When is a Child Not a Child?

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If you are 17 years old in Queensland you are treated as an adult by the criminal justice system. Queensland is now the only state in Australia where this happens. In the Second Reading speech of the new *Juvenile Justice Act 1992*, the then Queensland Minister for Family Services and Aboriginal and Islander Affairs Mrs Anne Warner stated:

> 'It is the intention of this Government … to deal with 17-year-old children within the juvenile, rather than the adult, justice system, as per the 1988 Kennedy report into prisons. This is consistent with the age of majority and avoids such children being exposed to the effects of adults in prisons, thereby increasing their chances of remaining in the system and becoming recidivists. This change will occur at an appropriate time in the future.'[1]

Thirteen years later this has not happened. There has been no regulation enacted pursuant to section 6 of the *Juvenile Justices Act 1992*, and Queensland is now the only state in Australia where 17 year olds are treated as adults by the criminal justice system.

This paper documents the rule in Queensland and its history as reflected in government inquiries dating back to 1988. It examines the international human rights conventions under *The United Nations Convention of the Rights of the Child* and welfare principles endorsed in the *Juvenile Justice Act 1992*. Support for change is widespread and public statements from various quarters strengthen the case for change. What are the contrary arguments? Or is this simply a case of the less powerful in our society being overlooked?

Section 6 *Juvenile Justice Act 1992*

In Queensland, the *Juvenile Justice Act 1992* and the *Children's Court Act 1992* came into effect on 1 September 1993. Prior to this, the prevailing legislation was the *Children's Services Act 1965*. The definition of a 'child' in the previous legislation was 'a person under or apparently under the age of 17 years'.[2] There were several amendments to the new *Juvenile Justice Act 1992* - in 1996, 1997 and 1998 - but substantial changes were made in legislation in 2002 which were all in effect by 1 July 2003. No changes were made to Section 6. According to Section 6 of the *Juvenile Justice Act 1992*, which is titled 'Child's age regulation', it is possible for a regulation to be passed to change the way in which 17 year olds are treated under the criminal law. The section reads:

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[1] Queensland Legislative Assembly 5 August 1992, 6130.

[2] s8.

(1) The Governor in Council may, by regulation, fix a day after which a person will be a child for the purposes of this Act if the person has not turned 18 years.
(2) A person of 17 years who commits an offence before the commencement of the regulation will not be taken, after the commencement, to have committed the offence as a child in a subsequent proceeding for the offence.
(3) A court that sentences a person to whom subsection (2) applies for the offence mentioned in the subsection must have regard to the sentence that might have been imposed if the person were sentenced as a child.
(4) The court can not order the person—
(a) to serve a term of imprisonment longer than the period of detention that the court could have imposed on the person if sentenced as a child; or
(b) to pay any amount by way of fine, restitution or compensation greater than that which the court could have ordered the person to pay if sentenced as a child.
(5) Subsection (3) applies even though an adult would otherwise be liable to a heavier penalty which by operation of law could not be reduced.
(6) To avoid any doubt, it is declared subsections (2) to (5) only apply to a person mentioned in subsection (1) who is sentenced after the commencement of the regulation mentioned in the subsection.

When the bill was being debated in the Legislative Assembly (5th August 1992), there seemed to be some disquiet voiced by members of the National Party Opposition about this particular change.[3] Perhaps that is one reason that the door at that stage was left ajar rather than opened. In addition, the Minister referred to the cost of the changes – 'The Government recognises the magnitude of the task in establishing the necessary infrastructure to implement this legislation as it applies to children using current definitions of age.'[4]

Amendments to *Penalties and Sentences Act 1992*

In 1997, provisions in the *Penalties and Sentences Act 1992* which gave some leeway to younger offenders were repealed. This lends added weight to arguments that favour the higher age limit. Section 9(4) of the PSA provided that the court should take the age of offenders into account when sentencing. This provision states:

A court may impose a sentence of imprisonment on an offender who is under the age of 25 years and has not previously been convicted only if the court, having –
(a) considered all other available sentences; and
(b) taken into account the desirability of not imprisoning a first offender;
is satisfied that no other sentence is appropriate in all circumstances of the case.

