this section -
>
> 'criminal proceeding' means a proceeding taken in Queensland against a child for an indictable or simple offence;
>
> 'identifying matter' means -
>
> (a) the name, address, school, place of employment or any other particular likely to lead to the identification of the child charged in the criminal proceeding; or
>
> (b) any photograph, picture, videotape or other visual representation of the child or of another person that is likely to lead to the identification of the child charged in the criminal proceeding;
>
> 'publish' means publish in Queensland or elsewhere to the general public by means of television, newspaper, radio or any other form of communication.
>
> (2) A person must not publish an identifying matter in relation to a criminal proceeding.
>
> Maximum penalty (subject to Part 5) -

## PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

(a) in the case of a body corporate - 200 penalty units;

(b) in the case of an individual - 100 penalty units, imprisonment for 6 months or both.

The effect of the section is that, provided the identity of the child is suppressed, there is no limit on the publication of a proceeding taken against the child for an indictable or simple offence.

It will be recalled that Childrens Court Magistrates are empowered to deal with non-serious indictable offences where the child so elects and, of course, Magistrates traditionally have jurisdiction over all simple offences.

However, s.62 of the Juvenile Justice Act must be read with s.20 of its companion Act, the Childrens Court Act 1992. Section 20, titled 'Who may be present at a proceeding', provides:

> 20.(1) In a proceeding before the Court in relation to a child, the Court must exclude from the room in which the Court is sitting a person who is not -
>
> (a) the child; or
>
> (b) a parent or other adult member of the child's family; or
>
> (c) a witness giving evidence; or
>
> (d) if a witness is a complainant within the meaning of the Criminal Law (Sexual Offences) Act 1978 - a person whose presence will provide emotional support to the witness; or
>
> (e) a party or person representing a party to the proceeding, including for example a police officer or other person in charge of a case against a child in relation to an offence; or
>
> (f) a representative of the chief executive of the department; or
>
> (g) if the child is an Aboriginal or Torres Strait Islander person - a representative of an organisation whose principal purpose is the provision of welfare services to Aboriginal and Torres Islander children and families; or
>
> (h) a person mentioned in subsection (2) whom the Court permits to be present.
>
> (2) The Court may permit to be present -
>
> (a) a person who is engaged in -
>
> (i) a course of professional study relevant to the operation of the Court; or

## PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

(ii) research approved by the chief executive of the department; or

(b) a person who, in the Court's opinion, will assist the court.

(3) Subsection (1) applies subject to any order made by the Court under section 21A of the Evidence Act 1977 -

(a) excluding any person (including a defendant) from the place in which the Court is sitting; or

(b) permitting any person to be present while a special witness within the meaning of that section is giving evidence.

(4) Subsection (1) applies even though the Court's jurisdiction is being exercised conjointly with other jurisdiction.

(5) Subsection (1) does not apply to the Court when constituted by a Judge exercising jurisdiction to hear and determine a charge on indictment.

(6) Subsection (1) does not prevent an infant or young child in the care of an adult being present in Court with the adult.

'Court' means the Childrens Court.

Subsection (5) exempts from the provision of subsection (1) a Childrens Court when constituted by a Judge trying an indictable offence. The effect of s.20 is that a Magistrate conducting a Childrens Court must exclude from the Court for the whole of the proceeding all persons except the special categories of persons mentioned in subsection (1) and may permit to be present the persons mentioned in subsection (2). The result is that a Magistrate's Childrens Court is not open to the public. Put another way, it is a closed Court. But notwithstanding this exclusion of the public from a Childrens Court presided over by a Magistrate, publication of a proceeding in that Court is permitted pursuant to s.62 of the Juvenile Justice Act provided no 'identifying matter', i.e. anything identifying the child, is published.

It seems to me that s.62 of the Juvenile Justice Act and s.20 of the Childrens Court Act do not sit comfortably together. I find it difficult to reconcile the two sections. The question arises, how can there be publication of a Magistrates Childrens Court proceeding when the press is expressly excluded from the proceeding?

# PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

Whilst acknowledging that there may be public-interest reasons why certain judicial proceedings should not be exposed to publicity, I think that in this day and age the idea of closed Courts runs counter to the public notion of open justice.

## Lack of consistent policy

There should be a consistent policy about the publication of Childrens Court proceedings. Why should a distinction be drawn between proceedings conducted by a Magistrate and proceedings conducted by a Judge? I can see no reason in principle for such a distinction. For myself, I have an aversion to secret or closed Courts. This view is not idiosyncratic. It is held by a body of respectable professional opinion. The 19th century jurist Jeremy Bentham put the matter in a nutshell when he wrote:

> 'Publicity is the very sole of justice. It is the keenest spur to exertion and the surest of all guards against improbity. It keeps the Judge himself while trying on trial.'

In Russell v. Russel (1976) 134 CLR 520, Gibbs J (as he then was) put the same proposition dressed in somewhat different language:

> 'It is the ordinary rule of the Supreme Court, as of the other courts of the nation, that their proceedings shall be conducted 'publicly and in open view' (Scott v. Scott (1913) AC 417 at 441; (1911-13) All ER 1 at 11). This rule has the virtue that the proceedings of every court are fully exposed to public and professional scrutiny and criticism without which abuses may flourish undetected. Further, the public administration of justice tends to maintain confidence in the integrity and independence of the courts. The fact that courts of law are held openly and not in secret is an essential aspect of their character. It distinguishes their activities from those of administrative officials, for 'publicity is the authentic hall-mark of judicial as distinct from administrative procedure.'

And the great Lord Denning had this to say:

> 'In every court in England you will, I believe, find a newspaper reporter ... He notes all that goes on and makes a fair and accurate report of it ... He is, I verily believe, the watchdog of justice ... The judge will be careful to see that the trial is fairly and properly conducted if he realises that any unfairness or impropriety on his part will be noted by those in court and may be reported in the press. He will be more anxious to give a correct decision if he knows that his reasons must justify themselves at the bar of public opinion. Justice has no place in darkness and secrecy. When a judge sits on a case, he himself is on trial ... If there is any misconduct on his

## PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

> part, any bias or prejudice, there is a reporter to keep an eye on him.'
>
> (From The Times, 3 December, 1964).

I recognise that one has to strike a balance between the public's right to know what is happening in the Courts of the land and the protection of children in criminal trouble from the glare of publicity. It seems to me that s.62 affords the protection that children should have: their identity must not be published.

I think there is a compromise solution to the opposing points of view about publicity of Magistrates Childrens Court proceedings. The suggestion I make is that in a Childrens Court constituted by a Magistrate, for a child over 10 and under 15 years of age, the closed Court rule be preserved (Childrens Court Act 1992, s.20), but for children aged 15 to 17 years publication of proceedings be permitted subject to the constraint on the publication of any 'identifying matter' (Juvenile Justice Act 1992, s.62)."

I recommended that the Acts be amended to give effect to this suggestion.

As a result of that recommendation s 20(2) of the Childrens Court Act 1992 was amended in 1996 to give Magistrates a discretion to permit a "representative of the mass media" to be present to report the proceedings. However, the restriction on the publication of any identifying matter still applied, that is to say the media could report the proceedings but not disclose the identity of the child. Indeed the amendment went further than my recommendation in that it placed no limit on the age of the child. (I had recommended that publication be restricted to the 15-17 age bracket).

### England relaxes rules

In the English White Paper presented to Parliament in November 1997 the Government recommended the removal of secrecy surrounding juvenile court proceedings. The Paper states:

> "There must be more openness in youth court proceedings. Present practices place too much emphasis on protecting the identity of the young offenders at the expense of the victims and the community. Justice is best served in an open court where the criminal process can be scrutinised and the offender cannot hide behind a cloak of anonymity. The government believes that the court should make full use of its discretion to lift reporting restrictions in the public interest after conviction. This is particularly important where the offence is a serious one; where offending is persistent; where it has

affected a number of people in the local community; and where the offender is at the upper age range of the youth court.

Though the Government does not want to make youth courts entirely open in the same way as adults courts, it believes that magistrates should make use of their existing discretion to admit victims and members of the public to youth courts. Victims, in particular, have a strong claim to be present during the trial to see justice being done, unless in the circumstances of the particular case this would be contrary to the interests of justice."

The English proposal to allow public reporting of juvenile court proceedings at lower court level broadly corresponds to the present position in Magistrates Childrens Courts in Queensland.

### Press should have free access to juvenile Courts

Despite the relaxation of the reporting rule in Queensland Magistrates Childrens Courts, in practice, the right to publish Magistrates Court proceedings is hardly ever availed of by the press. The reason probably is that the right to publish is dependent on the Magistrate granting permission. The press has no absolute right to enter a Magistrate's Childrens Court. The press has to go cap in hand, as it were, to ask permission to publish proceedings in a Childrens Court presided over by a Magistrate. Unless the press has some advance information about the particular case it is unlikely that it would bother to waste time and effort to get the leave of the court to publish a juvenile proceeding.

In my opinion, the press should have unhindered access to all juvenile courts in Queensland. The only restriction that should be placed on publication is the publication of any "identifying matters" as defined in s 68 of the Juvenile Justice Act 1992. If, as Bentham asserts, 'publicity is the very soul of justice' it is difficult to justify the exclusion of the press from juvenile court proceedings, subject to nothing being published which would directly or indirectly identify the child. Breach of this condition would render the publisher liable to prosecution for contempt of court which, if proved, could result in the imposition of severe penalties.

### Should juvenile offenders be named?

There has been a serious difference of opinion as to whether in certain circumstances the name of juvenile offender should be made public. In my opinion, as a general rule, the offender's name should be suppressed. However, there may be exceptional reasons for releasing the name. Exceptional reasons may include the

# PUBLICATION OF CHILDRENS COURT PROCEEDINGS AND OFFENDERS' NAMES

gravity and perversity of the offence (e.g. murder), and the persistence of serious offending, especially where it impacts severely on multiple members of a local community (e.g. scores of burglaries committed in a restricted locality.)

England has taken steps to allow young offenders' names to be made public. Section 45 of the Crime (Sentences) Act 1997 extends the discretion of youth courts to allow the names of juveniles aged 10 to 17 to be released following conviction, where this is in the public interest.

Although I expect in practice it would rarely be used and then only in the gravest cases, I think Queensland courts should be given a similar discretion.

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# PUBLIC INFORMATION AND EDUCATION

The Childrens Court of Queensland was launched in July 1993. In my inaugural address I said:

## An austere judiciary

"I fear that the public perception of the judiciary is not as good as it should be, largely because of the lack of credible information about it. The judiciary is seen as a body remote, authoritarian, stuffy and austere, a body out of touch with contemporary society, its standards and its mores. If this be so, then the image of the judiciary needs softening.

How can this be done without impairing the independence of the judiciary? I think it right that judges' voices should be heard when our juristic system is debated. Senior judges should be prepared to state their views on general topics. I think it can be done in an acceptable way by the heads of courts and some senior judges stepping down from the Bench and occasionally delivering addresses to be broadcast to a wide audience, not for the purpose, I stress, of answering particular criticisms or vindicating hard or unpopular decisions, but rather with a view to explaining to the public in clear and simple language the purpose and functions of the judiciary, how it works, what its problems are, how they may be overcome, and so forth. I see it as part of an educative process which has for too long been neglected.

## Break down the wall of reticence

I think the time has come to remove the mystique which supposedly surrounds the judiciary. The wall of reticence should be broken down. The judiciary should ask itself whether its conventional self-imposed isolation any longer accords with changed public attitudes and perceptions about it. The judiciary no longer commands uncritical respect. Whereas not all that long ago criticism of the judiciary was muted and tentative, criticism is now strident and vociferous. We should strive to correct certain misconceptions about the judiciary by making it more accessible and its aims more explicit. It is in the public interest that the justice system should be seen to be functioning satisfactorily and that it should have the confidence and respect of the vast majority of informed people."

I quickly put theory into practice.

## Community education

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 the courtesy of the media.

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# PUBLIC INFORMATION AND EDUCATION

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.

## Judicial options

The great benefits to be derived from informing the public of our system of justice have been espoused by, in particular, five 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:

> "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 Mr Justice McGarvie (formerly of the Victorian Supreme Court, later Governor of Victoria) has observed:

> "While opinion is unanimous that the judicial system must have the confidence of the community ... practically nothing is done to provide the public with the information from which that confidence would grow. ...
>
> For years our education system has been 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. ...
>
> Students should be encouraged to visit courts during trials. This is good for the court and the students."

In 1994 Sir Anthony Mason, a former Chief Justice of the High Court of Australia and a very conservative judge in his time, at about the time of his retirement finally came around to the view that we must move with the times. He said:

## PUBLIC INFORMATION AND EDUCATION

> "The old tradition was that judges did not speak to the media. They preferred to work in an atmosphere of splendid isolation, thinking that that protected their judicial independence. For various reasons, including greater scrutiny of the judiciary and the need to enhance a better understanding of what the courts are doing, the old tradition began to break down in Australia and in the United Kingdom, Canada and New Zealand as well. The result is that judges are now beginning to speak publicly to a greater extent than before and to give interviews. They will consider doing so when they are satisfied that there is real opportunity of promoting better understanding of what the courts are doing."

And the present Chief Justice of the High Court, Mr Justice Gleeson, in a recent article observed:

> "How, consistently with the need to maintain both the reality and appearance of impartiality, can judges engage in public debate about issues of law and justice? If they remain silent, they are seen as aloof or arrogant and indifferent to the concerns of the community. They are accused of being 'out of touch', and their failure to answer the accusation is taken as further evidence of its truth ... It will never be possible, or desirable, for judges to join fully in public discussions on matters of law and order, but there is plenty of scope for improvement for the way in which the system explains itself to the community."

In furtherance of this educative objective I have during the past five years given a number of public addresses to civicly-minded bodies which on the whole I believe were well received and had a beneficial effect.

### School children should attend Court

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 have twice before recommended 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.

The recommendation has not yet been adopted. Students nevertheless attend the Court on an ad hoc basis and I have reason to believe that most go away impressed with the proceedings.

## PUBLIC INFORMATION AND EDUCATION

In summary, it is my strong belief that in the vexed area of juvenile crime the head of Court's function does not begin and end with adjudicating cases and administering the Court; there is a parallel duty to inform the public on the issue of juvenile crime.

### Public addresses

Over the past five years I have given the following public addresses and interviews:

| | |
|---|---|
| 1994 - 4 March | JUVENILE JUSTICE<br>Legal Symposium<br>Gold Coast |
| 1994 - 15 March | JUVENILE JUSTICE<br>Police Regional Crime Coordinator Conference<br>Police Headquarters,<br>Brisbane |
| 1994 - 24 March | JUVENILE JUSTICE<br>Department of Child Health<br>Royal Children's Hospital<br>Brisbane |
| 1994 - 26 March | JUVENILE JUSTICE<br>International Association of Arson Investigators, Queensland Chapter<br>Polo Club<br>Brisbane |
| 1994 - 29 March | JUVENILE JUSTICE<br>Magistrates Conference on Domestic Violence<br>Gazebo Hotel<br>Brisbane |
| 1994 - April | JUVENILE JUSTICE<br>Neighbourhood Watch (Taringa Branch) |
| 1994 - 28 July | SEVEN PILLARS OF FREEDOM<br>Dinner for newly inducted police constables<br>Oxley Academy |
| 1994 - 9 September | THE GOOD AND RIGHT WAY<br>Child Protection Conference Dinner<br>Gateway Hotel<br>Brisbane |

## PUBLIC INFORMATION AND EDUCATION

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|---|---|
| 1995 - | INTERVIEW - JUVENILE CRIME<br>"The 7.30 Report"<br>ABC Television |
| 1995-16 November | IN TROUBLOUS TIMES<br>Noosa Rotary Club |
| 1995 - 25 November | RECLAIMING SOCIETY<br>St John's Anglican Church<br>Hendra |
| 1995 - 9 December | MORAL EDUCATION<br>The School of Distance Education<br>Ithaca Room, City Hall<br>Brisbane |
| 1996 - 16 February | MORAL RESPONSIBILITY<br>The Oxley Scout Association<br>Corinda State School |
| 1996 - 27 April | MORAL LEADERSHIP: A still, small, voice<br>John Paul College<br>Brisbane |
| 1996 - 3 July | A TIME TO SPEAK<br>The Queensland Alcohol & Drug Foundation<br>Ninth Winter School in the Sun<br>Travelodge Hotel<br>Brisbane |
| 1996 - 3 October | CHILDREN, THE LAW AND SCHOOLS<br>The Australian and New Zealand Education<br>Law Association<br>Novotel Hotel<br>Brisbane |
| 1996 - 17 October | THE MORAL ORDER<br>Probus Club of Queensland |
| 1996 - 26 October | PARENTS AND CHILDREN<br>The Federation of P & F Associations<br>Queensland<br>Australian Catholic University<br>McAuley Campus<br>Mitchelton |

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## PUBLIC INFORMATION AND EDUCATION

| | |
|---|---|
| 1997 - 17 February | MORAL LEADERSHIP<br>Rotary Club of South Brisbane |
| 1997 - 10 November | JUVENILE JUSTICE: A LOOK BACK OVER FOUR YEARS<br>The State Conference of Queensland Magistrates<br>Novotel Hotel<br>Brisbane |
| 1998 - 9 March | INTERVIEW - JUVENILE CRIME<br>"Today Tonight" Programme<br>Channel 7 |
| 1998 - 8 July | FACING UP TO REALITY: A MODERN PERSPECTIVE ON JUVENILE CRIME<br>Australian and New Zealand Society of Criminology 1998 Annual Conference<br>ANA Hotel<br>Gold Coast |

## ABORIGINAL ISSUES: Mr Bonner's Contribution

In my time on the Childrens Court I have conducted Courts in two Aboriginal communities: Aurukun and Cherbourg.

### Community Courts

Aurukun is a remote Aboriginal community in the Peninsula country. I visited Aurukun on 3 June 1994. At the time I described my visit as a "voyage of discovery". After broad consultation with the members of the Aurukun Council as well as elders of the community I came away with the view that the Aurukun people should have greater input into and control over law enforcement processes. Families of offending children and elders should be actively involved in the Court process. Family participation was essential if decisions made by Courts affecting their children were to have any long-term beneficial effect. In particular, I thought that an Aboriginal elder or a Justice of the Peace should routinely sit with Magistrates on community courts. The function of such an assistant would be to act in an advisory capacity (see First Annual Report, pp.156-160).

On 22 May 1997 I conducted a special Children's Court at Cherbourg. I invited Mr Neville Bonner A.O., the then Chairman of the Indigenous Advisory Council, to sit with me on the Bench in the capacity of an observer and assistant. The Cherbourg experiment was generally acclaimed a success. (For the procedures adopted etc. see the Fourth Annual Report, pp.23-28).

### Recommendations

In my last Annual Report I recommended that the Cherbourg model be afforded statutory recognition. I advised that a position designated Aboriginal Assistant to the Court should be created. To get this initiative started I suggested that in the first instance it should be restricted to Aboriginal communities in Queensland. If after an experimental period of say one year it was seen to be functioning effectively, it could be extended to all Courts in Queensland.

In my various reports to Parliament I repeatedly recommended:

- 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 judicial process and, in particular, be afforded statutory recognition as approved supervisors of probation and community service orders.

None of these recommendations has been adopted.

## ABORIGINAL ISSUES: Mr Bonner's Contribution

### An invitation to Mr Bonner A.O.

Mr Bonner retired as Chairman of the Indigenous Advisory Council on 31 July 1998. Upon his retirement I asked Mr Bonner whether he would like to set down his thoughts on juvenile justice for inclusion in my final report based on his accumulated wisdom gained over many years experience in Aboriginal affairs as an elder and as a respected public figure in the wider Australian community. He replied to my request as follows:

### Mr Bonner's response

> "Thank you most sincerely for your invitation to write a contribution to the Childrens Court Annual Report 1997-98.
>
> In the course of my work as former Chairman of the Indigenous Advisory Council, the Queensland Government's peak advisory body on Aboriginal and Torres Strait Islander policy, I developed a number of views on youth crime, youth justice and the potential use of Aboriginal elders and Aboriginal customary law in achieving a more just and effective administration of juvenile justice.
>
> This paper is an attempt to share these thoughts with you. I hope that they may assist you in your own very commendable efforts to bring about reform."

I publish hereunder Mr Bonner's contribution (unedited).

### Contribution to the Childrens Court Annual Report

"After many years of struggle for more just and sensible ways of dealing with youth crime, I was much heartened by Judge Fred McGuire's remarks in the 1996-97 Children's Court of Queensland Annual Report. As the recently retired former Chairman of the Queensland Government's Indigenous Advisory Council I strongly support recommendations made by Judge McGuire in that report and regret that they have not yet been adopted.

My remarks here are generally confined to Aboriginal young offenders, though I have no doubt that many of these remarks would also apply to Torres Strait Islander youth as well and in some cases to non-Indigenous youth as well.

After many years' experience with offenders of various ages, I have formed a number of views on how we might do better in this regard. These views include the following:

1. While the problem of youth crime will never disappear entirely, it can be much more effectively addressed through greater emphasis on prevention.
2. Government and the institutions of society have an important role in this respect, however parents, families and local communities need to take greater responsibility as well.

3. Aboriginal society has its own institutions which could be used to much greater effect in dealing with youth crime and administering justice.

4. The administration of justice is often skewed against Aboriginal youth by failure to recognise cultural differences including language.

5. With culturally appropriate reforms such as the use of elders to assist courts and supervise community service orders, we would not only treat our youth more fairly but stand a much better chance of dealing effectively with youth crime.

These ideas are expounded in more detail below

## Causes and prevention of youth crime

Before discussing the administration of justice I would like to make some remarks on the causes and prevention of youth crime.

In my statement to the Children's Court at Cherbourg on 22 May 1997 I drew attention to the need for parents and families of young people to serve as role models for their youth, doing so in a very active way. Traditionally my people have a very strong culture in this regard, with a sense of collective responsibility and caring, not only for immediate family members but also for members of the extended family, indeed the community as a whole. Sadly this ethos of caring, which is a great buffer against crime, has been eroded by numerous historical and social factors such as the forced breakup of families, dispossession from land, unemployment, poverty, and alcohol and drug abuse, all of which have hit my people very hard.

These social problems are in themselves major factors causing crime amongst Aboriginal and non-Aboriginal youth alike. It is therefore imperative that governments spare no effort on these fronts. Governments must also recognise, however, that there are even deeper roots underlying the incidence of crime amongst Aboriginal youth: factors such as dispossession from land, absence of respect by other races, and loss of loved ones due to abnormally high rates of mortality. I endorse wholeheartedly Judge McGuire's observations in last year's Children's Court Annual Report when he said that Aboriginal youth are more prone to criminal conduct, not only because they are more vulnerable to a range of social ills but also because they are heirs to an overall sense of rejection, isolation and alienation from the established system.

All these considerations need to be kept in mind when we are dealing with the problem of youth crime, not only for the sake of society at large, which rightly demands respect for life and property, but also for the sake of the young people whose lives are blighted by being caught up in the criminal justice system. We *urgently* need to prevent them from becoming involved with the law in the first place, so that we can contain the downward spiral into further crime and the needlessly high rate of incarceration which only leads to further tragedy.

## Equitable and effective administration of justice

Obviously, despite our best efforts at prevention, we will always have to deal with offenders in court or in the community; however we should at least do so in ways that are fair and equitable as well as effective. In regard to Aboriginal youth, I believe we are falling short of the mark on both these counts. This is largely because insufficient acknowledgment is made of Aboriginal culture. In the courts we ignore cultural differences such as styles of communication which place Aboriginal offenders at a disadvantage, and elsewhere we ignore cultural institutions such as the elders who might prove very effective in the containment of youth crime.

I wish to explore these themes now in respect of customary law; the potential role of elders and other respected persons in court and in the community; the need for court interpreters; and involvement of family members in the court process.

## Customary law

Customary law has a very important role in Aboriginal culture which should be acknowledged, at least to the extent that it is a central feature of the life experience of Aboriginal people brought before the courts.

In saying this I do not advocate setting up a separate law for Aboriginal people, based on customary law. To do this would be impracticable and could lead to all sorts of abuses. There are, however, situations, where customary law could well be applied in court, especially in remote communities where this form of law is more honoured than in the cities. Obviously there are elements of customary law that cannot realistically be used because they are in direct conflict with the prevailing standards of society at large, but there are other elements which might very usefully be applied in consideration of evidence and in sentencing. This would make the judicial process fairer and more relevant to the community and therefore more likely to be accepted by its members.

Such an outcome can only be achieved if there is community involvement in the court process from the outset. This is a matter discussed at some length below. Community involvement is a very valuable resource that, used correctly, has great potential as a weapon in the war against crime, especially youth crime where the offenders are more likely to be influenced by community opinion.

## ABORIGINAL ISSUES: Mr Bonner's Contribution

### Aboriginal assistants to the Court

I support wholeheartedly the proposal that a position of Aboriginal Assistant to the Court be created, to be filled by elders or other respected persons in the manner suggested by Judge McGuire in the Children's Court Annual Report 1996-97. In doing so I draw not only on my knowledge of Aboriginal society in general but also on my particular experience in the Children's Court at Cherbourg.

The Cherbourg experience was a success for two main reasons. In the first place, the presence of myself as an elder and the fact that I was able to take an active part in proceedings made the court less intimidating for the young people and their families, so that they were better able to engage in the process of reaching a just and positive outcome. The second reason had to do with my authority as an elder which prevented the young people from attempting to mislead the court. In rural areas especially, elders are held in awe; therefore young people under questioning are less likely to be untruthful if they are being questioned by an elder or if an elder is present.

It might be questioned whether the Cherbourg model could succeed in urban centres such as Brisbane, or indeed whether it would be needed in such centres. Certainly an argument can be made that offenders living in Brisbane may be sufficiently street-smart and versed in the ways of the law not to need the sort of guidance or cultural support that an elder could give. It can also be argued that urban elders, while respected, have less authority than those in rural areas and are therefore less likely to be effective in curbing bad behaviour. But these are matters of conjecture that remain to be tested. The critical point to be made is that government has so far failed to grasp the nettle even to the extent of mounting a trial of the proposal.

In summary, I believe that introduction of Aboriginal Assistants to the Court has great potential especially in communities to increase the authority and effectiveness of the court and enhance the community's confidence in the justice system. I urge again that this proposal be accepted in principle, properly trailed with due consideration as to the places where it might be effective, and then, subject to the outcomes of the trial, adopted fully by Act of Parliament.

### Interpreters in Court

Shortly before my retirement the Indigenous Advisory Council became involved in a working party convened by the Justice Department to advance recommendations 99 and 100 of the Royal

Commission into Aboriginal Deaths in Custody. These recommendations were as follows:

> 99. That legislation in all jurisdictions should provide that where an Aboriginal defendant appears before a Court and there is doubt as to whether the person has the ability to fully understand proceedings in the English language and is fully able to express himself or herself in the English language, the court should satisfy itself that the person has that ability. Where there is doubt or reservations as to these matters proceedings should not continue until a competent interpreter is provided to the person without cost to that person.
>
> 100. That governments should take more positive steps to recruit and train Aboriginal people as court staff and interpreters in locations where significant numbers of Aboriginal people appear before the courts.

My people are greatly disadvantaged by language as well as other cultural barriers which detract from the essential fairness of the legal system. In saying this I include young people, for it should not be assumed that young people are better educated than adults and therefore not in need of the sort of assistance a court interpreter could provide.

The delay in implementing these recommendations from the Royal Commission has been far too long. I urge most strongly that government now give this matter its due priority.

