ISSUES IN JUVENILE JUSTICE IN QUEENSLAND: NEW LAWS, OLD VISIONS

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On 4 August 1992, the Queensland Parliament passed the Juvenile Justice Act 1992 and the Children's Court Act 1992. The legislation, which it is anticipated will be proclaimed in early 1993, repeals the juvenile justice provisions of the Children's Services Act 1965. It provides the legislative framework for the administration of juvenile justice in Queensland, and thus the ethos of this legislation will inform practice and policy in Queensland into the twenty-first century. The intention of this paper is first, to critically consider the adequacy and vision of the legislation, second to question the extent to which it appropriately responds to the causes and consequences of juvenile crime, and third, examine the potential it offers for increased confidence in the juvenile justice system by young people and the community. Because the principles of legislation are similar to those embodied in law in other jurisdictions the issues raised have relevance beyond Queensland.

The Juvenile Justice Act

The Juvenile Justice Act was long promised in Queensland. In introducing the legislation to Parliament, the Minister for Family Services and Aboriginal and Islander Affairs (The Hon. Anne Warner) stated that the Children's Services Act was "outdated and inadequate":

The Provisions of that Act reflect the ethos prevalent during the mid-sixties that children should be dealt with primarily on the basis of their welfare needs. Less emphasis is placed on the nature and extent of offences which have been committed.

This is out of step with current thinking that children should be held accountable for their actions.
Juvenile justice practice in Queensland has not reflected "welfare model" principles for at least a decade (O'Connor 1992). Regardless of this, the Queensland Government followed the path well trodden by other States and overseas jurisdictions and introduced a "justice model".

The legislation provides the framework for responding to juveniles, who have offended, or are alleged to have offended against the criminal law. It thus should be analysed in terms of:

- the understanding of crime implicit in the legislation;
- the responses to criminal misbehaviour explicit in the legislation;
- the extent to which it encourages the respect for the rights of young people suspected of offending behaviour;
- the extent to which it encourages a respect and a response to victims; and
- the extent to which it responds to the over-representation of Aboriginal and Torres Strait Islander children.

The legislation is explicitly based on "justice model" principles. That is, the legislation is based on the assumption that the child is primarily responsible for his or her behaviour, and in consequence the task of the court is to adjudicate guilt or innocence, and having established guilt, the court's response should be proportionate to the child's deeds and culpability (Naffine, Wundersitz & Gale 1990). The justice model is underpinned by a neoclassical model of crime causation which posits that appropriate and certain punishment has both individual and general deterrent effects (Murray 1985; Schneider 1990).

The Juvenile Justice Act establishes as a principle of juvenile justice that:

a child who commits an offence should be

(a) held accountable and encouraged to accept responsibility for the offending behaviour; and

(b) punished in a way that will give the child the opportunity to develop in a responsible, beneficial and socially acceptable way.

and the sentencing principles (Section 109(1)) require amongst other matters:

a fitting proportion between sentence and offence.

The legislation provides statutory backing for the Queensland Police Service's cautioning program, and therefore envisages a substantial number of children will continue to be diverted from the court. Cautioning is, however, perceived in terms of its deterrent effects. The Minister stated:

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1 The Queensland Police caution the majority of juvenile offenders. However, most are cautioned for minor offences—see O'Connor 1992.
Queensland: New Laws, Old Visions

This [cautioning] is usually a sufficient deterrent to further offending.

The language of punishment and deterrence was, and is, a recurring motif in the Government's and Department's discussion of the legislation. For example, in a document prepared by the Department of Family Services and Aboriginal and Islander Affairs (DFSAIA) to explain the legislation to students and other interested persons, the second paragraph states:

These Acts will ensure that young people will receive fair and fitting penalties for breaking the law. Juvenile crime is a serious problem and its victims are entitled to expect that offenders will be punished (Juvenile Justice Branch, DFSAIA 1992).

The sentencing options in the legislation reflect this philosophy.

