

**CRIMINAL JUSTICE COMMISSION
QUEENSLAND**

**YOUTH, CRIME AND JUSTICE
IN
QUEENSLAND**

AN INFORMATION AND ISSUES PAPER

RESEARCH AND CO-ORDINATION DIVISION

MARCH 1992

Dr Ian O'Connor, Department of Social Work and Social Policy, University of Queensland, was engaged by the Commission to prepare this Information and Issues Paper. Dr O'Connor is currently Acting Dean of the Faculty of Social Work.

© Criminal Justice Commission, 1992.

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the COPYRIGHT ACT, no part may be reproduced by any process without permission. Inquiries should be made to the publisher Criminal Justice Commission (Queensland).

ISBN 0-7242-4838-2

Printed by Goprint, Brisbane.

Cover designed by Tracey Stenzel.

FOREWORD

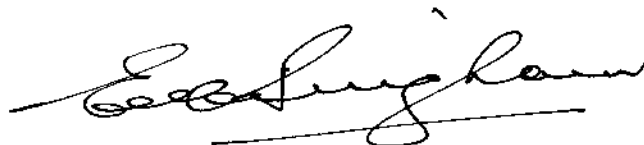
A major function of the Research and Co-ordination Division of the Criminal Justice Commission is to conduct research into issues confronting the administration of criminal justice in the State. Having completed a number of research projects on matters referred to it by Mr Fitzgerald QC, the Division began to look more widely for issues of concern to the community.

In setting its agenda for research the Division consulted with politicians and policy makers, criminal justice practitioners and academics. The Division surveyed members of State Parliament, State Government Departments and academics in relevant university departments, asking respondents to rank the usefulness of researching criminal justice issues including issues concerning crime, issues concerning the process and the system and issues concerning offenders and victims.

Of the 25 issues presented to respondents, ranked third and fourth were those issues relating to youth crime. More specifically, it was considered most useful to investigate the progression of juvenile offenders into adult criminality and to examine the extent and nature of crimes committed by youngsters, particularly those under the age of 18 years.

The details of this survey confirmed the concern within the community about juvenile crime, which is reflected in the press, the electronic media and popular journals. However whilst the problem may be a real one, sensible discussion within the community has been hindered by the inaccuracies and the misinformation about the real extent and nature of juvenile crime. The Research and Co-ordination Division is committed to seeking the informed views of the public in matters of such importance and it is for this reason that the Division has prepared this discussion paper to enable members of the community to engage in informed debate about issues concerning youth crime.

The release of this paper is timely given the recent government announcement of the establishment of a Task Force on juvenile crime within the Office of the Cabinet. The strategy of the Task Force will focus on legislative measures relating to the Juvenile Justice System, the operation of the Children's Court and the development of effective crime prevention programs. The Task Force will be engaging in a series of meetings with relevant community, welfare, legal and research organisations and this Issues Paper on youth crime may be a useful source of information to those members of the community who want to participate in the development of a juvenile crime strategy.



SIR MAX BINGHAM Q.C.
Chairman

CONTENTS

Foreword	i
Contents	iii
Summary and Issues of Concern	vii
INTRODUCTION	1
Part 1 - History of Juvenile Justice in Queensland	2
Part 2 - The Juvenile Justice System in Queensland	4
(a) Criminal Responsibility	4
(b) Children Who Commit Offences	4
(c) Cautioning	5
(d) Jurisdiction of the Children's Court	5
(e) Code for Sentencing	6
(f) Summary	7
Part 3 - Children's Involvement in Crime in Queensland	8
(a) Data Sources	8
(b) Children as Victims of Crime	9
(c) What Crimes do Juveniles Commit?	9
(d) How Much Crime are Children Responsible for?	12
(e) Is Children's Crime Increasing in Queensland?	15
(f) The Age and Gender of Offenders	18
(g) Are More Juveniles Involved in Crime in Queensland than in Other States?	18
(h) How is Children's Crime Dealt with by Police?	20
(i) Arrest and Summons	23
(j) Summary - Juvenile Crime in Queensland - The Police Evidence	25
Part 4 - Children and Court	26
(a) Number of Appearances and Offences	26
(b) Is Youth Crime Increasing?	28
(c) Type of Offences	28
(d) Age and Gender of Offenders	28
(e) The Geography of Juvenile Crime	30
(f) Sentence	30
(g) Are Children Dealt With Too Leniently?	39
(h) Children in Detention	39
(i) How Many Children Reoffend?	41
(j) Summary - What is Known About Juvenile Crime and Juvenile Offenders	46

Part 5 - The causes of juvenile crime and frameworks of response	48
(a) Theoretical Perspective	48
(b) Responses to Crime - The Welfare and Justice Models	49
(c) The New Zealand Model	51
Part 6 - Issues in Juvenile Justice	54
(a) Crime Prevention	54
(b) The Over-representation of Aboriginal and Torres Strait Islander Youth	56
(c) Community Based Corrections	58
(d) Gangs	60
(e) Police Youth Relations	60
Part 7 - Future Directions	62
(a) Crime Prevention	63
(b) The Juvenile Justice System	65
REFERENCES	67
APPENDIX	71
Table A Persons Responsible for Offences - Juveniles From July 1985 to June 1986	73
Table B Persons Responsible for Offences - Juveniles From July 1986 to June 1987	74
Table C Persons Responsible for Offences - Juveniles From July 1987 to June 1988	75
Table D Persons Responsible for Offences - Juveniles From July 1988 to June 1989	76
Table E Persons Responsible for Offences - Juveniles From July 1989 to June 1990	77
Table F Persons Responsible for Offences - Juveniles From July 1990 to June 1991	78
Table G Juvenile Crime Involvement 1985/86 to 1990/91	79

FIGURES

Figure 1(A)	Juvenile Offences 1990/91	11
Figure 1(B)	Juvenile Offenders 1990/91	11
Figure 2	Juvenile Cleared Offences 1985 - 1991	17
Figure 3	Cautioning/Charging/Court Patterns	29

TABLES

Table 1	Persons Responsible for Offences - Juveniles from July 90 to June 91	10
Table 2	Rates of Involvement in Selected Offences 1973/74 - 1987/88	14
Table 3	Per cent Change on Cleared Juvenile Offences and Offenders 1985/86 - 1990/91	16
Table 4	Per cent of Offenders by Gender, Age and Offence 1990/91	19
Table 5	Total Juvenile Offenders and Per cent Cautioned by Offence 1990/91	21
Table 6	Percentage of Offenders Dealt with by Way of Arrest 1985/86 - 1990/91	24
Table 7	Appearances, Proven Appearances in Children's Court by Offence 1985/86 - 1990/91	27
Table 8	Number and Rate of Appearances and Charges by DFSAIA Areas (From Lowest to Highest) 1989/90	31
Table 9	Appearances by Outcome for Most Serious Offence Charged 1985/86 - 1990/91	33
Table 9(A)	Appearances by Outcome for Most Serious Offence Charged 1985/86 - 1990/91 (Per cent)	36
Table 10	Outcome of Appearance for Most Serious Offence for Children's and Magistrates Courts 1989/90	40
Table 11	Children in Detention - Rate per 100,000 by Age	42
Table 12	Number (and per cent) of Appearances by Number of Previous Offences	44
Table 13	Number of Appearances made by Individual Children (Aged 10 in 1983/84) between 1983/84 - 1989/90	45

SUMMARY AND ISSUES OF CONCERN

The development of suitable ways of preventing and dealing with juvenile crime in Queensland is hindered by inadequate information systems. This lack of knowledge has led to several distortions about the amount of crime and the type of crime for which juveniles are responsible. This paper attempts to present the information that is available from current statistical records. The statistical information presented in various tables reflects rough patterns and therefore provides the reader with only an overview of juvenile offending. Queensland requires a comprehensive and reliable data base to definitively answer many routine questions about juvenile offenders.

An examination of available records shows that juveniles do not commit the majority of cleared crimes. Nor are they responsible for the majority of property crimes. However, in certain categories of property crime such as shoplifting and breaking and entering, juveniles are over-represented. Only a small number of juveniles are involved in more serious crimes. Furthermore, a large majority of juveniles identified for crimes are males and are 14 years old and above. Aboriginal and Torres Strait Islander youth are over-represented among juvenile offenders.

Approximately two-thirds of juvenile offenders are dealt with by cautioning. The police discretion to caution first and/or minor offenders is based on a recognition that much youth crime is petty and transitory, although cautioning is also used for serious offences. Cautioning also aims to divert juveniles away from the criminal justice system. When the data for appearances and offences dealt with by the Children's Court are examined, it seems juvenile offenders appearing at courts are charged with multiple offences.

Some areas have a higher number of appearances and charges before the Children's Court than others. Sometimes this is because some areas have higher rates of juveniles residing there than others. Based on 1989/90 court returns, the areas with the highest rate of appearances were Charleville, Mt Isa, Townsville, Inala and Murgon. The lowest rates of appearance were in Dysart, Toowong, Atherton, Maryborough and Longreach.