## Family members in Court

In light of my views on the responsibility of parents and other family members to give greater guidance to young people, I fully accord with the practice of having parents or other next of kin involved in court proceedings, to the extent that they are able to speak informally to the court and participate more actively in the decision making process. In my culture it is doubly important to have this kind of involvement, because this culture is built on the principle of collective responsibility - each member of society taking responsibility for other members and doing so in a very real and selfless way. Added to this, of course, is the other practical consideration that a solution imposed by a court, however just and sound, will have minimal force unless the offender's family and community accept that solution and co-operate in making it work. If they are not involved in the process from the outset, guided and encouraged by the Aboriginal Assistant to the Court, they are more likely to reject the court's decision, with the result that no lasting good is achieved.

## ABORIGINAL ISSUES: Mr Bonner's Contribution

### Role of elders and other respected persons in the community

Further to my theme of making greater use of traditional methods, I hold strongly to the view that elders of communities should be given greater authority to administer justice or direct how justice should be administered. Thesuccess of elders' justice groups demonstrates the virtue of this approach.

In addition, I support Judge McGuire's proposal that Aboriginal elders and other respected persons be given statutory recognition as supervisors of probation and community service orders.

As I have said before, the Cherbourg experience was exemplary as an instance of law being administered fairly, efficiently and effectively. The only respect in which it might have been bettered was that there was no provision made for follow-up of my contribution as the elder involved. Whether or not this could be by way of a court order, I feel that a revisiting of each case (say) six months later would have been beneficial in ensuring that the young offenders were not straying off course again. In this regard, formal recognition of elders and other respected persons as supervisors of community based orders would be useful.

As with Aboriginal Assistants to the Court, it is plain that the strength of Aboriginal culture is the key factor in the success of this proposal. We elders can communicate with young offenders in ways that are more readily understood; we can also exert the authority of standing in the community, pass on our own life experience, and pass on our knowledge of what is acceptable behaviour in Aboriginal society. These are potentially very powerful resources for the juvenile justice system.

In saying this I acknowledge also that there will always be limits to the effectiveness of this scheme. In my many years as an Official Visitor in prisons, I have always commanded at least the respect of Aboriginal inmates, but whether my efforts have made a significant difference in terms of their long-term behaviour is difficult to say. In some prisons my influence might have been beneficial to only about 10 percent of the inmates I visited; in other prisons maybe as much as 60 percent. Overall, however, I would say that I have had a much greater success with young offenders and first offenders, sufficiently so to warrant more of this work being done by other elders. Again, it is likely that the rate of success would be even greater in remote areas where traditional Aboriginal culture has greater hold and the elders have greater influence.

## Conclusion

The issues that I have raised in this paper are not new issues and they have not lacked champions, especially in recent times. Judge McGuire and the Indigenous Advisory Council in particular have laboured to bring a new enlightenment to the administration of juvenile justice in this State, yet still the reforms are denied. The delay needs to cease, for delay has a terrible cost to individual lives and to the community at large.

In looking to the future and hoping that we can learn from our past, I reiterate the need for more effort on prevention, more genuine and formal recognition of the role of parents and families, and more engagement of elders and other respected persons in the juvenile justice process. If we fail to utilise the strengths of Aboriginal culture in this process, we will perpetuate past wrongs done to our young people. Not only our young people but society at large will be the losers.

Neville T Bonner A.O.
Jagera Elder"

## Moderate voice of reconciliation

I was privileged to be asked to Mr Bonner's farewell on 31 July 1998. In myvaledictory remarks I described him as the one moderate voice in Aboriginal affairs in this country. I was also privileged to attend the opening of the new Parliament two days before at which Mr Bonner, at the Government's invitation, made an address of welcome which was universally acclaimed as both inspiring and unifying. His was the respected, moderate voice of reconciliation.

The content of Mr Bonner's contribution to this report is supported, I am assured, by the members of the Indigenous Advisory Council including its present head Acting Chairman Mr Jacob George.

## Mr Bonner's proposals merit government endorsement

I think Mr Bonner's well-reasoned proposals should be considered very seriously by the Government with a view to introducing legislation to implement them. I am in full agreement with all that is said in Mr Bonner's contribution. It typifies what I have already said more than once: that he is indeed the respected, wise, moderate voice in Aboriginal affairs.

I, along with many others, wish Mr Bonner well in his well-earned retirement.

## CAUSES OF CRIME

There is now a perceptible move for change, a sense that the public are demanding protection from criminal predators - whatever their age. Politicians have belatedly recognised the public mood. The level of public disquiet is reflected in legislative changes which are occurring in the area of law enforcement.

Much is said by well-meaning people about attacking the causes of crime. The prescription politicians usually offer is: reduce poverty and increase employment prospects for youth. There is, of course, a public cost associated with the implementation of such a policy. But I assume that no one in their right senses would disagree with the proposition that poverty and youth unemployment are to be deprecated and that we as a responsible society should do something about it. But these factors cannot be considered in isolation.

It is hardly surprising, however, that political solutions appear to have little effect on curbing crime as they invariably fail to tackle the causes of crime. The causes cannot be attributed wholly to the fault of human behaviour as those on the political right would have us believe; nor can they be entirely blamed on economic and social circumstances as those on the political left are insistent in maintaining. The causes of crime are highly complex. But even so, it appears that the roots of crime lie in the breakdown of the moral sense. Moral sense is acquired through a secure attachment to families and traditional institutions such as church and school through which children learn the elementary codes of human behaviour and the relation between acts and consequences. But in recent years there has been a comprehensive breakdown of such attachments.

As Melanie Phillips stated in "All Must Have Prizes":

> "Instead of authority, firm rules and fixed boundaries that define the world as something intelligible to which a child can become attached, there is now merely an endless shifting landscape of subjectivity and ambiguity. The child becomes an autonomous individual. Family and crime are symbiotically linked, and not merely because the implosion of the one leads to the explosion of the other. They are linked by a shared erosion of certain key values. Every society needs order if it is to survive. To have order, a society must have values."

Simply put, the demoralisation of society has to be counted by remoralisation. A call for civic reconstruction cannot be well founded when it is not underpinned by a coherent civic ethic.

# CAUSES OF CRIME

The rise in crime, especially juvenile crime, is not peculiar to any one country; it is endemic. Why is this so in an age of unparalleled scientific progress and material prosperity? The universal answer is that the moral order, so essential for stability and cohesion, is cracking at its foundations. The foundations are in need of urgent repair.

As a member of the Commons said during the debate on the Crime and Disorder Bill 1997:

> "Twenty per cent of all recorded crime is committed by juveniles, so anything the Bill does to solve the problem is welcome. But I think the Bill only scratches the surface. Why are all Western countries facing similar problems? It is because we have created a sort of yob culture, through a general decline in religion, ethics and morality. Parliament is absolutely powerless against these trends, but we must have the courage at least to make a start.

Another member put it in a more matter-of-fact fashion. He said:

> "The Bill represents only part of a coherent strategy for restoring our battered social fabric. In the long run, the only way in which to make a real difference is to put young people back in touch with the world of work and education: to give them a reason to get up in the morning and a purpose in life."

The connection between morality and criminality is powerfully encapsulated in the wise words of that eminent judge Lord Denning:

> "In any discussion of punishment it is important to recognise, as Christianity does, that society itself is responsible for the conditions which make criminals ... The child who has lost his sense of security feels that he must fight for his interests in a hostile world. He becomes anti-social 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 of it ... Nevertheless, although society is largely responsible, neither religion nor the law excuses the criminal himself. Christianity has always stressed the responsibility of each individual for his own wrongdoing."

# THE MORAL DIMENSION

I have consistently maintained that any discussion on the cause and effect of juvenile crime is fundamentally flawed if it fails to address the moral issues involved. In each of the four previous reports I have devoted a significant section to what I have called "The Moral Dimension".

In the last Annual Report I made a rallying call for a national debate on the decline of morals. The Courier-Mail took up the challenge and ran a series of articles on the moral dimension of juvenile crime in December 1997 culminating in an invitation to readers to make their own contributions. The response was overwhelmingly heartening. It confirmed my long-held belief that there is still a residual wisdom in our community which needs to be harnessed: it is reposed in the so-called silent majority - those decent, law-abiding citizens who practice proper standards of morality.

To all those who responded to the call I express my deep and abiding thanks. And I should like to make a public acknowledgment of the great and singular service The Courier-Mail has done to the cause of public morality by publishing the series. In particular, I would like to record my grateful thanks to the Editor in Chief of The Courier-Mail Mr Chris Mitchell and to Mr Mark Oberhardt, a senior journalist of the paper, for throwing open the issue for public debate. The newspaper's decision to do so demonstrated rare courage and foresight. I can say no more; nor should I say less.

I have repeatedly said that the Childrens Court of Queensland has as well as its judicial function an important educative role to play. In furtherance of this educative role I have accepted invitations to address various bodies on juvenile crime and the moral issues implicit in it. I make reference to two such addresses.

On 20 June 1998 I was privileged to chair the final session of Voices of the Young Forum which was in effect a youth parliament consisting of 89 secondary school students chosen from each of the electoral divisions in Queensland. The forum was conducted in the Legislative Assembly Chamber. The topic for debate was "Youth Employment". The idea of the youth parliament was the brainchild of Mr Norman Alford, the Children's Commissioner. I compliment him on his initiative in organising the forum and hope that it will be perpetuated. I was very impressed by the standard of debate. At the end I was moved to make these observations which seemed to me pertinent to the occasion:

"The Courts are only one of a number of social influences.

## THE MORAL DIMENSION

We happen to be going through a period when selfish crime is on the ascendant. We must hope it will pass, and that the social influences of home and school and good government, and, most importantly, the removal of the scourge of high unemployment, especially as it impacts upon the young, will improve the moral climate.

There is no doubt in my mind that there is a definite correlation between pervasive unemployment and crime.

Unemployment is demoralising. Every young person should be given the opportunity of engaging in useful employment and experiencing the dignity of labour.

It has been said, I think, with some justification, that my generation has, to a significant extent, failed in its duty to offer moral leadership to the youth of our country.

Moral leadership is about exemplifying excellence.

Morality is about developing that now little understood and almost forgotten word - VIRTUE.

It is about faith, duty, courage, generosity, trust, self-discipline and love.

I call on the youth of this State, ably represented by you in this Youth Parliament, to take up the challenge of moral leadership in your schools and communities.

You CAN make a difference."

On 8 August 1998 I was honoured to open the State Conference of the Australian Family Association. As must be abundantly clear from all I have said, I place great store on the family and the values it represents in a civilised and orderly society. I publish hereunder an edited version of that address:

"I am very pleased to be asked to open the 1998 State conference of the Australian Family Association.

The Conference agenda is replete with interesting and challenging topics.

The institution of marriage is, I believe, essential to the maintenance of a stable and coherent society. Despite the view heralded in certain quarters that temporary liaisons are an acceptable substitute for permanent associations bonded by the solemnity of the marriage vows, I think such liaisons lack the vital ingredients of stability, orderliness and permanence so necessary for family life.

# THE MORAL DIMENSION

Children nurtured in a secure, supportive, loving family atmosphere under the guidance of both parents, have considerably enhanced prospects of growing up to be responsible, moral, contributing, law-abiding citizens.

It is the children of broken marriages who suffer the most. All too often estranged parents place their own convenience before their children's welfare.

However, women with children, whether born in or out of marriage, who have been abandoned, deserve the sympathetic understanding and support of the community.

The importance of the family to the moral well-being of the nation has been stated over and over again by respected eminent persons well credentialled to speak on the subject. I cite two examples:

Dr Jonathan Sacks, Chief Rabbi of Britain and the Commonwealth, put it powerfully when he said:

'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 teaches or schools, not politicians or the media - so shapes us and what we have a chance of becoming as our experience of early childhood.'

And William J. Bennett, noted American author and Secretary of Education in the Reagan administration, expressed much the same sentiment in these words:

'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.'

I think that says it all.

I should like to take this opportunity of publicly acknowledging the great contribution The Australian Family Association has made, and is making, to the preservation of the family. It has steadfastly proclaimed the principles of morality and duty and the virtues of the family, at times against the tide of populist opinion.

# THE MORAL DIMENSION

What I think is sadly lacking is moral leadership in all walks of life. You will all recall the story of Elijah.Because he denounced the pagan worship of Baal, his life was threatened. He fled to Mt. Horab and hid in a cave.

'And behold, the word of the Lord came to him, and said unto him, ... Go forth, and stand upon the mount before the Lord. And, behold, the Lord passed by, and a great and strong wind rent the mountains, and broke in pieces the rocks before the Lord; but the Lord was not in the wind. And after the wind an earthquake; but the Lord was not in the earthquake. And after the earthquake, a fire; but the Lord was not in the fire. And after a fire, a still, small voice.' (1 Kings 19:9-12).

It is then that God speaks to Elijah and instructs him as to the future course of events, including the appointment of Elisha as his successor.

What is the moral to be drawn from the story of Elijah? I believe it is this.Elijah is shown that God is not disclosed in dramatic confrontation: not in the whirlwind or the earthquake or the fire; but in the still, small voice.

And so it is in the world in which we live. Moral leadership is not to be found in the trappings of secular authority; not in military might; nor the strident vociferations of political dictators: but in the still, small voice.

Moral leadership calls for a special kind of virtue, the way of the still, small voice.

One is prompted to ask, by whom may the still, small voice be heard? The answer is simple: by all who turn their ears to it.

In our voyage through life, it we are to avoid being shipwrecked, we must navigate by a guiding star. It is after all that which guides us when all exploration puts out to sea, and it is that which in the end will bring us home: the guiding star of the still, small voice.

The rise in crime, especially juvenile crime, is not peculiar to any one country; it is endemic. Why is this so in an age of unparalleled scientific progress and material prosperity? The universal answer is that the moral order, so essential for stability and cohesion, is cracking at its foundations. The foundations are in need of urgent repair.

In spite of all the ominous trends, I remain unshakeable in my faith in the future. I am convinced that there is yet time to repair

## THE MORAL DIMENSION

the fractures in the civic and moral orders. It can be done, and it can be done by ordinary people like you and me, representative of the so-called silent majority who, I hope, will raise their voice above the madding crowd in protest against the moral decay afflicting a significant section of society.

We live in 'troublous times'. The expression is taken from Daniel 9-25: 'The street shall be built again, and the wall, even in troublous time.'

We can yet rebuild our fractured society. Time is running out, but it is not too late if we each in our own way play a part in the restoration of proper standards of morality. We owe it to ourselves, to our children and to future generations to rebuild the broken street and the broken wall, a fitting Biblical metaphor for our fractured society.

The Australian Family Association can take pride in its unswerving efforts to restore the family to its proper place in society.

I wish the conference well in its deliberations.

It now affords me much pleasure to declare the Conference open."

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# EPILOGUE

This report is the final chapter of my work on the Childrens Court of Queensland. I will be retiring as a Judge and therefore as President of the Childrens Court of Queensland on 5th January 1999. The 5th January will mark my 70th birthday. It is at 70, if they have not had the good sense to bail out earlier, that Judges get what Jeeves would call the good old heave ho! And not before time, you may think. But even if I had not reached the statutory retirement age, I think it is time to go; perhaps I have stayed on too long.

I started in this job five years ago. In my inaugural address in July 1993 to launch the new court, I said:

> "I have no illusions at all about the task ahead. I've been handed a tough assignment - but I do not shrink from it. I was pleased to be asked to occupy this important position and I was pleased to accept. 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 youth from the path of crime by punishing the wrongdoer, warning the unruly, encouraging the faint-hearted, supporting the weak and being patient to all.
>
> I should like to say that the new, enlightened legislation should not raise public expectations too high too soon. Juvenile crime is rampant. It is no good turning a blind eye to it. It will take time to turn the tide, but I have full confidence that, if all do their duty, if nothing is neglected and if the best arrangements are made, then turn it will. As Saint Paul said:
>
> *'And let us not be weary in well-doing: for in due season we shall reap, if we faint not. (Galations 6:9).'"*

The task indeed proved a daunting one. Much has been achieved. Those achievements are recorded in the five reports I have made to Parliament. Much more could have been achieved but for the right of election principle which has proved a disasterous stumbling block in the way of progress.

In spite of attempts (referred to in the section on the Right of Election) to subvert the Childrens Court of Queensland, the Court has triumphed. By all accounts, it stands high in public esteem. Its moral authority is unchallenged. For that, I am exceedingly proud.

I place on public record my sincere thanks to all those who have directly and indirectly given their approbation to the way the

## EPILOGUE

Court has functioned under my administration. I should particularly like to pay tribute to the media and especially The Courier-Mail and its able court reporter Mr Mark Oberhardt for their portrayal of the functioning of the Court over the past five years - generally, in a favourable light. The media were quick to seize upon the public importance of the court by publishing information so essential to the educative process to which detailed reference is made in the section entitled "Public Information and Education" (p.75).

I have done my best. I have acted in accordance with such lights as have been granted me. But now it is time to hand over. It is a time for a new voice in this seriously troubled area. I wish my successor all success in the difficult times ahead.

I finish on a hopeful note. I have faith in the future. I fervently believe that under Divine Providence the scourge of juvenile crime can be blotted out. But for that to happen the moral imperative about which I have spoken in my numerous discourses on the moral dimension must be the star by which we steer.

*Goodbye, and thank you.*

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# STATISTICAL TABLES—CONTENTS

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# STATISTICAL TABLES

## Introduction

For a proper understanding of this section, reference should be made to A Case Restated for the Third Time (p. 9 in the third annual report), 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. 128–46) 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

***Reference period*** The statistics in this report focus on the financial year 1 July 1997 to 30 June 1998. Where possible, data from the previous financial year are provided for comparison.

***Data collection*** The data were collected from all criminal courts in Queensland either by extraction from the computerised Case Register System (CRS) for the Magistrates Courts and Criminal Register System (CRS) for the District and Supreme Courts or by manual returns provided by those Courts without access to a CRS system.

***Symbols used in tables***

— nil
. . not applicable

## Definitions

***caution*** an official warning given at police discretion to juveniles as an alternative to charging.

***charge*** a formal accusation of an offence.

***child*** see juvenile.

***Childrens Court of Queensland*** an intermediate court created to deal with juveniles charged with serious offences. It is presided over by a Childrens Court judge.

***committal*** referral of a case from a Magistrates Court to a higher court for trial or sentence.

***defendant*** a juvenile charged with a criminal offence. A juvenile is counted as a defendant more than once if disposed more than once during the reference period.

***disposal*** the ultimate finalisation and clearing of all matters to do with a defendant (for instance by a guilty finding and sentence, discharge or withdrawal, but not by transfer to another court).

***District Court of Queensland*** a court constituted by a District Court judge.

***ex officio indictment*** an indictment filed by the Attorney-General committing an accused person for trial without a committal.

## STATISTICAL TABLES

***guilty finding*** a determination by the court or as a result of a guilty plea that a defendant is legally responsible for an offence.

***juvenile*** a person who has not turned 17 years. (A person who has attained 17 years of age may be dealt with as a juvenile if the offence with which he is charged was committed before he attained 17 years of age.)

***Magistrates Court*** a court of summary jurisdiction constituted by a stipendiary magistrate or, in some circumstances, by two justices of the peace.

***offence*** an act or omission which renders the person doing the act or making the omission liable to punishment.

***offence type*** a category within a classification describing the nature of the offence; the Queensland Classification of Offences mainly is used in this report.

***offender*** a juvenile who has been found or has pleaded guilty of an offence.

***penalty*** a term of imprisonment or detention, fine or other payment, community service or supervision, surrender of licence or other imposition ordered by the court as part of the punishment of an offender after a guilty finding.

*detention order* a custodial penalty placing a juvenile in a youth detention centre.

*immediate release order* suspension by the sentencing court of a detention order against a juvenile offender conditional on participation in a program of up to three months.

*community service order* a supervision penalty requiring an offender to perform a specified number of hours of unpaid community work.

*probation order* a penalty allowing freedom under supervision for a specified period, conditional upon compliance with the terms of the order.

*fine* a monetary penalty requiring an offender to make a payment of a specified sum to the Crown.

*compensation* a monetary penalty requiring an offender to make a payment by way of redress for loss or injury to person or property (includes restitution).

*good behaviour order* a penalty where an offender agrees to be of good behaviour for a specified period and where a breach thereof may be taken into account if the juvenile reoffends during the period of the order.

*disqualification of licence* a penalty revoking an offender's driver's licence for a specified time.

*reprimand* a formal reproof given by the court to a juvenile offender upon a guilty finding. Included in the statistics in this publication are other penalties (such as orders to return property and forfeiture of property or drug utensils) not included elsewhere.

## STATISTICAL TABLES

***sentence*** the determination by a court of the punishment to be imposed on a person who has been found guilty or has pleaded guilty.

***serious offence*** an offence that, if committed by an adult, would make the adult liable to imprisonment for life or for 14 years or more (*Juvenile Justice Act 1992*, s.8).

***Supreme Court of Queensland*** the highest court in the Queensland judicial system (with unlimited jurisdiction and dealing with murder, attempted murder, manslaughter and the most serious drug offences).

***trial (criminal)*** a hearing (in a District or Supreme Court) before a judge sitting with a jury or (in the Childrens Court of Queensland) by a judge alone to determine the guilt of a defendant charged with an offence.

### Data Issues

***Recording of ages*** Where possible, age has been calculated from the date of birth of the defendant to the date the offence occurred.

***Most serious penalty*** Offenders may receive more than one type of penalty. Tables in this report show the number of offenders by their most serious penalty. For example, a person ordered to be detained and also placed on probation is placed in the 'Detention' row only, because it is the more serious penalty.

***Percentage totals*** In tables in this report constituent percentages may not add to 100 per cent due to rounding to one decimal place.

***Classification of offences*** This report shows the classification of charges by 'Offence type'. The offence classification used is based on the Queensland Classification of Offences and is only partially compatible with the Australian National Classification of Offences (ANCO). Offences are first classified into one of eight categories shown broadly in order of seriousness. Most of these categories are further broken down into offence types.

Detailed tables contain figures for all offence types. Summary tables in the body of the text give figures for all categories at the higher level and those at the lower level that are of significant interest.

'Other offences' contains those that cannot be classified elsewhere. The most common offence types in this category are the various drug offences and good order offences such as *drunkenness*, *offensive behaviour* and *enforcement of orders*.

***Burglary and housebreaking and other breaking and entering*** While the detailed tables contain separate figures of counts of defendants and charges for these offence types, they have been combined in the summary tables, as there is uncertainty about the accuracy of recording offences into these types. The numbers obtained for burglary and housebreaking are smaller in relation to other breaking

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## STATISTICAL TABLES

and entering than expected. The likely explanation is recording error when court results were transcribed to statistical returns.

***Serious offences disposed at Magistrates Court***

Methods of disposal at Magistrates Courts include dismissal and withdrawal of charges. Therefore, the data will show serious offences disposed at Magistrates Court level where dismissal or withdrawal has occurred.

***Cautions***

Only one caution is counted for each different offence type on a crime report. Thus a person cautioned for three property damage offences will only be counted once for that offence type, and a person cautioned for one burglary offence and one property damage offence will be counted twice, once for each offence type.

The total number of cautions recorded is therefore less than the total number of offences for which offenders were cautioned.

***Court delays***

Court delays in Magistrates Courts have been calculated by examining returns from the following court locations: Brisbane, Beenleigh, Ipswich, Southport, Maroochydore, Toowoomba, Rockhampton, Mackay, Townsville and Cairns. These courts accounted for about 62 per cent of all defendants in these courts statewide.

Delays in District and Supreme Courts have been assessed for the courts at Brisbane only, which deal with 57 per cent of all defendants statewide.

Delays in the Childrens Court of Queensland have been calculated for the court at Brisbane, which dealt with 16 per cent of all defendants in the Childrens Court of Queensland statewide.

The delay in each case has been calculated as the time from presentation of the initiating document (bench charge sheet or indictment) to finalisation. A longer measure of the delay in the Childrens Court of Queensland, the District Court or the Supreme Court would result if calculated from the date of committal.

***Imprisonment***

As a general rule, there is no power of imprisonment as opposed to detention under the *Juvenile Justice Act 1992*. In rare cases, however, the power of imprisonment exists. For example, if a person commits a crime as a child, absconds and is arrested pursuant to warrant after attaining the age of 18, the court is empowered in an appropriate case to impose imprisonment by way of penalty (see *Juvenile Justice Act 1992*, s.105).

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## Summary

### *Juvenile defendants by court level*

The number of juveniles whose cases were disposed in all Queensland courts increased by 13.7 per cent, from 6,513 in 1996–97 to 7,404 in 1997–98. The increase of 17.0 per cent in defendants before the Magistrates Court (from 5,455 to 6,382) was partly offset by a 32.8 per cent reduction in the number of defendants before the Childrens Court of Queensland (from 201 to 135).

In 1997–98, Magistrates Courts disposed 86.2 per cent of juvenile defendants, the Childrens Court of Queensland 1.8 percent, the District Court 11.8 per cent and the Supreme Court 0.1 per cent.

**Juvenile defendants by court level of final disposal[a], Queensland, 1996–97 and 1997–98**

| Court level | 1996–97 | | 1997–98 | | Change |
|---|---|---|---|---|---|
| | No. | % | No. | % | % |
| Magistrates | 5,455 | 83.8 | 6, 382 | 86.2 | 17.0 |
| Childrens Court of Queensland | 201 | 3.1 | 135 | 1.8 | –32.8 |
| District | 846 | 13.0 | 876 | 11.8 | 3.5 |
| Supreme | 11 | 0.2 | 11 | 0.1 | — |
| **Total** | **6,513** | **100.0** | **7,404** | **100.0** | **13.7** |

(a) A defendant is disposed when all the charges against him are proved or dismissed or withdrawn. Juveniles committed from a Magistrates Court are disposed at a higher court and are counted here only at that level.

Males represented 84.5 per cent of all defendants in 1997–98. Some 37.1 per cent of defendants were 16 years of age with a further 25.5 per cent aged 15 years. (For more detail refer to Table 18.)

### *Charges against juveniles by court level*

Charges against juveniles increased by 22.6 per cent from 20,114 in 1996–97 to 24,652 in 1997–98. There was an increase in both the Magistrates Courts (22.2%) and the District and Supreme Courts (38.6%). The number of charges disposed in the Childrens Court of Queensland decreased by 34.0 per cent from 1,198 to 791.

The offence category with the largest number of charges was *theft, breaking and entering, etc.* with 14,315 charges in 1997–98, up 27.3 per cent from 11,245 in 1996–97. Within *theft, breaking and entering, etc.*, *breaking and entering* had the largest number of charges with 6,152, up 44.4 per cent from 4,259 in 1996–97. (For more detail refer to Table 19.)

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**Charges against juveniles by court level of final disposal[a], Queensland, 1996–97 and 1997–98**

| Court level | 1996–97 | | 1997–98 | | Change |
|---|---|---|---|---|---|
| | No. | % | No. | % | % |
| Magistrates | 14,380 | 71.5 | 17,572 | 71.3 | 22.2 |
| Childrens Court of Queensland | 1,198 | 6.0 | 791 | 3.2 | –34.0 |
| District | 4,518 | 22.5 | 6,250 | 25.4 | 38.3 |
| Supreme | 18 | 0.1 | 39 | 0.2 | 116.7 |
| **Total** | **20,114** | **100.0** | **24,652** | **100.0** | **22.6** |

(a) Charges against juveniles committed from a Magistrates Court are disposed at a higher court and are counted here only at that level.

***Penalties received by juvenile offenders***

Of the 7,404 defendants in 1997–98, 6,547 (88.4%) were either found guilty or by pleaded guilty, 864 or 15.2 per cent higher than in 1996–97.

**Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98**

| Penalty[a] | 1996–97 | | 1997–98 | | Change |
|---|---|---|---|---|---|
| | No. | % | No. | % | % |
| Detention | 283 | 5.0 | 327 | 5.0 | 15.5 |
| Immediate release | 198 | 3.5 | 207 | 3.2 | 4.5 |
| Community service | 1,136 | 20.0 | 1,397 | 21.3 | 23.0 |
| Probation | 1,151 | 20.3 | 1,165 | 17.8 | 1.2 |
| Fine | 411 | 7.2 | 484 | 7.4 | 17.8 |
| Compensation | 202 | 3.6 | 212 | 3.2 | 5.0 |
| Good behaviour order | 857 | 15.1 | 1,084 | 16.6 | 26.5 |
| Disqualification of licence | 13 | 0.2 | 12 | 0.2 | –7.7 |
| Reprimand[b] | 1,432 | 25.2 | 1,659 | 25.3 | 15.9 |
| **Total** | **5,683** | **100.0** | **6,547** | **100.0** | **15.2** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

Of those found guilty in 1997–98, 327 (or 5.0%) were sentenced to detention, and a further 207 (or 3.2%) received an immediate release order.

Reprimands were ordered for 1,659 juveniles (or 25.3%). The next largest group of 1,397 (21.3%) received community service as their most serious penalty and 1,165 (17.8%) received probation.

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***Cautions***

Data provided by the Queensland Police Service showed that 15,103 juvenile offenders were administered cautions in 1996–97 and 13,579 in 1997–98, a decrease of 10.1 per cent.

**Juvenile offenders proceeded against by caution[a] by offence type, Queensland, 1996–97 and 1997–98**

| Offence type[b] | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| Homicide, etc. | — | — | . . |
| Assaults (inc. Sexual offences), etc. | 847 | 756 | –10.7 |
| Robbery & extortion | 44 | 40 | –9.1 |
| Fraud & misappropriation | 454 | 427 | –5.9 |
| Theft, breaking & entering, etc. | 8,447 | 7,366 | –12.8 |
| [Unlawful use of motor vehicle] | 325 | 379 | 16.6 |
| [Other stealing] | 5,927 | 5,011 | –15.5 |
| [Receiving, unlawful possession] | 276 | 358 | 29.7 |
| [Breaking & entering][c] | 1,919 | 1,618 | –15.7 |
| Property damage | 1,698 | 1,509 | –11.1 |
| Driving, traffic & related offences | 28 | 27 | –3.6 |
| Other offences | 3,585 | 3,454 | –3.7 |
| [Drug offences][d] | 2,533 | 2,371 | –6.4 |
| **Total** | **15,103** | **13,579** | **–10.1** |

(a) A person is counted as an offender more than once if he has been cautioned for more than one type of offence, or for offences against more than one victim, or for offences during more than one incident.

(b) Only selected offence types are shown [in brackets] at the more detailed level.

(c) Breaking and entering = *burglary and housebreaking + other breaking and entering*

(d) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences*

*Source: Queensland Police Service*

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In 1997–98, 13,579 juvenile offenders were administered cautions compared to 24,652 charges against juveniles which were disposed in court.

The majority of cautions were administered for *theft, breaking and entering, etc.*, 7,366 (or 54.2% of all cautions) in 1997–98 and 8,447 (55.9%) in 1996–97. *Other stealing* (5,011 or 36.9% of all cautions) and *breaking and entering* (1,618 or 11.9% of all cautions) were the main components within this category.

A large number of juveniles were also proceeded against by caution for *property damage* (1,509 or 11.1% of all cautions) and *drug offences* (2,371 or 17.5% of all cautions).

There were decreases in the number of cautions administered to juveniles across all the main offence types, with the exception of *receiving offences* (up 29.7%) and *unlawful use of a motor vehicle* (up 16.6%). The largest decreases from 1996–97 occurred for *breaking and entering* (down 15.7%) and *other stealing* (down 15.5%).

## Offences before the courts

### *Childrens Court of Queensland*

The Childrens Court of Queensland, comprising courts at Brisbane, Ipswich, Southport, Rockhampton, Townsville and Cairns, disposed 791 charges against 135 defendants in 1997–98, a decrease of 32.8 per cent from the 1996–97 level (201 juveniles). An additional person with three charges was transferred to the District Court.

**Defendants in the Childrens Court of Queensland**

Decreases were recorded across almost all age groups.

**Childrens Court of Queensland: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| 10 | 1 | 1 | — |
| 11 | 2 | 1 | –50.0 |
| 12 | 5 | 1 | –80.0 |
| 13 | 13 | 7 | –46.2 |
| 14 | 31 | 19 | –38.7 |
| 15 | 49 | 33 | –32.7 |
| 16 | 63 | 44 | –30.2 |
| 17 & over[(a)] | 37 | 29 | –21.6 |
| **Total** | **201** | **135** | **–32.8** |

(a) A person may be dealt with as a juvenile if the offence with which he is charged was committed before he attained 17 years of age.

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### Charges against juveniles in the Childrens Court of Queensland

The Childrens Court of Queensland dealt with 791 charges in 1997–98, compared with 1,198 in 1996–97, a decrease of 34.0 per cent.

**Childrens Court of Queensland: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**

| Offence type[a] | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| Homicide, etc. | 1 | — | –100.0 |
| Assaults (inc. Sexual offences), etc. | 56 | 47 | –16.1 |
| [Major assault] | 34 | 21 | –38.2 |
| [Minor assault] | 8 | 14 | 75.0 |
| Robbery & extortion | 41 | 19 | –53.7 |
| Fraud & misappropriation | 4 | 3 | –25.0 |
| Theft, breaking & entering, etc. | 948 | 617 | –34.9 |
| [Unlawful use of motor vehicle] | 112 | 98 | –12.5 |
| [Other stealing] | 360 | 198 | –45.0 |
| [Receiving, unlawful possession] | 34 | 15 | –55.9 |
| Breaking & entering][b] | 442 | 306 | –30.8 |
| Property damage | 125 | 60 | –52.0 |
| Driving, traffic & related offences | 4 | 18 | 350.0 |
| Other offences | 19 | 27 | 42.1 |
| [Drug offences][c] | 5 | 4 | –20.0 |
| **Total** | **1,198** | **791** | **–34.0** |

(a) Only selected offence types are shown [in brackets] at the more detailed level. For more detail refer to Table 11.

(b) Breaking and entering = *burglary and housebreaking + other breaking and entering.*

(c) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences.*

*Theft, breaking and entering etc.* accounted for the largest number of charges in 1996–97 and 1997–98 representing just under 80 per cent of the total Childrens Court of Queensland charges in both years.

A further dissection of *theft, breaking and entering, etc.* in 1997–98 indicated that the offence type with the most charges was *breaking and entering* with 306 (or 38.7% of all charges) followed by *other stealing* with 198 (or 25.0%).

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### Penalties received by juvenile offenders before the Childrens Court of Queensland

Of the 135 juveniles before the Childrens Court of Queensland in 1997–98, 127 or 94.1 per cent were found guilty or pleaded guilty. Of these, 23 juvenile offenders (or 18.1%) received detention as their most serious penalty, with a further 11 (8.7%) receiving an immediate release order. Other penalties included community service (38 or 29.9%), probation (24 or 18.9%), fines (8 or 6.3%) and good behaviour orders (8 or 6.3%). Twelve juvenile offenders received reprimands, an increase from 3 in 1996–97.

Decreases were recorded for most penalty types, due mostly to the overall decrease in juveniles appearing in the Childrens Court of Queensland. (For more detail refer to Table 13.)

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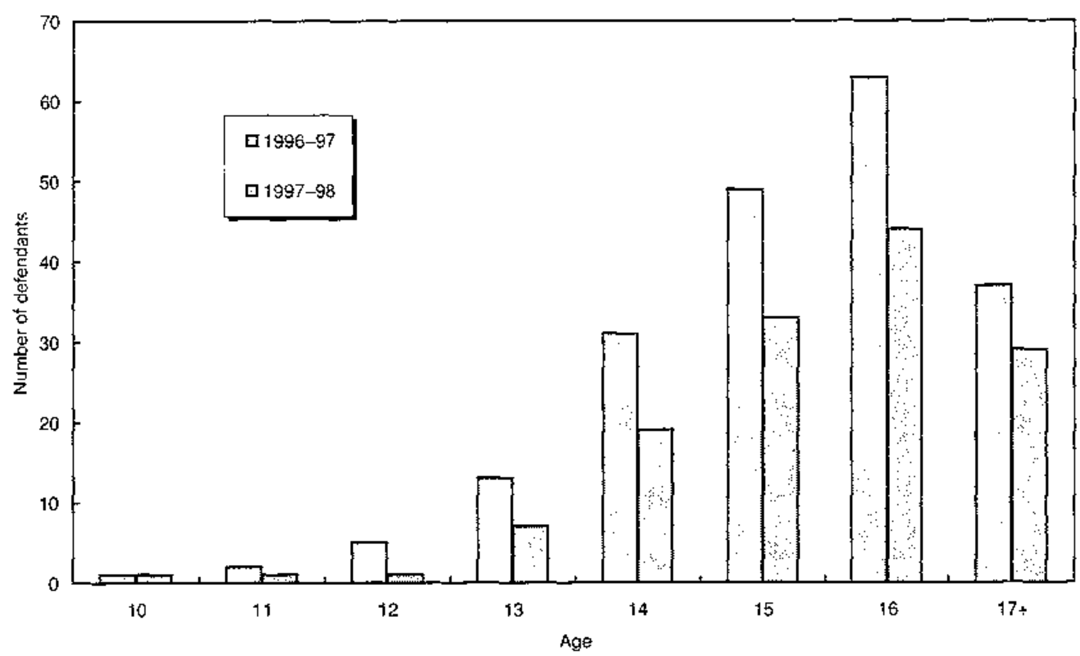
**Childrens Court of Queensland: Juvenile defendants disposed by age and sex, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 1 | — | 1 | 1 | — | 1 | — | .. | — |
| 11 | 2 | — | 2 | 1 | — | 1 | -50.0 | .. | -50.0 |
| 12 | 5 | — | 5 | 1 | — | 1 | -80.0 | .. | -80.0 |
| 13 | 10 | 3 | 13 | 7 | — | 7 | -30.0 | -100.0 | -46.2 |
| 14 | 29 | 2 | 31 | 15 | 4 | 19 | -48.3 | 100.0 | -38.7 |
| 15 | 40 | 9 | 49 | 32 | 1 | 33 | -20.0 | -88.9 | -32.7 |
| 16 | 57 | 6 | 63 | 40 | 4 | 44 | -29.8 | -33.3 | -30.2 |
| 17+ | 36 | 1 | 37 | 28 | 1 | 29 | -22.2 | — | -21.6 |
| **Total** | **180** | **21** | **201** | **125** | **10** | **135** | **-30.6** | **-52.4** | **-32.8** |

**Childrens Court of Queensland: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98**



# STATISTICAL TABLES

**Childrens Court of Queensland: Charges against juveniles disposed by offence type by sex of defendant, Queensland, 1996–97 and 1997–98**

| Offence type | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| **Homicide, etc.** | 1 | — | 1 | — | — | — | -100.0 | .. | -100.0 |
| Murder | — | — | — | — | — | — | .. | .. | .. |
| Attempted murder | — | — | — | — | — | — | .. | .. | .. |
| Manslaughter (excluding driving) | — | — | — | — | — | — | .. | .. | .. |
| Manslaughter (driving) | — | — | — | — | — | — | .. | .. | .. |
| Dangerous driving causing death | 1 | — | 1 | — | — | — | -100.0 | .. | -100.0 |
| Conspiracy to murder | — | — | — | — | — | — | .. | .. | .. |
| **Assaults (incl. sexual offences), etc.** | 42 | 14 | 56 | 45 | 2 | 47 | 7.1 | -85.7 | -16.1 |
| Major assault | 25 | 9 | 34 | 20 | 1 | 21 | -20.0 | -88.9 | -38.2 |
| Minor assault | 7 | 1 | 8 | 13 | 1 | 14 | 85.7 | — | 75.0 |
| Rape | 3 | — | 3 | — | — | — | -100.0 | .. | -100.0 |
| Other sexual offences | 6 | — | 6 | 9 | — | 9 | 50.0 | .. | 50.0 |
| Other violation of persons | 1 | 4 | 5 | 3 | — | 3 | 200.0 | -100.0 | -40.0 |
| **Robbery & extortion** | 32 | 9 | 41 | 19 | — | 19 | -40.6 | -100.0 | -53.7 |
| Robbery | 32 | 9 | 41 | 19 | — | 19 | -40.6 | -100.0 | -53.7 |
| Extortion | — | — | — | — | — | — | .. | .. | .. |
| **Fraud & misappropriation** | 2 | 2 | 4 | 3 | — | 3 | 50.0 | -100.0 | -25.0 |
| Embezzlement | — | — | — | 1 | — | 1 | .. | .. | .. |
| False pretences | 2 | 1 | 3 | 1 | — | 1 | -50.0 | -100.0 | -66.7 |
| Fraud & forgery | — | 1 | 1 | 1 | — | 1 | .. | -100.0 | — |
| **Theft, breaking & entering, etc.** | 891 | 57 | 948 | 605 | 12 | 617 | -32.1 | -78.9 | -34.9 |
| Unlawful use of motor vehicle | 108 | 4 | 112 | 97 | 1 | 98 | -10.2 | -75.0 | -12.5 |
| Other stealing | 335 | 25 | 360 | 192 | 6 | 198 | -42.7 | -76.0 | -45.0 |
| Receiving, unlawful possession | 33 | 1 | 34 | 15 | — | 15 | -54.5 | -100.0 | -55.9 |
| Burglary & housebreaking[a] | 233 | 21 | 254 | 118 | 5 | 123 | -49.4 | -76.2 | -51.6 |
| Other breaking & entering[a] | 182 | 6 | 188 | 183 | — | 183 | .5 | -100.0 | -2.7 |
| **Property damage** | 119 | 6 | 125 | 59 | 1 | 60 | -50.4 | -83.3 | -52.0 |
| Arson | 16 | 1 | 17 | 5 | 1 | 6 | -68.8 | — | -64.7 |
| Other property damage | 103 | 5 | 108 | 54 | — | 54 | -47.6 | -100.0 | -50.0 |
| **Driving, traffic & related offences** | 4 | — | 4 | 17 | 1 | 18 | 325.0 | .. | 350.0 |
| Drink driving | — | — | — | 1 | — | 1 | .. | .. | .. |
| Dangerous / negligent driving | 4 | — | 4 | 2 | — | 2 | -50.0 | .. | -50.0 |
| Licence offences | — | — | — | 2 | 1 | 3 | .. | .. | .. |
| State Transport, Main Roads Act | — | — | — | 1 | — | 1 | .. | .. | .. |
| Other traffic offences | — | — | — | 11 | — | 11 | .. | .. | .. |
| Other driving offences | — | — | — | — | — | — | .. | .. | .. |
| **Other offences** | 15 | 4 | 19 | 24 | 3 | 27 | 60.0 | -25.0 | 42.1 |
| Possession or use of drugs | 1 | 1 | 2 | 1 | — | 1 | — | -100.0 | -50.0 |
| Dealing & trafficking in drugs | 3 | — | 3 | 1 | — | 1 | -66.7 | .. | -66.7 |
| Manufacturing & growing drugs | — | — | — | — | — | — | .. | .. | .. |
| Other drug offences | — | — | — | 2 | — | 2 | .. | .. | .. |
| Drunkenness | — | — | — | 1 | 1 | 2 | .. | .. | .. |
| Offensive behaviour | — | — | — | 6 | 1 | 7 | .. | .. | .. |
| Trespassing & vagrancy | — | — | — | — | — | — | .. | .. | .. |
| Weapons offences | 3 | — | 3 | — | — | — | -100.0 | .. | -100.0 |
| Environmental offences | — | — | — | — | — | — | .. | .. | .. |
| Liquor offences | — | — | — | — | 1 | 1 | .. | .. | .. |
| Enforcement of orders | 8 | 3 | 11 | 13 | — | 13 | 62.5 | -100.0 | 18.2 |
| Other | — | — | — | — | — | — | .. | .. | .. |
| **Total** | 1,106 | 92 | 1,198 | 772 | 19 | 791 | -30.2 | -79.3 | -34.0 |

(a) See the note in 'Data issues' at the beginning of the statistics section.

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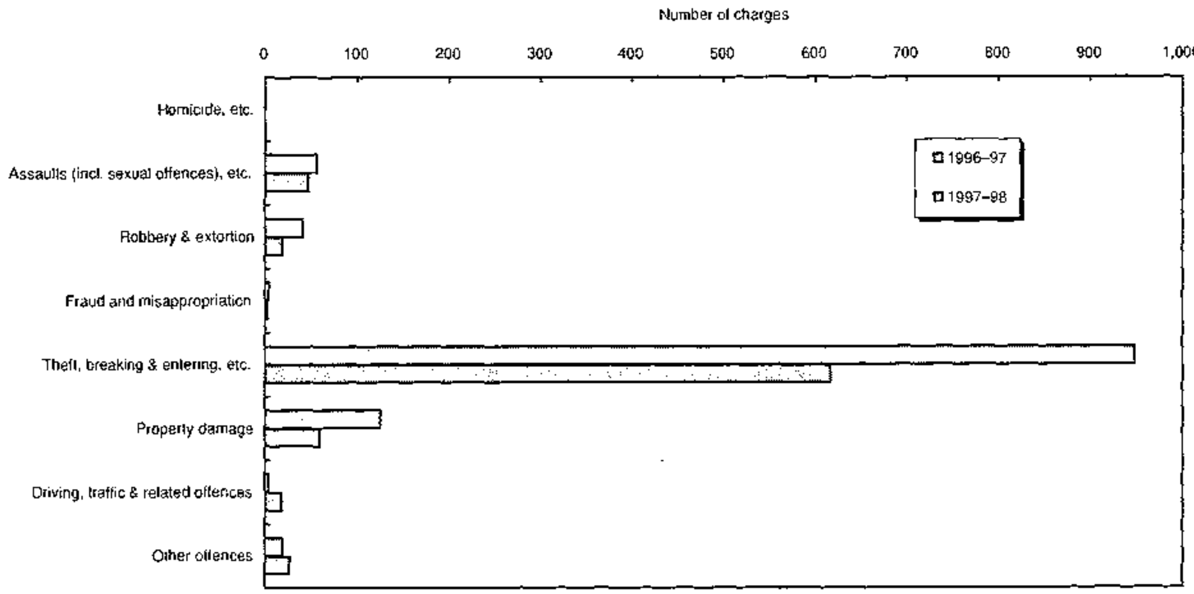
**Childrens Court of Queensland: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**




**Childrens Court of Queensland: Juvenile defendants and charges disposed by court location, Queensland, 1996–97 and 1997–98**

| Court location[a] | 1996–97 | | | 1997–98 | | | Percentage change | |
|---|---|---|---|---|---|---|---|---|
| | Defendants | Charges | Charges per defendant | Defendants | Charges | Charges per defendant | Defendants | Charges |
| Brisbane | 107 | 480 | 4.49 | 22 | 89 | 4.05 | -79.4 | -81.5 |
| Cairns | 8 | 52 | 6.50 | 22 | 128 | 5.82 | 175.0 | 146.2 |
| Rockhampton | — | — | . . | 34 | 92 | 2.71 | . . | . . |
| Southport | 17 | 117 | 6.88 | 4 | 27 | 6.75 | -76.5 | -76.9 |
| Townsville | 69 | 549 | 7.96 | 53 | 455 | 8.58 | -23.2 | -17.1 |
| **Total** | **201** | **1,198** | **5.96** | **135** | **791** | **5.86** | **-32.8** | **-34.0** |

(a) Courts not shown did not dispose any juveniles in the relevant years. In the cases of the Ipswich court, there is a single judge undertaking both District Court and Childrens Court of Queensland work. Therefore, if cases are committed to the District Court rather than to the Childrens Court of Queensland, the judges try or sentence the cases in the capacity of a District Court Judge.

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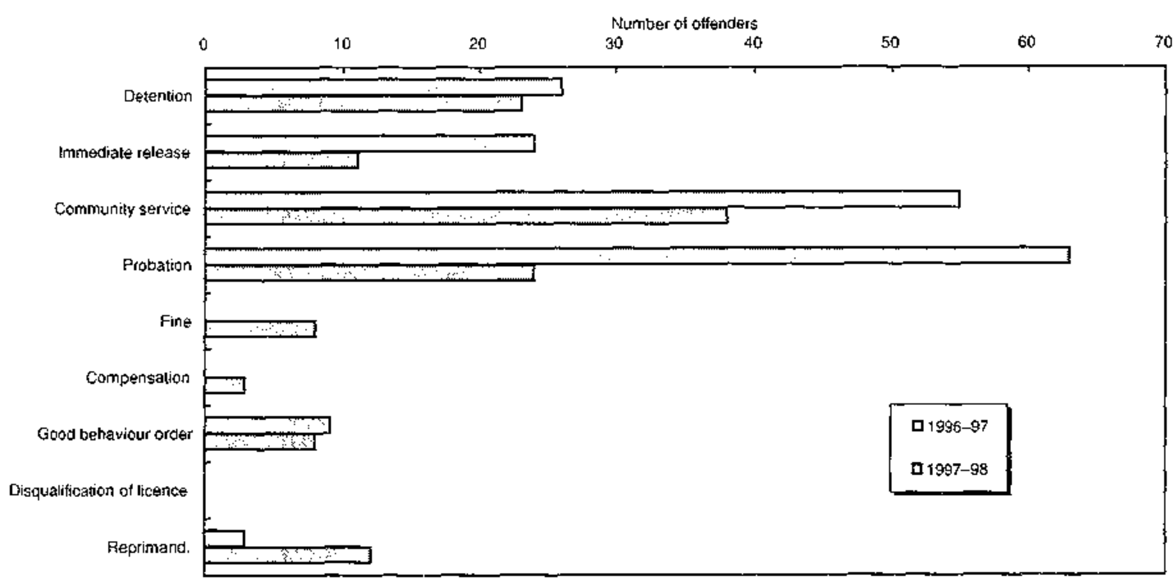
**Childrens Court of Queensland: Juvenile offenders by most serious penalty and sex, Queensland, 1996–97 and 1997–98**

| Penalty[a] | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| Detention | 23 | 3 | 26 | 21 | 2 | 23 | -8.7 | -33.3 | -11.5 |
| Immediate release | 21 | 3 | 24 | 11 | — | 11 | -47.6 | -100.0 | -54.2 |
| Community service | 52 | 3 | 55 | 35 | 3 | 38 | -32.7 | — | -30.9 |
| Probation | 56 | 7 | 63 | 24 | — | 24 | -57.1 | -100.0 | -61.9 |
| Fine | — | — | — | 7 | 1 | 8 | . . | . . | . . |
| Compensation | — | — | — | 3 | — | 3 | . . | . . | . . |
| Good behaviour order | 8 | 1 | 9 | 7 | 1 | 8 | -12.5 | — | -11.1 |
| Disqualification of licence | — | — | — | — | — | — | . . | . . | . . |
| Reprimand[b] | 3 | — | 3 | 9 | 3 | 12 | 200.0 | . . | 300.0 |
| **Total** | **163** | **17** | **180** | **117** | **10** | **127** | **-28.2** | **-41.2** | **-29.4** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

**Childrens Court of Queensland: Juveniles offenders by most serious penalty Queensland, 1996–97 and 1997–98**



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# STATISTICAL TABLES

## Magistrates Courts

### Juvenile defendants in Magistrates Courts

In 1997–98, 7,425 juvenile defendants were finalised in Magistrates Courts in Queensland, an increase of 940 (or 14.5%) from 1996–97. Of these, 1,043 were committed to a higher court for trial or sentence and 6,382 were disposed, either by a guilty finding (5,661 or 88.7%) or by discharge (721 or 11.3%).

**Magistrates Courts: Juvenile defendants by method of finalisation, Queensland, 1996–97 and 1997–98**

| Method of finalisation | 1996-97 | 1997-98 | Change % |
|---|---|---|---|
| Committed | 1,030 | 1,043 | 1.3 |
| Disposed | 5,455 | 6,382 | 17.0 |
| Found guilty | 4,777 | 5,661 | 18.5 |
| Discharged[(a)] | 678 | 721 | 6.3 |
| **Total** | **6,485** | **7,425** | **14.5** |

(a) Where all charges against the defendant were dismissed or withdrawn.

The difference between the 1,043 defendants committed to the higher court and the 1,022 disposed in the Childrens, District and Supreme Courts in 1997–98 is accounted for by ex officio indictments and committals to the higher court made in 1996–97 and being disposed in 1997–98. Figures are also influenced by committals made in 1997–98 being disposed in 1998–99.

### Charges against juveniles in Magistrates Courts

The number of charges against juveniles in Magistrates Courts increased by 3,294 (or 16.9%) from 19,470 in 1996–97 to 22,764 in 1997–98. Of these charges, 17,572 (77.2%) were disposed in the Magistrates Courts and the remaining 5,192 (22.8%) were committed to a higher court for trial or sentence. The number of charges committed increased by 102 (2.0%) from 1996–97 to 1997–98.

**Magistrates Courts: Charges against juveniles by method of finalisation, Queensland, 1996–97 and 1997–98**

| Method of finalisation | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| Committed | 5,090 | 5,192 | 2.0 |
| Disposed [(a)] | 14,380 | 17,572 | 22.2 |
| **Total** | **19,470** | **22,764** | **16.9** |

(a) Outcomes are recorded for defendants and not for each charge. It is therefore not possible to tell whether a particular charge was disposed by a guilty finding or by dismissal or by withdrawal.

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The percentage of each offence type committed to a higher court varies. All charges of homicide and related offences were committed to higher courts, with the exception of one charge, which was disposed in the Magistrates Court by dismissal.

Most *robbery and extortion* offences (87.9%) were committed to higher courts. (See the note on serious offences disposed in Magistrates Courts in the section on 'Data issues'.)

The majority of charges brought before the Magistrates Courts for all other offence types were disposed in the Magistrates Court, rather than being committed to a higher court. In 1997–98, 72.4 per cent of *assaults (including sexual offences), etc.* were disposed in the Magistrates Courts, 71.2 per cent of *theft, breaking and entering, etc.*, 73.1 per cent of *property damage*, 98.2 per cent of *driving, traffic and related offences* and 96.9 per cent of other offences.

**Magistrates Courts: Charges against juveniles by offence type, Queensland, 1997–98**

| Offence type[(a)] | Committed | Disposed[(b)] | Total |
|---|---|---|---|
| Homicide, etc. | 10 | 1 | 11 |
| Assaults (inc. sexual offences), etc. | 491 | 1,291 | 1,782 |
| [Major assault] | 259 | 317 | 576 |
| [Minor assault] | 81 | 872 | 953 |
| Robbery & extortion | 255 | 35 | 290 |
| Fraud & misappropriation | 63 | 606 | 669 |
| Theft, breaking & entering, etc. | 3,654 | 9,054 | 12,708 |
| [Unlawful use of motor vehicle] | 584 | 1,057 | 1,641 |
| [Other stealing] | 1,164 | 3,815 | 4,979 |
| [Receiving, unlawful possession] | 112 | 680 | 792 |
| [Breaking & entering][(c)] | 1,794 | 3,502 | 5,296 |
| Property damage | 578 | 1,571 | 2,149 |
| Driving, traffic & related offences | 24 | 1,338 | 1,362 |
| Other offences | 117 | 3,676 | 3,793 |
| [Drug offences][(d)] | 22 | 1,153 | 1,175 |
| **Total** | **5,192** | **17,572** | **22,764** |

(a) Only selected offence types are shown [in brackets] at the more detailed level. For more detail refer to Tables 4 and 7.