The repeal of this section is relevant to the discretion of the sentencing judge in considering the age of the offender. The amended legislation still takes some account of youth in sentencing. Section 9(2) of the *Penalties and Sentences Act 1992* states that in sentencing an offender, a court must have regard to –

'(f) the offender's character, age and intellectual capacity;'

[3] Queensland Legislative Assembly 5 August 1992, 6130.
[4] Queensland Legislative Assembly 5 August 1992, 6131.

and in s9(4) in relation to violent offenders, the court must still have regard to

> '(h) the antecedents, age and character of the offender;'

However, McPherson JA in *R v Taylor; Ex Parte A-G* (1999) 106 A Crim R 578 'concluded that he was unable to find anything in the PSA, as amended in 1997, which now 'compels the imposition of a substantial sentence of imprisonment on a young offender as a matter of course, or which deprives a sentencing judge of discretion of deciding in appropriate circumstances not to impose a sentence of imprisonment or actual detention.' [5] Again in *R v Dempsey; Ex Parte A-G* [1999] QCA 520 [16] Chesterman J observed that 'the youthfulness of an offender coupled with the fact that he or she is being punished for the first time remains very relevant' to penalty despite the amendments, however the 'weight to be given to that factor is less than it was prior to the amendments.' In *Dempsey*, reference was made to the Tasmanian case of *Lahey v Sanderson* [1959] Tas SR 17 where it was stated that:

> 'The courts have recognised that imprisonment is likely to expose a youth to corrupting influences and to confirm him in criminal ways, thus defeating the very purpose of the punishment imposed. There has accordingly been a universal acceptance by the courts in England, Australia and elsewhere of the view that in the case of a youthful offender his reformation is always an important consideration and, in the ordinary run of crime, the dominant consideration in determining the appropriate punishment to be imposed. It has been said by … the former Lord Chief Justice of England, that a judge … who sends a young man to prison for the first time takes upon himself a grave responsibility.' That … is a principle … that has repeatedly been adopted and applied in the process of sentencing … in Queensland."[6]

So even though the judges are using common sense and are evincing a serious appreciation of their sentencing responsibilities to the community and to youth generally, the actual rules have been changed and weakened.

The Queensland *Penalties and Sentences Act 1992* does not apply to children, that is those under 17 years. Rather the *JJA* is a Code in regard to children's offences, and the sentencing principles are set out in the Act in Part 7. The Principles are in s150, and the sentencing options or orders available to a court are laid out in s175. These include:

- a reprimand ss175(1)(a),
- a good behaviour order ss175(1)(b), 188, 189,
- fines ss175(1)(c), 190-192,
- probation ss175(1)(d), 193-194,
- community service orders ss175(1)(e), 195-202,
- intensive supervision orders s175(1)(ea), Division 9 s203-206,
- conditional release orders s175(3) and s220 (generally ss219-226),
- detention s175(1)(g) and s176, and
- publication orders s234.

[5] And see Shanahan, M, Irwin M Smith P *Carter's Criminal Law of Queensland (*14th ed Sydney: Lexis Nexis Butterworths), 1852.
[6] *R v Dempsey; Ex Parte A-G* [1999] QCA 520 at [16].

According to s150(2)(e), s 3 and the Schedule 1 Charter of Juvenile Justice Principles Clause 17, detention is only to be used as a last resort. The maximum period set for sentence in a juvenile detention centre is one year except for the most serious offences for which the court can impose a sentence of up to 10 years and life if particularly 'heinous' (*JJA*, s176(3) and see s234 for publication in this situation). Juveniles can be sentenced to serve out their time in an adult prison if they are over 17 years (*JJA*, s333, and Part 6 Division 11).

This lends more weight to the argument for changes to Section 6 to ensure that juveniles under the age of majority do not come within the more rigorous adult system.

Prior Reports

The Kennedy Commission reviewed the Corrective Services System in Queensland in 1988. The Report stated:

> In my view people under 18 just should not be in adult prisons. They are children in law, children in terms of rights and responsibilities. In other States they are in law required to go into juvenile institutions. This should be the case in Queensland. They just should not come into the prison system. To stop the entry of these young people into prison requires a redefinition of "child" in Queensland legislation. Amending the appropriate legislation would remove this small vulnerable group from the prison environment.'[7]

In 1997, the Australian Law Reform Commission also considered the juvenile justice system in Australia and recommended that:

> 'The age at which a child reaches adulthood for the purposes of the criminal law should be 18 years in all Australian jurisdictions'.[8]

