

CHAPTER FIVE

SELECTION AND TRAINING OF STAFF IN RELEVANT YOUTH SERVICES

5.1 INTRODUCTION

In its Terms of Reference the Committee was asked to consider:

the selection and training of staff in relevant youth services.

The Committee collected evidence during the Inquiry on the criteria for selection and training of staff in a range of youth services which impact on youth at risk and those in the Juvenile Justice System. Youth become involved in the Juvenile Justice System through contact with the police, courts, Juvenile Justice Centres or Juvenile Justice Officers. In addition the Committee took evidence relating to the skills required for workers in youth services for "youth at risk" who were identified as those most likely to, without preventative measures or adequate crime prevention programs, become involved in the New South Wales Juvenile Justice System.

With the Committee's broad perspective on the Juvenile Justice System, "relevant youth services" has been determined to be those relating to the formal Juvenile Justice System, such as the police, the courts, and Juvenile Justice Centres, and services to youth at risk.

Services to youth at risk are provided in New South Wales by both government and non-government agencies. The participation of non-government agencies in the Juvenile Justice System raises issues about the nature of the partnership between such agencies and the government in matters such as funding, standards and licensing. The Committee has commented on these issues throughout the Report and particularly in Chapter Six. All of these matters have implications concerning the selection and training of staff in youth services.

The Committee received a number of submissions and heard evidence in relation to the selection and training of staff working with youth services. Most of the evidence given in submissions to the Committee, however, concentrated on youth workers in Juvenile Justice Centres and in the formal court process.

5.2 YOUTH WORKERS

The role and involvement of youth workers, particularly in institutions, has changed over the years. "Youth Worker", developed as a position title in recognition of the special role of workers directly involved with adolescents. The Committee heard that the complexity and difficulty of the work involved and the extent of the support and attention required has not been understood and has been undervalued:

"Youth workers over the decades have received no recognition of the skilled and professional role they execute...While youth workers were undervalued prior to the beginning of the reform process, they have been de-valued ever since."¹

The complex and different needs of adolescents, the Committee heard, were overlooked as there is no particular interest group or public body which really takes up the cause of adolescents as a significant group within society.²

5.2.1 Working Environment

Evidence before the Committee indicated that there can be a high burn-out rate among youth workers in Juvenile Justice Centres, which was said to vary from institution to institution. In the early part of the Inquiry the Committee heard that this resulted in a significant turnover rate of staff in some Centres. The stressful nature of the work together with relatively low salaries and limited career path or employment opportunities were cited as factors contributing to this situation.

Evidence in one submission showed greater stability and lower staff vacancies in country Juvenile Justice Centres than those centres located in Sydney. This was seen to be related not only to local labour market dynamics but also to the better profile of the Centres in the community within country areas.³

The Committee heard that the high attrition rate of staff was met by management through the recruitment of temporary and casual employees. Many staff in Juvenile Justice Centres were reported to be employed on a casual basis. One submission indicated that at one stage 50% of the staff at Yasmar Juvenile Justice Centre were casual workers. Evidence also showed that off duty prison officers had been working weekend shifts at

¹ Submission 11. p.6

² Evidence 19.12.91

³ Submission 33. p.308

Minda Juvenile Justice Centre.⁴ The Committee considers that such an approach is inappropriate given the different demands of adults and children within secure accommodation.

The nature of the work to be undertaken by youth workers appears to have become confused. The Committee heard that youth workers had some difficulty with what seemed to be a conflict between their role of rehabilitation and of being a behaviour modifier and guard:

"Many youth workers also felt the difficulties of the lack of a clearly defined role for them with their duties crossing over between developing relationships with detainees and helping to support them and their role as "key turners" who are responsible for enforcing the increasingly restrictive levels of discipline demanded at Minda."⁵

It was also explained to the Committee that there are few, if any, promotional opportunities available to a youth worker. Generally, the highest position they can attain is that of Chief Youth Worker:

"One of the key problems encountered at Minda was in providing adequate levels of trained, qualified staff. Vacancies existed at all levels including youth workers, social workers, teachers, administrators and service staff. A major part of this is the poor salaries, training and career paths offered to the FACS employees... There was ...little chance of career progression ..."⁶

The Committee determined that a key factor in the rehabilitative process is effective youth workers and that the staffing of Juvenile Justice Centres was a matter which should be addressed. Within the formal area of juvenile justice, the Committee considers that positions relevant to a career path for youth workers would include Juvenile Justice Officers, which are community based juvenile justice personnel within the Office of Juvenile Justice, and Co-ordinators of the proposed Children's Panels.

Recommendation No. 94:

That urgent attention be given to developing a career structure for workers in Juvenile Justice Centres including positions of Juvenile Justice Officers and Co-ordinators of the proposed Children's Panels.