Some of the Issues Requiring Attention

This paper is prepared to inform the public of some facts about youth crime and justice. The questions raised below are not exhaustive. They are examples and individuals and organizations are encouraged to comment on these and other issues.

Should the Children's Court have the same powers as adult courts?

Should police use their discretion for cautioning all children who are first offenders or minor offenders?

Should hearings in the Children's Court be open to the public as they are in adult courts?

Should community service orders be used for children as an alternative sentencing option?

Juveniles tend to commit property crimes such as shoplifting and breaking and entering. What measures can be taken to discourage juveniles from being involved in these crimes?

Once a child has been arrested, should the police be allowed to photograph him or her?

Should children be detained in police watchhouses?

Aboriginal and Torres Strait Islander youth are over-represented in the juvenile justice system. What steps can be taken to limit the involvement of Aboriginal and Torres Strait Islander youth in crime?

Should juvenile offenders be placed in correctional institutions?

What types of measures to treat juvenile offenders are most likely to reduce recidivism (the tendency to repeat crimes)?

How could the community assist in preventing juvenile crime?

Should there be a different approach for dealing with Aboriginal and Torres Strait Islander offenders than for white offenders?

What can be done to improve relations between police and youth?

Should mediation schemes between victims and offenders be used in juvenile justice?

YOUTH, CRIME AND JUSTICE IN QUEENSLAND¹

INTRODUCTION

The behaviour or misbehaviour of children and young people has long been a concern to the adult community. Fears of a rising crime rate and particularly the belief that youth crime is rampant and unchecked are much reported. Freiberg, Fox and Hogan's comments in their 1988 Law Reform Commission report are still pertinent today:

"Notions of a 'juvenile crime wave' about to engulf the community have wide popular currency. It seems to be commonly believed that juveniles commit a disproportionately large number of serious personal and property offences, or that new legislation and programs lead to an increase in juvenile crime, or that society is getting soft on its delinquents, and that tougher institutions and harsher penalties would help curb juvenile crime." (p. 32).

The purpose of this paper is to provide an overview of youth, crime and justice in Queensland so as to inform the discussion of juvenile justice and facilitate planning of our responses to juvenile crime in this state. This paper considers questions such as:

- What types and how many crimes are committed by children and young people?
- Is youth crime increasing?
- How are young people who commit crime dealt with by the police and courts?
- Does offending as a child lead to a career as a criminal?
- Is youth crime more prevalent in some areas?
- What causes youth crime?
- Are there alternative ways of responding to youth crime?
- Can youth crime be prevented?
- What issues are in further need of research?

In the first and second parts of this paper the history of the separate provision for juvenile offenders is briefly discussed and the existing parameters of the juvenile justice system in Queensland are identified. The third part of the paper reviews police crime statistics so as to examine the extent and characteristics of the involvement of juveniles in crime in Queensland. This provided the basis for an analysis of the existing formal responses to children's offending through an analysis of the Children's Court data. The concluding sections examine the alternative models of responding to juvenile crime and identify a series of issues in juvenile justice administration and practice. Recommendations for future research are made.

¹ In this paper the terms children, youth and young people are used interchangeably to refer to persons under the age of 17 years - those who are children for the purposes of the criminal law.

PART 1 - HISTORY OF JUVENILE JUSTICE IN QUEENSLAND

Separate legislative provisions for children and young people in conflict with the criminal law, societal norms or their families were established shortly after the separation of Queensland from New South Wales. The *Industrial and Reformatory School Act* of 1865 allowed the removal of children under 15 years of age who had become 'incurable' or who had 'criminal tendencies' to reformatories.

The first reformatory established in Queensland was on the prison hulk "The Proserpine" in 1871. A reformatory was built at Lytton in 1881, and the boys from the hulk were transferred there (Department of Children's Services, 1979: 10). This institution was closed in 1900 and the inmates were transferred to the "Reformatory for Boys, Westbrook". This is the current site of Westbrook Youth Centre - a secure detention centre for boys.

A separate Children's Court was established in 1907 by the *Children's Court Act*. The *State Children's Act* 1911 provided for the administration of neglected, orphaned, delinquent and offending youth in one Government Department. The establishment in Queensland of the Children's Court and the administration of the *State's Children's Act* paralleled the developments in juvenile justice and child welfare elsewhere in Australia - and the western world. The distinguishing feature of the emerging juvenile justice system was that it enabled state intervention in the lives, not only of offending children, but also of those who were perceived at risk of offending by virtue of:

- (i) their premature independence,
- (ii) their contravention of the dominant norms, or,
- (iii) disapproval of the lifestyle or parenting behaviour of their parents.

Not surprisingly, such legislation resulted in Queensland, as elsewhere, in the widespread intervention in the lives of poor and working class families, and the establishment of large institutions of "detention" and "care". The primary response to young offenders and those deemed at risk of offending was institutionalisation.

Aboriginal and Torres Strait Islander children were additionally subject to separate regulation and control. From the turn of the century, Queensland legislation and practice resulted in the widespread removals of Aboriginal people to reserves. Within many of the reserves children were separated from their families and forced to live in dormitories. (Some dormitories were registered as Industrial Schools under the *State Children's Act*.) Dormitories served a number of functions. They sought to resocialise the children into "European" norms, and they served as places of punishment. Aboriginal children were also removed from one reserve to another, as punishment, and thus further separated from their families. Not only were Aboriginal children sent to dormitories by the State Children's Department, they were also subject to transfer out of communities to State Children's Department institutions (e.g. Westbrook).

It was not until 1965, with the passage of the *Children's Services Act* and the repeal of the *Aboriginal and Torres Strait Islanders Act* that the responsibility for the care and control of all children in Queensland passed to the one Department. (For detailed discussion of the history of Aboriginal involvement in the juvenile justice system in Queensland see O'Connor, 1990.)

The Department of Children's Services was established pursuant to the *Children's Services Act 1965*. It replaced the State Children's Department and had statutory responsibility for:-

- (i) children in need of protection (children in need of care and protection);
- (ii) juvenile offenders;
- (iii) juvenile status offenders (children in need of care and control).

The *Children's Services Act* resulted from the Report on the Committee on Child Welfare Legislation (Dewar Committee) in 1963. This report adopted an overly narrow medical approach in its analysis of the causes of neglect and juvenile offending. It provided the foundations for:-

- (i) legislation which placed heavy reliance on the professional judgment of the Director and his officers and in consequence vested substantial discretion in the Director;
- (ii) the professionalisation of the Department.

The *Children's Services Act* provided the legislative base for:-

- (i) the establishment of a Children's Court;
- (ii) the processing of children charged with a criminal offence;
- (iii) a code for the sentencing of children charged with offences;
- (iv) the basis for processing children at risk of offending;
- (v) the supervision and detention of juvenile offenders.

PART 2 - THE JUVENILE JUSTICE SYSTEM IN QUEENSLAND

The juvenile justice system is constituted by that framework of laws, policies, institutions and practices which determine the manner in which children who have committed or are suspected of committing an offence are dealt with. The legal basis for dealing with offending children or those suspected of offending is laid down in a range of statutes, including the *Criminal Code*, *Children's Services Act*, *Bail Act* etc. In this section, the parameters and distinctive aspects of the juvenile justice system are identified.

(a) Criminal Responsibility

In Queensland children under the age of 10 years are not criminally responsible for any act or omission (*Criminal Code*, s. 29). Thus a child under the age of 10 years cannot be found guilty of any criminal offence. (However, s. 46(n) of the *Children's Services Act* 1965 allows the admission to the care and protection of the Director-General of the Department of Family Services and Aboriginal and Islander Affairs any child who is under the age of criminal responsibility who commits an offence, and who knows he/she ought not to have done the act.)

Children under the age of 15 years are presumed not to be criminally responsible for any act or omission, unless it can be proven that, at the time of doing the act or omission, that child had the capacity to know what he/she was doing was wrong (*Criminal Code*, s. 29). This simply means that the prosecution needs to prove that a child aged between 10 and 15 years had the capacity to know right from wrong.

In some states the age of criminal responsibility is set at eight years of age. In practice this makes little difference as very few children appear in court prior to turning 12 (see below). Queensland raised the age of criminal responsibility to 10 in 1976.

(b) Children Who Commit Offences

Children aged 10 years of age and over enjoy no immunity from the criminal law. They may be charged with any offence they commit (with the *proviso* noted above in relation to criminal responsibility). In addition to being charged with criminal offences, children may be brought before the court to appear on applications for care and control for non-criminal conduct (e.g. uncontrollable; in moral danger; likely to lapse into a life of vice or crime, or addiction to drugs s. 60, *Children's Services Act*). Such applications have fallen into disrepute and are rarely used today. They are not discussed in this paper.² Despite myths to the contrary there is no legal impediment to a child over 10 years of age being charged with a criminal offence.

2 The proposed Juvenile Justice Bill makes no provision for such applications.

The major differences between the processing of children and adults suspected of, or admitting to, or found guilty of the commission of an offence, relate to (i) the exercise of discretion by police to caution or to charge a child,³ (ii) the extended jurisdiction of the Children's Court to deal with most indictable offences and (iii) the code for the sentencing of children provided in the *Children's Services Act*.