(b) A Magistrates Court can dispose a charge by a guilty finding, dismissal or withdrawal.

(c) Breaking and entering = *burglary and housebreaking + other breaking and entering.*

(d) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences.*

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**Charges against juveniles committed to Higher Courts**

The number of charges committed to higher courts by Magistrates Courts in 1997–98 were 5,192 compared with 5,090 in the previous year, an increase of 2.0 per cent.

*Theft, breaking and entering, etc.* contained the largest number of charges committed in 1997–98, with 3,654 charges representing 70.4 per cent of all charges. This proportion compares with 72.9 per cent for 1996–97 (3,710 charges).

**Magistrates Courts: Charges against juveniles committed by offence type, Queensland, 1996–97 and 1997–98**

| Offence type[(a)] | 1996–97 | 1997–98 | Change% |
|---|---|---|---|
| Homicide, etc. | 11 | 10 | –9.1 |
| Assaults (inc. sexual offences), etc. | 379 | 491 | 29.6 |
| [Major assault] | 182 | 259 | 42.3 |
| [Minor assault] | 90 | 81 | –10.0 |
| Robbery & extortion | 183 | 255 | 39.3 |
| Fraud & misappropriation | 86 | 63 | –26.7 |
| Theft, breaking & entering, etc. | 3,710 | 3,654 | –1.5 |
| [Unlawful use of motor vehicle] | 336 | 584 | 73.8 |
| [Other stealing] | 1,396 | 1,164 | –16.6 |
| [Receiving, unlawful possession] | 135 | 112 | –17.0 |
| [Breaking & entering][(b)] | 1,843 | 1,794 | –2.7 |
| Property damage | 558 | 578 | 3.6 |
| Driving, traffic & related offences | 28 | 24 | –14.3 |
| Other offences | 135 | 117 | –13.3 |
| [Drug offences][(c)] | 57 | 22 | –61.4 |
| **Total** | **5,090** | **5,192** | **2.0** |

(a) Only selected offence types are shown [in brackets] at a more detailed level. For more detail refer to Table 4.

(b) Breaking and entering = *burglary and housebreaking + other breaking and entering*

(c) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences*

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Within the broad category *theft, breaking and entering, etc.* in 1997–98, offence types with the most charges committed were *breaking and entering* (1,794) and *other stealing* (1,164). *Unlawful use of motor vehicle* accounted for 584 charges or 16.0 per cent of the category total, higher than the corresponding figures for 1996–97 (336 charges or 9.1% of the category total).

Other offence categories with significant numbers of charges committed in 1997–98 were *property damage* (578) and *assault (inc. sexual offences), etc.* (491).

Of the total charges committed to higher courts (5,192) in 1997–98, 620 or 11.9 per cent were for sentence and 4,572 (88.1%) were for trial.

**Magistrates Courts: Charges against juveniles committed for sentence or trial by offence type, Queensland, 1997–98**

| Offence type[(a)] | Committed for sentence | Committed for trial | Total |
|---|---|---|---|
| Homicide, etc. | — | 10 | 10 |
| Assaults (inc. sexual offences), etc. | 14 | 477 | 491 |
| [Major assault] | 10 | 249 | 259 |
| [Minor assault] | — | 81 | 81 |
| Robbery & extortion | 18 | 237 | 255 |
| Fraud & misappropriation | 4 | 59 | 63 |
| Theft, breaking & entering, etc. | 448 | 3,206 | 3,654 |
| [Unlawful use of motor vehicle] | 117 | 467 | 584 |
| [Other stealing] | 129 | 1,035 | 1,164 |
| [Receiving, unlawful possession] | 9 | 103 | 112 |
| [Breaking & entering][(b)] | 193 | 1,601 | 1,794 |
| Property damage | 80 | 498 | 578 |
| Driving, traffic & related offences | 2 | 22 | 24 |
| Other offences | 54 | 63 | 117 |
| [Drug offences][(c)] | 4 | 18 | 22 |
| **Total** | **620** | **4,572** | **5,192** |

(a) Only selected offence types are shown [in brackets] at the more detailed level.

(b) Breaking and entering = *burglary and housebreaking + other breaking and entering.*

(c) Drug offences = *possession and use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences.*

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### Charges against juveniles disposed in Magistrates Courts

In 1997–98, 17,572 charges were disposed in the Magistrates Courts, an increase of 22.2 per cent over the 1996–97 figure (14,380).

The largest number of charges disposed in 1997–98 were for *theft, breaking and entering, etc.*, with 9,054 charges or 51.5 per cent of the total. This proportion is similar to that for the previous year (48.4% or 6,959 charges).

*Other offences*, with 3,676 charges or 20.9 per cent of the total, were the category with the next highest number of charges. Of these, 1,153 charges or 31.4 per cent were *drug offences*.

**Magistrates Courts: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**

| Offence type[a] | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| Homicide, etc. | 3 | 1 | –66.7 |
| Assaults (inc. sexual offences), etc. | 1,185 | 1,291 | 8.9 |
| [Major assault] | 333 | 317 | –4.8 |
| [Minor assault] | 52 | 872 | 16.0 |
| Robbery & extortion | 46 | 35 | –23.9 |
| Fraud & misappropriation | 536 | 606 | 13.1 |
| Theft, breaking & entering, etc. | 6,959 | 9,054 | 30.1 |
| [Unlawful use of motor vehicle] | 1,010 | 1,057 | 4.7 |
| [Other stealing] | 3,169 | 3,815 | 20.4 |
| [Receiving, unlawful possession] | 541 | 680 | 25.7 |
| [Breaking & entering][b] | 2,239 | 3,502 | 56.4 |
| Property damage | 1,391 | 1,571 | 12.9 |
| Driving, traffic & related offences | 1,207 | 1,338 | 10.9 |
| Other offences | 3,053 | 3,676 | 20.4 |
| [Drug offences][c] | 918 | 1,153 | 25.6 |
| **Total** | **14,380** | **17,572** | **22.2** |

(a) Only selected offence types are shown [in brackets] at the more detailed level. For more detail refer to Table 7.

(b) Breaking and entering = *burglary and housebreaking + other breaking and entering.*

(c) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences.*

Of charges disposed in Magistrates Courts, offence types with the largest increases from 1996–97 to 1997–98 were *breaking and entering*, 3,502 (up 56.4%), *drug offences*, 1153 (up 25.6%), *receiving, unlawful possession*, 680 (up 25.7%) *other offences*, 3,676 (up 20.4%) *other stealing*, 3,815 (up

20.4%) and *minor assault*, 872 (up 16.0%). On the other hand, *robbery and extortion* decreased by 11 or 23.9 per cent.

**Penalties received by juvenile offenders before Magistrates Courts**

In 1997–98, 5,661 juveniles were found guilty or pleaded guilty in Magistrates Courts. Of these, 179 offenders (or 3.2% of the total) received detention as their most serious penalty, with a further 96 (1.7%) receiving an immediate release order. Other categories included community service (1,097 or 19.4%), probation (935 or 16.5%) and good behaviour orders (1,047 or 18.5%). A total of 1,617 (or 28.6%) were reprimanded.

**Magistrates Courts: Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98**

| Penalty[a] | 1996-97 | 1997-98 | Change % |
|---|---|---|---|
| Detention | 151 | 179 | 18.5 |
| Immediate release | 78 | 96 | 23.1 |
| Community service | 845 | 1,097 | 29.8 |
| Probation | 873 | 935 | 7.1 |
| Fine | 401 | 474 | 18.2 |
| Compensation | 200 | 204 | 2.0 |
| Good behaviour order | 813 | 1,047 | 28.8 |
| Disqualification of licence | 13 | 12 | -7.7 |
| Reprimand[b] | 1,403 | 1,617 | 15.3 |
| **Total** | **4,777** | **5,661** | **18.5** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

***District and Supreme Courts***

In 1997–98, District and Supreme Courts disposed 6,289 charges against 887 juveniles. This represented an increase of 38.6 per cent in the number of charges from 1996–97, while the number of defendants only increased by 3.5 per cent.

The Supreme Court comprised a small proportion of the charges and defendants in both years. In 1997–98, there were 39 charges against 11 defendants disposed in the Supreme Court, compared with 6,250 charges against 876 defendants disposed in the District Court.

**Defendants in District and Supreme Courts**

In 1997–98, 56.3 per cent of juvenile defendants before the District and Supreme Courts were aged 15 or 16 years, with a further 25.6 per cent aged 17 or over. In 1996–97, the proportion of 15 and 16 year olds was slightly lower (50.8%).

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**District and Supreme Courts: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| 10 | 2 | 1 | –50.0 |
| 11 | 6 | 9 | 50.0 |
| 12 | 18 | 10 | –44.4 |
| 13 | 45 | 32 | –28.9 |
| 14 | 97 | 108 | 11.3 |
| 15 | 178 | 217 | 21.9 |
| 16 | 257 | 282 | 9.7 |
| 17 & over [(a)] | 254 | 227 | –10.6 |
| Unknown | — | 1 | . . |
| **Total** | **857** | **887** | **3.5** |

(a) A person may be dealt with as a juvenile if the offence with which he is charged was committed before he attained 17 years of age.

### Charges against juveniles in District and Supreme Courts

Of the 6,289 charges before District and Supreme Courts, *theft, breaking and entering, etc.* accounted for the largest number with 4,644 charges or 73.8 per cent of the total. A further dissection of *theft, breaking and entering, etc.* indicated that the largest number of charges was for *breaking and entering* (2,344) followed by *other stealing* (1,462) and *unlawful use of a motor vehicle* (692).

*Property damage* comprised the second largest category with 609 charges, followed by *assaults (including sexual offences), etc.* (426) being the third largest.

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**District and Supreme Courts: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**

| Offence type[a] | 1996–97 | 1997–98 | Change % |
|---|---|---|---|
| Homicide, etc. | 5 | 7 | 40.0 |
| Assaults (inc. sexual offences), etc. | 370 | 426 | 15.1 |
| [Major assault] | 158 | 243 | 53.8 |
| [Minor assault] | 99 | 97 | -2.0 |
| Robbery & extortion | 161 | 217 | 34.8 |
| Fraud & misappropriation | 85 | 90 | 5.9 |
| Theft, breaking & entering, etc. | 3,338 | 4,644 | 39.1 |
| [Unlawful use of motor vehicle] | 441 | 692 | 56.9 |
| [Other stealing] | 1,202 | 1,462 | 21.6 |
| [Receiving, unlawful possession] | 117 | 146 | 24.8 |
| [Breaking & entering][b] | 1,578 | 2,344 | 48.5 |
| Property damage | 405 | 609 | 50.4 |
| Driving, traffic & related offences | 18 | 40 | 122.2 |
| Other offences | 154 | 256 | 66.2 |
| [Drug offences][c] | 11 | 20 | 81.8 |
| **Total** | **4,536** | **6,289** | **38.6** |

(a) Only selected offence types are shown [in brackets] at the more detailed level. For more detail refer to Table 15.

(b) Breaking and entering = *burglary and housebreaking + other breaking and entering.*

(c) Drug offences = *possession or use of drugs + dealing and trafficking in drugs + manufacturing and growing drugs + other drug offences.*

**Penalties received by juvenile offenders before District and Supreme Courts**

Of the 887 juveniles before the District and Supreme Courts in 1997–98, 759 (85.6%) were found guilty or had pleaded guilty. Of these, 125 (or 16.5%) received detention as their most serious penalty, 100 (13.2%) received an immediate release order, 262 (34.5%) received community service and 206 (27.1%) received probation.

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**District and Supreme Courts: Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98**

| Penalty[a] | 1996-97 | 1997-98 | Change % |
|---|---|---|---|
| Detention | 106 | 125 | 17.9 |
| Immediate release | 96 | 100 | 4.2 |
| Community service | 236 | 262 | 11.0 |
| Probation | 215 | 206 | –4.2 |
| Fine | 10 | 2 | –80.0 |
| Compensation | 2 | 5 | 150.0 |
| Good behaviour order | 35 | 29 | –17.1 |
| Disqualification of licence | — | — | . . |
| Reprimand[b] | 26 | 30 | 15.4 |
| **Total** | **726** | **759** | **4.5** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

## Court delays

The District and Supreme Courts in Brisbane and several of the larger Magistrates Courts record outcomes electronically. These electronic records and the records of cases in the Childrens Court of Queensland in Brisbane were used to determine the length of time between presentation of the bench charge sheet or indictment and the date of finalisation.

The information showed that the majority of cases against juveniles in 1997–98 (75.3%) were finalised within three months.

**Court delays[a] by court level, 1997–98**

| Court level | <=3 months % | 3–6 months % | 6–9 months % | 9–12 months % | >12 months % | Total % |
|---|---|---|---|---|---|---|
| Magistrates | 76.4 | 11.5 | 7.7 | 1.4 | 3.1 | 100.0 |
| Childrens Court of Queensland | 100.0 | — | — | — | — | 100.0 |
| District and Supreme | 58.9 | 22.0 | 8.7 | 4.5 | 6.0 | 100.0 |
| **All courts[b]** | **75.3** | **12.2** | **7.7** | **1.6** | **3.2** | **100.0** |

(a) Number of charges (in Magistrates Courts) or indictments (in other courts) by length of time to finalise.

(b) Percentages may not add to 100% due to rounding.

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### Compliance with court orders

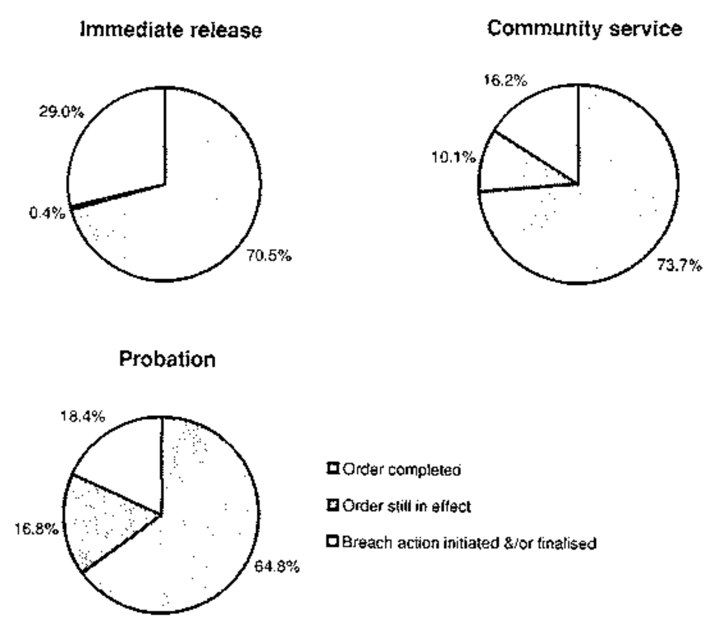
The Juvenile Justice Program, Department of Families, Youth and Community Care supervises juveniles on community correction orders (i.e. probation, immediate release and community service orders). The following information has been extracted from their Client Information System for the years 1996–97 and 1997–98.

In 1996–97 there were 3,233 admissions to these types of orders. Of these, 1,779 (55.0%) were probation, 1,230 (38.0%) were community service orders and 224 (6.9%) were immediate release orders.

**Orders breached**

Probation and immediate release orders can be breached either by the juvenile re-offending during the period of the order or by not meeting other conditions of the order.

**Admissions to orders against juveniles in 1996–97: Type of order by completion status at 30 June 1998, Queensland**




*Source: Client Information System, Department of Families, Youth and Community Care*

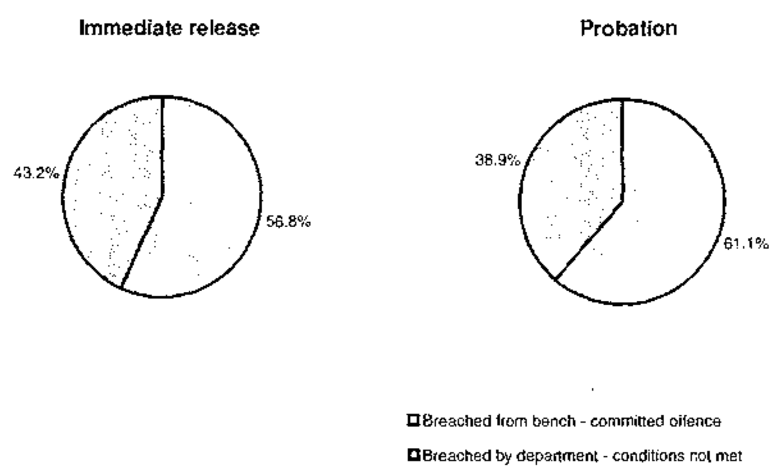
The majority of orders made in 1996–97 had been complied with and completed by 30 June 1998, with community service orders having the highest compliance rate (73.7%). The largest non-compliance rate (where a breach action had been initiated and/or finalised) was for immediate release orders (29.0%), compared to 18.4 per cent for probation orders and 16.2 per cent for community service orders.

In 1996–97, 16.8 per cent of probation orders were still in effect 12 months after the end of the financial year in which the order was made. In August 1996 the length of time within which community service orders could be completed was increased from six to twelve months, and at 30 June 1998 a proportion of 1996–97 orders (10.1%) were still in effect. Longer periods may also be due to subsequent variations to the original order, including extension of orders or those which are not administratively closed after the specified date. Immediate release orders are a maximum of three months in duration.

### Reason for breach

Almost two-thirds of appearances for breach of probation in 1997–98 were due to re-offending during the period of the order (61.1%), a similar proportion to 1996–97. Of appearances for breach of an immediate release order, over half were breached due to re-offending (56.8%). This was a large increase from 1996–97, when only 11.8 per cent of appearances for were due to re-offending, with the majority due to the conditions of the order not being met.

**Appearances of juveniles for breach of court order by type of order by type of breach, 1997–98**




*Source: Children in Court database, Department of Families, Youth and Community Care*

## Victims of juvenile offenders

The Queensland Police Service provided information about the victims of juvenile offenders. Data was extracted from the statistical system for incidents where at least one of the offenders was under the age of 17 years. The incidents were restricted to those involving an offence against the person and where the age and sex of the victim were recorded and the age of the offender was known. (There were some 317 victims whose details were unknown.)

Of the 1,976 victims of incidents where details were available, 1,304 (or 66.0%) were aged under 20 years. There were 720 (or 36.4%) aged 14 years or under and 584 (29.6%) aged 15 to 19 years. Only 2.8 per cent of victims were aged 55 years or over.

Victims aged under 20 years accounted for 89.5 per cent of all victims of sexual offences, 72.8 per cent of serious assault, and 55.0 per cent of robbery.

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Some 65.0 per cent of victims were male. These males comprised 67.1 per cent of victims of assault and 75.9 per cent of victims of robbery. Most female victims were victims of assault (67.0%), sexual offences (16.8%) or robbery (10.5%).

The age profile for both male and female victims is similar. Males predominate in each age group studied.

## Community conferencing

Community conferencing was introduced into Queensland with the 1996 amendments to the *Juvenile Justice Act 1992*. A community conference is a meeting between an offender and the victim of his or her offence. The purpose of the meeting is to discuss the offence and negotiate an agreement satisfactory to both parties. The young person's parents or caregivers usually attend the conference. Support people for the victim may also attend.

In the 1997–98 year there were 120 children conferenced in the pilot programs. Nineteen young people were conferenced at Palm Island, 43 were conferenced at the Ipswich pilot and 58 were conferenced at Logan. Almost all conferences were in relation to police diversionary referrals. There were two Indefinite Court Referrals and two Pre-sentence Court Referrals. Agreements were reached in all conferences. Of children conferenced in south east Queensland, 87.1 per cent were males and 13.9 per cent were identified as being of Aboriginal or Torres Strait Islander descent.

From any conference there may be several outcomes. Conference outcomes in the evaluation period included verbal apologies (86%), written apologies (17%), commitments not to re-offend (33%), direct restitution (19%), work for the victim (19%) and voluntary work in the community (39%).

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**Offences for which juvenile offenders were proceeded against by community conference, by offence type, south east Queensland, 1997–98**

| Offence type[a] | Ipswich | Logan | Total |
|---|---|---|---|
| Assaults (inc. sexual offences), etc. | 15 | 10 | 25 |
| [Major assault] | 7 | 5 | 12 |
| [Minor assault] | 7 | 4 | 11 |
| [Other violation of persons] | 1 | 1 | 2 |
| Robbery & extortion | — | 4 | 4 |
| [Robbery] | — | 4 | 4 |
| Fraud and Misappropriation | 1 | — | — |
| [Fraud & forgery] | 1 | — | — |
| Theft, breaking & entering, etc. | 25 | 67 | 92 |
| [Unlawful use of motor vehicle] | 3 | 23 | 26 |
| [Other stealing] | 15 | 23 | 38 |
| [Receiving, unlawful possession] | — | 1 | 1 |
| [Breaking & entering][b] | 7 | 20 | 27 |
| Property damage | 12 | 26 | 38 |
| [Other property damage] | 12 | 26 | 38 |
| Driving, traffic & related offences | — | 3 | 3 |
| [Dangerous/negligent driving] | — | 1 | 1 |
| [Licence offences] | — | 2 | 2 |
| Other offences (including drug offences) | 6 | 7 | 13 |
| [Possession or use of drugs] | — | 1 | 1 |
| [Dealing & trafficking in drugs] | — | 1 | 1 |
| [Manufacturing & growing drugs] | — | 2 | 2 |
| [Other drug offences] | — | 1 | 1 |
| [Offensive behaviour] | 1 | — | 1 |
| [Trespassing & vagrancy] | 2 | 1 | 3 |
| [Liquor offences] | 3 | — | 3 |
| [Other] | — | 1 | 1 |
| **Total** | **59** | **117** | **176** |

*Source: Juvenile Justice Program, Department of Families Youth and Community Care*

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Table 1

**All Courts: Charges against juveniles disposed by offence type and court, Queensland, 1996–97 and 1997–98**

| | 1996–97 | | | | 1997–98 | | | |
|---|---|---|---|---|---|---|---|---|
| Offence type | Magistrates Courts[(a)] | Childrens Court of Qld | District & Supreme Courts | Total | Magistrates Courts[(a)] | Childrens Court of Qld | District & Supreme Courts | Total |
| **Homicide, etc.** | **3** | **1** | **5** | **9** | **1** | **—** | **7** | **8** |
| Murder | — | — | — | — | — | — | 5 | 5 |
| Attempted murder | 3 | — | 2 | 5 | 1 | — | 2 | 3 |
| Manslaughter (excluding driving) | — | — | 2 | 2 | — | — | — | — |
| Manslaughter (driving) | — | — | — | — | — | — | — | — |
| Dangerous driving causing death | — | 1 | 1 | 2 | — | — | — | — |
| Conspiracy to murder | — | — | — | — | — | — | — | — |
| **Assaults (incl. sexual offences), etc.** | **1,185** | **56** | **370** | **1,611** | **1,291** | **47** | **426** | **1,764** |
| Major assault | 333 | 34 | 158 | 525 | 317 | 21 | 243 | 581 |
| Minor assault | 752 | 8 | 99 | 859 | 872 | 14 | 97 | 983 |
| Rape | 3 | 3 | 13 | 19 | 6 | — | 15 | 21 |
| Other sexual offences | 62 | 6 | 81 | 149 | 47 | 9 | 42 | 98 |
| Other violation of persons | 35 | 5 | 19 | 59 | 49 | 3 | 29 | 81 |
| **Robbery & extortion** | **46** | **41** | **161** | **248** | **35** | **19** | **217** | **271** |
| Robbery | 46 | 41 | 161 | 248 | 35 | 19 | 217 | 271 |
| Extortion | — | — | — | — | — | — | — | — |
| **Fraud & misappropriation** | **536** | **4** | **85** | **625** | **606** | **3** | **90** | **699** |
| Embezzlement | 25 | — | 3 | 28 | 17 | 1 | 6 | 24 |
| False pretences | 364 | 3 | 50 | 417 | 204 | 1 | 71 | 276 |
| Fraud & forgery | 147 | 1 | 32 | 180 | 385 | 1 | 13 | 399 |
| **Theft, breaking & entering, etc.** | **6,959** | **948** | **3,338** | **11,245** | **9,054** | **617** | **4,644** | **14,315** |
| Unlawful use of motor vehicle | 1,010 | 112 | 441 | 1,563 | 1,057 | 98 | 692 | 1,847 |
| Other stealing | 3,169 | 360 | 1,202 | 4,731 | 3,815 | 198 | 1,462 | 5,475 |
| Receiving, unlawful possession | 541 | 34 | 117 | 692 | 680 | 15 | 146 | 841 |
| Burglary & housebreaking[(b)] | 241 | 254 | 793 | 1,288 | 882 | 123 | 1,269 | 2,274 |
| Other breaking & entering[(b)] | 1,998 | 188 | 785 | 2,971 | 2,620 | 183 | 1,075 | 3,878 |
| **Property damage** | **1,391** | **125** | **405** | **1,921** | **1,571** | **60** | **609** | **2,240** |
| Arson | 12 | 17 | 32 | 61 | 11 | 6 | 37 | 54 |
| Other property damage | 1,379 | 108 | 373 | 1,860 | 1,560 | 54 | 572 | 2,186 |
| **Driving, traffic & related offences** | **1,207** | **4** | **18** | **1,229** | **1,338** | **18** | **40** | **1,396** |
| Drink driving | 114 | — | — | 114 | 130 | 1 | 1 | 132 |
| Dangerous / negligent driving | 80 | 4 | 17 | 101 | 108 | 2 | 31 | 141 |
| Licence offences | 403 | — | 1 | 404 | 475 | 3 | 8 | 486 |
| State Transport, Main Roads Act | 125 | — | — | 125 | 108 | 1 | — | 109 |
| Other traffic offences | 485 | — | — | 485 | 516 | 11 | — | 527 |
| Other driving offences | — | — | — | — | 1 | — | — | 1 |
| **Other offences** | **3,053** | **19** | **154** | **3,226** | **3,676** | **27** | **256** | **3,959** |
| Possession or use of drugs | 448 | 2 | 6 | 456 | 555 | 1 | 7 | 563 |
| Dealing & trafficking in drugs | 42 | 3 | 2 | 47 | 58 | 1 | 9 | 68 |
| Manufacturing & growing drugs | 46 | — | 3 | 49 | 50 | — | 1 | 51 |
| Other drug offences | 382 | — | — | 382 | 490 | 2 | 3 | 495 |
| Drunkenness | 194 | — | — | 194 | 212 | 2 | — | 214 |
| Offensive behaviour | 681 | — | 1 | 682 | 737 | 7 | 5 | 749 |
| Trespassing & vagrancy | 239 | — | 1 | 240 | 266 | — | 1 | 267 |
| Weapons offences | 85 | 3 | — | 88 | 104 | — | 2 | 106 |
| Environmental offences | — | — | — | — | 9 | — | 1 | 10 |
| Liquor offences | 69 | — | 2 | 71 | 99 | 1 | — | 100 |
| Enforcement of orders | 759 | 11 | 121 | 891 | 921 | 13 | 136 | 1,070 |
| Other | 108 | — | 18 | 126 | 175 | — | 91 | 266 |
| **Total** | 14,380 | 1,198 | 4,536 | 20,114 | 17,572 | 791 | 6,289 | 24,652 |

(a) Charges are disposed at Magistrates Court level by conviction, dismissal or withdrawal, but not by committal.

(b) See the note in 'Data issues' at the beginning of the statistics section.