⁴ Ibid

⁵ Submission 61. p.3

⁶ Submission 61. p.5

5.2.2 Salaries and Conditions

The Committee heard on numerous occasions that the salaries available to youth workers on all levels from Senior Youth Worker to Chief Youth Worker were inadequate. The Committee considered that the poor salary and lack of career path formed a barrier to the selection and retention of good quality staff and as such should be addressed.

"(the) Staffing... area... needs urgent attention. Youth workers' pay, conditions, career paths and training need urgent examination. Similarly the government will need to address the problem of attracting and retaining suitably qualified and committed professionals to work in the system."⁷

"They (youth workers) are poorly paid, they are poorly prepared and they are poorly regarded by their employers."⁸

The salary for a Senior Youth Worker commences at \$23,457 with yearly increments for four years, depending on the number of years the person has been in a particular position. At March 1992, the grade of Chief Youth Worker had a commencing salary of \$26,628.⁹

"Difficulty in attracting professional staff can be put down to a number of key factors including poor salary and career structures ..."¹⁰

The Committee was advised that penalty rates apply for youth workers who work overtime. When some Committee Members attended Mt Penang Juvenile Justice Centre, youth workers with whom they spoke explained that those with families worked weekends and public holidays to "make ends meet". The Committee condemned this practice as they considered it was not conducive to effective work practices and may lower the quality of the work of youth workers within Juvenile Justice Centres.

The Committee considered that attention should be given to the salaries paid to youth workers.

Recommendation No. 95:

That the salaries of workers in Juvenile Justice Centres be reviewed in order that they are commensurate with the skills required and responsibilities undertaken in such positions.

⁷ Submission 61. p.5

⁸ Submission 11. p.6

⁹ Discussion, Health and Research Employees Association, March 1992

¹⁰ Submission 61. p.3

5.2.3 Recruitment and Morale of Youth Workers

Usually, people who seek to work with children and adolescents have a commitment to young people and a desire to effect positive outcomes on their behalf. The work, like other service professions of teaching and nursing, requires hard work, dedication and a personal commitment. Working with youth can be satisfying in terms of the sense of achievement that can be gained. There is a need to develop and maintain the morale of youth workers in order to encourage them in their work and promote an appropriate level of self esteem.

The Committee heard of an increasing need for professional and trained people to work with youth, particularly young offenders and juveniles at risk:

"the management of juvenile offenders both in the community and in institutions requires teams of professionally qualified staff. Young offenders in the 1980s are emerging from more and more complex and dysfunctional family and wider societal situations. Knowledge, attitude and skills training in equipping all levels of staff to demonstrate high degrees of competency are mandatory."¹¹

On a number of occasions it was put to the Committee that both the pre-requisites for a position of youth worker in a Juvenile Justice Centre and the on-the-job training were inadequate.

The Committee learnt that many of the youth workers in Juvenile Justice Centres have come into the job with no experience at all in dealing with young people, particularly delinquent young people:

"Youth workers were expected to come to the job untrained and accept poor wages and conditions. There was little or no on-the-job training provided..."¹²

"staff dealing with young offenders ...lack basic principles of knowledge in dealing with young offenders and their families"¹³

Both initial and on-going staff training were said to be a fundamental pre-requisite to the success of the juvenile justice program. The particularly demanding role of youth workers in institutions was seen to require high levels of skill in the areas of individual

¹¹ Submission 11. p.5

¹² Submission 61. p.3

¹³ Submission 21. p.1

and group interaction, communication, motivation, counselling, control and supervision. These skills, it was heard are exercised with involuntary adolescent detainees whose disrupted lives demand considerable understanding and insight.¹⁴

5.2.4 Pre-Employment Training

Evidence to the Committee suggested that it was an anomaly that youth workers in the area of juvenile justice did not require tertiary qualifications, unlike teachers, health workers and welfare workers. It was suggested that the most appropriate basic training mix is a combination of tertiary study and local practice, particularly to assist in developing career portability.¹⁵

However, the Committee also heard evidence which indicated that tertiary or other qualifications do not necessarily make a "good" youth worker. Rather, qualities such as appropriate supervisory skills and compassion were seen to be equally important features that a youth worker must demonstrate in his or her role:

"staff need not be "graduates" of anything as the best workers come from "experience" not the classroom."¹⁶

The Committee was impressed with information collected in New Zealand concerning the work of one particular Youth Justice Co-ordinator. Without any formal training but with extensive work in Community activities, the person in question had become well known throughout the Country as the most effective and knowledgable Family Group Conference Co-ordinator.¹⁷

The Committee also took evidence that there should be pre-selection criteria for formal training courses which would not necessarily need academic requirements, and that training should be conducted through tertiary institutions and form part of a general course in "youth work". Evidence also suggested that formal training in youth work would be most beneficial when completed in conjunction with employment and where time to study was considered an essential aspect and part of employment.¹⁸

¹⁴ Submission 11. p.7

¹⁵ Submission 11. p.5

¹⁶ Submission 40. p.2

¹⁷ Discussions 4-7 November 1991. Family Group Conferences are outlined in Chapter Three, Section 3.7.2

¹⁸ Submission 24. p.2

Evidence before the Committee suggested that a pre-employment training course would need to be comprehensive and give particular emphasis to child development, counselling, personal development, non-violent strategies to deal with difficult children, Aboriginal history and culture and multi-cultural issues.¹⁹ The Committee concurred that formal training for youth workers would need to encompass such issues.