Following this recommendation, there have been changes in all other states of Australia bar Queensland. In Tasmania, the *Youth Justice Act 1997* was enacted on 14 January 1998. This defined the age of a child as a person over the age of 10 and under the age of 18. The Northern Territory *Sentencing of Juveniles (Miscellaneous Provisions) Act 2000* commenced on 1 June 2000. It too had the effect of placing 17 year olds into the juvenile system. Finally, Victoria has recently changed this aspect of its juvenile legislation. *The Children and Young Persons (Age Jurisdiction) Bill* was passed and came into effect on the 1st July 2005. In the Second Reading Debates[9] it was explained that

> Essentially what will happen is that it redefines a child as being a person who commits an offence before their 18th birthday or alternatively is brought before the court before their 19th birthday. With the previous regime the age limitation for the commission of an

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[7] Kennedy JJ, *Commission of Review into Corrective Services in Queensland Final Report* (Brisbane: Department of Corrective Services, 1988), 126 para 20.2; At http://www.dcs.qld.gov.au/Publications/Corporate_Publications/Reviews_and_Reports/index.shtml (accessed 31 August 2005).

[8] Australian Law Reform Commission (ALRC) *Seen and heard: priority for children in the legal process*. (Report 84, Canberra: ALRC, 1997). At http://www.austlii.edu.au/au/other/alrc/publications/reports/84/18.html , 18.22, Recommendation 196. (accessed 31 January 2005).

[9] Victoria Parliament Hansard 13 October 2004, 971. At: http://tex.parliament.vic.gov.au/bin/texhtmlt?form=VicHansard.adv (accessed 29 August 2005).

> offence was 17 years and being brought before the court before their 18th birthday. The consequential amendments go to a number of different acts, including the Children and Young Persons Act, the Crimes Act, the Crimes (Family Violence) Act, the Evidence Act and the Parole Orders (Transfer) Act. It essentially means that the age is ratcheted up from 17 years to 18 years at the time of the offence or from 18 years to 19 years at the time of being brought before the court.[10]
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> The opposition supports this legislation. Universally from the law institute to the bar council, to lawyers I have spoken to and to Fr Peter Norden, there is support for this increase. It brings Victoria into conformity with most other jurisdictions in Australia. That universal support flows through to the opposition. [11]

Eight years later, Queensland remains the only state that has not complied with this ALRC recommendation.[12]

Current Research on Childhood Offending

Research by the Australian Institute of Criminology[13] has linked juvenile offending to child abuse and neglect. The research examined 'the correlation between child abuse or neglect and juvenile offending'. 'Pathways from Child Maltreatment to Juvenile Offending', concluded that 'children who suffer abuse or neglect are at a significantly greater risk of subsequently offending before they reach the age of 18'.[14] Thus, it would seem that many of the children who find their way into the juvenile justice system are already disadvantaged.

In addition, other research has linked juvenile offending to boys in particular not finishing school and youth unemployment. It has pointed to the importance of completing high school and gaining employment as positive factors for deterring juvenile crime, particularly the more prevalent property offences.[15] As Dr Don Weatherburn commented when launching the BOSCAR/ANU study: 'Reducing crime is not just about apprehending and punishing offenders. It's also about getting young men through school and into a decent job.' [16] Therefore, it would seem that the 17 year olds who are coming before the courts are likely to be in some way disadvantaged. If intervention takes place at this stage then the outcomes may be better. This positive intervention is less likely to take place in an adult prison than using the sentencing options provided by the *Juvenile Justice Act.*

There is also the issue of recidivism to consider. There would seem to be a link between the type of court orders given and recidivism rates. Cain in 1996 examined the criminal histories of the

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[10] Victoria Parliament Hansard 13 October 2004, 971. At: http://tex.parliament.vic.gov.au/bin/texhtmlt?form=VicHansard.adv (accessed 29 August 2005).
[11] Victoria Parliament Hansard 13 October 2004, 972. At: http://tex.parliament.vic.gov.au/bin/texhtmlt?form=VicHansard.adv (accessed 29 August 2005).
[12] Urbas, Gregor. 2000. "The Age of Criminal Responsibility." Canberra: Australian Institute of Criminology Trends and Issues in Crime and Criminal Justice No 181, 3. At: http://www.aic.gov.au/publications/tandi/ti181.pdf (accessed 10 June 2005).
[13] Stewart A Dennison S Waterson E, 'Pathways from Child Maltreatment to Juvenile Offending', (2002) 241 *Trends and Issues in Crime and Criminal Justice* 5.
[14] Harris, L 'Child Welfare And Crime In Australia' (2003) 153 *International Family Law Journal*
[15] Chapman B, Weatherburn D, Kapuscinki M, Chilvers M and Roussel S. 'Unemployment Duration, Schooling and Property Crime' (NSW Bureau of Crime Statistics and Research, January 2003.
[16] Media Release 'Unemployment, Duration Schooling and Property Crime (NSW Bureau of Crime Statistics and Research, 2003).