(c) Cautioning

The Queensland Police Service operates a cautioning scheme for first and/or minor offenders who are juveniles. Such young offenders who admit guilt, may at the discretion of the police be subject to a caution. A formal caution involves a child attending a police station with his/her parents and being warned by the police about his/her behaviour and the consequences of further offending. Cautioning is provided for by way of a Directive of the Commissioner of Police. It is not embodied in statute. The decision to caution or arrest is a police decision. No court appearance or court record results. The cautioning scheme is discussed below.

(d) Jurisdiction of the Children's Court

The *Children's Services Act* established a separate Children's Court (s. 18(1)) with jurisdiction to hear and determine:-

- all **simple** offences involving a child (e.g. obscene language);
- where a child consents, most **indictable offences** that the Magistrate is satisfied can be adequately dealt with by the Children's Court.

Indictable offences by a child, punishable by life imprisonment if the offender was an adult (e.g. murder, rape, arson etc) cannot be determined by the Children's Court. Such offences must be committed to the Supreme Court for trial or sentence.

The Children's Court is a specialist Magistrates Court with an extended jurisdiction. In relation to an indictable offence, the defendant child (or parents if present) have the right to elect trial by judge and jury (s. 29(2)). (Children therefore have a greater right to a jury trial than adults.) The Children's Court provides the committal hearing for those indictable offences dealt with in the District or Supreme Court. Despite the right of election of jury trial, in practice 98 per cent of all matters are dealt with in the Children's Court.

3 Whilst police may caution, rather than charge an adult, the discretion to caution is exercised far more frequently in relation to children and is justified because of the age of the offender.

The *Children's Services Act* provides for the appointment of Children's Court Magistrates and for Stipendiary Magistrates to constitute Children's Courts. In Queensland there is one Children's Court (30-40 Quay Street, Brisbane) with a Children's Court Magistrate. In other locations Stipendiary Magistrates constitute Children's Courts in existing court rooms. In some locations it is the practice to set aside specific days for Children's Court hearings. In other districts the Magistrate constitutes a Children's Court as required.

The Children's Court is a closed court (s. 27). This means it is not open to the public. The proceedings of the Court cannot be published except by order of the Magistrate.⁴ In adult Magistrates Courts there are two parties to the proceedings. In a Children's Court a representative of the Director-General of the Department of Family Services and Aboriginal and Islander Affairs is entitled to be present in court (s. 142). While the *Children's Services Act* allows extensive court participation by the Director-General's representatives, Departmental court officers limit their participation to questions of bail and sentence.

Children have the same rights of appeal as defendants appearing before the Magistrates Court (s. 21).

(e) Code for Sentencing

The aspect that most distinguishes the juvenile justice system from the adult criminal justice system is the framework for sentencing of children found guilty of offences. The *Children's Services Act* provides a comprehensive code for the sentencing of children. Section 62 of the Act provides a range of dispositions including:-

- (i) admonish and discharge (62(1)(k)(i));
- (ii) supervision (62(1)(k)(ii); 62(1)(h));
- (iii) care and control for a maximum of two years (62(1)(k)(iii); 62(1)(g));
- (iv) convict and fine (62(1)(e));
- (v) restitution (62(1)(c));
- (vi) imprisonment for up to two years (62(1)(i)).

Supervision, care and control, and restitution orders may be imposed with or without formal conviction being recorded. Sections 62(1)(c) and 62(2)(b) allow restitution to be ordered against a child's parent or guardian, provided that the parent or guardian has been given an opportunity to be heard on the matter. Whilst it is almost unheard of for the Court to order a parent to pay restitution there is no legislative bar preventing such an order.

4 Other states such as Victoria have taken the position that as the administration of justice is a matter of public concern the Children's Court should be open to the public. Media reports are allowed so long as the offender is not identified. In some country towns in Victoria the unanticipated consequence of this provision is that the child identified himself in newspaper reports. Some children have commenced their own scrapbooks documenting their appearances and thus reinforcing a criminal identity.

Section 63 of the *Children's Services Act* enables a Supreme Court Judge to commit children to detention at Her Majesty's pleasure where they have been found guilty of an offence punishable for an adult by life imprisonment. The *Children's Services Act* does not provide a court with the power to directly sentence children to a period of detention (other than sentencing to prison in very limited circumstances; see *R v W and W (infants)* [1977] Qd R, 130). Rather, the Act provides that a child may be committed to the care and control of the Director-General. A care and control order transfers the guardianship of the child from the child's parents to the Director-General for the duration of the order. The decision to detain, and the length of detention of a child in an institution such as Westbrook Youth Centre is legally an administrative decision made by the Director-General (s. 65). In practical terms the Department acts on the recommendation of the Court in relation to incarceration.

An amendment to section 62 in 1989 providing for community service orders was never proclaimed.

(f) Summary

The juvenile justice system is that framework of laws, policies, practices and institutions which determine the manner in which children aged 10 to 16 years who have committed, or are suspected of committing, a criminal offence are dealt with. Children are subject to the same laws which establish criminal liability for adults. The *Children's Services Act* establishes a separate Children's Court with extended jurisdiction to deal promptly with children's crimes. Besides children and their families and the victims of juvenile crimes the major institutional players in the juvenile justice system are:

- (a) the police who are primarily responsible for the apprehension of juvenile offenders and deciding whether to caution or prosecute the offender;
- (b) magistrates who constitute Children's Courts and decide on issues of guilt and innocence, and determine sentences pursuant to section 62 of the *Children's Services Act*;
- (c) officers of the Department of Family Services and Aboriginal and Islander Affairs who appear in court and are responsible for the implementation of court decisions, including supervision in the community and detention of young offenders.

Other participants in the juvenile justice system include those involved in the provision of services to victims and offenders, the legal profession, the media and interest groups.

In the next section juvenile involvement in crime - a precursor to children's involvement in the juvenile justice system - is considered.

PART 3 - CHILDREN'S INVOLVEMENT IN CRIME IN QUEENSLAND

Popular mythology suggests that juveniles are responsible for the majority of crimes committed and that the rate of youth crime is increasing. In this section the truth or otherwise of this mythology is examined through a review of police data on the nature and extent of youth crime in Queensland. Patterns of police response - cautions, arrest and summons - are then analysed.

Before describing the extent of youth crime in Queensland it is important to issue a warning about the poor quality of data. The data used in this Part was provided by the Queensland Police Service to the Criminal Justice Commission upon request. The manual system of collection of data by the Information Bureau, until January 1991, did not meet standards of accuracy and reliability. Indeed the poor quality of crime statistics produced by the Queensland Police Information Bureau was severely criticised by the Commission of Inquiry. It is important to note that the analysis of the data in this Part suffers from this serious deficiency and the Queensland Police Service acknowledges this. Any conclusions drawn from this data set should therefore be treated with caution. The Queensland Police Service under its new administration is committed to the provision of high quality statistical data to the public arena through the publication of the Statistical Review.

(a) Data Sources

Three official sources of juvenile crime data - police records, Children's Court records and Department of Family Services and Aboriginal and Islander Affairs (DFSAIA) records on children under orders are relied on in this paper. Official records are limited to the crimes and criminals that come to the attention of the authorities (CJC, 1991: 28). Many crimes are not reported (for example sexual assaults on children). Many other crimes are reported but unsolved and in consequence little or nothing is known about the offender. Victim surveys also provide information from individuals about their victimisation, the offence and characteristics of the offender. However, many crime victims do not see the offender and therefore know little or nothing about the offender. Additionally, victim surveys rarely include children and so provide little information about children as victims of crime.

Each of the three sources of data provides a different snapshot of youth crime, and they are examined separately in this discussion paper. Unfortunately there are flaws in our sources of information on juvenile crime in this state. Police and Children's Court records are appearance and/or offence based. This makes difficult an examination of individuals' full offending histories, and of progress through the different stages of the juvenile justice system. Problems with juvenile crime statistics will be raised throughout the remainder of this paper.

(b) Children as Victims of Crime

While the focus of this paper is primarily children and young people as offenders, it must be noted that children are also the victims of crime. The Australian Bureau of Statistics (ABS) Crime Victimization survey (1983) found that younger people (15-19 and 20-24 years) are disproportionately the victims of all forms of personal crime, including sexual and other assaults (p. 14). For example the ABS survey found that 44 per cent of assault victims were 15-19 (21.6 per cent) and 20-24 year olds (22.8 per cent). This pattern was repeated consistently across all personal crime categories (see Table 2.4, part 1, p. 14). Thus, contrary to perceptions that older people are the most likely victims, trends in the data indicate a steady decrease in the percentage of victims of personal crime as age increases (see Table 2.4, part 1, p. 14).