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**Figure 1** **All Courts: Charges against juveniles by offence type and court, Queensland, 1997-98**

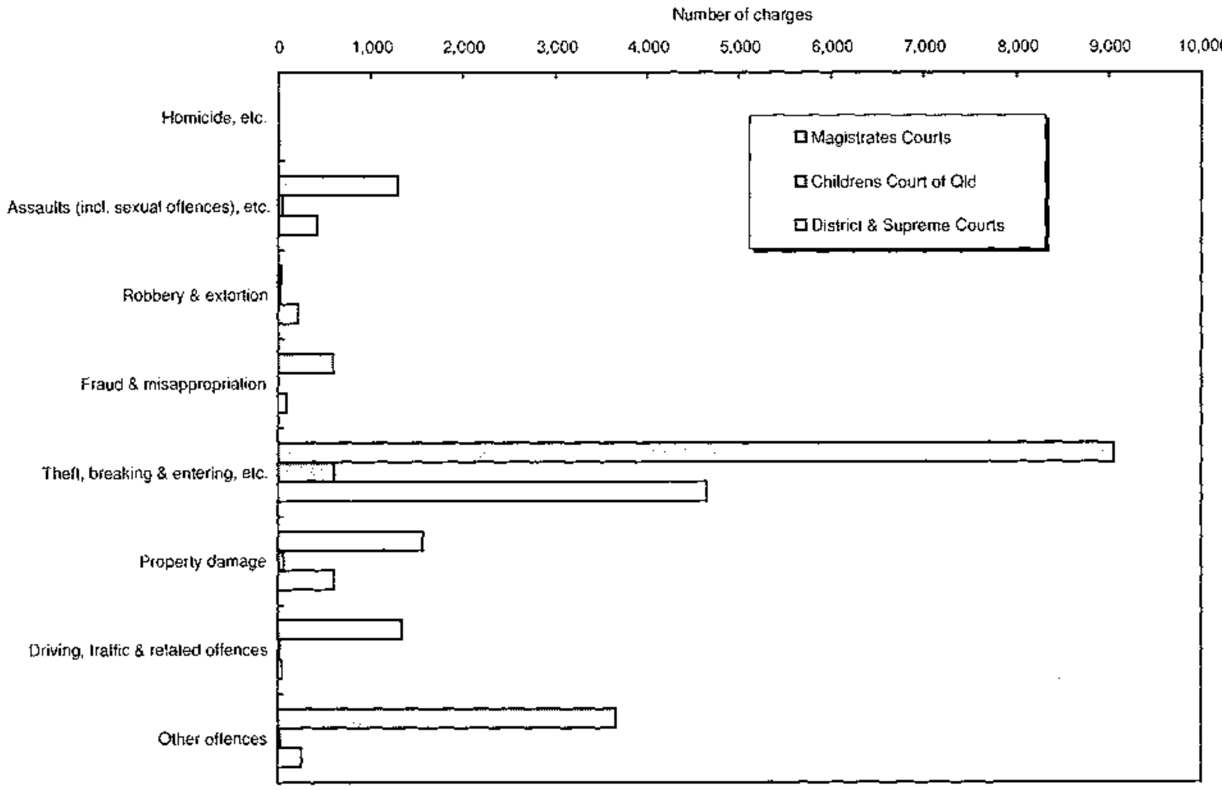

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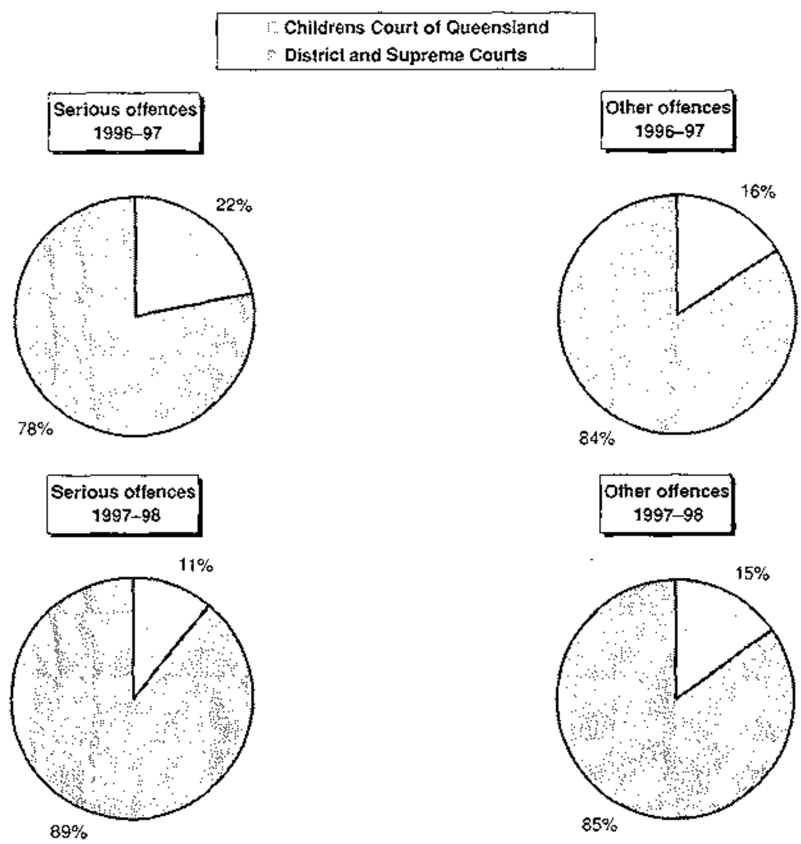
**Table 2** **Childrens Court of Queensland, District and Supreme Courts: Juvenile defendants by court by level of seriousness of most serious offence charged, Queensland, 1996–97 and 1997–9**

| Court | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Serious offences [a] | Other offences | Total | Serious offences [a] | Other offences | Total | Serious offences [a] | Other offences | Total |
| Childrens Court of Queensland | 116 | 85 | 201 | 56 | 79 | 135 | -51.7 | -7.1 | -32.8 |
| District and Supreme Courts | 411 | 446 | 857 | 451 | 436 | 887 | 9.7 | -2.2 | 3.5 |
| **Total** | **527** | **531** | **1,058** | **507** | **515** | **1,022** | **-3.8** | **-3.0** | **-3.4** |

(a) Serious offences are those which would make an adult liable to imprisonment of 14 years or more.

**Figure 2** **Distribution of juvenile defendants with serious offences, Queensland, 1996–97 and 1997–98**



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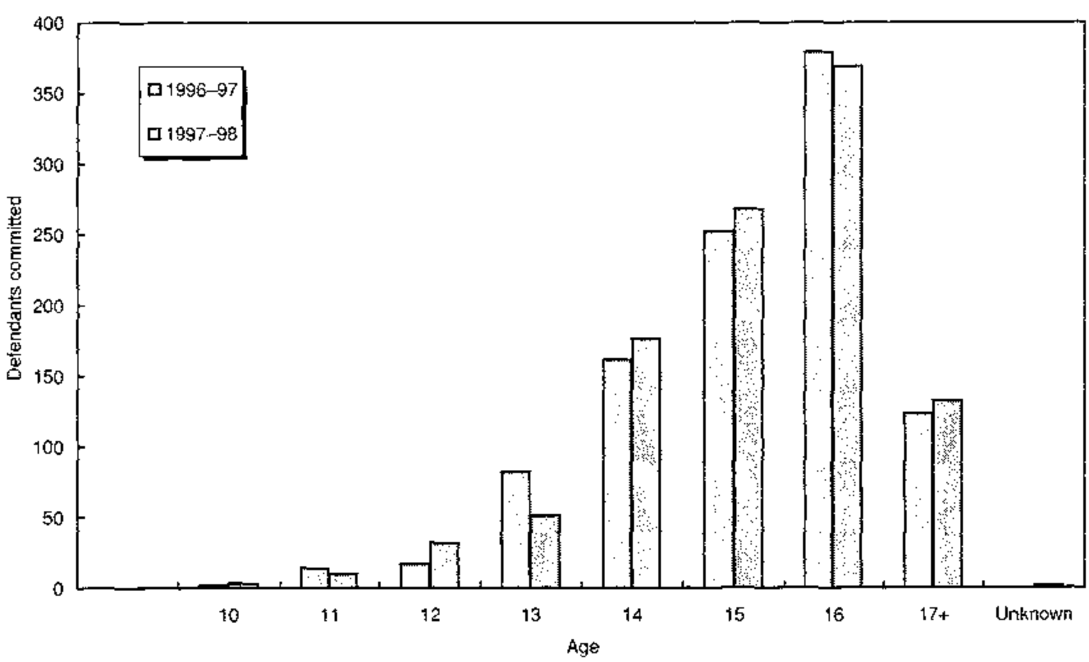
## STATISTICAL TABLES

**Table 3 Magistrates Courts: Juvenile defendants committed for sentence or trial by age and sex, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 2 | — | 2 | 3 | — | 3 | 50.0 | . . | 50.0 |
| 11 | 13 | 1 | 14 | 8 | 2 | 10 | -38.5 | 100.0 | -28.6 |
| 12 | 17 | — | 17 | 32 | — | 32 | 88.2 | . . | 88.2 |
| 13 | 70 | 12 | 82 | 48 | 3 | 51 | -31.4 | -75.0 | -37.8 |
| 14 | 139 | 22 | 161 | 145 | 31 | 176 | 4.3 | 40.9 | 9.3 |
| 15 | 218 | 34 | 252 | 227 | 41 | 268 | 4.1 | 20.6 | 6.3 |
| 16 | 333 | 46 | 379 | 323 | 46 | 369 | -3.0 | — | -2.6 |
| 17+ | 110 | 13 | 123 | 119 | 13 | 132 | 8.2 | — | 7.3 |
| Unknown | — | — | — | 1 | 1 | 2 | . . | . . | . . |
| **Total** | **902** | **128** | **1,030** | **906** | **137** | **1,043** | **0.4** | **7.0** | **1.3** |

**Figure 3 Magistrates Courts: Juvenile defendants committed for sentence or trial by age, Queensland, 1996–97 and 1997–98**



# nineteen

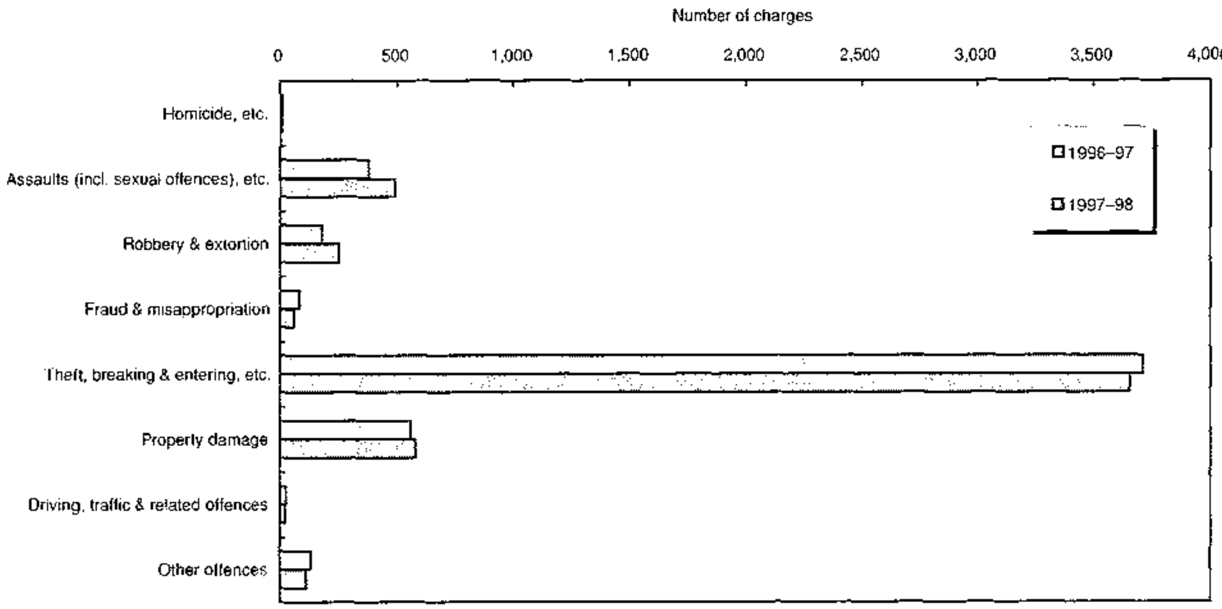
## STATISTICAL TABLES

Table 4 Magistrates Courts: Charges against juveniles committed for sentence or trial by offence type by sex of defendant, Queensland, 1996–97 and 1997–98

| Offence type | 1996–97 Male | 1996–97 Female | 1996–97 Total | 1997–98 Male | 1997–98 Female | 1997–98 Total | Percentage change Male | Percentage change Female | Percentage change Total |
|---|---|---|---|---|---|---|---|---|---|
| **Homicide, etc.** | **10** | **1** | **11** | **8** | **2** | **10** | **-20.0** | **100.0** | **-9.1** |
| Murder | 4 | — | 4 | 2 | 1 | 3 | -50.0 | . . | -25.0 |
| Attempted murder | 6 | 1 | 7 | 5 | 1 | 6 | -16.7 | — | -14.3 |
| Manslaughter (excluding driving) | — | — | — | — | — | — | . . | . . | . . |
| Manslaughter (driving) | — | — | — | — | — | — | . . | . . | . . |
| Dangerous driving causing death | — | — | — | 1 | — | 1 | . . | . . | . . |
| Conspiracy to murder | — | — | — | — | — | — | . . | . . | . . |
| **Assaults (incl. sexual offences), etc** | **312** | **67** | **379** | **399** | **92** | **491** | **27.9** | **37.3** | **29.6** |
| Major assault | 141 | 41 | 182 | 210 | 49 | 259 | 48.9 | 19.5 | 42.3 |
| Minor assault | 74 | 16 | 90 | 56 | 25 | 81 | -24.3 | 56.3 | -10.0 |
| Rape | 10 | — | 10 | 25 | 1 | 26 | 150.0 | . . | 160.0 |
| Other sexual offences | 47 | — | 47 | 63 | 1 | 64 | 34.0 | . . | 36.2 |
| Other violation of persons | 40 | 10 | 50 | 45 | 16 | 61 | 12.5 | 60.0 | 22.0 |
| **Robbery & extortion** | **141** | **42** | **183** | **188** | **67** | **255** | **33.3** | **59.5** | **39.3** |
| Robbery | 141 | 42 | 183 | 188 | 67 | 255 | 33.3 | 59.5 | 39.3 |
| Extortion | — | — | — | — | — | — | . . | . . | . . |
| **Fraud & misappropriation** | **73** | **13** | **86** | **59** | **4** | **63** | **-19.2** | **-69.2** | **-26.7** |
| Embezzlement | 1 | — | 1 | 1 | 2 | 3 | — | . . | 200.0 |
| False pretences | 61 | 6 | 67 | 11 | 1 | 12 | -82.0 | -83.3 | -82.1 |
| Fraud & forgery | 11 | 7 | 18 | 47 | 1 | 48 | 327.3 | -85.7 | 166.7 |
| **Theft, breaking & entering, etc.** | **3,496** | **214** | **3,710** | **3,488** | **166** | **3,654** | **-0.2** | **-22.4** | **-1.5** |
| Unlawful use of motor vehicle | 323 | 13 | 336 | 570 | 14 | 584 | 76.5 | 7.7 | 73.8 |
| Other stealing | 1,298 | 98 | 1,396 | 1,087 | 77 | 1,164 | -16.3 | -21.4 | -16.6 |
| Receiving, unlawful possession | 118 | 17 | 135 | 101 | 11 | 112 | -14.4 | -35.3 | -17.0 |
| Burglary & housebreaking[a] | 382 | 9 | 391 | 425 | 20 | 445 | 11.3 | 122.2 | 13.8 |
| Other breaking & entering[a] | 1,375 | 77 | 1,452 | 1,305 | 44 | 1,349 | -5.1 | -42.9 | -7.1 |
| **Property damage** | **525** | **33** | **558** | **560** | **18** | **578** | **6.7** | **-45.5** | **3.6** |
| Arson | 36 | 2 | 38 | 41 | 2 | 43 | 13.9 | — | 13.2 |
| Other property damage | 489 | 31 | 520 | 519 | 16 | 535 | 6.1 | -48.4 | 2.9 |
| **Driving, traffic & related offences** | **26** | **2** | **28** | **23** | **1** | **24** | **-11.5** | **-50.0** | **-14.3** |
| Drink driving | — | — | — | — | — | — | . . | . . | . . |
| Dangerous / negligent driving | 20 | 2 | 22 | 23 | 1 | 24 | 15.0 | -50.0 | 9.1 |
| Licence offences | 5 | — | 5 | — | — | — | -100.0 | . . | -100.0 |
| State Transport, Main Roads Act | 1 | — | 1 | — | — | — | -100.0 | . . | -100.0 |
| Other traffic offences | — | — | — | — | — | — | . . | . . | . . |
| Other driving offences | — | — | — | — | — | — | . . | . . | . . |
| **Other offences** | **87** | **48** | **135** | **106** | **11** | **117** | **21.8** | **-77.1** | **-13.3** |
| Possession or use of drugs | 8 | 6 | 14 | 12 | 1 | 13 | 50.0 | -83.3 | -7.1 |
| Dealing & trafficking in drugs | 7 | 26 | 33 | 5 | — | 5 | -28.6 | -100.0 | -84.8 |
| Manufacturing & growing drugs | 2 | 1 | 3 | — | — | — | -100.0 | -100.0 | -100.0 |
| Other drug offences | 3 | 4 | 7 | 3 | 1 | 4 | — | -75.0 | -42.9 |
| Drunkenness | — | — | — | — | — | — | . . | . . | . . |
| Offensive behaviour | 5 | 3 | 8 | 2 | — | 2 | -60.0 | -100.0 | -75.0 |
| Trespassing & vagrancy | 3 | — | 3 | 2 | — | 2 | -33.3 | . . | -33.3 |
| Weapons offences | — | — | — | 2 | — | 2 | . . | . . | . . |
| Environmental offences | — | — | — | — | — | — | . . | . . | . . |
| Liquor offences | — | — | — | — | — | — | . . | . . | . . |
| Enforcement of orders | 57 | 8 | 65 | 79 | 7 | 86 | 38.6 | -12.5 | 32.3 |
| Other | 2 | — | 2 | 1 | 2 | 3 | -50.0 | . . | 50.0 |
| **Total** | **4,670** | **420** | **5,090** | **4,831** | **361** | **5,192** | **3.4** | **-14.0** | **2.0** |

(a) See the note in 'Data issues' at the beginning of the statistics section.

Figure 4 Magistrates Courts: Charges against juveniles committed for sentence or trial by offence type, Queensland, 1996–97 and 1997–98



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## STATISTICAL TABLES

**Table 5** **Magistrates Courts: Juvenile defendants and charges committed for sentence or trial by court location, Queensland, 1996–97 and 1997–98**

| Statistical division and court location[a] | 1996–97 | | | 1997–98 | | | Percentage change | |
|---|---|---|---|---|---|---|---|---|
| | Defendants | Charges | Charges per defendant | Defendants | Charges | Charges per defendant | Defendants | Charges |
| **Brisbane** | | | | | | | | |
| **Brisbane City** | | | | | | | | |
| Brisbane Childrens Court | 203 | 1,106 | 5.45 | 179 | 833 | 4.65 | -11.8 | -24.7 |
| Holland Park | 49 | 270 | 5.51 | 42 | 203 | 4.83 | -14.3 | -24.8 |
| Inala | 54 | 212 | 3.93 | 48 | 234 | 4.88 | -11.1 | 10.4 |
| Sandgate | 27 | 96 | 3.56 | 13 | 79 | 6.08 | -51.9 | -17.7 |
| Wynnum | 11 | 86 | 7.82 | 22 | 58 | 2.64 | 100.0 | -32.6 |
| **Remainder of Brisbane** | | | | | | | | |
| Beenleigh | 68 | 268 | 3.94 | 83 | 465 | 5.60 | 22.1 | 73.5 |
| Caboolture | 16 | 185 | 11.56 | 37 | 304 | 8.22 | 131.3 | 64.3 |
| Cleveland | 13 | 60 | 4.62 | 7 | 26 | 3.71 | -46.2 | -56.7 |
| Ipswich | 83 | 251 | 3.02 | 121 | 492 | 4.07 | 45.8 | 96.0 |
| Petrie | 14 | 67 | 4.79 | 9 | 42 | 4.67 | -35.7 | -37.3 |
| Redcliffe | 39 | 173 | 4.44 | 11 | 36 | 3.27 | -71.8 | -79.2 |
| **Moreton** | | | | | | | | |
| Beaudesert | 1 | 5 | 5.00 | 1 | 6 | 6.00 | — | 20.0 |
| Gatton | 3 | 31 | 10.33 | 3 | 11 | 3.67 | — | -64.5 |
| Maroochydore | 29 | 165 | 5.69 | 27 | 67 | 2.48 | -6.9 | -59.4 |
| Noosa | 1 | 1 | 1.00 | — | — | . . | -100.0 | -100.0 |
| Southport | 62 | 560 | 9.03 | 46 | 308 | 6.70 | -25.8 | -45.0 |
| Toogoolawah | — | — | . . | 1 | 1 | 1.00 | . . | . . |
| **Wide Bay – Burnett** | | | | | | | | |
| Bundaberg | 14 | 43 | 3.07 | 13 | 30 | 2.31 | -7.1 | -30.2 |
| Childers | 2 | 2 | 1.00 | — | — | . . | -100.0 | -100.0 |
| Gayndah | — | — | . . | 2 | 3 | 1.50 | . . | . . |
| Gympie | 3 | 8 | 2.67 | 4 | 11 | 2.75 | 33.3 | 37.5 |
| Hervey Bay | 2 | 3 | 1.50 | 19 | 141 | 7.42 | 850.0 | 4,600.0 |
| Kingaroy | 6 | 17 | 2.83 | 2 | 2 | 1.00 | -66.7 | -88.2 |
| Maryborough | 4 | 25 | 6.25 | 12 | 29 | 2.42 | 200.0 | 16.0 |
| Murgon | 18 | 68 | 3.78 | 26 | 259 | 9.96 | 44.4 | 280.9 |
| Nanango | 1 | 6 | 6.00 | 1 | 2 | 2.00 | — | -66.7 |
| **Darling Downs** | | | | | | | | |
| Chinchilla | 1 | 6 | 6.00 | 9 | 68 | 7.56 | 800.0 | 1,033.3 |
| Dalby | 2 | 15 | 7.50 | 10 | 39 | 3.90 | 400.0 | 160.0 |
| Goondiwindi | 4 | 7 | 1.75 | 2 | 4 | 2.00 | -50.0 | -42.9 |
| Pittsworth | — | — | . . | 1 | 1 | 1.00 | . . | . . |
| Stanthorpe | 5 | 10 | 2.00 | 1 | 2 | 2.00 | -80.0 | -80.0 |
| Toowoomba | 27 | 100 | 3.70 | 19 | 46 | 2.42 | -29.6 | -54.0 |
| Warwick | 1 | 2 | 2.00 | 10 | 25 | 2.50 | 900.0 | 1,150.0 |
| **South West** | | | | | | | | |
| Charleville | 7 | 59 | 8.43 | 6 | 8 | 1.33 | -14.3 | -86.4 |
| Cunnamulla | 4 | 15 | 3.75 | 3 | 5 | 1.67 | -25.0 | -66.7 |
| Quilpie | — | — | . . | — | — | . . | . . | . . |
| Roma | 4 | 12 | 3.00 | 9 | 17 | 1.89 | 125.0 | 41.7 |
| St George | 1 | 3 | 3.00 | 3 | 17 | 5.67 | 200.0 | 466.7 |

Table 5 Continued

| Statistical division and court location[a] | 1996–97 Defendants | 1996–97 Charges | 1996–97 Charges per defendant | 1997–98 Defendants | 1997–98 Charges | 1997–98 Charges per defendant | Percentage change Defendants | Percentage change Charges |
|---|---|---|---|---|---|---|---|---|
| **Fitzroy** | | | | | | | | |
| Blackwater | — | — | . . | 2 | 7 | 3.50 | . . | . . |
| Emerald | 6 | 32 | 5.33 | 2 | 2 | 1.00 | -66.7 | -93.8 |
| Gladstone | 14 | 24 | 1.71 | 8 | 14 | 1.75 | -42.9 | -41.7 |
| Rockhampton | 29 | 233 | 8.03 | 15 | 94 | 6.27 | -48.3 | -59.7 |
| Woorabinda | 1 | 13 | 13.00 | 2 | 4 | 2.00 | 100.0 | -69.2 |
| Yeppoon | 2 | 2 | 1.00 | 2 | 2 | 1.00 | — | — |
| **Central West** | | | | | | | | |
| Barcaldine | 1 | 6 | 6.00 | — | — | . . | -100.0 | -100.0 |
| Longreach | — | — | . . | 2 | 6 | 3.00 | . . | . . |
| **Mackay** | | | | | | | | |
| Clermont | 2 | 3 | 1.50 | — | — | . . | -100.0 | -100.0 |
| Mackay | 16 | 65 | 4.06 | 15 | 41 | 2.73 | -6.3 | -36.9 |
| Moranbah | 1 | 8 | 8.00 | — | — | . . | -100.0 | -100.0 |
| Proserpine | 4 | 13 | 3.25 | 1 | 4 | 4.00 | -75.0 | -69.2 |
| **Northern** | | | | | | | | |
| Ayr | 5 | 133 | 26.60 | 2 | 18 | 9.00 | -60.0 | -86.5 |
| Bowen | — | — | . . | — | — | . . | . . | . . |
| Charters Towers | 3 | 15 | 5.00 | 7 | 15 | 2.14 | 133.3 | — |
| Ingham | 4 | 23 | 5.75 | 2 | 4 | 2.00 | -50.0 | -82.6 |
| Townsville | 84 | 347 | 4.13 | 81 | 711 | 8.78 | -3.6 | 104.9 |
| **Far North** | | | | | | | | |
| Atherton | 2 | 3 | 1.50 | 3 | 12 | 4.00 | 50.0 | 300.0 |
| Aurukun | 1 | 10 | 10.00 | 15 | 95 | 6.33 | 1,400.0 | 850.0 |
| Cairns | 28 | 102 | 3.64 | 39 | 134 | 3.44 | 39.3 | 31.4 |
| Innisfail | 6 | 8 | 1.33 | 6 | 43 | 7.17 | — | 437.5 |
| Lockhart River | 3 | 10 | 3.33 | — | — | . . | -100.0 | -100.0 |
| Mareeba | 1 | 3 | 3.00 | 9 | 24 | 2.67 | 800.0 | 700.0 |
| Mossman | 1 | 2 | 2.00 | 1 | 1 | 1.00 | — | -50.0 |
| Thursday Island | 3 | 3 | 1.00 | — | — | . . | -100.0 | -100.0 |
| Tully | — | — | . . | — | — | . . | . . | . . |
| Weipa | 4 | 8 | 2.00 | 3 | 8 | 2.67 | -25.0 | — |
| Yarrabah | — | — | . . | 3 | 13 | 4.33 | . . | . . |
| **North West** | | | | | | | | |
| Camooweal | — | — | . . | 1 | 2 | 2.00 | . . | . . |
| Cloncurry | 1 | 2 | 2.00 | 1 | 2 | 2.00 | — | — |
| Hughenden | 1 | 3 | 3.00 | — | — | . . | -100.0 | -100.0 |
| Kowanyama | 5 | 6 | 1.20 | 1 | 1 | 1.00 | -80.0 | -83.3 |
| Mornington Island | — | — | . . | — | — | . . | . . | . . |
| Mount Isa | 21 | 73 | 3.48 | 14 | 50 | 3.57 | -33.3 | -31.5 |
| Normanton | 2 | 3 | 1.50 | 4 | 11 | 2.75 | 100.0 | 266.7 |
| **Total** | **1,030** | **5,090** | **4.94** | **1,043** | **5,192** | **4.98** | **1.3** | **2.0** |

(a) Magistrates courts not shown did not commit any juveniles during the relevant years.