52,935 children who appeared in New South Wales' courts between 1986 and 1994. Cain made a number of findings including – '70% of offenders appeared in a children's court only once and that 30% re-offended', and that 'the harsher the initial penalty, the more likely the individual was to re-offend'.[17] Another recent review of the research on recidivism has concluded that 'One of the main findings that have emerged from previous research into the offending trajectories of juvenile offenders is that assignment of severe punishments for early criminal behaviour can result in greater recidivism'.[18]

Therefore, 17 year olds caught in the juvenile justice web are at a stage in their lives when their path is retrievable. There is a need for further research into the outcomes for 17 year olds placed in adult prisons. Common sense might suggest that the data would not be positive.

Other Views within the State

The situation has not passed without judicial comment either. Under the *Juvenile Justice Act* a person is defined as a child if they have not yet turned 17 years. This means that once a person turns 17 they are treated as an adult for the purposes of the criminal law. Judge O'Brien noted in the 2002-2003 Children's Court Annual Report, 'Section 6 of the Act does contain provision for the age of 18 to be fixed by regulation but this provision has never been utilised'. He noted the disjunction between this situation and the prevailing social and legal framework, 'In Queensland, young people are not lawfully permitted to vote or to drink alcohol until they reach the age of 18, yet, at the age of 17, their offending exposes them to the full sanction of the adult criminal laws. There are I believe real concerns involved with the potential incarceration of 17 year olds with more seasoned and mature adult offenders'.[19] This view reflects that of the ALRC 1997 report which recommended that there is consistency.[20]

In 2001, the Commission for Children and Young People also commented on this anomaly in regard to age in the Queensland system, arguing that 'serious consideration should be given to extending the scope of the … Act to children who are 17 years.' However, the Commission was aware of the resource/infrastructure implications that would be involved in raising the application of the youth justice system to all young people under 18, and considered that move towards achieving this goal be made over a number of years.[21] It might be that sufficient time has now passed.

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[17] Cain M, *Recidivism of juvenile offenders* (Sydney: Department of Juvenile Justice, 1996); And see O'Connor, Ian, Kathleen Daly and Lyn Hinds. "Juvenile Crime and Justice in Australia." (In *Juvenile Justice Systems: An International Comparison of Problems and Solutions*, edited by Nicholas Bala, Joseph Hornick, Howard Snyder, and Joanne Paetsch. Toronto: Thompson Educational Publishing, 2002), 242.

[18] Lynch, Mark, Julianne Buckman and Leigh Krenske "Youth Justice: Criminal Trajectories." *Trends and Issue in Crime and Criminal Justice*, No. 265. (Canberra: Australian Institute of Criminology, 2003), 2.. At: http://www.aic.gov.au/publications/tandi2/tandi265.html (accessed 21 January 2005).

[19] Queensland, Children's Court Annual Report 2002-2003, 5.

[20] Australian Law Reform Commission (ALRC) *Children's Involvement in Criminal Process* in *Seen and heard: priority for children in the legal process*. (Report 84, Canberra: ALRC, 1997). At: http://www.austlii.edu.au/au/other/alrc/publications/reports/84/18.html , 18.22. (accessed 31 January 2005); Urbas, Gregor. 2000. "The Age of Criminal Responsibility." Canberra: Australian Institute of Criminology Trends and Issues in Crime and Criminal Justice No 181, 3. At: http://www.aic.gov.au/publications/tandi/ti181.pdf (accessed 10 June 2005).

[21] Queensland. Commission for Children and Young People and Child Guardian, "Submission on Juvenile Justice Amendment Bill 2001", 3. At: http://www.childcomm.qld.gov.au/publications/pdfs/juvenile_justice_submission.pdf (accessed 11 June 2005).