The view that children are individually responsible for their behaviour, and may be deterred from offending by appropriate punishment is questionable. Recent research indicates that non-offending and desistance from offending is best accounted for by the normative and ethical orientation of the individual, rather than the perception of the certainty, celerity or severity of punishment (Schneider 1990, p. 76) (See also Braithwaite 1989).

Similarly, the structural factors associated with juvenile crime have also been noted elsewhere. Indeed, contemporaneously with the introduction of the Juvenile Justice Act the Minister for Family Services also announced a crime prevention initiative for "high risk" communities:

The nature of the programs explicitly recognises the links between social and economic disadvantage and crime.

The programs are targeted on "children aged between ten and sixteen years of age who have not yet begun to break the law". Somewhat bizarrely, there is potential for a social problem orientation to primary crime prevention, while secondary and tertiary crime prevention responses are anchored within deterrence and risk control strategies. I will return to the consequences of the contradictions between the differing approaches to juvenile crime at the conclusion of the paper.

Pre Court

Leaving to one side the criticisms of the justice model, it is appropriate to examine the legislation in its own terms; that is the extent to which it gives effect to underpinning assumptions of the justice model. The justice model emerged as a response to the documented failure and injustices of the welfare model (for example, Australian Law Reform Commission 1981). The criticisms focused on the child's lack of due process rights, the potential intervention for non-criminal matters, the failure of the rehabilitative ideal, and the excess of discretionary power exercised by child welfare bureaucracies. Many reformers were concerned about the harm suffered by children at the hands of bureaucracies acting in children's "best interest". The benefits claimed for the justice model are that children are accorded the same
legal safeguards and due process rights accorded to adults, intervention is restricted to criminal matters, and sentencing is proportionate to the child's deeds, rather than needs. Coercive intervention on welfare grounds is theoretically restricted (Morris & Giller 1987). Put simply, the model proposes that children should not only be subject to the law but benefit from the protection of the law.

The Juvenile Justice Act and Children's Court Act provide many mechanisms to hold children accountable. There are many processes by which children may be dealt with, but few mechanisms by which others may be held accountable for their actions towards children.

Children's vulnerability during the investigation of criminal offences has been well documented (see Alder et al. 1992 for most recent research and summary of the literature). The Juvenile Justice Act holds as a matter of general principle:

4(a) because a child tends to be vulnerable in dealing with persons in authority a child should be given the special protection allowed by this Act, during an investigation, or proceeding in relation to an offence committed, or allegedly committed by a child.

Yet the special protections provided in this Act in relation to the investigation of an offence are few and far between. There is no requirement in the Act that children are to be informed of their legal rights, nor is there a clear statement of those rights in the legislation. There is no right to a telephone call, no right of legal advice prior to or during questioning, no real restriction on the right of arrest (though police may initiate proceedings in other ways), no restrictions on fingerprinting, photographing children and so on. While there is a rebuttable requirement that a child should be questioned in the presence of an independent adult, there is no statement of the purpose of the attendance of an adult at an interview, no clear statement as to when the adult should be present from, no requirement of the police to inform the independent adult of his or her role in the interview and to inform this person of the child's rights. There is no right of access to legal advice, let alone any positive obligation on the state to guarantee the availability of legal assistance.

The Importance of Rights

The rights and responsibilities of young people are discoverable in a myriad of legislation and case law which applies to citizens of all ages and in the Juvenile Justice Act and case law applying only to young people (see Seymour 1988; Alder et al. 1992). For young people, the police are the human face of the criminal justice system and the protection and recognition of their rights in their encounters with police is essential to their fair treatment in the criminal justice system. To exercise their rights in interactions with police, young people need knowledge of their rights and acknowledgment and respect of those rights by police. Similarly, police need a clear statement of the rights of young people in the criminal justice system. Yet there is no clear statement of children's rights in interactions with police in Queensland.
The difficulty and complexity of discovering and exercising rights is illustrated by one of the most common situations encountered by young people—being stopped by the police and being requested to provide, at a minimum, name and address. In Queensland, at common law, while a police officer is perfectly entitled to ask a citizen for his or her name and address, the citizen also is perfectly entitled not to supply it. However, there are provisions in at least twenty statutes which enable the police to demand a person's name and address (Criminal Justice Commission 1991). These statutes range from the Local Government (Queensland Street Mall) Amendment Act 1983 (s.35) to the Drugs Misuse Amendment Act 1987 (s.22).