# STATISTICAL TABLES

Table 6 **Magistrates Courts: Juvenile defendants disposed by age and sex, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 7 | 2 | 9 | 18 | 3 | 21 | 157.1 | 50.0 | 133.3 |
| 11 | 74 | 4 | 78 | 74 | 5 | 79 | — | 25.0 | 1.3 |
| 12 | 135 | 19 | 154 | 175 | 23 | 198 | 29.6 | 21.1 | 28.6 |
| 13 | 310 | 80 | 390 | 416 | 88 | 504 | 34.2 | 10.0 | 29.2 |
| 14 | 723 | 190 | 913 | 847 | 189 | 1,036 | 17.2 | -0.5 | 13.5 |
| 15 | 1,123 | 254 | 1,377 | 1,348 | 287 | 1,635 | 20.0 | 13.0 | 18.7 |
| 16 | 1,758 | 337 | 2,095 | 2,052 | 367 | 2,419 | 16.7 | 8.9 | 15.5 |
| 17+ | 373 | 66 | 439 | 406 | 64 | 470 | 8.8 | -3.0 | 7.1 |
| Unknown | — | — | — | 15 | 5 | 20 | . . | . . | . . |
| **Total** | **4,503** | **952** | **5,455** | **5,351** | **1,031** | **6,382** | **18.8** | **8.3** | **17.0** |

Figure 5 **Magistrates Courts: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98**

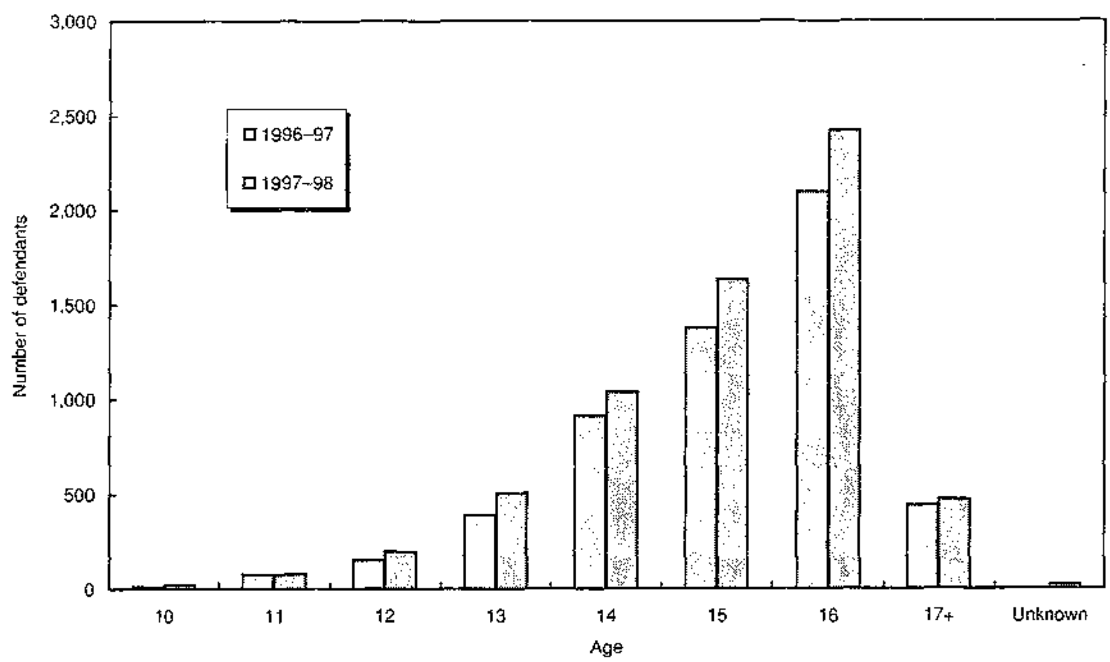


Table 7

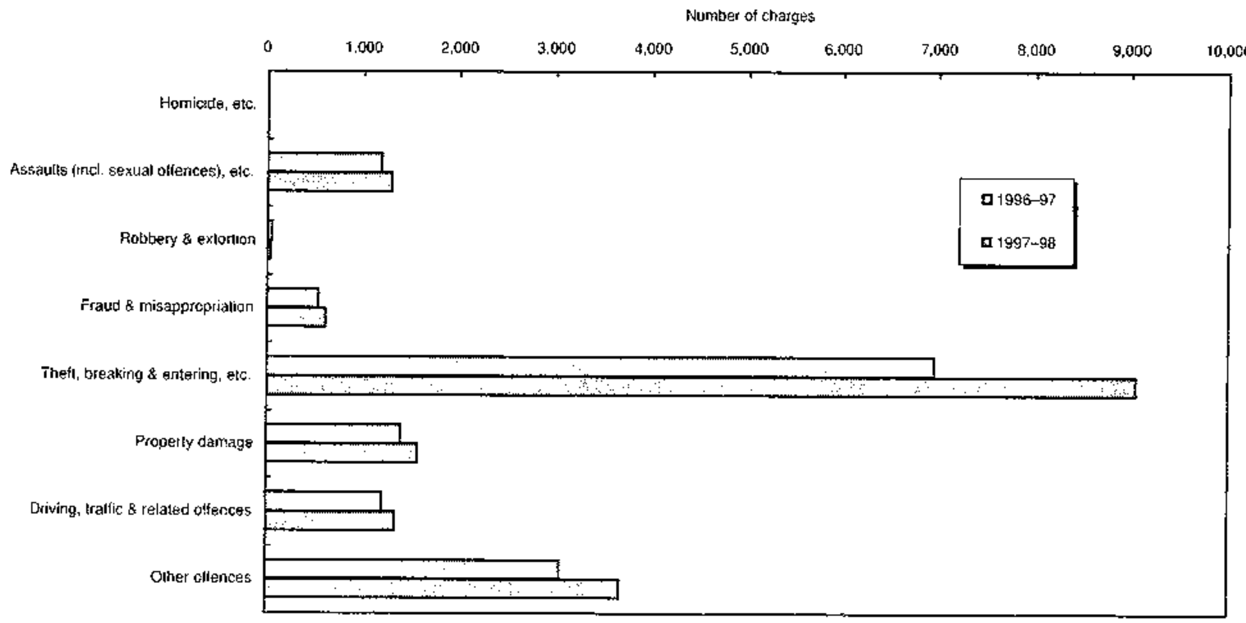
**Magistrates Courts: Charges against juveniles disposed by offence type by sex of defendant, Queensland, 1996–97 and 1997–98**

| Offence type | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| **Homicide, etc.** | **3** | **—** | **3** | **1** | **—** | **1** | **-66.7** | **. .** | **-66.7** |
| Murder | — | — | — | — | — | — | . . | . . | . . |
| Attempted murder | 3 | — | 3 | 1 | — | 1 | -66.7 | . . | -66.7 |
| Manslaughter (excluding driving) | — | — | — | — | — | — | . . | . . | . . |
| Manslaughter (driving) | — | — | — | — | — | — | . . | . . | . . |
| Dangerous driving causing death | — | — | — | — | — | — | . . | . . | . . |
| Conspiracy to murder | — | — | — | — | — | — | . . | . . | . . |
| **Assaults (incl. sexual offences), etc.** | **899** | **286** | **1,185** | **981** | **310** | **1,291** | **9.1** | **8.4** | **8.9** |
| Major assault | 244 | 89 | 333 | 241 | 76 | 317 | -1.2 | -14.6 | -4.8 |
| Minor assault | 560 | 192 | 752 | 648 | 224 | 872 | 15.7 | 16.7 | 16.0 |
| Rape | 3 | — | 3 | 6 | — | 6 | 100.0 | . . | 100.0 |
| Other sexual offences | 58 | 4 | 62 | 41 | 6 | 47 | -29.3 | 50.0 | -24.2 |
| Other violation of persons | 34 | 1 | 35 | 45 | 4 | 49 | 32.4 | 300.0 | 40.0 |
| **Robbery & extortion** | **43** | **3** | **46** | **29** | **6** | **35** | **-32.6** | **100.0** | **-23.9** |
| Robbery | 43 | 3 | 46 | 29 | 6 | 35 | -32.6 | 100.0 | -23.9 |
| Extortion | — | — | — | — | — | — | . . | . . | . . |
| **Fraud & misappropriation** | **274** | **262** | **536** | **474** | **132** | **606** | **73.0** | **-49.6** | **13.1** |
| Embezzlement | 6 | 19 | 25 | 14 | 3 | 17 | 133.3 | -84.2 | -32.0 |
| False pretences | 141 | 223 | 364 | 166 | 38 | 204 | 17.7 | -83.0 | -44.0 |
| Fraud & forgery | 127 | 20 | 147 | 294 | 91 | 385 | 131.5 | 355.0 | 161.9 |
| **Theft, breaking & entering, etc.** | **6,096** | **863** | **6,959** | **8,049** | **1,005** | **9,054** | **32.0** | **16.5** | **30.1** |
| Unlawful use of motor vehicle | 927 | 83 | 1,010 | 972 | 85 | 1,057 | 4.9 | 2.4 | 4.7 |
| Other stealing | 2,592 | 577 | 3,169 | 3,202 | 613 | 3,815 | 23.5 | 6.2 | 20.4 |
| Receiving, unlawful possession | 477 | 64 | 541 | 579 | 101 | 680 | 21.4 | 57.8 | 25.7 |
| Burglary & housebreaking[(a)] | 210 | 31 | 241 | 817 | 65 | 882 | 289.0 | 109.7 | 266.0 |
| Other breaking & entering[(a)] | 1,890 | 108 | 1,998 | 2,479 | 141 | 2,620 | 31.2 | 30.6 | 31.1 |
| **Property damage** | **1,270** | **121** | **1,391** | **1,451** | **120** | **1,571** | **14.3** | **-0.8** | **12.9** |
| Arson | 11 | 1 | 12 | 11 | — | 11 | — | -100.0 | -8.3 |
| Other property damage | 1,259 | 120 | 1,379 | 1,440 | 120 | 1,560 | 14.4 | — | 13.1 |
| **Driving, traffic & related offences** | **1,087** | **120** | **1,207** | **1,198** | **140** | **1,338** | **10.2** | **16.7** | **10.9** |
| Drink driving | 103 | 11 | 114 | 110 | 20 | 130 | 6.8 | 81.8 | 14.0 |
| Dangerous / negligent driving | 74 | 6 | 80 | 99 | 9 | 108 | 33.8 | 50.0 | 35.0 |
| Licence offences | 365 | 38 | 403 | 421 | 54 | 475 | 15.3 | 42.1 | 17.9 |
| State Transport, Main Roads Act | 109 | 16 | 125 | 92 | 16 | 108 | -15.6 | — | -13.6 |
| Other traffic offences | 436 | 49 | 485 | 475 | 41 | 516 | 8.9 | -16.3 | 6.4 |
| Other driving offences | — | — | — | 1 | — | 1 | . . | . . | . . |
| **Other offences** | **2,514** | **539** | **3,053** | **3,015** | **661** | **3,676** | **19.9** | **22.6** | **20.4** |
| Possession or use of drugs | 380 | 68 | 448 | 495 | 60 | 555 | 30.3 | -11.8 | 23.9 |
| Dealing & trafficking in drugs | 35 | 7 | 42 | 49 | 9 | 58 | 40.0 | 28.6 | 38.1 |
| Manufacturing & growing drugs | 41 | 5 | 46 | 47 | 3 | 50 | 14.6 | -40.0 | 8.7 |
| Other drug offences | 332 | 50 | 382 | 429 | 61 | 490 | 29.2 | 22.0 | 28.3 |
| Drunkenness | 151 | 43 | 194 | 163 | 49 | 212 | 7.9 | 14.0 | 9.3 |
| Offensive behaviour | 483 | 198 | 681 | 534 | 203 | 737 | 10.6 | 2.5 | 8.2 |
| Trespassing & vagrancy | 213 | 26 | 239 | 235 | 31 | 266 | 10.3 | 19.2 | 11.3 |
| Weapons offences | 81 | 4 | 85 | 102 | 2 | 104 | 25.9 | -50.0 | 22.4 |
| Environmental offences | — | — | — | 9 | — | 9 | . . | . . | . . |
| Liquor offences | 61 | 8 | 69 | 71 | 28 | 99 | 16.4 | 250.0 | 43.5 |
| Enforcement of orders | 640 | 119 | 759 | 732 | 189 | 921 | 14.4 | 58.8 | 21.3 |
| Other | 97 | 11 | 108 | 149 | 26 | 175 | 53.6 | 136.4 | 62.0 |
| **Total** | **12,186** | **2,194** | **14,380** | **15,198** | **2,374** | **17,572** | **24.7** | **8.2** | **22.2** |

(a) See the note in 'Data issues' at the beginning of the statistics section.

# STATISTICAL TABLES

**Figure 6** **Magistrates Courts: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**



## nineteen

## STATISTICAL TABLES

Table 8 **Magistrates Courts: Juvenile defendants and charges disposed by court location, Queensland, 1996–97 and 1997–98**

| Statistical division and court location[a] | 1996–97 | | | 1997–98 | | | Percentage change | |
|---|---|---|---|---|---|---|---|---|
| | Defendants | Charges | Charges per defendant | Defendants | Charges | Charges per defendant | Defendants | Charges |
| **Brisbane** | | | | | | | | |
| **Brisbane City** | | | | | | | | |
| Brisbane Childrens Court | 802 | 2,178 | 2.72 | 946 | 3,184 | 3.37 | 18.0 | 46.2 |
| Holland Park | 144 | 376 | 2.61 | 100 | 208 | 2.08 | -30.6 | -44.7 |
| Inala | 194 | 592 | 3.05 | 165 | 368 | 2.23 | -14.9 | -37.8 |
| Sandgate | 113 | 208 | 1.84 | 93 | 240 | 2.58 | -17.7 | 15.4 |
| Wynnum | 73 | 163 | 2.23 | 86 | 195 | 2.27 | 17.8 | 19.6 |
| **Remainder of Brisbane** | | | | | | | | |
| Beenleigh | 165 | 518 | 3.14 | 235 | 648 | 2.76 | 42.4 | 25.1 |
| Caboolture | 124 | 257 | 2.07 | 197 | 498 | 2.53 | 58.9 | 93.8 |
| Cleveland | 76 | 193 | 2.54 | 68 | 135 | 1.99 | -10.5 | -30.1 |
| Ipswich | 335 | 784 | 2.34 | 413 | 941 | 2.28 | 23.3 | 20.0 |
| Petrie | 84 | 219 | 2.61 | 111 | 259 | 2.33 | 32.1 | 18.3 |
| Redcliffe | 100 | 249 | 2.49 | 97 | 223 | 2.30 | -3.0 | -10.4 |
| **Moreton** | | | | | | | | |
| Beaudesert | 9 | 18 | 2.00 | 15 | 23 | 1.53 | 66.7 | 27.8 |
| Coolangatta | 1 | 2 | 2.00 | 1 | 1 | 1.00 | — | -50.0 |
| Gatton | 42 | 128 | 3.05 | 8 | 76 | 9.50 | -81.0 | -40.6 |
| Maroochydore | 115 | 313 | 2.72 | 168 | 403 | 2.40 | 46.1 | 28.8 |
| Noosa | 9 | 19 | 2.11 | 21 | 48 | 2.29 | 133.3 | 152.6 |
| Southport | 440 | 1,087 | 2.47 | 478 | 1,287 | 2.69 | 8.6 | 18.4 |
| Toogoolawah | 3 | 4 | 1.33 | 1 | 4 | 4.00 | -66.7 | — |
| **Wide Bay – Burnett** | | | | | | | | |
| Bundaberg | 102 | 299 | 2.93 | 91 | 196 | 2.15 | -10.8 | -34.4 |
| Childers | 2 | 3 | 1.50 | 9 | 17 | 1.89 | 350.0 | 466.7 |
| Gayndah | 3 | 6 | 2.00 | 4 | 32 | 8.00 | 33.3 | 433.3 |
| Gympie | 38 | 87 | 2.29 | 20 | 33 | 1.65 | -47.4 | -62.1 |
| Hervey Bay | 36 | 72 | 2.00 | 66 | 112 | 1.70 | 83.3 | 55.6 |
| Kingaroy | 14 | 43 | 3.07 | 18 | 35 | 1.94 | 28.6 | -18.6 |
| Maryborough | 48 | 109 | 2.27 | 51 | 104 | 2.04 | 6.3 | -4.6 |
| Murgon | 51 | 106 | 2.08 | 26 | 139 | 5.35 | -49.0 | 31.1 |
| Nanango | 14 | 25 | 1.79 | 28 | 54 | 1.93 | 100.0 | 116.0 |
| **Darling Downs** | | | | | | | | |
| Chinchilla | 18 | 57 | 3.17 | 20 | 62 | 3.10 | 11.1 | 8.8 |
| Dalby | 26 | 77 | 2.96 | 41 | 123 | 3.00 | 57.7 | 59.7 |
| Goondiwindi | 18 | 48 | 2.67 | 26 | 70 | 2.69 | 44.4 | 45.8 |
| Inglewood | 1 | 1 | 1.00 | 6 | 9 | 1.50 | 500.0 | 800.0 |
| Millmerran | — | — | . . | 2 | 10 | 5.00 | . . | . . |
| Oakey | 4 | 7 | 1.75 | — | — | . . | -100.0 | -100.0 |
| Pittsworth | 5 | 14 | 2.80 | 9 | 30 | 3.33 | 80.0 | 114.3 |
| Stanthorpe | 7 | 13 | 1.86 | 6 | 10 | 1.67 | -14.3 | -23.1 |
| Toowoomba | 168 | 332 | 1.98 | 177 | 389 | 2.20 | 5.4 | 17.2 |
| Warwick | 51 | 115 | 2.25 | 45 | 91 | 2.02 | -11.8 | -20.9 |
| **South West** | | | | | | | | |
| Charleville | 26 | 95 | 3.65 | 30 | 64 | 2.13 | 15.4 | -32.6 |
| Cunnamulla | 22 | 69 | 3.14 | 6 | 20 | 3.33 | -72.7 | -71.0 |
| Quilpie | 1 | 2 | 2.00 | — | — | . . | -100.0 | -100.0 |
| Roma | 13 | 33 | 2.54 | 27 | 71 | 2.63 | 107.7 | 115.2 |
| St George | 12 | 93 | 7.75 | 12 | 35 | 2.92 | — | -62.4 |

Table 8 Continued

| Statistical division and court location[a] | 1996–97 Defendants | 1996–97 Charges | 1996–97 Charges per defendant | 1997–98 Defendants | 1997–98 Charges | 1997–98 Charges per defendant | Percentage change Defendants | Percentage change Charges |
|---|---|---|---|---|---|---|---|---|
| **Fitzroy** | | | | | | | | |
| Biloela | 10 | 32 | 3.20 | 16 | 72 | 4.50 | 60.0 | 125.0 |
| Blackwater | 22 | 36 | 1.64 | 5 | 7 | 1.40 | -77.3 | -80.6 |
| Duaringa | 3 | 11 | 3.67 | — | — | . . | -100.0 | -100.0 |
| Emerald | 22 | 81 | 3.68 | 5 | 14 | 2.80 | -77.3 | -82.7 |
| Gladstone | 64 | 162 | 2.53 | 94 | 233 | 2.48 | 46.9 | 43.8 |
| Rockhampton | 271 | 696 | 2.57 | 300 | 1,035 | 3.45 | 10.7 | 48.7 |
| Woorabinda | 6 | 8 | 1.33 | 43 | 103 | 2.40 | 616.7 | 1,187.5 |
| Yeppoon | 31 | 113 | 3.65 | 38 | 86 | 2.26 | 22.6 | -23.9 |
| **Central West** | | | | | | | | |
| Barcaldine | 9 | 27 | 3.00 | 3 | 9 | 3.00 | -66.7 | -66.7 |
| Blackall | 2 | 4 | 2.00 | — | — | . . | -100.0 | -100.0 |
| Longreach | 7 | 13 | 1.86 | 6 | 30 | 5.00 | -14.3 | 130.8 |
| Winton | — | — | . . | 1 | 6 | 6.00 | . . | . . |
| **Mackay** | | | | | | | | |
| Clermont | 5 | 14 | 2.80 | 3 | 28 | 9.33 | -40.0 | 100.0 |
| Mackay | 221 | 592 | 2.68 | 280 | 1,096 | 3.91 | 26.7 | 85.1 |
| Moranbah | 12 | 25 | 2.08 | 23 | 45 | 1.96 | 91.7 | 80.0 |
| Proserpine | 15 | 51 | 3.40 | 32 | 91 | 2.84 | 113.3 | 78.4 |
| Sarina | 5 | 22 | 4.40 | 5 | 8 | 1.60 | — | -63.6 |
| **Northern** | | | | | | | | |
| Ayr | 24 | 58 | 2.42 | 30 | 91 | 3.03 | 25.0 | 56.9 |
| Bowen | 12 | 23 | 1.92 | 14 | 30 | 2.14 | 16.7 | 30.4 |
| Charters Towers | 28 | 72 | 2.57 | 24 | 43 | 1.79 | -14.3 | -40.3 |
| Ingham | 19 | 45 | 2.37 | 28 | 71 | 2.54 | 47.4 | 57.8 |
| Townsville | 386 | 1,036 | 2.68 | 552 | 1,404 | 2.54 | 43.0 | 35.5 |
| **Far North** | | | | | | | | |
| Atherton | 18 | 43 | 2.39 | 56 | 180 | 3.21 | 211.1 | 318.6 |
| Aurukun | 109 | 376 | 3.45 | 66 | 191 | 2.89 | -39.4 | -49.2 |
| Bamaga | 14 | 82 | 5.86 | 9 | 25 | 2.78 | -35.7 | -69.5 |
| Cairns | 282 | 713 | 2.53 | 390 | 903 | 2.32 | 38.3 | 26.6 |
| Cooktown | 6 | 14 | 2.33 | 4 | 12 | 3.00 | -33.3 | -14.3 |
| Innisfail | 50 | 169 | 3.38 | 74 | 305 | 4.12 | 48.0 | 80.5 |
| Lockhart River | 23 | 55 | 2.39 | 20 | 48 | 2.40 | -13.0 | -12.7 |
| Mareeba | 50 | 140 | 2.80 | 75 | 168 | 2.24 | 50.0 | 20.0 |
| Mossman | 10 | 51 | 5.10 | 25 | 78 | 3.12 | 150.0 | 52.9 |
| Thursday Island | 20 | 32 | 1.60 | 9 | 25 | 2.78 | -55.0 | -21.9 |
| Tully | 7 | 10 | 1.43 | 16 | 52 | 3.25 | 128.6 | 420.0 |
| Weipa | 14 | 35 | 2.50 | 14 | 30 | 2.14 | — | -14.3 |
| Yarrabah | 39 | 97 | 2.49 | 41 | 128 | 3.12 | 5.1 | 32.0 |
| **North West** | | | | | | | | |
| Camooweal | 3 | 3 | 1.00 | — | — | . . | -100.0 | -100.0 |
| Cloncurry | 4 | 12 | 3.00 | 5 | 12 | 2.40 | 25.0 | — |
| Doomadgee | — | — | . . | 1 | 1 | 1.00 | . . | . . |
| Kowanyama | 5 | 11 | 2.20 | 7 | 42 | 6.00 | 40.0 | 281.8 |
| Mornington Island | 10 | 13 | 1.30 | — | — | . . | -100.0 | -100.0 |
| Mount Isa | 87 | 335 | 3.85 | 112 | 344 | 3.07 | 28.7 | 2.7 |
| Normanton | 21 | 54 | 2.57 | 31 | 74 | 2.39 | 47.6 | 37.0 |
| Pormpuraaw | — | — | . . | 1 | 3 | 3.00 | . . | . . |
| Richmond | — | — | . . | 1 | 2 | 2.00 | . . | . . |
| **Total** | **5,455** | **14,380** | **2.64** | **6,382** | **17,572** | **2.75** | **17.0** | **22.2** |

(a) Magistrates courts not shown did not dispose any juveniles during the relevant years.