Expectations arising from the Charter and Human Rights Conventions

The principles underlying the operation of the *JJA* are set out in Schedule 1 'Charter of Juvenile Justice Principles' of the Act. These cover issues such as vulnerability and accountability of children, diversion, fair and participatory proceedings, sentencing, the 'last resort' principle, and victim impact. The inclusion of the Charter arose following Recommendation 15 of the 1999 *Report of the Commission of Inquiry into Child Abuse in Queensland Institutions* (the Forde Report).[22] Thus the Charter recognises the vulnerability of young people. Clause 4 of the Charter, for example, states that a child should be given special protections during police interviews. Clauses 5, 8 and 9 deal with the importance of diversion strategies, and sentencing options such as cautioning and youth justice conferences. Clause 17 states that the child should be detained in custody for an offence, whether on arrest or sentence, 'only as a last resort and for the least time that is justified in the circumstances'.

The Queensland Commission for Children and Young People voiced some concerns about the Charter included in the 2001 amending bill, specifically that 'it did not include all the basic rights of young people in detention expressed in the United Nations' Rules'. The Commission also expressed concern that it did not effectively incorporate the Rules in the actual 'legislation' as there was 'no obligation on people responsible for administration of the Act to abide by the Charter of Juvenile Justice Principles'.[23]

The Charter does echo Article 3 of the Convention on the Rights of the Child – 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative bodies or legislative bodies, the best interests of the child shall be a primary consideration'. It also echoes Article 37. 'No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time'.

However, Article 1 of the Convention defines a child to be 'every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.'[24] If Article 3 is read with Article 1, then it would seem that the legislators should make sure that the best interests of the child are a primary consideration. In defining 'child' differently the legislation does not comply with this overriding obligation. Is this Convention binding on the Queensland government though? The Commonwealth government has ratified this treaty. Thus it would seem that all laws of states and territories within the Commonwealth should be made to conform to that treaty.

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[22] Queensland. *Report of the Commission of Inquiry into Child Abuse in Queensland Institutions.* 1999. At: http://www.families.qld.gov.au/department/forde/publications/documents/pdf/forde_comminquiry.pdf (accessed 2 February 2005).

[23] Queensland. Commission for Children and Young People and Child Guardian, "Submission on Juvenile Justice Amendment Bill 2001", 3. At: http://www.childcomm.qld.gov.au/publications/pdfs/juvenile_justice_submission.pdf (accessed 11 June 2005).

[24] UN Convention on the Rights of the Child At: http://www.unhchr.ch/html/menu3/b/k2crc.htm (accessed 5 August 2005); See also Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), Part 5. At: http://www.unhchr.ch/html/menu3/b/h_comp48.htm (accessed 5 August 2005).

The requisite considerations espoused in the treaty include Article 39 which instructs states 'to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim' of neglect or abuse, and Article 40 which highlights the need for 'promoting the child's reintegration' back into society. In not taking these into account to the degree required in the treatment of those children under 18, the Queensland government would appear to be acting in contravention of these overriding principles.

There is a reporting mechanism associated with the Convention. All States parties are obliged to submit regular reports to the UN Committee on the Rights of the Child describing how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".[25] The Australian government is due to appear before the UN Committee on the Rights of the Child in September. They have submitted a Report. The Committee has requested further information – specifically statistics.

In the 1997 *Concluding observations of the Committee on the Rights of the Child: Australia,*[26] the Committee expressed concern regarding '21. The situation in relation to the juvenile justice system and the treatment of children deprived of their liberty is of concern to the Committee, particularly in the light of the principles and provisions of the Convention and other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty'. The Committee also expressed concern at the reservation in regard to the detention of adults separate from juveniles – '23. In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 37 (c) with a view to its withdrawal. The Committee emphasizes that article 37 (c) allows for exemptions from the need to separate children deprived of their liberty from adults when that is in the best interests of the child.'

The Non-Government Report on the Implementation of the United Nations Convention on the Rights of the Child in Australia has also been submitted to the Committee. This Report recommends 'That the Queensland Government immediately pass a regulation to include 17-year-olds in the juvenile justice system'.[27] That report was compiled by the National Children's and Youth Law Centre and Defence for Children International (Australia). This issue is thus a live one as regards Australia's international obligations.