The lack of clarity of the rights of young people is further exemplified by the situation of young people who have been apprehended or who "voluntarily assist police with their inquiries"; that is, the rules related to the investigation of offences and the interrogation of suspected offenders. The courts have recognised that children may be vulnerable in such situations and may not, for example, be able to assert the common law right to silence during police interrogation. Thus in all Australian jurisdictions children must be questioned in the presence of their parent or of an independent person (see Warner 1992). However, even in relation to this "right", the scope and intent is unclear. The stage prior to the formal questioning at which the independent person should or may be present remains in doubt in the Juvenile Justice Act. There is no clear statement of the role (and the requisite knowledge needed to fulfil the role) of the independent person. The Juvenile Justice Act simply requires the presence of an independent person (as outlined in Section 36(2)) when a "statement is made or given to the police" (s.36(1)). Section 36(3) allows admissions, in certain circumstances, of statements not made in presence of an independent adult. The assumption that a parent will adequately safeguard the rights of the child in an interrogation is questionable (Human Rights and Equal Opportunity Commission 1989). Parents are as potentially likely as the child to be ignorant of their own or their child's legal rights and ignorant of the role of the independent person in a police interrogation. Parents may also feel intimidated. Alternatively they may see their role as assisting the police to clear the matter up (see Warner 1992 for discussion of the lack of clarity of rights in other jurisdictions).

The only controls on police practice in this context are the retrospective exclusion of evidence by courts and/or complaints to police complaints authorities. The efficacy of court review depends, at a minimum, on the matter being brought to the court's attention through the young person challenging voluntariness of the confession. Without a formal statement of rights (and given the existing inadequate standard and availability of legal services) children have nothing by which to judge the appropriateness or legality of their experiences with police, except their own experiences and those of other young people (MacMillan 1992; O'Connor & Sweetapple 1988, pp. 16-29; see also Human Rights and Equal Opportunity Commission 1989, Chapter 21).

It is not that the legislation does not allow children to be dealt with informally, for proceedings to be initiated by way of attendance notices rather than arrested, and so on. The problem with the legislation is that it fails to
limit the discretion of the police, or formally require them to inform the child of his or her rights and so on. Thus it ignores the substantial documentation of current problems in the investigatory phase (see Alder et al. 1992; Faine 1988; Federation of Community Legal Centres 1991; O'Connor & Sweetapple 1988; Human Rights & Equal Opportunity Commission 1989, Chapter 21; Youth Justice Coalition 1990).

The Act provides a statutory base for cautioning, with the added potential for an apology to the victim associated with the caution. Other than taking no action, it restricts non-court options to cautioning. While the intentions to restrict intervention may be laudable, it ensures a limited repertoire of responses and hence restricts the development of innovative responses such as those outlined by Professor John Braithwaite, Judge Michael Brown and Senior Sergeant Terry O'Connell in this volume.

**Court and Sentencing**

The Juvenile Justice Act provides a code for dealing with children charged with offences. The Children's Court Act provides for a Judge as president of the Jurisdiction. The Children's Court judge will hear serious matters, and exercise a review function in relation to sentence and bail.

The Act provides for the expected due process of rights of the child in relation to pleas of not guilty. The Children's Services Act, though nominally based on a welfare model, similarly granted full due process rights to the child (see O'Connor 1992; see also Seymour 1988 on the overstatement of the impact of welfare model in Children's Court in Australia). The Children's Services Act provided more stringent safeguards in that it required the finding of a prima facie case in all matters involving indictable offences, prior to any plea. The Juvenile Justice Act does not provide an absolute right of legal representation: representation depends on the means of the child and the availability of legal aid services.