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## STATISTICAL TABLES

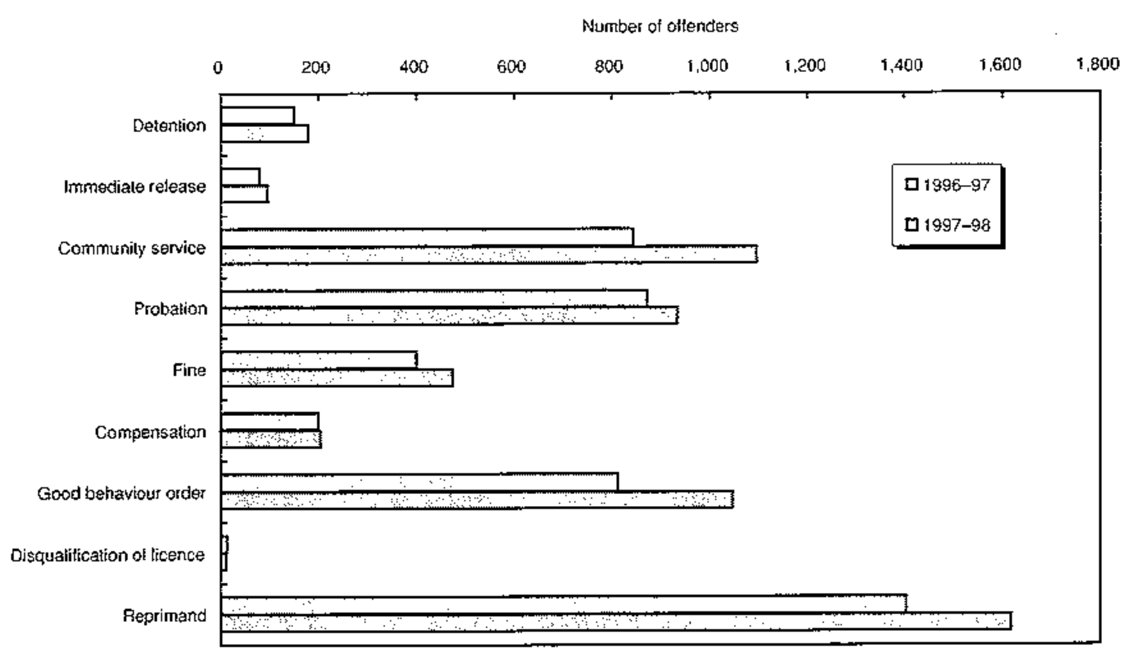
Table 9 — Magistrates Courts: Juvenile offenders by most serious penalty and sex, Queensland, 1996–97 and 1997–98

| Penalty[a] | 1996–97 Male | 1996–97 Female | 1996–97 Total | 1997–98 Male | 1997–98 Female | 1997–98 Total | Percentage change Male | Percentage change Female | Percentage change Total |
|---|---|---|---|---|---|---|---|---|---|
| Detention | 141 | 10 | 151 | 160 | 19 | 179 | 13.5 | 90.0 | 18.5 |
| Immediate release | 70 | 8 | 78 | 87 | 9 | 96 | 24.3 | 12.5 | 23.1 |
| Community service | 760 | 85 | 845 | 958 | 139 | 1,097 | 26.1 | 63.5 | 29.8 |
| Probation | 706 | 167 | 873 | 780 | 155 | 935 | 10.5 | -7.2 | 7.1 |
| Fine | 344 | 57 | 401 | 408 | 66 | 474 | 18.6 | 15.8 | 18.2 |
| Compensation | 160 | 40 | 200 | 164 | 40 | 204 | 2.5 | — | 2.0 |
| Good behaviour order | 646 | 167 | 813 | 855 | 192 | 1,047 | 32.4 | 15.0 | 28.8 |
| Disqualification of licence | 10 | 3 | 13 | 9 | 3 | 12 | -10.0 | — | -7.7 |
| Reprimand[b] | 1,076 | 327 | 1,403 | 1,286 | 331 | 1,617 | 19.5 | 1.2 | 15.3 |
| **Total** | **3,913** | **864** | **4,777** | **4,707** | **954** | **5,661** | **20.3** | **10.4** | **18.5** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

Figure 7 — Magistrates Courts: Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98



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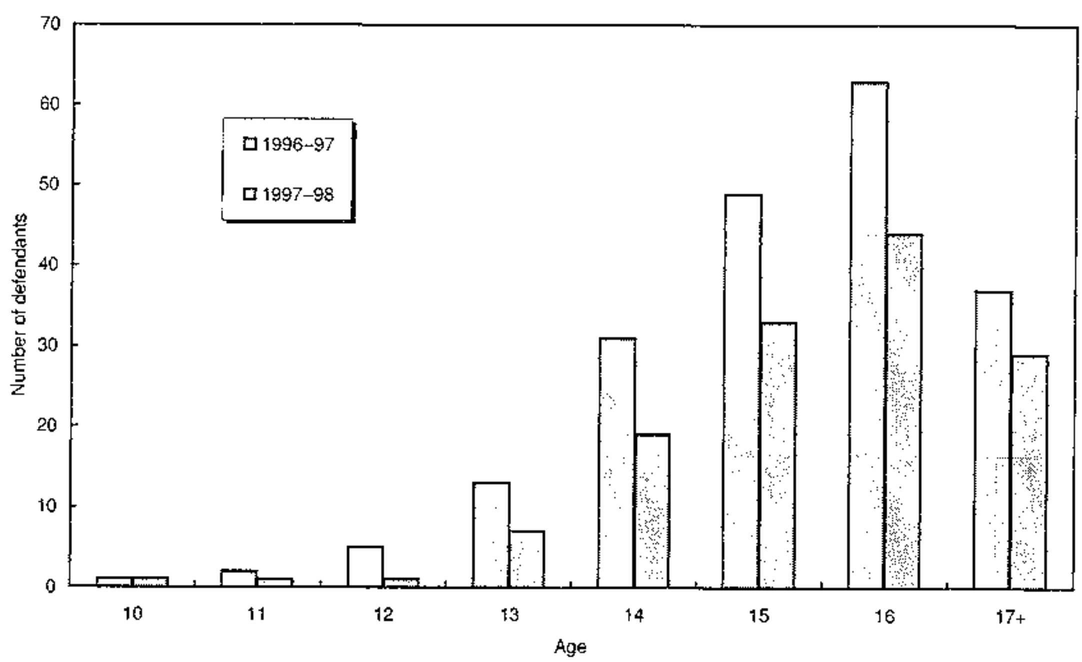
# STATISTICAL TABLES

Table 10 Childrens Court of Queensland: Juvenile defendants disposed by age and sex, Queensland, 1996–97 and 1997–98

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 1 | — | 1 | 1 | — | 1 | — | . . | — |
| 11 | 2 | — | 2 | 1 | — | 1 | -50.0 | . . | -50.0 |
| 12 | 5 | — | 5 | 1 | — | 1 | -80.0 | . . | -80.0 |
| 13 | 10 | 3 | 13 | 7 | — | 7 | -30.0 | -100.0 | -46.2 |
| 14 | 29 | 2 | 31 | 15 | 4 | 19 | -48.3 | 100.0 | -38.7 |
| 15 | 40 | 9 | 49 | 32 | 1 | 33 | -20.0 | -88.9 | -32.7 |
| 16 | 57 | 6 | 63 | 40 | 4 | 44 | -29.8 | -33.3 | -30.2 |
| 17+ | 36 | 1 | 37 | 28 | 1 | 29 | -22.2 | — | -21.6 |
| **Total** | **180** | **21** | **201** | **125** | **10** | **135** | **-30.6** | **-52.4** | **-32.8** |

Figure 8 Childrens Court of Queensland: Juvenile defendants disposed by age. Queensland, 1996–97 and 1997–98



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## STATISTICAL TABLES

Table 11 — Childrens Court of Queensland: Charges against juveniles disposed by offence type by sex of defendant, Queensland, 1996–97 and 1997–98

| Offence type | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| **Homicide, etc.** | **1** | **—** | **1** | **—** | **—** | **—** | **-100.0** | **. .** | **-100.0** |
| Murder | — | — | — | — | — | — | . . | . . | . . |
| Attempted murder | — | — | — | — | — | — | . . | . . | . . |
| Manslaughter (excluding driving) | — | — | — | — | — | — | . . | . . | . . |
| Manslaughter (driving) | — | — | — | — | — | — | . . | . . | . . |
| Dangerous driving causing death | 1 | — | 1 | — | — | — | -100.0 | . . | -100.0 |
| Conspiracy to murder | — | — | — | — | — | — | . . | . . | . . |
| **Assaults (incl. sexual offences), etc.** | **42** | **14** | **56** | **45** | **2** | **47** | **7.1** | **-85.7** | **-16.1** |
| Major assault | 25 | 9 | 34 | 20 | 1 | 21 | -20.0 | -88.9 | -38.2 |
| Minor assault | 7 | 1 | 8 | 13 | 1 | 14 | 85.7 | — | 75.0 |
| Rape | 3 | — | 3 | — | — | — | -100.0 | . . | -100.0 |
| Other sexual offences | 6 | — | 6 | 9 | — | 9 | 50.0 | . . | 50.0 |
| Other violation of persons | 1 | 4 | 5 | 3 | — | 3 | 200.0 | -100.0 | -40.0 |
| **Robbery & extortion** | **32** | **9** | **41** | **19** | **—** | **19** | **-40.6** | **-100.0** | **-53.7** |
| Robbery | 32 | 9 | 41 | 19 | — | 19 | -40.6 | -100.0 | -53.7 |
| Extortion | — | — | — | — | — | — | . . | . . | . . |
| **Fraud & misappropriation** | **2** | **2** | **4** | **3** | **—** | **3** | **50.0** | **-100.0** | **-25.0** |
| Embezzlement | — | — | — | 1 | — | 1 | . . | . . | . . |
| False pretences | 2 | 1 | 3 | 1 | — | 1 | -50.0 | -100.0 | -66.7 |
| Fraud & forgery | — | 1 | 1 | 1 | — | 1 | . . | -100.0 | — |
| **Theft, breaking & entering, etc.** | **891** | **57** | **948** | **605** | **12** | **617** | **-32.1** | **-78.9** | **-34.9** |
| Unlawful use of motor vehicle | 108 | 4 | 112 | 97 | 1 | 98 | -10.2 | -75.0 | -12.5 |
| Other stealing | 335 | 25 | 360 | 192 | 6 | 198 | -42.7 | -76.0 | -45.0 |
| Receiving, unlawful possession | 33 | 1 | 34 | 15 | — | 15 | -54.5 | -100.0 | -55.9 |
| Burglary & housebreaking[(a)] | 233 | 21 | 254 | 118 | 5 | 123 | -49.4 | -76.2 | -51.6 |
| Other breaking & entering[(a)] | 182 | 6 | 188 | 183 | — | 183 | .5 | -100.0 | -2.7 |
| **Property damage** | **119** | **6** | **125** | **59** | **1** | **60** | **-50.4** | **-83.3** | **-52.0** |
| Arson | 16 | 1 | 17 | 5 | 1 | 6 | -68.8 | — | -64.7 |
| Other property damage | 103 | 5 | 108 | 54 | — | 54 | -47.6 | -100.0 | -50.0 |
| **Driving, traffic & related offences** | **4** | **—** | **4** | **17** | **1** | **18** | **325.0** | **. .** | **350.0** |
| Drink driving | — | — | — | 1 | — | 1 | . . | . . | . . |
| Dangerous / negligent driving | 4 | — | 4 | 2 | — | 2 | -50.0 | . . | -50.0 |
| Licence offences | — | — | — | 2 | 1 | 3 | . . | . . | . . |
| State Transport, Main Roads Act | — | — | — | 1 | — | 1 | . . | . . | . . |
| Other traffic offences | — | — | — | 11 | — | 11 | . . | . . | . . |
| Other driving offences | — | — | — | — | — | — | . . | . . | . . |
| **Other offences** | **15** | **4** | **19** | **24** | **3** | **27** | **60.0** | **-25.0** | **42.1** |
| Possession or use of drugs | 1 | 1 | 2 | 1 | — | 1 | — | -100.0 | -50.0 |
| Dealing & trafficking in drugs | 3 | — | 3 | 1 | — | 1 | -66.7 | . . | -66.7 |
| Manufacturing & growing drugs | — | — | — | — | — | — | . . | . . | . . |
| Other drug offences | — | — | — | 2 | — | 2 | . . | . . | . . |
| Drunkenness | — | — | — | 1 | 1 | 2 | . . | . . | . . |
| Offensive behaviour | — | — | — | 6 | 1 | 7 | . . | . . | . . |
| Trespassing & vagrancy | — | — | — | — | — | — | . . | . . | . . |
| Weapons offences | 3 | — | 3 | — | — | — | -100.0 | . . | -100.0 |
| Environmental offences | — | — | — | — | — | — | . . | . . | . . |
| Liquor offences | — | — | — | — | 1 | 1 | . . | . . | . . |
| Enforcement of orders | 8 | 3 | 11 | 13 | — | 13 | 62.5 | -100.0 | 18.2 |
| Other | — | — | — | — | — | — | . . | . . | . . |
| **Total** | **1,106** | **92** | **1,198** | **772** | **19** | **791** | **-30.2** | **-79.3** | **-34.0** |

(a) See the note in 'Data issues' at the beginning of the statistics section.

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## STATISTICAL TABLES

Figure 9 Childrens Court of Queensland: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98

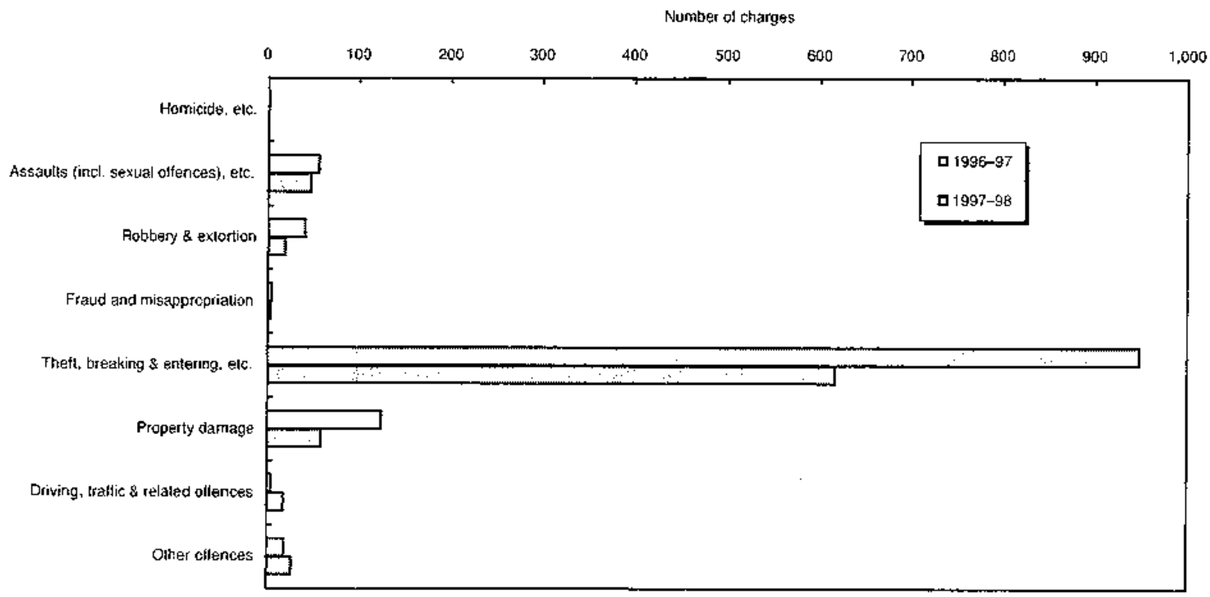


Table 12 Childrens Court of Queensland: Juvenile defendants and charges disposed by court location, Queensland, 1996–97 and 1997–98

| Court location[a] | 1996–97 | | | 1997–98 | | | Percentage change | |
|---|---|---|---|---|---|---|---|---|
| | Defendants | Charges | Charges per defendant | Defendants | Charges | Charges per defendant | Defendants | Charges |
| Brisbane | 107 | 480 | 4.49 | 22 | 89 | 4.05 | -79.4 | -81.5 |
| Cairns | 8 | 52 | 6.50 | 22 | 128 | 5.82 | 175.0 | 146.2 |
| Rockhampton | — | — | . . | 34 | 92 | 2.71 | . . | . . |
| Southport | 17 | 117 | 6.88 | 4 | 27 | 6.75 | -76.5 | -76.9 |
| Townsville | 69 | 549 | 7.96 | 53 | 455 | 8.58 | -23.2 | -17.1 |
| **Total** | **201** | **1,198** | **5.96** | **135** | **791** | **5.86** | **-32.8** | **-34.0** |

(a) Courts not shown did not dispose any juveniles in the relevant years. In the cases of the Ipswich court, there is a single judge undertaking both District Court and Childrens Court of Queensland work. Therefore, if cases are committed to the District Court rather than to the Childrens Court of Queensland, the judges try or sentence the cases in the capacity of a District Court Judge.

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## STATISTICAL TABLES

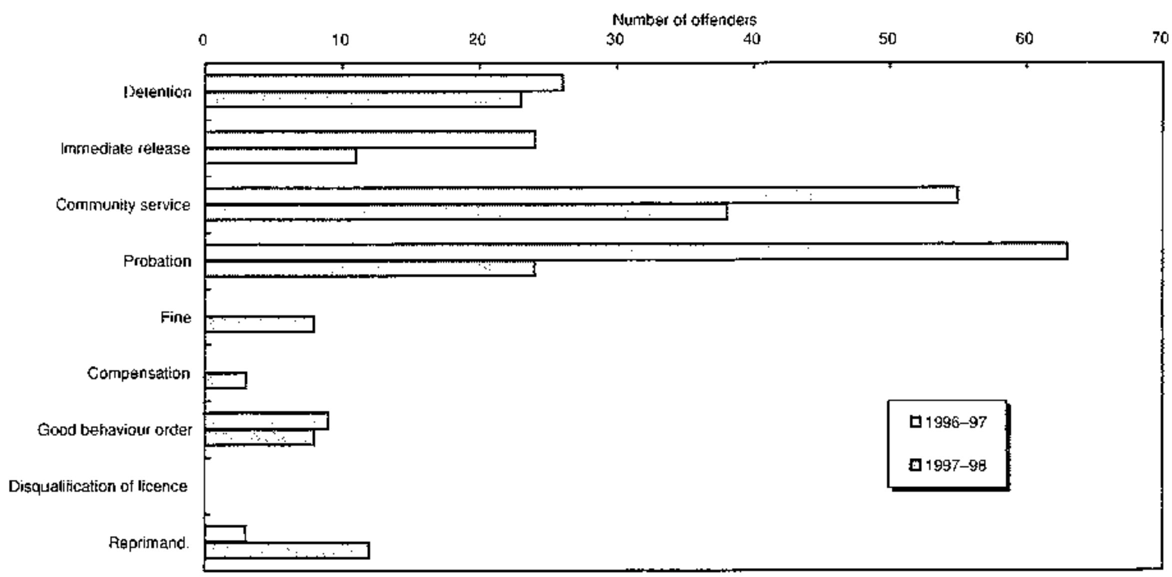
**Table 13** **Childrens Court of Queensland: Juvenile offenders by most serious penalty and sex, Queensland, 1996–97 and 1997–98**

| Penalty[a] | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| Detention | 23 | 3 | 26 | 21 | 2 | 23 | -8.7 | -33.3 | -11.5 |
| Immediate release | 21 | 3 | 24 | 11 | — | 11 | -47.6 | -100.0 | -54.2 |
| Community service | 52 | 3 | 55 | 35 | 3 | 38 | -32.7 | — | -30.9 |
| Probation | 56 | 7 | 63 | 24 | — | 24 | -57.1 | -100.0 | -61.9 |
| Fine | — | — | — | 7 | 1 | 8 | . . | . . | . . |
| Compensation | — | — | — | 3 | — | 3 | . . | . . | . . |
| Good behaviour order | 8 | 1 | 9 | 7 | 1 | 8 | -12.5 | — | -11.1 |
| Disqualification of licence | — | — | — | — | — | — | . . | . . | . . |
| Reprimand[b] | 3 | — | 3 | 9 | 3 | 12 | 200.0 | . . | 300.0 |
| **Total** | **163** | **17** | **180** | **117** | **10** | **127** | **-28.2** | **-41.2** | **-29.4** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

**Figure 10** **Childrens Court of Queensland: Juveniles offenders by most serious penalty Queensland, 1996–97 and 1997–98**



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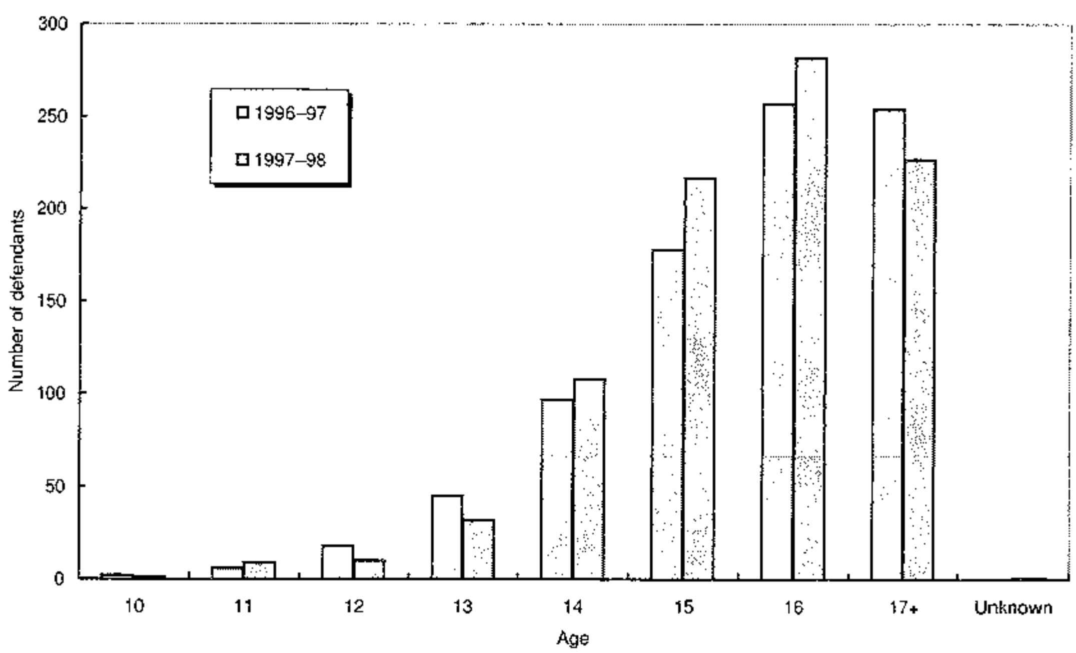
## STATISTICAL TABLES

**Table 14 District and Supreme Courts: Juvenile defendants disposed by age and sex, Queensland, 1996–97 and 1997–98**

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 2 | — | 2 | 1 | — | 1 | -50.0 | . . | -50.0 |
| 11 | 5 | 1 | 6 | 8 | 1 | 9 | 60.0 | — | 50.0 |
| 12 | 17 | 1 | 18 | 10 | — | 10 | -41.2 | -100.0 | -44.4 |
| 13 | 37 | 8 | 45 | 27 | 5 | 32 | -27.0 | -37.5 | -28.9 |
| 14 | 83 | 14 | 97 | 86 | 22 | 108 | 3.6 | 57.1 | 11.3 |
| 15 | 155 | 23 | 178 | 191 | 26 | 217 | 23.2 | 13.0 | 21.9 |
| 16 | 223 | 34 | 257 | 248 | 34 | 282 | 11.2 | — | 9.7 |
| 17+ | 238 | 16 | 254 | 205 | 22 | 227 | -13.9 | 37.5 | -10.6 |
| Unknown | — | — | — | 1 | — | 1 | . . | . . | . . |
| **Total** | **760** | **97** | **857** | **777** | **110** | **887** | **2.2** | **13.4** | **3.5** |

**Figure 11 District and Supreme Courts: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98**



# STATISTICAL TABLES

**Table 15** **District and Supreme Courts: Charges against juveniles disposed by offence type by sex of defendant, Queensland, 1996–97 and 1997–98**

| Offence type | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| **Homicide, etc.** | **3** | **2** | **5** | **7** | **—** | **7** | **133.3** | **-100.0** | **40.0** |
| Murder | — | — | — | 5 | — | 5 | . . | . . | . . |
| Attempted murder | 1 | 1 | 2 | 2 | — | 2 | 100.0 | -100.0 | — |
| Manslaughter (excluding driving) | 1 | 1 | 2 | — | — | — | -100.0 | -100.0 | -100.0 |
| Manslaughter (driving) | — | — | — | — | — | — | . . | . . | . . |
| Dangerous driving causing death | 1 | — | 1 | — | — | — | -100.0 | . . | -100.0 |
| Conspiracy to murder | — | — | — | — | — | — | . . | . . | . . |
| **Assaults (incl. sexual offences), etc.** | **328** | **42** | **370** | **314** | **112** | **426** | **-4.3** | **166.7** | **15.1** |
| Major assault | 137 | 21 | 158 | 167 | 76 | 243 | 21.9 | 261.9 | 53.8 |
| Minor assault | 82 | 17 | 99 | 71 | 26 | 97 | -13.4 | 52.9 | -2.0 |
| Rape | 13 | — | 13 | 15 | — | 15 | 15.4 | . . | 15.4 |
| Other sexual offences | 81 | — | 81 | 42 | — | 42 | -48.1 | . . | -48.1 |
| Other violation of persons | 15 | 4 | 19 | 19 | 10 | 29 | 26.7 | 150.0 | 52.6 |
| **Robbery & extortion** | **127** | **34** | **161** | **175** | **42** | **217** | **37.8** | **23.5** | **34.8** |
| Robbery | 127 | 34 | 161 | 175 | 42 | 217 | 37.8 | 23.5 | 34.8 |
| Extortion | — | — | — | — | — | — | . . | . . | . . |
| **Fraud & misappropriation** | **58** | **27** | **85** | **67** | **23** | **90** | **15.5** | **-14.8** | **5.9** |
| Embezzlement | — | 3 | 3 | 4 | 2 | 6 | . . | -33.3 | 100.0 |
| False pretences | 41 | 9 | 50 | 52 | 19 | 71 | 26.8 | 111.1 | 42.0 |
| Fraud & forgery | 17 | 15 | 32 | 11 | 2 | 13 | -35.3 | -86.7 | -59.4 |
| **Theft, breaking & entering, etc.** | **3,187** | **151** | **3,338** | **4,515** | **129** | **4,644** | **41.7** | **-14.6** | **39.1** |
| Unlawful use of motor vehicle | 431 | 10 | 441 | 683 | 9 | 692 | 58.5 | -10.0 | 56.9 |
| Other stealing | 1,136 | 66 | 1,202 | 1,403 | 59 | 1,462 | 23.5 | -10.6 | 21.6 |
| Receiving, unlawful possession | 102 | 15 | 117 | 143 | 3 | 146 | 40.2 | -80.0 | 24.8 |
| Burglary & housebreaking[(a)] | 750 | 43 | 793 | 1,235 | 34 | 1,269 | 64.7 | -20.9 | 60.0 |
| Other breaking & entering[(a)] | 768 | 17 | 785 | 1,051 | 24 | 1,075 | 36.8 | 41.2 | 36.9 |
| **Property damage** | **379** | **26** | **405** | **579** | **30** | **609** | **52.8** | **15.4** | **50.4** |
| Arson | 31 | 1 | 32 | 33 | 4 | 37 | 6.5 | 300.0 | 15.6 |
| Other property damage | 348 | 25 | 373 | 546 | 26 | 572 | 56.9 | 4.0 | 53.4 |
| **Driving, traffic & related offences** | **15** | **3** | **18** | **38** | **2** | **40** | **153.3** | **-33.3** | **122.2** |
| Drink driving | — | — | — | — | 1 | 1 | . . | . . | . . |
| Dangerous / negligent driving | 14 | 3 | 17 | 31 | — | 31 | 121.4 | -100.0 | 82.4 |
| Licence offences | 1 | — | 1 | 7 | 1 | 8 | 600.0 | . . | 700.0 |
| State Transport, Main Roads Act | — | — | — | — | — | — | . . | . . | . . |
| Other traffic offences | — | — | — | — | — | — | . . | . . | . . |
| Other driving offences | — | — | — | — | — | — | . . | . . | . . |
| **Other offences** | **132** | **22** | **154** | **242** | **14** | **256** | **83.3** | **-36.4** | **66.2** |
| Possession or use of drugs | 4 | 2 | 6 | 7 | — | 7 | 75.0 | -100.0 | 16.7 |
| Dealing & trafficking in drugs | 1 | 1 | 2 | 8 | 1 | 9 | 700.0 | — | 350.0 |
| Manufacturing & growing drugs | 3 | — | 3 | — | 1 | 1 | -100.0 | . . | -66.7 |
| Other drug offences | — | — | — | 2 | 1 | 3 | . . | . . | . . |
| Drunkenness | — | — | — | — | — | — | . . | . . | . . |
| Offensive behaviour | 1 | — | 1 | 3 | 2 | 5 | 200.0 | . . | 400.0 |
| Trespassing & vagrancy | — | 1 | 1 | 1 | — | 1 | . . | -100.0 | — |
| Weapons offences | — | — | — | 2 | — | 2 | . . | . . | . . |
| Environmental offences | — | — | — | 1 | — | 1 | . . | . . | . . |
| Liquor offences | 2 | — | 2 | — | — | — | -100.0 | . . | -100.0 |
| Enforcement of orders | 106 | 15 | 121 | 131 | 5 | 136 | 23.6 | -66.7 | 12.4 |
| Other | 15 | 3 | 18 | 87 | 4 | 91 | 480.0 | 33.3 | 405.6 |
| **Total** | **4,229** | **307** | **4,536** | **5,937** | **352** | **6,289** | **40.4** | **14.7** | **38.6** |

(a) See the note in 'Data issues' at the beginning of the statistics section.

