

BUDGET COMMENT: No reality of rights in State Budgets

Cheryl Vernon writes about the Western Australia Budget ...

"With a state election due to take place in the next 12 months, it comes as no surprise that the WA State Budget 2000 highlights juvenile justice issues as part of an overall law and order platform for election campaigning."

Western Australia traditionally has a juvenile detention rate well above the national average. Currently that figure sits at 1.7 times higher than the national average. The juvenile detention rate amongst Aborigines in WA is 32 times the detention rate of non Aboriginal juveniles.

There is little hope of these appalling detention rates falling when the state budget targets an increase in the number of detained children, and predicts that the cost of detention will drop from \$455 per day to \$439 if the daily average increases by ten more children. When contrasted with a cost of \$33 per day to supervise a child in the community, this seems to make little economic sense, and fails to support the principle of detention being a last resort for young offenders. Detention is the most extreme end of the legal process, and as such, is a costly option. The figure often quoted as the cost of keeping someone detained for one year is \$50,000. Yet, we can ascertain from the State Budget 2000, that the figure is in fact much higher - around \$160,000 per year, if we accept that the daily cost is \$439 per person.

Western Australia is currently experiencing an accommodation crisis for homeless young people. The

budget contains no strategy to address the crisis. This is despite the plentiful evidence that homeless children (with no parental supervision) are very likely to become involved in the criminal justice system because of their lack of a legitimate source of income, or meaningful activity to pass the day or their vulnerability to falling into substance abuse to dull the mental pain of their daily existence. The risk with this budget is that young people, will be imprisoned, not because of their criminality, but because they are homeless, and because the government has failed to prevent homeless young people from falling through the gaps.

Perhaps, the anticipated increase in the number of children in detention is directly linked to the government's reluctance to fund legal representation for children. It is vitally important that young people receive legal representation on criminal matters as provided for in the UN Convention on the Rights of the Child to which Australia is a State Party. The Convention states that a child has the right to legal assistance in the preparation of his or her defence. The move towards increasing the number of children in custody, and the reluctance to provide for legal representation, highlights the Western Australian Government's disregard for international treaties and the rights of children and young people.

\$50million in the budget has been allocated to combat drug abuse. A large component of this will be used to implement an intensive support and compulsory intervention project for young people with serious drug

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initiatives in the legal field. Julia is also a member of the SA Law Commission Project Committee undertaking a review of the Child Care Act, and was involved in drafting legislation on commercial sexual exploitation and on child pornography.

The Centre publishes a wide range of materials, including a quarterly juvenile justice newsletter called ARTICLE 40, which profiles best practice in juvenile justice in South Africa and Africa. The report on children's views of the Child Justice Bill described above was also published recently by the Centre in a booklet called : What the children Said...."]

Editorial Note:

Readers with an interest in children's rights in South Africa, especially legal issues surrounding children in especially difficult circumstances, child welfare and juvenile justice are invited to make contact with Julia to exchange information and views. Until the end of June she can be contacted at:

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abuse problems. On the surface this seems like a worthy project. However, no provision has been made for legal representation, legal appeal and reviews. Specialist youth legal services in the state are already stretched to the limit without the further demand that this strategy will no doubt create. Inherent in this strategy is the need to provide secure care for young people. Given that we are in the midst of an accommodation crisis, one wonders where these young people will be housed and what implications this has for their well being, as they will in essence, be deprived of their liberty.

One cannot foresee this government being mindful of the United Nations claim in the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, that young people deprived of their liberty are highly vulnerable to abuse, victimisation and the violation of their rights. Deprivation of the liberty of a young person should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases.

The strategy invokes the questions - What will the Government do to ensure that young people are detained in facilities that provide meaningful activities and programs, that promote and sustain their health and self respect, that foster their sense of responsibility and encourage those attitudes and skills which will assist them in developing their potential as members of society? What provisions will be made to inspect and report on the facilities?

This budget is focused on a law and order platform and does little to alleviate child poverty and tensions within families struggling to cope with economic and social deprivation. It seems that by focusing on law and order the Government can win votes by appeasing a vocal sector in the community at the expense of children's rights, and by ignoring the social and economic factors that underpin homelessness, offending and substance abuse.

Cheryl Vernon is on the National Committee of DCI-Australia and Director of the Youth Legal Service, WA

... and Coleen Clare looks at the Victorian Budget

"Community service organisations who care for these kids have been saying for the past two years that the level of government funding is not enough. With this State Budget the Bracks Government has had the opportunity to show that it cares and it appears as if very little has been done for them. It is extremely concerning that they have ignored the independent industry viability study and we will seek urgent talks with Minister for Community Services, Christine Campbell, to discuss the situation."

The Victorian Government has lost a golden opportunity to redress some of the imbalance that has arisen over the past decade in the availability of practical and effective supports for children.

Children who have been removed by the government's child protection staff are cared for and supported by community service organisations. Government funding for this care has been steadily eroded over the past seven years.

The funding gap has reached crisis point for most of the organisations and some who can no longer afford to fund the gap themselves have had to hand services back to the government. It is unclear from this budget whether there will be sufficient funds available to support these organisations and cope with increased demand.

A recent study of the financial viability of this sector has revealed that the financial drain has become so great for many of these organisations it now threatens their very existence. This situation was reported to the government in March when the Premier, Cabinet and Minister for Community Services were advised by the Association that at least \$5.5million was needed from this State Budget to keep the residential care system afloat. A further \$5million was needed for the support of children in foster, kinship and permanent care and another \$5million for supports to families so that their children need never come into care.

These are small sums when one looks at a Government with a surplus of \$59million for 2000-01.

Relevant features of the Victorian Budget for the Community Services portfolio include:

- \$4.8million, growth funding, for recognition of the 'complexity' of residential care;
- \$3million, new money, for kinship and permanent care placements;
- \$5million, capital monies;
- \$1.7 million, "strengthening/family support" money.

Coleen Clare is Chief Executive Officer of the Children's Welfare Association of Victoria (an affiliate of DCI-Australia)