The major claim made for the legislation is that it embodies a "new" approach to sentencing and new and expanded sentencing options. As the Minister stated on the introduction of the Bill:

>[The Bill] . . . will provide a new statutory framework for dealing with children who commit offences. It is designed to make young offenders more accountable for their actions, by providing courts with a wider range of sentencing options.

Though the justice model theoretically places the trial at the centre of the court process, wherein any injustices may be remedied, the reality is that trials are a rarity; the real business of Children's Courts and other summary courts is that of sentencing offenders (see Naffine, Wundersitz & Gale 1990, p. 204). The sentencing principles and sentencing options are therefore central to the Act, and of course, of central symbolic importance.

The sentencing principles are set out in Section 109 of the Act and in the "general principles in Section 4 of the Act". On the positive side, these principles call attention to age as a mitigating factor and that detention is an option of last resort. On the negative side is the dominant vision of the Act,
that the appropriate response to juvenile crime is punishment. Age, immaturity, employment and so on are merely factors which serve to mitigate the penalty.

The central organising theme of punishment is expressed through the sentencing options in the legislation for it is the sentencing options that enable the courts to give effect to the sentencing principles. The sentencing options provided, constitute an escalating hierarchy of punishments. The options are detailed below. (Also noted alongside the options available under the Children's Services Act as a major claim for this legislation is that it provided an extensive new range of sentences.)

**Table 1**

**Juvenile Justice Act 1992 (Qld) Section 120 and the Children's Court Act 1965 Section 62(1) (Qld)—Sentencing Options**

<table>
<thead>
<tr>
<th>JUVENILE JUSTICE ACT S. 120</th>
<th>CHILDREN'S SERVICES ACT S.62(1)</th>
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<tbody>
<tr>
<td>• reprimand</td>
<td>• admonish and discharge</td>
</tr>
<tr>
<td>• good behaviour bond (up to 1 year)</td>
<td>• convict and fine</td>
</tr>
<tr>
<td>• fine</td>
<td>• supervision order up to 2 years</td>
</tr>
<tr>
<td>• probation order—6 months (if before judge up to 1 year)</td>
<td>• community service orders (passed 1989, but never proclaimed)</td>
</tr>
<tr>
<td>• community services orders</td>
<td>• care and control order—recommendation for release by Magistrate</td>
</tr>
<tr>
<td>13-14 years—20-60 hours</td>
<td>• Care and control up to 2 years—recommendation custody from Magistrate</td>
</tr>
<tr>
<td>15-16 years—20-120 hours</td>
<td>• Queen's pleasure—for offences punishable by life imprisonment</td>
</tr>
<tr>
<td>• detention order—immediate release</td>
<td></td>
</tr>
<tr>
<td>• detention order—6 months</td>
<td></td>
</tr>
<tr>
<td>-&gt;or if Judge—2 years</td>
<td></td>
</tr>
<tr>
<td>• or if Judge and serious offence—half of maximum adult term or max. 7 years</td>
<td></td>
</tr>
<tr>
<td>• or life offence—10 years</td>
<td></td>
</tr>
<tr>
<td>-&gt; heinous violent offence—14 years</td>
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</tr>
</tbody>
</table>

(Both Acts allow for restitution to be ordered against the child, or in certain circumstances the parent.)

There are many similarities in the options under both Acts. The major difference is that the Department is to receive resources to develop its community based corrections program. This is long overdue. Unfortunately, in promoting the notion that the new legislation creates many new options, the government has created a public expectation of a tougher regime for young offenders. DFSAIA's own information sheets are stating "that
offenders will be punished". The Premier was reported in the *Courier Mail* (14 November 1991) as expecting that the new Act would result in more young people in detention, but for shorter periods! It is very difficult to satisfy the punishment lobby, but the legislation creates an expectation for such satisfaction. It fails to articulate an alternative vision, or a framework for non-punitive inclusionary responses to crime which directly address the experience of victims (Braithwaite 1989).