One of the weaknesses of crime victim surveys is that they rarely include children in their sample group. The ABS survey sampled persons 15 years and older (but did not ask whether those under 18 years of age had been victims of sexual assaults). It is only in the past 10 years that the extent of criminal assault (physical and sexual) in the home has achieved some recognition. A leaflet on Personal Safety prepared by the Queensland Centre for the Prevention of Child Abuse (a section of the Department of Family Services and Aboriginal and Islander Affairs) reports that one in four girls and one in eight boys will suffer some form of sexual abuse prior to their 18th birthday.

The extent of youth victimisation contrasts with the perception of youth as a major source of crime. A 1987 ABS survey of Queensland householders found that the most commonly perceived crime problems were "house-breaking and burglary" (21.0 per cent) and "louts or youths" (18.8 per cent).⁵ In urban areas dangerous driving and graffiti or vandalism were also a cause of much concern. This survey found that an estimated 235,000 persons (16.9 per cent) had seen or heard someone behaving in a suspicious manner in the previous six months (p. 14). The most commonly observed problems were prowlers (101,500 persons) and louts or youth (76,400 persons). There is a clear perception that youth, especially youth in public places, pose a risk to public safety. They are perceived as a threat. We will note below that inaccurate representation of juvenile crime reported in the media contribute to this fear.

(c) What Crimes do Juveniles Commit?

The Police Service maintains records of the crimes cleared by way of the apprehension of a juvenile. During the financial year 1990/91 the system for recording juvenile involvement in crime by the information bureau in the Police Service changed from a manual to a computerised system. For the purposes of this paper data collected under the old system (July - December 1990) and the new system (January to June 1991) have been combined. The 1990/91 data therefore should be read as an estimate of juvenile crime as recorded in

5 The ABS survey used the term "louts or youth". No definition of age was provided. It is likely that the term "youth" was interpreted to mean children and young adults.

TABLE 1

**PERSONS RESPONSIBLE FOR OFFENCES -
JUVENILES FROM JULY 1990 TO JUNE 1991**

Offences	Cleared Offence Juvenile (n)	As % of all Cleared Juvenile Offences	Juvenile Offenders (n)	As % of Juvenile Offenders %
Murder	1	0.0	1	0.0
Attempted Murder	5	0.0	5	0.0
Manslaughter (excl. by motor vehicle)	0	0.0	0	0.0
Driving Causing Death	0	0.0	0	0.0
TOTAL HOMICIDE	6	0.0	6	0.1
Serious Assault	325	2.5	322	2.9
Minor Assault	361	2.8	356	3.2
Rape	13	0.1	9	0.1
Other Sexual Offences	114	0.9	90	0.8
Robbery	58	0.5	69	0.6
Extortion by Threats	5	0.0	1	0.0
Kidnapping, abduction, deprivation of liberty	3	0.0	1	0.0
Breaking & Entering-dwellings	922	7.2	719	6.5
Breaking & Entering-shops	709	5.5	581	5.2
Breaking & Entering-other premises	1045	8.2	879	7.9
TOTAL BREAKING & ENTERING	2676	20.9	2179	19.6
Malicious injuries to property	1021	8.0	872	7.8
Motor vehicle theft	783	6.1	679	6.1
Shop stealing	3913	30.6	4105	36.9
Stealing (excluding motor vehicles & shop stealing)	2354	18.4	1695	15.2
Fraud, forgery and false pretences	328	2.6	124	1.1
Handling stolen goods	252	2.0	185	1.7
Drug offences	194	1.5	159	1.4
Prostitution offences	0	0.0	0	0.0
Stock related offences (excluding stealing)	0	0.0	0	0.0
Vagrancy	7	0.1	7	0.1
Drink driving offences	60	0.5	49	0.4
Other driving, motor vehicle offences	49	0.4	33	0.3
All other offences	265	2.1	180	1.6
TOTAL	12787	100.0	11120	100.0

(Source: Queensland Police Service - unpublished records)

NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

Figure 1 (A)
Juvenile Offences 1990/91

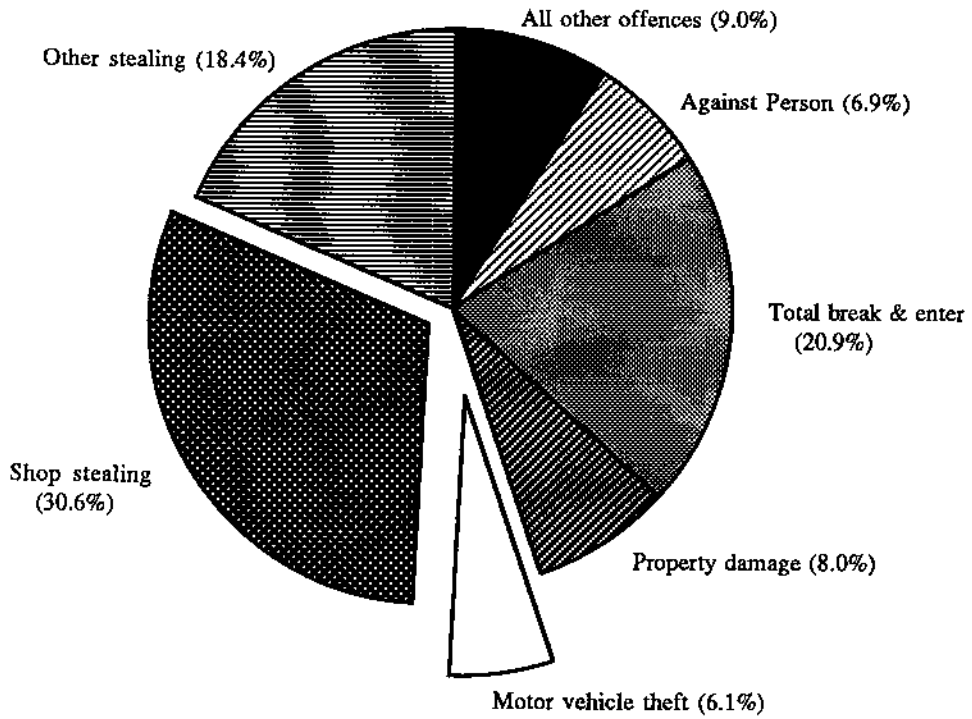
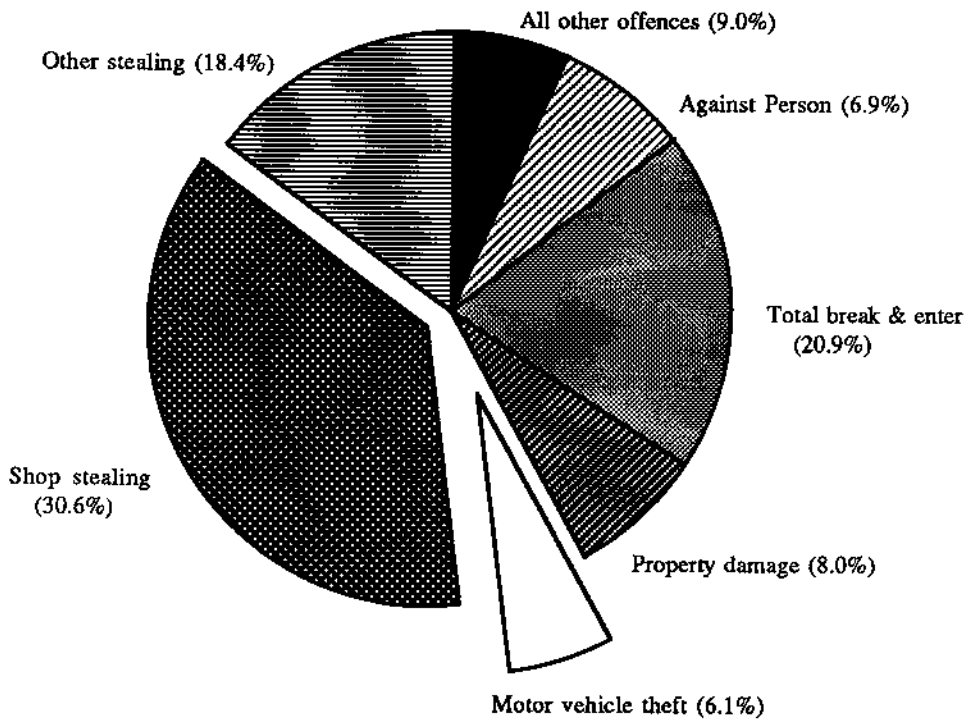


Figure 1 (B)
Juvenile Offenders 1990/91



NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

police records, noting the qualifications outlined in the beginning of this Part. Juvenile crime is primarily property related as is adult crime. In 1990/91 slightly over 30 per cent of all apprehended juvenile offences involved shoplifting (see Table 1 and Figure 1 for data). Breaking and entering constituted 20.9 per cent of juvenile offences and other stealing (excluding motor vehicle theft and shopstealing) accounted for 18.4 per cent of juvenile offences. On the other hand offences against the person comprise only a small proportion of juvenile offences.