Recommendation No. 96:

- That prerequisites for employment as a youth worker in Juvenile Justice Centres include criteria such as community experience, ethnic or culturally specific knowledge and personal skills in relating to young people.

Recommendation No. 97:

- That, as with all new employees, youth workers in Juvenile Justice Centres generally be employed initially on a trial basis, to enable assessment of their capabilities.

Recommendation No. 98:

- That formal training for youth workers in Juvenile Justice Centres give due heed to the issues of child development, counselling, personal development, non-violent strategies to deal with difficult children, Aboriginal history and culture and multi-cultural issues.

5.2.5 In-Service Training

It was recommended to the Committee that in-service or on-going training was also an essential ingredient in developing the most appropriately trained and effective staff. The Committee heard of the large need for in-service training for staff in Juvenile Justice Centres and of the nature of the training required. In particular it was said that youth and Juvenile Justice Centre workers "must be trained thoroughly in the needs and care of young people."²⁰

¹⁹ Submission 33.

²⁰ Submission 40. p.2

One submission indicated that this may best be achieved through the placement of trainers within the working unit rather than removing workers to a separate staff training centre. Training near or in the workplace was said to be particularly useful for youth workers in country areas.²¹

Evidence showed that in the mid-1970s a pre-employment program was established by the then Department of Youth and Community Services, for youth workers. With the changing role of youth workers, that is from working closely with young offenders to what was described as being a "minder", youth workers were increasingly seen by some superintendents not to require such training and the program lapsed.

Youth workers were then provided with an induction program said to range in duration from several hours to several weeks.²² Other evidence indicated that specific worker orientation training was available between about 1983 and 1989 until a generic mode of training was introduced for youth workers, District Officers and young offender service workers.²³

The Committee heard that formal or in-service training would need to be complemented by appropriate and adequate supervision in the workplace. It was suggested that the supervision required would need to involve not only administrative matters but also professional assistance to help youth workers manage their personal responses, which were said to directly result from their work. One submission proposed that such supervision would be best provided by professionals trained in psychology and not line managers.²⁴

The Committee is supportive of the view that a continuing education and staff training program be developed and implemented.

Recommendation No. 99:

That courses be developed and provision made for acquiring skills through workplace and in-service training for youth workers in Juvenile Justice Centres.

²¹ Submissions 11, pp.3, 5, 27

²² Submission 11. p.6

²³ Submission 27. p.1

²⁴ Submission 24. p.2

Recommendation No. 100:

- . That induction and in-service training must be provided to:
 - . assist youth workers to develop an understanding of their role within Juvenile Justice Centres, and
 - . to provide information on the relevant mechanisms through which conflicts within their work can be resolved.

5.2.6 Specialist Youth Workers

The Committee visited a Community Youth Centre in the Sydney suburb of Stanmore and heard of the nature of the counselling work involved. It took evidence also, from one of the primary architects of the Community Youth Centre Program, Mr John Howard. Workers in Community Youth Centres, are required to have a professional qualification in either social work or psychology. The Committee appreciates the need for and commends the use of specialist youth workers such as professional counsellors in these Centres and in Recommendation 59 recommends that Community Youth Centres be extended to cover further regions where there are Juvenile Justice Offices. The Committee considers that counsellors providing such specialist services be professionally qualified in either social work or psychology.²⁵

Recommendation No. 101:

- . That counsellors providing specialist services to young offenders be professionally qualified in either social work or psychology.

5.2.7 Skills and Abilities Required by Youth Workers

The Committee took evidence concerning the range of skills and abilities required for youth workers. Through its visits, hearings, and the submissions received, the Committee appreciated that skills development in the following areas was considered essential for the training of youth workers:

²⁵ Evidence 4.4.91 p. 43 and Discussion 28.1.92

- . dealing with conflict and violence;
- . working effectively within the welfare system;
- . working as part of a team with other professionals; and
- . developing and maintaining personal relationships, including how to deal with confrontation.²⁶

It was also shown to the Committee that in-service training should provide up to date information on the:

- . principles in the handling of young offenders;
- . behavioural issues likely to be confronted in the workplace and dealing positively with such issues;
- . effects of incarceration over long or frequent periods, and the short term effects during the first incarceration period;
- . ways to identify and follow through an offender's needs in the areas of literacy, drug and alcohol issues, homelessness and family problems;
- . nature and availability of back-up services within the Office of Juvenile Justice, the Department of Community Services and the community;
- . ways to identify stress related factors at work, and attitudinal issues that may affect a youth worker's method of relating to clients; and
- . strategies for dealing with these issues in a positive manner for the benefit of the youth worker and the young offender.²⁷

5.2.8 Particular Requirements and Needs

The categories of skills above are broad and do not specifically address the different needs of groups such as girls, adolescents in rural areas, Aborigines and people from a non-English speaking background.