The Act seeks to establish a series of punishments in the community. It enables children who break the conditions of their community based order to be breached, and potentially resentenced for the original offence. It is noteworthy that the Act, though providing a general obligation on the Chief Executive to provide programs (Section 202), ensures that entry to community based orders is dependent on a representative of the Department reporting that the child is "suitable" for the program and the program is available (Section 146). While the Act was supposed to reduce the discretion of the Department, the content of the programs (that is, the punishment) is to be specified by the Department. This, in part, explains the gap between the rhetoric of expanded sentencing options and the limited options provided in the Act.

The Act embraces the bifurcatory tendencies of much current criminal justice practice. Most offenders may be punished within the community. The small hard core of offenders whose behaviour is either so uncontrolled or so unamenable to community corrections, are institutionalised:

Bifurcated policies redescribe, and then redistribute deviant populations. Some categories of offenders are represented as more serious and menacing, while others who had previously been regarded as a threat, are represented as relatively unproblematic (Pitts 1990, p. 4).

Any examination of this process should consider the manner in which this process of sorting occurs. The deserts based sentencing, inherent in the justice model, blinds itself to the processes by which particular events are classified as crimes, and crimes of serious concern, and particular groups and categories of people are processed by the criminal justice system. If the definition of "serious crime" were restricted to serious crimes of personal violence, then young people would rarely feature as a serious crime problem. But the property crimes committed by young people are constructed as a serious crime problem, demanding a response. The seriousness of the problem is never diminished by analyses of youth crime which debunk some of the myths of the nature and extent of youth crime (O'Connor 1992; Mukherjee 1991).

Juveniles primarily appear before courts charged with property offences and some young offenders repeatedly appear. In relation to young offenders, it is the repeat offenders who are consensually defined as problematic. In terms of the Juvenile Justice Act it is these young people for "whom no other sentence is appropriate" other than detention.

In focusing on the offence in sentencing the justice model blinds itself to the discretion exercised by police on where to focus their attention, on who to charge and with what. It ignores factors of over-policing, police youth conflict and racism (see Royal Commission into Aboriginal Deaths in Custody 1991).
What deserts-based sentencing means, then, is building on class based definitions of serious crime, ignoring class differential vulnerability to the acquisition of a "bad" record, and imposing an arbitrary, blind "fairness" at an advanced stage of the criminal justice system. Ignoring the "non-legal" factors in sentencing means ignoring the fact that in all its stages, criminal justice is a complex process of negotiation . . . Freezing a particular moment, freezing a discussion of what is relevant, is to freeze all the injustices, all the deprivations all the power struggles, that have gone before into that arid concept of "legal variables". By modestly demurring that social justices cannot be dealt with by the criminal justice system, justice model reformers are building those very injustices into the heart of the system . . . (Hudson 1987, p. 114).

Under the existing legislation similar bifurcatory processes have operated. Queensland has had relatively low rates of incarceration of juveniles—a positive side effect of years of neglect of the juvenile justice system (see O'Connor 1992). Yet Aboriginal and Torres Strait Islander young people have faired poorly in the existing sentencing practices of the court.

Aboriginal and Torres Strait Islander children are dramatically over-represented at the most coercive end of the juvenile justice system. At 30 May 1992, 42.4 per cent of all juveniles in care and control were Aboriginal and Torres Strait Islander children. (Aboriginal and Torres Strait Islander children constitute less than 4 per cent of children aged ten to sixteen in Queensland.) Twenty-one and a half per cent of children under a supervision order were Aboriginal or Torres Strait Islander. The disproportionate concentration of Aboriginal and Torres Strait Islander children under the most coercive orders is evident from the fact that as of 31 May, 1992, 59.2 per cent of all Aboriginal and Torres Strait Islander children on corrective orders were under care and control and 41.8 per cent on supervision, for non-Aboriginal and Torres Strait Islander children the pattern was reversed, 35.1 per cent under care and control and 64.9 per cent under supervision.