Juvenile proclivity for involvement in petty property offences is even clearer when the offender data is examined (rather than offence data as above). The most serious offence that over half of all juvenile offenders apprehended by police in 1990/91 were involved in, was shoplifting or other stealing (excluding motor vehicle theft). Approximately a fifth of children apprehended were involved in other break and enter offences. The police data therefore indicates that most juvenile offenders are not involved in the commission of serious offences - the bulk of juvenile offenders is at the less serious end of the crime continuum. A small number of juveniles are involved in more serious crime.

(d) How Much Crime are Children Responsible for?

There is a public perception that children are responsible for a substantial proportion of crime committed in the community. This perception is oft reported in the media and is frequently supported by police statements. For example the *Courier Mail* included the following comments by a police spokesman who was announcing a new program to combat juvenile crime:

"Sgt Grimpel said 80 per cent of crimes against property including break and enters and motor vehicle offences, were committed by juveniles." (28/11/91).

Police reported crime and cleared crime figures (e.g. crimes cleared by way of the apprehension of an offender) enable an examination of the number of crimes committed, the number cleared as a result of police investigation, and the proportion of those cleared for which juveniles are responsible.

Juvenile crime is primarily concentrated in crimes against property. According to data supplied by the Police Service in 1990/91, 33.8 per cent of cleared break and enter offences were attributed to juveniles, as were 31.6 per cent of stealing offences (excluding motor vehicle theft) and 24.4 per cent of motor vehicle theft. In contrast, adults were primarily responsible for offences of violence against the person. Juveniles were involved in 3.1 per cent of cleared homicide related offences,⁶ 8.4 per cent of serious assaults, and at least 8.7 per cent of minor assaults, 4.1 per cent of rapes or attempted rapes and 4.9 per cent of other sexual offences. (See the Appendix for police crime data 1985/86 to 1990/91).

⁶ Homicide includes a range of offences including murder, manslaughter, attempted murder and dangerous driving causing death. In 1990/91 five of the homicide related offences involving children were attempted murder. One child was cautioned for attempted murder which must raise some questions as to the seriousness of the attempt.

While juveniles are responsible for a disproportionate amount of certain cleared property crime there is no evidence to show that juveniles are responsible for the majority of all property crime, let alone 80 per cent of property crime. Caution must also be exercised in extrapolating from the cleared crime figures, the overall responsibility of juveniles for crime in the community. In 1990/91 only 13 per cent of break and enter offences in Queensland were cleared by police. This means that less than 5 per cent (4.4 per cent) of all break and enter offences reported to police were cleared and attributed to juveniles by police.⁷

It is not tenable to conclude that juveniles are responsible for the vast majority of uncleared property offences for a number of reasons. Juveniles are more likely to be apprehended for the property offences for which they are responsible. In contrast to adults, juveniles tend to offend in groups. In consequence, for each offence cleared a number of juvenile offenders may be charged with a number of offences (Mukherjee, 1990; see also discussion of court statistics below). Children tend to offend closer to their own place of residence. This increases their chances of apprehension.

The existing police and Children's Court statistical collections do not allow an examination of the amount of property loss incurred by juvenile offences. Nor do they indicate the severity of a particular offence - for example an offence committed by a child who opens a window latch and gains entry to a house and removes a small amount of change is classified in the crime statistics as a break and enter offence in the same way as an adult crime which consisted of a forced entry and the removal of property worth thousands of dollars. (Similarly the example cited in footnote 4 of the child cautioned for attempted murder demonstrates the breadth of behaviours that may be classified as particular crimes against the person.)

The characteristics and extent of juvenile crime are in urgent need of research. Despite the absence of local data, it is reasonable to conclude, based on inter-state research, that the crimes committed by youth are usually less serious than those committed by adults, particularly in relation to the amount of property involved and the level of injury sustained by victims, and the presentation of crime statistics overstate the risk of being a victim of juvenile crime:

"The important point is, however, that property loss as a result of all property offences by juveniles . . . would be only a fraction of those losses attributable to offences by adults but seldom prosecuted." (Mukherjee, 1983, 75) (see also Mukherjee, 1985, 1986, 1990; Frieberg, Fox and Hogan, 1988).

⁷ It is notable that those offences with a high clear up rate (e.g. homicides and assaults) have a low rate of juvenile involvement. Those crimes with a low clear up rate have a greater proportion of juvenile involvement. Thus, police arrest statistics indicate that 97 per cent of homicide and related offences were cleared by police and that 3.1 per cent of those cleared were attributed to a juvenile. An alternative way of stating this is that 2.2 per cent of reported homicide and related offences were cleared by way of arrest or other outcome of juveniles.

TABLE 2
RATES OF INVOLVEMENT IN SELECTED OFFENCES 1973/74 - 1987/88

	Male Juveniles		Female Juveniles		All offenders		J Males % inc	J Females % inc	All offenders % inc
	1973/74	1987/88	1973/74	1987/88	1973/74	1987/88			
Serious Assault	7.1	121.4	-	24.4	15.4	100.8	1609.9%		554.5%
Robbery	7.1	20.8	0.7	1.9	7.6	11.6	193.0%	171.4%	52.6%
Break, Enter and Steal	886.1	1508.3	22.4	140.9	159.5	209.0	70.2%	529.0%	31.0%
Motor Vehicle Theft	509.5	445.1	14.2	40.5	98.0	95.0	-12.6%	185.2%	-3.1%
Fraud	15.7	71.1	3.7	41.2	59.8	80.1	352.9%	1013.5%	33.9%

(Source: Mukherjee & Dagger 1990)

(e) Is Children's Crime Increasing in Queensland?

Over the period 1973/74 to 1987/88 there is some evidence of a substantial increase in juveniles apprehended for crimes in Queensland. With the exception of motor vehicle theft, for all other categories of major crime, (serious assault, robbery, break, enter and steal and fraud) reported in *The Size of the Crime Problem in Australia*, there were increases in the rates of juvenile offenders per 100,000 between the years 1973/74 to 1987/88 (see Table 2). For each offence category the increase in rates of juveniles involved was greater than the overall increase in involvement for adults and juveniles. Female juvenile involvement consistently (except for robbery) increased more than male juvenile involvement in the five crime categories (but female juvenile crime rates remain far lower than male rates).

Male juvenile involvement in serious assault increased by 1609.9 per cent. This compared to an overall increase of 554.5 per cent. It should be noted that serious assault started from a very low base (7.1 per 100,000) and small increases in numbers of offenders will lead to large proportionate increases. For break, enter and steal offences, male juvenile involvement increased by 70 per cent compared to a 31 per cent increase in the overall adult/juvenile rate. Female involvement increased more rapidly but still remained far lower than male juveniles. Motor vehicle theft indicated a decrease in the level of both male juvenile and all offender involvement rates between 1973/74 and 1987/88. However, the rate of female juvenile involvement did increase.

For the purposes of this issues paper, police statistics on juvenile involvement in crime for the period 1985/86 - 1990/91 were subjected to a more detailed analysis. The Appendix provides the year by year returns. In that period the total number of offences cleared by way of apprehension of juveniles decreased by 20.3 per cent. The number of juvenile offenders decreased by 15.2 per cent (see Table 3). This pattern of overall decline was not uniform. The number of offences against the person committed by juveniles, and the number of juveniles involved in such offences increased: homicide related offences, 20.0 per cent; offenders 20 per cent; serious assault offences, 88.95 per cent; offenders 101.25 per cent; minor assault offences, 28.47 per cent; offenders 20.16 per cent. Property offences, which are the offences most frequently committed by young people, decreased substantially. This accounted for the overall drop in offences and offenders. These decreases occurred across all age groups and for boys and girls. From Figure 2 it may be seen that the number of juveniles involved in crime peaked in 1988/89 and there has been a steady decline since that date. As noted above, changes were made during 1990/91 to the system for recording juvenile involvement in crime. The data for the period July to December 1990 is consistent with the slow decline evidenced in 1989/90. The record for the final six months of 1990/91 shows a substantial decline in offenders and offences. Either way the 1990/91 data does not indicate an increase in juvenile crime.

As well as the number of juvenile offences, the rate of juvenile offences declined in the period 1985/86 - 1990/91. For total offences the rate dropped from 4958.0 to 4045.0 per 100,000.