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# STATISTICAL TABLES

Figure 12

**District and Supreme Courts: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**

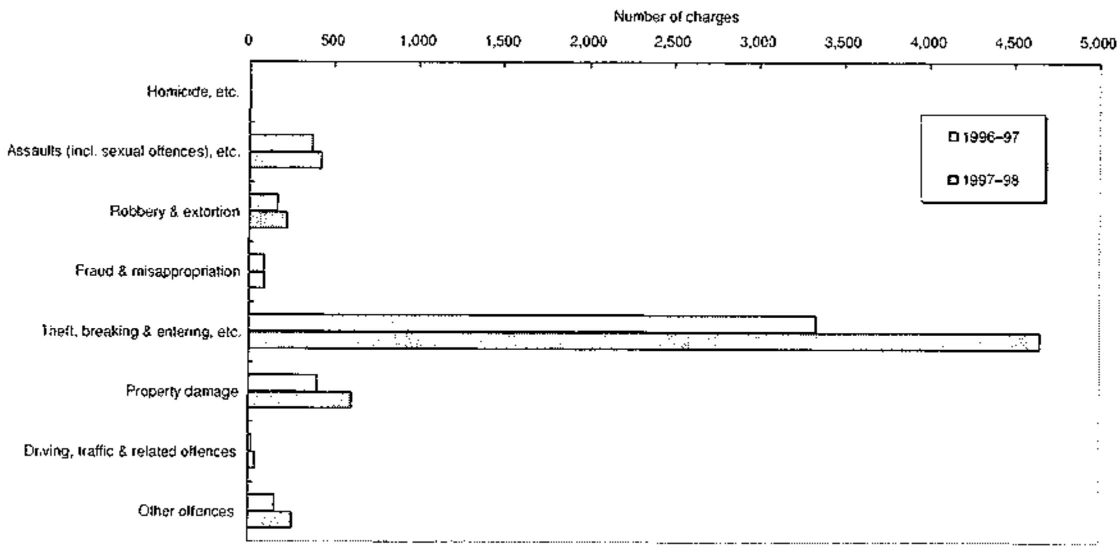

Table 16 **District and Supreme Courts: Juvenile defendants and charges disposed by court location, Queensland, 1996–97 and 1997–98**

| Statistical division and court location[a] | 1996–97 Defendants | 1996–97 Charges | 1996–97 Charges per defendant | 1997–98 Defendants | 1997–98 Charges | 1997–98 Charges per defendant | Percentage change Defendants | Percentage change Charges |
|---|---|---|---|---|---|---|---|---|
| **Brisbane** | | | | | | | | |
| Brisbane Supreme | 10 | 15 | 1.50 | 8 | 32 | 4.00 | -20.0 | 113.3 |
| Brisbane | 473 | 2,656 | 5.62 | 495 | 4,132 | 8.35 | 4.7 | 55.6 |
| Beenleigh | — | — | . . | 14 | 162 | 11.57 | . . | . . |
| Ipswich | 47 | 165 | 3.51 | 52 | 238 | 4.58 | 10.6 | 44.2 |
| **Moreton** | | | | | | | | |
| Maroochydore | 21 | 175 | 8.33 | 15 | 93 | 6.20 | -28.6 | -46.9 |
| Southport | 17 | 55 | 3.24 | 21 | 243 | 11.57 | 23.5 | 341.8 |
| **Wide Bay – Burnett** | | | | | | | | |
| Bundaberg | 17 | 71 | 4.18 | 19 | 72 | 3.79 | 11.8 | 1.4 |
| Gympie | 1 | 4 | 4.00 | 2 | 2 | 1.00 | 100.0 | -50.0 |
| Kingaroy | 18 | 68 | 3.78 | 30 | 193 | 6.43 | 66.7 | 183.8 |
| Maryborough | 16 | 66 | 4.13 | 29 | 107 | 3.69 | 81.3 | 62.1 |
| **Darling Downs** | | | | | | | | |
| Chinchilla | 1 | 3 | 3.00 | — | — | . . | -100.0 | -100.0 |
| Dalby | 5 | 11 | 2.20 | 5 | 14 | 2.80 | — | 27.3 |
| Goondiwindi | 3 | 6 | 2.00 | 1 | 1 | 1.00 | -66.7 | -83.3 |
| Stanthorpe | 4 | 7 | 1.75 | — | — | . . | -100.0 | -100.0 |
| Toowoomba | 32 | 178 | 5.56 | 18 | 29 | 1.61 | -43.8 | -83.7 |
| Warwick | 1 | 2 | 2.00 | 5 | 14 | 2.80 | 400.0 | 600.0 |
| **South West** | | | | | | | | |
| Charleville | 11 | 54 | 4.91 | 4 | 10 | 2.50 | -63.6 | -81.5 |
| Roma | 1 | 4 | 4.00 | 4 | 9 | 2.25 | 300.0 | 125.0 |
| **Fitzroy** | | | | | | | | |
| Emerald | 3 | 9 | 3.00 | 2 | 5 | 2.50 | -33.3 | -44.4 |
| Gladstone | 13 | 48 | 3.69 | 27 | 107 | 3.96 | 107.7 | 122.9 |
| Rockhampton | 35 | 227 | 6.49 | 24 | 126 | 5.25 | -31.4 | -44.5 |
| **Mackay** | | | | | | | | |
| Clermont | 2 | 6 | 3.00 | — | — | . . | -100.0 | -100.0 |
| Mackay | 17 | 214 | 12.59 | 34 | 159 | 4.68 | 100.0 | -25.7 |
| **Northern** | | | | | | | | |
| Bowen | 4 | 24 | 6.00 | 1 | 16 | 16.00 | -75.0 | -33.3 |
| Charters Towers | — | — | . . | 4 | 4 | 1.00 | . . | . . |
| Townsville Supreme | 1 | 3 | 3.00 | 2 | 6 | 3.00 | 100.0 | 100.0 |
| Townsville | 12 | 53 | 4.42 | 21 | 208 | 9.90 | 75.0 | 292.5 |
| **Far North** | | | | | | | | |
| Cairns Supreme Court | — | — | . . | 1 | 1 | 1.00 | . . | . . |
| Cairns | 65 | 263 | 4.05 | 24 | 172 | 7.17 | -63.1 | -34.6 |
| Innisfail | 10 | 73 | 7.30 | 1 | 2 | 2.00 | -90.0 | -97.3 |
| **North West** | | | | | | | | |
| Mount Isa | 17 | 76 | 4.47 | 24 | 132 | 5.50 | 41.2 | 73.7 |
| **Total** | **857** | **4,536** | **5.29** | **887** | **6,289** | **7.09** | **3.5** | **38.6** |

(a) District Courts unless otherwise indicated. Courts not shown did not dispose any juveniles during the relevant years.

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# STATISTICAL TABLES

Table 17

**District and Supreme Courts: Juvenile offenders by most serious penalty and sex, Queensland, 1996–97 and 1997–98**

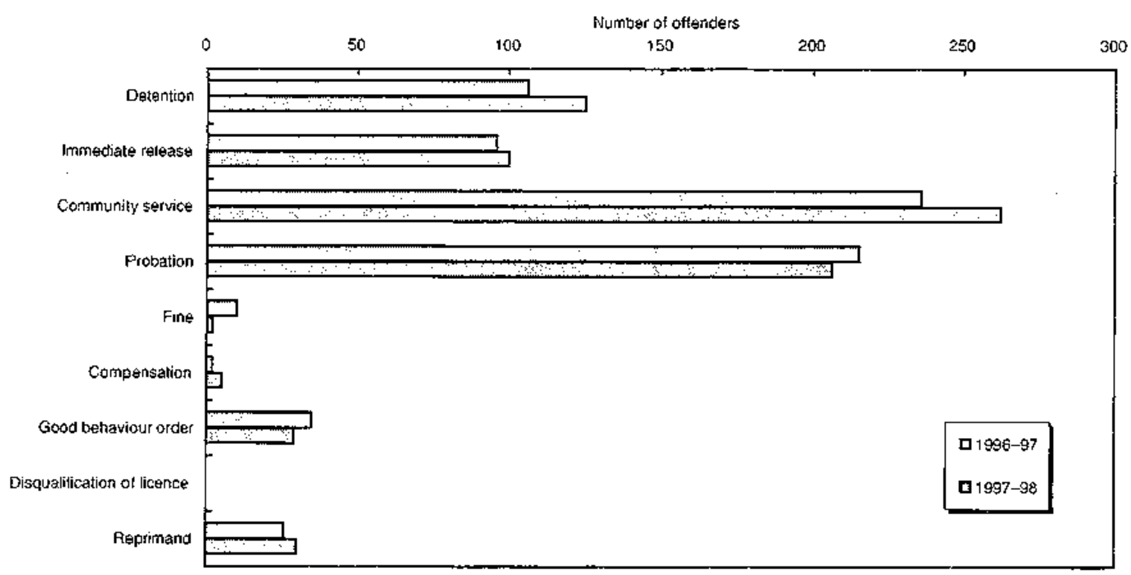
| Penalty[a] | 1996–97 Male | 1996–97 Female | 1996–97 Total | 1997–98 Male | 1997–98 Female | 1997–98 Total | Percentage change Male | Percentage change Female | Percentage change Total |
|---|---|---|---|---|---|---|---|---|---|
| Detention | 93 | 13 | 106 | 116 | 9 | 125 | 24.7 | -30.8 | 17.9 |
| Immediate release | 91 | 5 | 96 | 92 | 8 | 100 | 1.1 | 60.0 | 4.2 |
| Community service | 209 | 27 | 236 | 237 | 25 | 262 | 13.4 | -7.4 | 11.0 |
| Probation | 188 | 27 | 215 | 167 | 39 | 206 | -11.2 | 44.4 | -4.2 |
| Fine | 8 | 2 | 10 | 2 | — | 2 | -75.0 | -100.0 | -80.0 |
| Compensation | 2 | — | 2 | 4 | 1 | 5 | 100.0 | . . | 150.0 |
| Good behaviour order | 33 | 2 | 35 | 28 | 1 | 29 | -15.2 | -50.0 | -17.1 |
| Disqualification of licence | — | — | — | — | — | — | . . | . . | . . |
| Reprimand[b] | 21 | 5 | 26 | 28 | 2 | 30 | 33.3 | -60.0 | 15.4 |
| **Total** | **645** | **81** | **726** | **674** | **85** | **759** | **4.5** | **4.9** | **4.5** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

Figure 13

**District and Supreme Courts: Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98**



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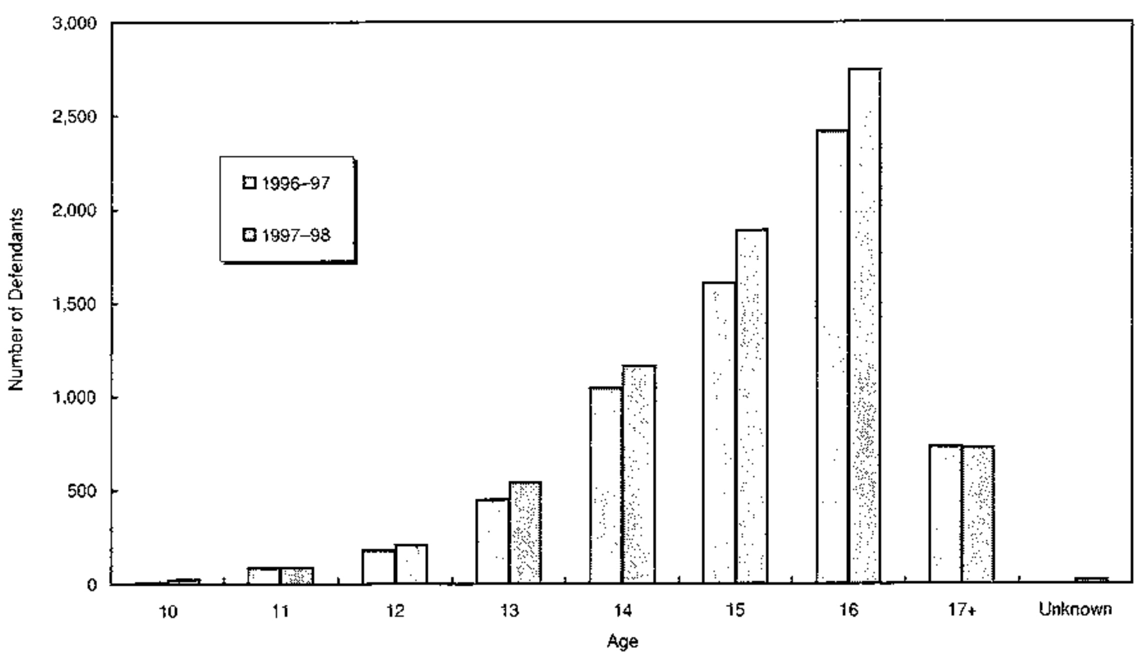
## STATISTICAL TABLES

**Table 18** All Courts: Juvenile defendants disposed by age and sex, Queensland, 1996–97 and 1997–98

| Age | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| 10 | 10 | 2 | 12 | 20 | 3 | 23 | 100.0 | 50.0 | 91.7 |
| 11 | 81 | 5 | 86 | 83 | 6 | 89 | 2.5 | 20.0 | 3.5 |
| 12 | 157 | 20 | 177 | 186 | 23 | 209 | 18.5 | 15.0 | 18.1 |
| 13 | 357 | 91 | 448 | 450 | 93 | 543 | 26.1 | 2.2 | 21.2 |
| 14 | 835 | 206 | 1,041 | 948 | 215 | 1,163 | 13.5 | 4.4 | 11.7 |
| 15 | 1,318 | 286 | 1,604 | 1,571 | 314 | 1,885 | 19.2 | 9.8 | 17.5 |
| 16 | 2,038 | 377 | 2,415 | 2,340 | 405 | 2,745 | 14.8 | 7.4 | 13.7 |
| 17+ | 647 | 83 | 730 | 639 | 87 | 726 | -1.2 | 4.8 | -0.5 |
| Unknown | — | — | — | 16 | 5 | 21 | . . | . . | . . |
| **Total** | **5,443** | **1,070** | **6,513** | **6,253** | **1,151** | **7,404** | **14.9** | **7.6** | **13.7** |

**Figure 14** All Courts: Juvenile defendants disposed by age, Queensland, 1996–97 and 1997–98



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## STATISTICAL TABLES

Table 19 — All Courts: Charges against juveniles disposed by offence type by sex of defendant, Queensland, 1996–97 and 1997–98

| Offence type | 1996–97 Male | 1996–97 Female | 1996–97 Total | 1997–98 Male | 1997–98 Female | 1997–98 Total | Percentage change Male | Percentage change Female | Percentage change Total |
|---|---|---|---|---|---|---|---|---|---|
| **Homicide, etc.** | **7** | **2** | **9** | **8** | **—** | **8** | **14.3** | **-100.0** | **-11.1** |
| Murder | — | — | — | 5 | — | 5 | . . | . . | . . |
| Attempted murder | 4 | 1 | 5 | 3 | — | 3 | -25.0 | -100.0 | -40.0 |
| Manslaughter (excluding driving) | 1 | 1 | 2 | — | — | — | -100.0 | -100.0 | -100.0 |
| Manslaughter (driving) | — | — | — | — | — | — | . . | . . | . . |
| Dangerous driving causing death | 2 | — | 2 | — | — | — | -100.0 | . . | -100.0 |
| Conspiracy to murder | — | — | — | — | — | — | . . | . . | . . |
| **Assaults (incl. sexual offences), etc.** | **1,269** | **342** | **1,611** | **1,340** | **424** | **1,764** | **5.6** | **24.0** | **9.5** |
| Major assault | 406 | 119 | 525 | 428 | 153 | 581 | 5.4 | 28.6 | 10.7 |
| Minor assault | 649 | 210 | 859 | 732 | 251 | 983 | 12.8 | 19.5 | 14.4 |
| Rape | 19 | — | 19 | 21 | — | 21 | 10.5 | . . | 10.5 |
| Other sexual offences | 145 | 4 | 149 | 92 | 6 | 98 | -36.6 | 50.0 | -34.2 |
| Other violation of persons | 50 | 9 | 59 | 67 | 14 | 81 | 34.0 | 55.6 | 37.3 |
| **Robbery & extortion** | **202** | **46** | **248** | **223** | **48** | **271** | **10.4** | **4.3** | **9.3** |
| Robbery | 202 | 46 | 248 | 223 | 48 | 271 | 10.4 | 4.3 | 9.3 |
| Extortion | — | — | — | — | — | — | . . | . . | . . |
| **Fraud & misappropriation** | **334** | **291** | **625** | **544** | **155** | **699** | **62.9** | **-46.7** | **11.8** |
| Embezzlement | 6 | 22 | 28 | 19 | 5 | 24 | 216.7 | -77.3 | -14.3 |
| False pretences | 184 | 233 | 417 | 219 | 57 | 276 | 19.0 | -75.5 | -33.8 |
| Fraud & forgery | 144 | 36 | 180 | 306 | 93 | 399 | 112.5 | 158.3 | 121.7 |
| **Theft, breaking & entering, etc.** | **10,174** | **1,071** | **11,245** | **13,169** | **1,146** | **14,315** | **29.4** | **7.0** | **27.3** |
| Unlawful use of motor vehicle | 1,466 | 97 | 1,563 | 1,752 | 95 | 1,847 | 19.5 | -2.1 | 18.2 |
| Other stealing | 4,063 | 668 | 4,731 | 4,797 | 678 | 5,475 | 18.1 | 1.5 | 15.7 |
| Receiving, unlawful possession | 612 | 80 | 692 | 737 | 104 | 841 | 20.4 | 30.0 | 21.5 |
| Burglary & housebreaking[(a)] | 1,193 | 95 | 1,288 | 2,170 | 104 | 2,274 | 81.9 | 9.5 | 76.6 |
| Other breaking & entering[(a)] | 2,840 | 131 | 2,971 | 3,713 | 165 | 3,878 | 30.7 | 26.0 | 30.5 |
| **Property damage** | **1,768** | **153** | **1,921** | **2,089** | **151** | **2,240** | **18.2** | **-1.3** | **16.6** |
| Arson | 58 | 3 | 61 | 49 | 5 | 54 | -15.5 | 66.7 | -11.5 |
| Other property damage | 1,710 | 150 | 1,860 | 2,040 | 146 | 2,186 | 19.3 | -2.7 | 17.5 |
| **Driving, traffic & related offences** | **1,106** | **123** | **1,229** | **1,253** | **143** | **1,396** | **13.3** | **16.3** | **13.6** |
| Drink driving | 103 | 11 | 114 | 111 | 21 | 132 | 7.8 | 90.9 | 15.8 |
| Dangerous / negligent driving | 92 | 9 | 101 | 132 | 9 | 141 | 43.5 | — | 39.6 |
| Licence offences | 366 | 38 | 404 | 430 | 56 | 486 | 17.5 | 47.4 | 20.3 |
| State Transport, Main Roads Act | 109 | 16 | 125 | 93 | 16 | 109 | -14.7 | — | -12.8 |
| Other traffic offences | 436 | 49 | 485 | 486 | 41 | 527 | 11.5 | -16.3 | 8.7 |
| Other driving offences | — | — | — | 1 | — | 1 | . . | . . | . . |
| **Other offences** | **2,661** | **565** | **3,226** | **3,281** | **678** | **3,959** | **23.3** | **20.0** | **22.7** |
| Possession or use of drugs | 385 | 71 | 456 | 503 | 60 | 563 | 30.6 | -15.5 | 23.5 |
| Dealing & trafficking in drugs | 39 | 8 | 47 | 58 | 10 | 68 | 48.7 | 25.0 | 44.7 |
| Manufacturing & growing drugs | 44 | 5 | 49 | 47 | 4 | 51 | 6.8 | -20.0 | 4.1 |
| Other drug offences | 332 | 50 | 382 | 433 | 62 | 495 | 30.4 | 24.0 | 29.6 |
| Drunkenness | 151 | 43 | 194 | 164 | 50 | 214 | 8.6 | 16.3 | 10.3 |
| Offensive behaviour | 484 | 198 | 682 | 543 | 206 | 749 | 12.2 | 4.0 | 9.8 |
| Trespassing & vagrancy | 213 | 27 | 240 | 236 | 31 | 267 | 10.8 | 14.8 | 11.3 |
| Weapons offences | 84 | 4 | 88 | 104 | 2 | 106 | 23.8 | -50.0 | 20.5 |
| Environmental offences | — | — | — | 10 | — | 10 | . . | . . | . . |
| Liquor offences | 63 | 8 | 71 | 71 | 29 | 100 | 12.7 | 262.5 | 40.8 |
| Enforcement of orders | 754 | 137 | 891 | 876 | 194 | 1,070 | 16.2 | 41.6 | 20.1 |
| Other | 112 | 14 | 126 | 236 | 30 | 266 | 110.7 | 114.3 | 111.1 |
| **Total** | **17,521** | **2,593** | **20,114** | **21,907** | **2,745** | **24,652** | **25.0** | **5.9** | **22.6** |

(a) See the note in 'Data issues' at the beginning of the statistics section.

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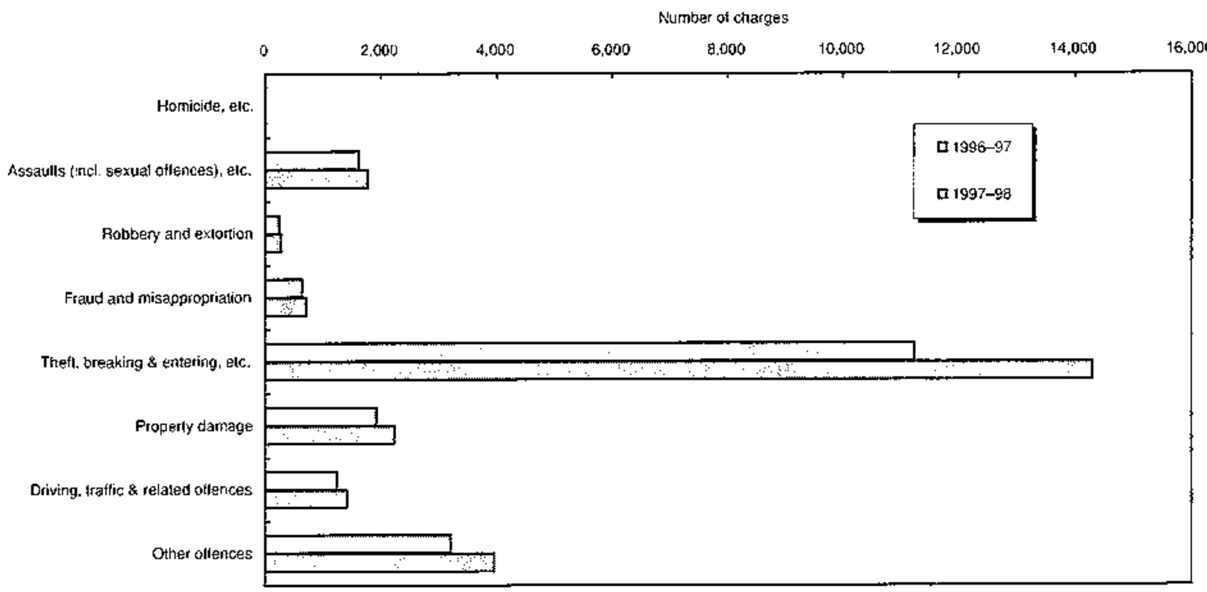
# STATISTICAL TABLES

**Figure 15** **All Courts: Charges against juveniles disposed by offence type, Queensland, 1996–97 and 1997–98**



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# STATISTICAL TABLES

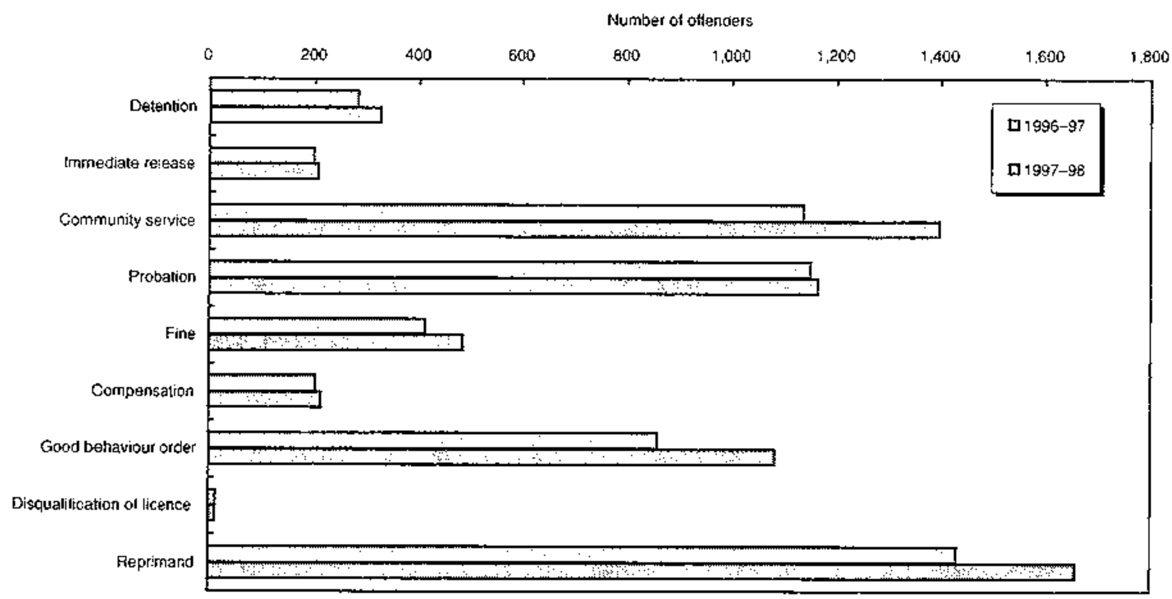
**Table 20** **All Courts: Juvenile offenders by most serious penalty and sex, Queensland, 1996–97 and 1997–98**

| Penalty(a) | 1996–97 | | | 1997–98 | | | Percentage change | | |
|---|---|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | Male | Female | Total |
| Detention | 257 | 26 | 283 | 297 | 30 | 327 | 15.6 | 15.4 | 15.5 |
| Immediate release | 182 | 16 | 198 | 190 | 17 | 207 | 4.4 | 6.3 | 4.5 |
| Community service | 1,021 | 115 | 1,136 | 1,230 | 167 | 1,397 | 20.5 | 45.2 | 23.0 |
| Probation | 950 | 201 | 1,151 | 971 | 194 | 1,165 | 2.2 | -3.5 | 1.2 |
| Fine | 352 | 59 | 411 | 417 | 67 | 484 | 18.5 | 13.6 | 17.8 |
| Compensation | 162 | 40 | 202 | 171 | 41 | 212 | 5.6 | 2.5 | 5.0 |
| Good behaviour order | 687 | 170 | 857 | 890 | 194 | 1,084 | 29.5 | 14.1 | 26.5 |
| Disqualification of licence | 10 | 3 | 13 | 9 | 3 | 12 | -10.0 | — | -7.7 |
| Reprimand(b) | 1,100 | 332 | 1,432 | 1,323 | 336 | 1,659 | 20.3 | 1.2 | 15.9 |
| **Total** | **4,721** | **962** | **5,683** | **5,498** | **1,049** | **6,547** | **16.5** | **9.0** | **15.2** |

(a) In decreasing order of seriousness.

(b) Including other penalties such as return property and forfeiture of property or drug utensils.

**Figure 16** **All Courts: Juvenile offenders by most serious penalty, Queensland, 1996–97 and 1997–98**



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# A TRIBUTE TO THE C.S.U.

The Crime Statistics Unit (C.S.U.) has, under my general supervision, produced the Statistical Tables for the annual reports for the past four years.

The C.S.U. was established by the Goss Labor Government in 1994. The purpose of establishing the Unit was to ensure that an independent body was responsible for the collection and collation of Queensland criminal data.

It should be noted that the Statistical Tables produced by the C.S.U. are the only comprehensive, published record of juvenile crime in Queensland. The tables do more than record the bare statistical facts: they make very useful analyses of the data and, most importantly, depict trends.

I should like to pay a particular tribute to the C.S.U. for the outstanding work it has done in the preparation of statistics on juvenile crime for the annual reports. Especial credit must go to Mr Walter Robb, an able statistician and experienced administrator, for the exceptional contribution he has made over the past four years.

I also acknowledge with gratitude the sterling efforts of Dr Gary Ward, Ms Fiona Boorman and Ms Julianne Buckman.