The most recent indicators of the extent of detention of Aboriginal and Torres Strait Islander children in Queensland is similarly concerning: 42.6 per cent of discharges from detention centres were of Aboriginal and Torres Strait Islander children. The extent of over-representation appeared to increase inversely to age: Aboriginal and Torres Strait Islander children constituted 68.8 per cent of discharges of children 10-12 years; 55.6 per cent 13-14 years; 41.7 per cent 15-16 years; and 28.2 per cent 17 years and older (see Table 3) (See also O'Connor 1990).
Table 2
Percentage of Children under Corrective Order as at 30 June 1992, Queensland

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>Per cent</th>
</tr>
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<tbody>
<tr>
<td><strong>Care and control</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ATSI</td>
<td>218</td>
<td>42.4%</td>
</tr>
<tr>
<td>Non-ATSI</td>
<td>296</td>
<td>57.6%</td>
</tr>
<tr>
<td><strong>Supervision</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ATSI</td>
<td>150</td>
<td>21.5%</td>
</tr>
<tr>
<td>Non-ATSI</td>
<td>547</td>
<td>78.5%</td>
</tr>
<tr>
<td><strong>Care and control as % of all corrective orders</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ATSI</td>
<td>368</td>
<td>59.2%</td>
</tr>
<tr>
<td>Non-ATSI</td>
<td>843</td>
<td>35.1%</td>
</tr>
</tbody>
</table>

Source: Department of Family Services and Aboriginal and Islander Affairs

Table 3
ATSI Children as a percentage of all Children released from Detention, 11 months to 31 May 1992, Queensland

<table>
<thead>
<tr>
<th>Age</th>
<th>Total children discharged</th>
<th>Per cent ATSI</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-12</td>
<td>16</td>
<td>68.8%</td>
</tr>
<tr>
<td>13-14</td>
<td>126</td>
<td>55.6%</td>
</tr>
<tr>
<td>15-16</td>
<td>501</td>
<td>41.7%</td>
</tr>
</tbody>
</table>

Source: Department of Family Services and Aboriginal and Islander Affairs

The over-representation of Aboriginal and Torres Strait Islander children in the Queensland system must remain an issue of major concern (as elsewhere, see Gale, Wundersitz & Bailey-Harris 1990).

The Royal Commission into Aboriginal Deaths in Custody found a diversity of reasons for Aboriginal juvenile offending, but concluded that an understanding of the experience of disadvantage in Aboriginal society is critical to understanding the reasons for offending. The Commission reported that the nature of the criminal justice system and the manner in which criminality is constructed is a factor:

The exercising of the ideal of impartial justice is necessarily accompanied by the values of those who enforce the "rule of law" (1991 vol. 2, p. 275).
Cases investigated by the Commission illustrate that:

young Aboriginals are unnecessarily or deliberately made the subject of trivial charges or multiple charges, with the result that the appearance of a serious criminal record is built up at an early age (1991 vol. 2, p. 275).

Racial discrimination generally and the poor relations between police and Aboriginal young people, and the reliance of Aboriginal youth on public space for recreation and so on, increases the likelihood of Aboriginal youth having adverse contact with the police (see Cunneen 1990; White 1990; Youth Justice Coalition 1990).

The involvement of Aboriginal and Torres Strait Islander youth in the juvenile justice system at such an early age provides the foundation for long-term involvement in the adult criminal justice system, as well as causing much social disruption in their communities of residence. Problems of social order, of the relationship between the juveniles and their community and the broader society are increasingly the province of the criminal justice system. In relation to the children this is both expensive and socially destructive. The criminalisation of juvenile misbehaviour results in the imposition of external controls and solutions, rather than supporting the development of local and internal solutions. The imposition of external solutions in fact destroys traditional modes of social control, and in consequence gives rise to many of the problems that result in children coming into contact with the child welfare and juvenile justice systems.