TABLE 3

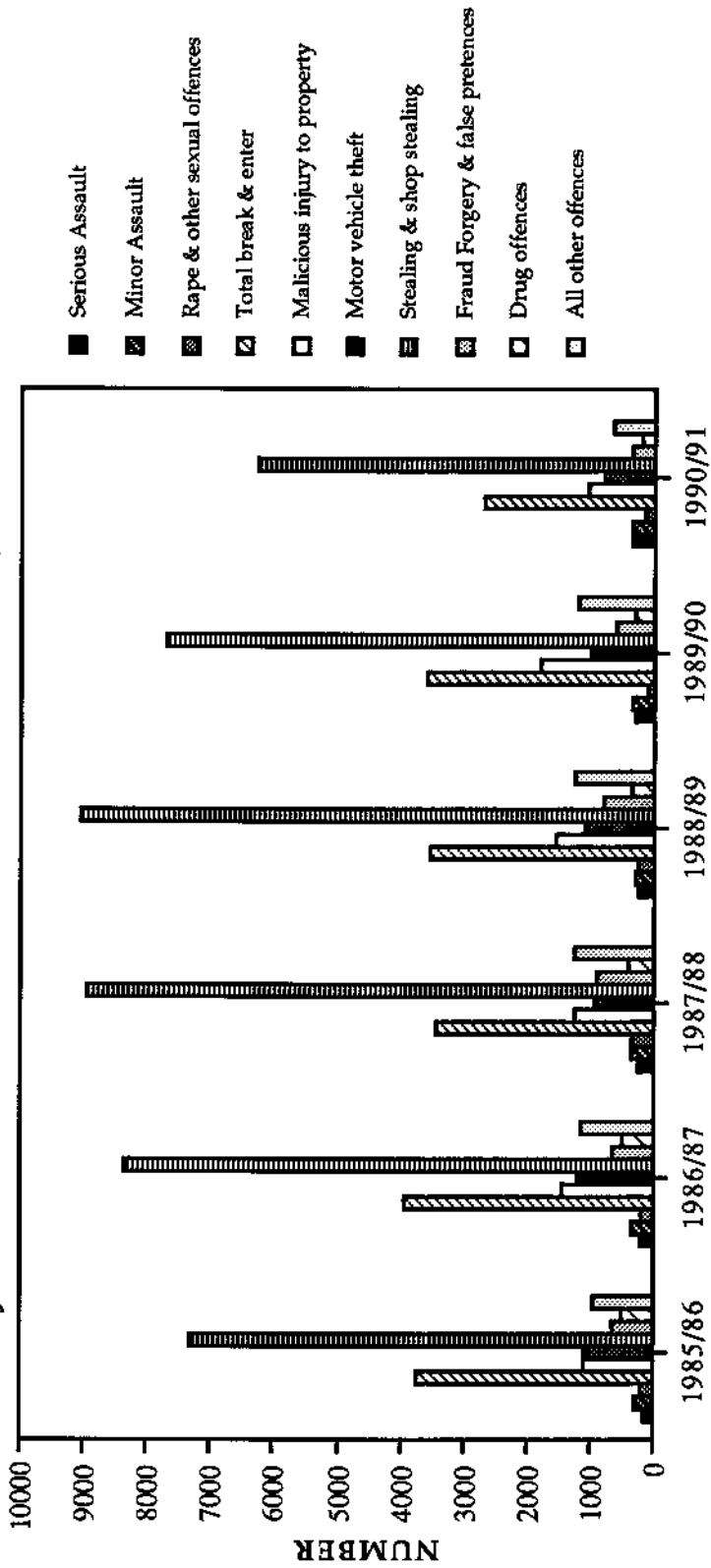
PER CENT CHANGE ON CLEARED JUVENILE OFFENCES AND OFFENDERS
1985/86 - 1990/91

OFFENCES	Offences %	Offenders %
Murder	-	-
Attempted Murder	66.7	66.7
Manslaughter (excl. by motor vehicle)	-100.0	-100.0
Driving Causing Death	-	-
TOTAL HOMICIDE	20.0	20.0
Serious Assault	89.0	101.3
Minor Assault	28.5	40.2
Rape	160.0	50.0
Other Sexual Offences	-34.9	-15.9
Robbery	-56.8	60.5
Extortion by Threats	-16.7	-100.0
Kidnapping, abduction, deprivation of liberty	-40.0	-50.0
Breaking & Entering-dwellings	-29.3	-18.4
Breaking & Entering-shops	-20.3	-21.2
Breaking & Entering-other premises	-32.3	-19.1
TOTAL BREAKING & ENTERING	-28.4	-19.4
Malicious injuries to property	-8.7	-0.7
Motor vehicle theft	-28.5	-27.6
Shop stealing	-10.7	-13.0
Stealing (excluding motor vehicles & shop stealing)	-19.1	-12.1
Fraud, forgery and false pretences	-50.7	-30.7
Handling stolen goods	-39.7	-40.3
Drug offences	-62.2	-62.5
Prostitution offences	-100.0	-100.0
Stock related offences (excluding stealing)	-100.0	-100.0
Vagrancy	250.0	250.0
Drink driving offences	-27.7	-38.8
Other driving, motor vehicle offences	-37.2	-43.1
All other offences	-22.5	-41.0
TOTAL	-20.3	-15.2

(Source: Queensland Police Service - unpublished records)

NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

Figure 2
JUVENILE CLEARED OFFENCES* 1985 - 1991



* Total homicide & robbery have been excluded
 NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

The decrease in juvenile involvement in crime is consistent with trends in South Australia and Victoria.

(f) The Age and Gender of Offenders

Juvenile crime is primarily the responsibility of males (78 per cent in 1990/91). The extent of involvement in crime by children increases with age. In 1990/91, 11,120 offenders were apprehended by police. Seventy one per cent of offenders were aged 14, 15 or 16 years, and 21.2 per cent of offenders were aged 12 and 13 years. Less than eight per cent of offenders were aged less than 12 years. The rates for all offences increase with age during childhood for both boys and girls. (See the Appendix for offender age rates.)

Not only were female offence rates much lower than males rates, the offences they committed were less serious. Two thirds (65.9 per cent) of female offenders were apprehended by police for shoplifting offences. Shoplifting was the cause of the apprehension of one third (34.4 per cent) of male offenders (see Table 4). However, female shoplifting rates were still lower than male rates. Older male juveniles were primarily responsible for those offences against the person (assault, robbery, sex offences etc) committed by juveniles.

(g) Are More Juveniles Involved in Crime in Queensland than in Other States?

Comparison across states of crimes, crime rates and the number of juveniles involved in crime is fraught with difficulties (see Mukherjee and Dagger 1990). There are no uniform crime statistics, and the age of persons considered juvenile for the purposes of the criminal law varies from state to state. Available evidence indicates that in the period 1973/74 to 1987/88 the involvement of juveniles in offending increased across the country (Mukherjee and Dagger, 1990). Interstate calculations of crime rates by Mukherjee and Dagger (1990) indicate that Queensland has higher juvenile crime rates than the Australian average for serious assault, break and enter and stealing offences. It is close to the Australian average for robbery and below the average for motor vehicle theft and fraud.

In terms of the number of juvenile offenders processed, Queensland had the fourth highest rate for the period 1979/80 to 1987/88 (Wundersitz, 1990: 4). Wundersitz noted that the number of offenders across the Australian States (with the exception of Western Australia) remained relatively constant in that period.

TABLE 4

PER CENT OF OFFENDERS BY GENDER, AGE AND OFFENCE 1990/91

Offences	All juveniles		Under 12 Yr		12 & 13 Yrs		14 & Under 17	
	Male 8696	Female 2430	Male 735	Female 128	Male 1801	Female 558	Male 6160	Female 1744
Murder	-	-	-	-	-	-	-	-
Attempted Murder	-	-	-	-	-	0.2	0.1	-
Manslaughter (excl. by motor vehicle)	-	-	-	-	-	-	-	-
Driving Causing Death	-	-	-	-	-	-	-	-
TOTAL HOMICIDE	0.1	-	-	-	-	0.2	0.1	-
Serious Assault	3.0	2.6	1.2	0.8	2.7	1.3	3.3	3.2
Minor Assault	3.0	3.7	2.4	2.3	2.6	2.2	3.3	4.4
Rape	0.1	-	-	-	0.1	-	0.1	-
Other Sexual Offences	1.0	-	0.4	-	1.1	-	1.1	-
Robbery	0.8	0.2	0.4	-	0.3	0.5	0.9	0.2
Extortion by Threats	-	-	-	-	-	-	-	-
Kidnapping, abduction, deprivation of liberty	-	-	-	-	-	-	-	0.1
Breaking & Entering-dwellings	7.2	3.9	6.9	10.2	5.7	3.6	7.6	3.6
Breaking & Entering-shops	6.1	2.1	3.3	8.6	5.3	2.5	6.6	1.5
Breaking & Entering-other premises	9.6	1.6	15.0	4.7	9.8	1.3	9.0	1.5
TOTAL BREAKING & ENTERING	22.9	7.7	25.2	23.4	20.9	7.3	23.2	6.7
Malicious injuries to property	9.1	3.3	14.1	10.9	8.6	2.9	8.7	2.8
Motor vehicle theft	7.0	2.9	0.8	-	3.5	0.9	8.8	3.8
Shop stealing	28.7	66.2	36.1	53.9	39.4	74.7	24.7	64.3
Stealing (excluding motor vehicles & shop stealing)	17.3	7.8	15.0	7.8	17.2	6.3	17.6	8.3
Fraud, forgery and false pretences	0.9	1.9	0.7	-	0.8	0.9	0.9	2.4
Handling stolen goods	1.7	1.4	1.6	0.8	1.6	2.3	1.8	1.1
Drug offences	1.5	1.1	0.1	-	0.2	0.4	2.1	1.4
Prostitution offences	-	-	-	-	-	-	-	-
Stock related offences (excluding stealing)	-	-	-	-	-	-	-	-
Vagrancy	0.1	-	-	-	-	-	0.1	-
Drink driving offences	0.5	0.2	-	-	-	-	0.7	0.3
Other driving, motor vehicle offences	0.3	0.1	-	-	0.1	-	0.5	0.2
All other offences	1.9	0.7	1.9	-	1.1	0.2	2.1	0.9
TOTAL	100.0	100.0	-	-	-	-	-	-

(Source: Queensland Police Service - unpublished records)

NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

(h) How is Children's Crime Dealt With by Police?