Arguments against Changing the Status Quo

There appear to be two main arguments against changing the status quo. The first embodies the 'law and order' lobby views and this has often been inflamed by misinformed media reports of increasing juvenile crime rates. The Australian Law Reform Commission (ALRC) Report cautioned in 1997 that 'Community perceptions that youth crime is rampant have lead to particularly punitive legislative developments in many jurisdictions. These developments are harmful to children and endanger community safety'. They also noted that: 'The levels of

[25] UN Committee on the Rights of the Child. At: http://www.ohchr.org/english/bodies/crc/index.htm (accessed 5 August 2005).
[26] *CRC/C/15/Add.79. (Concluding Observations/Comments), 10/10/97.* At: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3d744477ea59fdaf8025653200508bb8?Opendocument (accessed 5 August 2005).
[27] *The Non-Government Report on the Implementation of the United Nations Convention on the Rights of the Child in Australia* May2005, 6.

children's court appearances and formal diversions from the juvenile justice system have remained stable for the last fifteen years. Despite this there is a public perception that youth crime is increasing. This "moral panic" is mirrored in and fuelled by media stories of a juvenile crime wave and by political rhetoric'.[28] A Sunday paper for example carried a story titled 'Our Child Outlaws: a shocking 16,400 crimes in a year – and they were all committed by kids in Queensland' beginning with 'Queensland criminals are becoming younger and younger as thousands of juveniles embark on mindless vandalism, theft and assaults'.[29] This type of rhetoric tends to inflame public sentiment and encourage tougher legislation, rather than a more balanced view of cause and effect.

The second argument concerns the cost of change. This is a complex but important issue. The Reports suggest that the cost of maintaining a juvenile within the government system is indeed more expensive than for an adult. An examination of the 2003-4 Queensland State Budget papers discloses that the average daily cost per detainee in a youth detention centre for the previous year was $627.[30] On the other hand, the cost per prisoner per day in an adult correction centre was estimated to be $187.26 if held in secure custody, $145.16 in open custody, and $165.34 in community custody.[31] But what numbers are we talking about here? As at June 2004, there were a total of eight 17 year olds in the prison system in Queensland – seven males and one female. Of these three were indigenous.[32] The numbers are small. The corresponding changes to the cost structures and budgets are not great from this perspective. However, there are sure to be resource implications for a legislative change beyond the correctional centre costs. Those costs may not be insignificant. The extension of the provisions would possibly require additional individual reports, and the supervision and implementation of any orders made. There may be resource issues for the police and the courts. Surely these should take secondary importance to the future welfare of the child? In the longer term, changing the outcomes for each of these juveniles can only have a positive economic and social effect on society at large.

In Conclusion

The present situation in Queensland with regard to this rule is an anomaly. The arguments in favour of change include the importance of the existence of a general rule across Australia, alignment with international obligations, and the contra-indications in changes to sentencing legislation. The arguments contrary to change include the current views of the media about burgeoning juvenile crime rates and the need to treat young offenders harshly. However, statistics demonstrate that juvenile crime is not 'out of control' and research on juvenile offenders re-offending rates suggest that early intervention is more successful in keeping juveniles from entering the adult corrections system. It would seem that the extra costs in

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[28] Australian Law Reform Commission (ALRC) *Children's Involvement in Criminal Process* in *Seen and heard: priority for children in the legal process*. (Report 84, Canberra: ALRC, 1997, 18.3). At: http://www.austlii.edu.au/au/other/alrc/publications/reports/84/18.html , 18.3. (accessed 31 January 2005);

[29] Lawrence, J. "Our Child Outlaws: A Shocking 16,400 Crimes in A Year – And They Were All Committed By Kids in Queensland." *The Sunday Mail*, 9 May, 15. 2004.

[30] *2003-4 Queensland State Budget – Ministerial Portfolio Statement – Department of Families.* At: http://www.dcs.qld.gov.au/Publications/Corporate_Publications/Budget_Documents/mps2002-03d.pdf (accessed 1 September 2005).

[31] *2002-03 Queensland State Budget – Ministerial Portfolio Statement – Department of Corrective Services.* At: http://www.dcs.qld.gov.au/Publications/Corporate_Publications/Budget_Documents/mps2002-03e.pdf (accessed 1 September 2005).

[32] Department of Corrective Services Annual Report 2003-04, Key Performance Statistics Table 3. At: http://www.dcs.qld.gov.au/Publications/Corporate_Publications/Annual_Reports/annual03-04/KeyStatistics3.shtml (accessed 1 September 2005).

housing children in the juvenile system would be small with only 8 in the system, and more than made up for by more positive outcomes overall.