There is little in the Juvenile Justice Act to indicate that the extent of disadvantage experienced within the juvenile justice system will not be exacerbated by the model underpinning the legislation. The Act does provide for cautioning by Aboriginal elders, and suggests that the court may take into account cultural (amongst a whole range of other) factors in sentencing. However these are limited initiatives which do not fundamentally impact on the logic or approach of the Act.

The legislation is flawed in terms of its vision and in terms of its implementation of the model. The opportunities to restructure juvenile justice law, policy and practice are rare. Unfortunately in this case, the legislators and those who advised them opted for a dated vision. It neither takes account of the more recent theoretical innovations in juvenile crime causation (for example, Braithwaite 1989) or alternative legislative models such as is offered by New Zealand and European countries. Nor does it satisfy criteria from within its own frame of reference that the rights of the young person should be adequately safeguarded. The actualities of practice, and the documented breaches of children rights, have been swept aside in the belief, that if we get legal formula right, justice will follow.

Contradictory Visions

Contemporaneously with the enactment of the Juvenile Justice Act and Children's Court Act, the government announced a "Juvenile Crime Prevention Initiative". The Minister stated that the initiative was a part of the government social justice strategy. It was:
a "whole of government response", involving departments with major responsibilities for young people—such as education, police, health. These programs will co-ordinate their efforts at a local level, and in partnership with community organisations, provide services and programs for young people which directly address the causes of crime in these areas. My Department will provide funding for community organisations in areas with high rates of juvenile offending. The funded programs will target children aged ten to sixteen years who have not yet begun to break the law. The nature of the programs explicitly recognises the links between social and economic disadvantage and crime.

The programs recognise the structural causes of crime, and the importance of developing locally based responses which address such causes. The crime prevention initiative draws upon the experience of other "whole of government" social problem oriented crime prevention strategies (for example, Bonnemaison, see King 1987). The success of such programs has depended on the extent to which the orientation is shared and reflected by all actors in the juvenile justice system—the police, the courts, the community corrections agencies. That is, the extent to which all players perceive the importance of responding to the structural underpinning of crime.

Unfortunately, the social problems orientation to crime prevention is limited to primary prevention, and explicitly limited to non-offending children. It is not embedded in the Juvenile Justice Act. The legislation commits neither the police nor departmental officers to act in a manner which accounts for the structural causes of crime. It is most likely that the legislation will be publicly seen as the major response to juvenile crime. The legislation does not educate the public, rather it creates an expectation for tough treatment of juveniles—an expectation it will find hard to satisfy. (It is worth noting that the legislation was passed three weeks before an election in which law and order was a major issue, with little dissent by the opposition parties.) It is a major concern that the crime prevention initiatives may be submerged by the dominant orientation of the legislation. The ethos of the Act will permeate the community correction programs. The logic of the Act means that within community corrections, the primary concern will be risk management and order compliance, rather than the issues of disadvantaged, experienced by the young offender. Minimal resources are currently provided for the welfare and support needs of young offenders. There is nothing to suggest this will change.

In the budget presented to parliament prior to the election, the government announced a significant injection of resources to finance the crime prevention initiative and the Juvenile Justice Act. This commenced the process of redressing the neglect of juvenile justice issues over the past ten to twelve years. In this period of neglect, the skills base of the DFSAIA and indeed the community sector in the area of working with young offenders has been eroded. It is of considerable importance that this skills deficit is addressed in a manner, which does not lead to a simplistic and rigid implementation of the Juvenile Justice Act across the state. Workers will require education, not just about the Act, but about the nature and extent of juvenile crime and appropriate responses to juvenile crime. The legislation
will be implemented in the context of a minimal, non-statutory social resources, for disadvantaged young people. The Act must not be an excuse for the non-provision of welfare services to youth who have offended.

References


Juvenile Justice Branch, Department of Family Services and Aboriginal and Islander Affairs 1992, *New legislation to deal with juvenile offenders: Background Paper*, DFSAIA, Queensland.