In Queensland children who admit the commission of an offence may be dealt with informally by way of a caution, or formally by way of arrest or summons resulting in an appearance before the Children's Court. The Cautioning Scheme was introduced with the establishment of the Juvenile Aid Bureau in 1963. It was formalised by a memorandum from the Commissioner (No. 10/77) in March 1977 and amended on 23 August 1984 by General Instruction 9.500.

Cautioning is based on a recognition that much youth crime is minor and transitory in character. The program aims to "divert children from anti-social behaviour" (JAB, 1991: 67). The Commissioner's instructions direct officers to caution first offenders where the offence is not of a serious nature and where guilt is admitted and satisfactory arrangements are made regarding restitution.⁸

The Police Service's instructions direct officers away from "on the spot" cautions to the utilisation of formal cautions. Cautions are recorded by police but cannot be presented to Court as a part of the person's criminal record.

In 1990/91, two thirds of offenders were cautioned rather than arrested or summonsed by police (see Table 5). Some offences seem more likely to result in a court appearance: in 1990/91, 53.7 per cent of juveniles apprehended for break and enter offences appeared in court whereas for shoplifting only 12.5 per cent were referred to court.

In the period 1985/86 to 1989/90 the proportion of juveniles dealt with by way of arrest increased from 28.6 to 31.4 per cent. In 1985/86, 45.2 per cent of juveniles apprehended for break and enter offences were arrested or summonsed and by 1989/90, 51.2 per cent of offenders were directed to court.

Police cautioning constitutes Queensland's pre-court diversion program. Diverting children away from the formal court system is a constituent element of all juvenile justice systems. The form of diversion varies from state to state and country to country, and includes programs such as Children's Aid Panels, restitution programs and statutory cautioning programs (see Seymour, 1989: 224-277 for details). Each seeks to reduce the likelihood of a child's reoffending whilst at the same time avoiding the stigma associated with a court appearance.

8 In the past Queensland police have cautioned offenders on a number of occasions for petty offences.

TABLE 5

TOTAL JUVENILE OFFENDERS AND PER CENT CAUTIONED BY OFFENCE
1990/91

OFFENCES	Juvenile Offender (n)	Juvenile Offender % cautioned
Murder	1	-
Attempted Murder	5	20.0
Manslaughter (excl. by motor vehicle)	-	
Driving Causing Death	-	
TOTAL HOMICIDE	6	16.7
Serious Assault	322	41.3
Minor Assault	356	62.1
Rape	9	-
Other Sexual Offences	90	64.4
Robbery	69	15.9
Extortion by Threats	-	
Kidnapping, abduction, deprivation of liberty	1	-
Breaking & Entering-dwellings	719	43.0
Breaking & Entering-shops	581	43.4
Breaking & Entering-other premises	879	50.9
TOTAL BREAKING & ENTERING	2179	46.3
Malicious injuries to property	872	65.4
Motor vehicle theft	679	26.7
Shop stealing	4105	88.5
Stealing (excluding motor vehicles & shop stealing)	1695	62.5
Fraud, forgery and false pretences	124	68.5
Handling stolen goods	185	65.9
Drug offences	159	78.0
Prostitution offences	-	
Vagrancy	7	-
Drink driving offences	49	-
Other driving, motor vehicle offences	33	24.2
All other offences	180	68.9
TOTAL	11120	66.0

(Source: Queensland Police Service - unpublished records)

NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

Queensland and Victoria have both implemented cautioning schemes. In both states upwards of 60 per cent of juvenile offenders are dealt with in this manner. South Australia relies on a system of Children's Aid Panels involving representatives of Police and Community Welfare Departments (Nichols, 1985). In the period 1979/80 to 1985/86, on average 58 per cent of youth were dealt with by Panels.

One concern about diversion programs is that they may have a "net-widening effect"; that is the program may increase the number of persons in contact with the formal justice system and therefore undermine the diversionary aims. Queensland, Victoria and South Australia divert more than half of juvenile offenders from the Children's Court. Queensland and South Australia have consistently had higher rates of police intervention against juveniles than other states (Wundersitz, 1990). This may indicate some net-widening effect. However net widening is not the necessary consequence of pre-court diversion programs. Victoria, for example, also operates an extensive cautioning scheme, yet has low rates of formal intervention and amongst this country's lowest recorded rates of juvenile offenders.

The Cautioning Scheme has operated in Queensland since 1963. The Juvenile Aid Bureau's cautioning program was evaluated in 1983. Success was measured in terms of the cessation of offending. Leivesley (1988) reported that 85 per cent of those cautioned between 1970-1980 had no further contact with the police up until 1980. The Leivesley study may over-estimate the success of the cautioning program as she included all persons cautioned in the period. Thus those who were cautioned in 1970 had 10 years in which to reoffend, whilst those who offended in 1980 had less than a year. A more accurate indication is that 75 per cent of those cautioned in 1970 and 1971 had no further contact. In contrast, only 11 per cent of those cautioned in 1978-79 had further contact with police (see Table 5, Leivesley, 1988: 38). This estimate of a 25 per cent reoffending rate is consistent with a review of persons in contact with the JAB in 1983/84 (see Table 6, Leivesley, 1988: 39-40). Leivesley did not compare the outcome of cautioning to a court appearance, or different modes of cautioning, or to those situations where no formal action was taken at all. Nor did she account for those juveniles who reoffended but were not reapprehended. As Seymour notes;

"(E)ven if it is known that a particular juvenile has not re-offended, it is impossible to be sure that this result has been caused by the measures employed by the criminal justice system. Maturation, or any one of a number of personal or social factors, might be the explanation for the avoidance of further offending." (1988: 275).

The cautioning program deals with the majority of juvenile offenders in Queensland yet very little is known about its operation. There are conflicting anecdotal reports on how cautions are administered and understood. Similarly there are conflicting reports on how promptly after apprehension a young person is cautioned. A substantial time delay may well undermine any beneficial effects of a caution. Current police records do not allow analysis of the number who reoffend. Nor is it currently possible to examine the impact of demographic variables such as race, geographic location and the constitution of family unit on the decision to caution and on cautioning practices. Because there is no data

about this crucial decision and process, it is not known whether Aboriginal and Torres Strait Islander youth are less likely to receive a caution. In South Australia, Gale, Wundersitz and Bailey-Harris (1990) found that Aboriginal children were systematically disadvantaged at every stage of the juvenile justice system. Similarly it is not known whether cautioning practices are culturally appropriate for all groups in the community, nor whether children living in some geographic locations are less likely to receive cautions. The frequency of restitution and apologies is also unknown as are the consequences for economically disadvantaged youth who cannot make monetary compensation.

The new juvenile justice legislation will continue to rely on cautioning as the main diversion program in this state. It is therefore essential that an adequate information system be established by police on juvenile crime and that the operation of the cautioning program is subject to further research.

(i) Arrest and Summons

When police decide to charge rather than caution a child, it is then necessary to decide whether to secure the child's attendance at court by way of arrest, or by summons. Where children are arrested they are processed through the watchhouse and detained in custody until bail is granted by the watchhouse keeper or by a court. When formal cautioning is excluded as a manner of proceeding against offenders, most children are arrested rather than summonsed (92.4 per cent in 1989/90) (see Table 6). This reliance on arrest contrasts with the use of summons and court attendance notices in other states. (Queensland Law Reform Commission, 1991: 18). The reader is warned about the difficulties in comparing use of arrest and summonses between States.

The arrest of the child guarantees the child's attendance at court (where no watchhouse bail is granted) and allows police to finger print and photograph the child. It is frequently suggested that it is administratively easier to arrest a child rather than summons a child. It also ensures a prompt hearing of the matter before the court. There is anecdotal evidence that some police see the watchhouse experience as a way of warning the child - as a way of bringing home to them the seriousness of their behaviour.

Where children are arrested, they are detained in custody unless released by the watchhouse keeper on bail, or until a court decides on bail conditions.

"Like adults, young people are entitled to bail unless an exception applies . . . [For children one exception is that] bail may be refused to a person under 17 years of age when police or a court are satisfied that the young person should remain in custody for her or his protection or welfare." (Queensland Law Reform Commission, 1991: 18).

When a child is so detained, the Department of Family Services and Aboriginal and Islander Affairs must be notified. The Department has detention facilities in Townsville, Westbrook and Brisbane. In consequence, children from other areas often spend hours and sometimes days, in an adult watchhouse. Unfortunately, the number of children who spend time in watchhouses is not known. There

have however, been a number of serious incidents (see Queensland Law Reform Commission 1991). For example, in April 1988, a male youth was sentenced to seven years prison for having raped two 14 year old boys in the Southport Watchhouse. These boys had been detained for five days in the watchhouse. Other more recent incidents have been reported in the newspapers. These have included two girls aged 13 and 14 years, detained in the Southport Watchhouse on minor charges, who were subject to strip searches (see *Sunday Mail*, November 17 1991, p. 1 for summary) and a 12 year old detained for 60 hours in the Rockhampton Watchhouse (*Morning Bulletin*, 6 December 1991). The Department of Family Services and Aboriginal and Islander Affairs informed the Law Reform Commission that "the premature or unnecessary incarceration of children increases the likelihood of their becoming recidivist offenders" (Queensland Law Reform Commission 1991: 19). Despite long standing concerns, problems with police watchhouses have continued primarily due to a lack of alternative facilities and resources. These problems have occurred not only in remote communities but in locations such as Southport which are close to Departmental detention facilities due to transportation problems which need to be resolved.

On 23 December 1991, a new joint "Policy of the Queensland Police Service and the Department of Family Services and Aboriginal and Islander Affairs Regarding Detention of Children in Watchhouses" was implemented. The policy formalised notification arrangements between Police and Family Services for children held in custody and the conditions of care under which children are to be detained in watchhouses. Anecdotal reports indicate that the implementation of the policy is varied between locations.

TABLE 6
PERCENTAGE OF OFFENDERS DEALT WITH BY WAY OF ARREST
1985/86 - 1990/91

	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91
Total number of arrest and summons	3752	3998	4048	3856	3800	3783
% Arrest	93.5	94.5	93.7	93.4	92.4	N/A

(Source: Queensland Police Service)

NB: The reader is warned about the poor quality of the data as stated in the beginning of this Part.

(j) Summary - Juvenile Crime in Queensland

Most juvenile crime is property crime and is concentrated at the less serious end of the property crime continuum. Also, there appears a general declining trend in the incidence of juvenile crime. The exception to this general trend is that the number and rates of offences that juveniles are least likely to commit - offences against the person - continue to increase. Such offences still constitute a small part of the juvenile crime problem.

Because of the poor quality of data, it is difficult to draw firm conclusions about trends in juvenile crime in Queensland. However, comments of ever increasing juvenile crime in the media not only are inaccurate but also mislead the community. In order to plan and develop juvenile crime prevention programs it is necessary to have accurate and reliable crime statistics.

PART 4 - CHILDREN AND COURT

Further understanding of children's involvement in crime and the formal response to juvenile crime is available from an analysis of the returns of the Children's Court. Returns are filed for each separate final appearance of a child and are collated on a financial year basis. While the police statistics provide an indication of the overall involvement of children in cleared crime, the Court statistics enable a more detailed analysis of offender characteristics and official responses to juvenile crime.

(a) Number of Appearances and Offences

Table 7 details the number of final appearances, proven appearances for most serious offence charged and proven offences dealt with by the Children's Court in the period 1985/86 - 1990/91.⁹ During this period the number of appearances increased by 17.6 per cent from 4,383 appearances to 5,153 appearances; the rate of appearances per 100,000 increased by 20.3 per cent. (The number of proven appearances increased by 16.1 per cent and the rate per 100,000 by 18.8 per cent.) In this six year period, very few appearances were concluded by the charge being withdrawn or dismissed (around 2.5 per cent). Similarly very few children were committed for trial or sentence in the higher courts. Ninety-five per cent of appearances resulted in a finding of guilt for at least one of the offences charged and in consequence a determination of sentence by the Children's Court.

The number of offences charged has increased from 12,282 in 1985/86 to 14,615 in 1990/91 (19 per cent). Ninety-five per cent of offences charged resulted in a finding of guilt (approximately 2.5 per cent discharged or withdrawn, and 2.5 per cent committed for trial or sentence). Considered together the appearance and offence data reveal a pattern of multiple charging of juveniles.

The number of distinct children appearing in court charged with an offence increased by 16.1 per cent from 2,892 children to 3,357 children,¹⁰ and the rate per 100,000 increased by 18.7 per cent.

⁹ In this paper the final appearance data from the Children's Court was analysed on the basis of the outcome for the most serious offence charged. An alternative way of analysing the data is on the basis of the most serious outcome for the final appearance. This makes little difference to the relative pattern of offences or appearances or to the dispositions. Table G in the appendix compares the outcome for the most serious offence charged and the most serious outcome for 1990/91.

¹⁰ The number of distinct children is less than the number of appearances because some children appear more than once in a year - i.e. they reoffend. In calculating the number of distinct children appearing in a year, it was assumed that those children appearing on applications for care and protection and care and control were not charged with an offence during the year. Therefore the total number of applications were subtracted from the number of distinct children appearing in the Children's Court. This may lead to some small inaccuracies.

TABLE 7
APPEARANCES, PROVEN APPEARANCES IN CHILDREN'S COURT
BY OFFENCE 1985/86 - 1990/91

	85/86	86/87	87/88	88/89	89/90	90/91	Per cent change 85/86 - 90/91
Total appearances	4383	4592	4448	4364	4371	5153	17.6
Total proven appearances	4183	4408	4278	4252	4143	4857	16.1
Total offences charged	12282	12729	11717	12642	13465	14615	19.0
Per cent discharged/ withdrawn	2.0	2.3	2.8	2.3	2.5	2.5	
Per cent committed	2.3	1.7	1.4	1.1	2.5	2.2	
Distinct children	2892	3011	2749	2937	2867	3357	16.1
Rates per 100,000							
Total appearances for offences	1355.3	1426.9	1396.1	1373.7	1383.4	1630.0	20.3
Total proven appearances	1293.5	1369.8	1342.7	1338.5	1311.3	1536.4	18.8
Total charges heard	3797.8	3955.5	3677.6	3979.6	4261.7	4623.1	21.7
Distinct children	894.3	935.7	862.8	924.5	907.4	1061.9	18.7
Proven Appearances							
HOMICIDE ETC.	-	-	-	-	-	-	-
ASSAULT ETC.	204	237	273	278	238	325	59.3
ROBBERY AND EXTORTION	14	-	4	7	23	48	242.9
FRAUD AND MISAPPROPRIATION	25	33	65	53	49	54	116.0
THEFT, BREAKING & ENTERING	2416	2597	2414	2433	2425	2871	18.8
<i>Unlawful use of motor vehicle</i>	447	558	440	518	475	516	15.4
<i>Other stealing</i>	678	750	758	694	608	820	20.9
<i>Receiving and unlawful possession</i>	117	125	168	140	169	226	93.2
<i>Burglary and housebreaking</i>	484	398	423	404	424	468	-3.3
<i>Other breaking and entering</i>	690	766	625	677	749	841	21.9
PROPERTY DAMAGE	117	176	184	248	229	209	78.6
DRIVING, TRAFFIC, ETC.	866	756	684	581	561	558	-35.6
OTHER OFFENCES	541	609	654	652	618	792	46.4
TOTAL	4183	4408	4278	4252	4143	4857	16.1

(Source: ABS Children's Court Appearances)

(b) Is Youth Crime Increasing?

At first sight the Children's Court data stands in some contrast to the police statistics in that it appears to indicate an increase in juvenile crime. The police statistics detailed the number of offences for which a juvenile was apprehended, the number of juveniles involved and whether they were cautioned or directed to court.¹¹

The police data indicates a decline in juvenile involvement in offences such as break and entering. In contrast, the Children's Court returns indicate an increase in the number of appearances for such offences. This disparity may be partly explained by flaws in the police data base and the lack of linkages between the police and court data (see Figure 3).

(c) Type of Offences

The main reason why children appeared in court was for property related offences (59.1 per cent of the total were for proven break and entering). Street and other public order offences were the next major proven offence category (see Table 7). It was noted above that evidence suggests that children are involved in the less serious end of the property crime continuum. The existing court data base does not record the value of property involved in an offence, nor the amount of restitution ordered or recovered. The number of street and other public order offences is consistent with the analysis that much conflict between police and young people occurs over the use of public spaces (see White 1989; Youth Justice Coalition 1990).

(d) Age and Gender of Offenders

Most juveniles appearing before the Children's Court are male - in 1990/91 87.3 per cent of final proven appearances were by males. The offence for which females most frequently appeared before the court was shoplifting (12.3 per cent of female offences). The most frequent proven male offence was break and enter, other than dwellings (18.6 per cent of male offences).

The number of children appearing before court increases with age. In 1990/91, 40.4 per cent of all males who appeared were 16 years of age (and 35.9 per cent of females). A further 27 per cent of male offenders were aged 15 years (females 30.2 per cent). Less than 12 per cent of offenders were 13 years of age or less.

11 The number of offences recorded in the Court statistics do not indicate the number of offences committed as a number of children may be charged with the same offence. In the court statistics each child's offence will be recorded as a separate offence while it is reported as one cleared crime in the police statistics.

Figure 3
Cautioning/Charging/Court Patterns