²⁶ Submission 24. p.2

²⁷ Submission 11. p.1, Submission 21. p.1

The Committee heard evidence that the particular needs of different groups were not necessarily adequately accommodated in the daily management of an institution. In the course of the Inquiry the Committee took evidence relating to special groups that it considers is relevant for the selection and training of youth workers. Whilst the Committee is aware that a significant minority group within the Juvenile Justice System could be described as developmentally delayed, no submissions were forthcoming to provide the Committee with insights into these needs.

The Committee heard of staff management practices which had the effect of exacerbating the difficulties faced by Aborigines in Juvenile Justice System and encouraging racism. It was heard that in one Juvenile Justice Centre a special wing had been set up as an "Aboriginal" wing in which the administration of the Centre disciplined non-Aboriginal detainees by placing them in that particular wing. Detainees in that wing, it was said, were more likely to be subjected to "abuse and assaults".

Evidence also indicated that behaviour of some Aborigines, which followed from difficulties in coping with the rigidity and isolation of Juvenile Justice Centres, resulted in penalties such as placement in maximum security areas. Such severe penalties were said to occur regardless of the offence for which the juvenile had been detained.²⁸ Thus some young Aboriginal detainees have been exposed to an increasingly tough and isolated detention.

The Committee noted the particular isolation felt by young Aborigines in detention. During the Inquiry, the Committee was reminded that many young Aborigines in detention were from country and isolated areas. Thus it is difficult for members of their families to visit, particularly as many Aboriginal families do not have the financial resources to travel from remote areas to Juvenile Justice Centres. In addition, the Committee heard that many Aboriginal families in western New South Wales did not have a telephone to receive calls from their young children.

The isolation experienced was said to be particularly acute for young Aboriginal people more familiar with living with a number of families in one house than occupying a single cell. The Committee acknowledges that restriction of movement, the feature of Juvenile Justice Centres, is particularly traumatic for Aboriginal young people from country areas who would generally have far greater geographical movement than non-Aborigines.²⁹

²⁸ Submission 61. p.2

²⁹ Evidence 4-6 February 1992

Sport was seen to be the main recreational activity for boys in Juvenile Justice Centres, although the Committee commends the Reiby Juvenile Justice Centre for the art program it provides. Activities for girls, other than sport, were limited. The Committee heard that Aboriginal boys and girls had a need to express and learn about their culture.³⁰

Evidence taken relating to girls in the Juvenile Justice System indicated that the needs of girls were not being adequately addressed in Juvenile Justice Centres. Many young female offenders were seen to be:

"either substance dependent, intensive substance users, victims of sexual assault, children of substance dependent parents, prostitutes, self-mutilators or severely emotionally distraught."³¹

Evidence to the Committee suggested that girls in Juvenile Justice Centres needed their safety and counselling needs addressed. In particular reference was made to the needs of female offenders on bail who are placed in Juvenile Justice Centres.

The Committee took evidence that there was a lack of appreciation on the part of youth workers in Juvenile Justice Centres of the differing perspectives of young offenders relating to their family or cultural background:

"Young offenders and parents on initial interviews...are not necessarily going to display co-operation with a bureaucrat in a position of authority, particularly people from a non-English speaking background family with suspicions of authority based on previous home country experiences."³²

As noted earlier in this Report, some young offenders in custody from a non-English speaking background may have a background of war or unrest, family separation and cultural dislocation. Some of these young people may have lost members of their families and be without appropriate support or assistance. Further they may have had difficulty adjusting to a predominately Anglo-Celtic culture and they may have had difficulty learning both written and spoken English. Some are affected by the discrimination still existing in many areas of Australian life. These various difficulties may have alienated certain young people from non-English speaking backgrounds and underlie their anti-social behaviour.

³⁰ Submission 33. p.313

³¹ Submission 24. p.3

³² Submission 21. p.2

Recommendation No. 102:

- . That any training or pre-employment programs for youth workers, particularly those working in Juvenile Justice Centres address matters relating to:
 - . Aboriginal history and culture,
 - . Multicultural issues,
 - . Girls in custody,
 - . Disabilities, and
 - . Age and stages of development.

Recommendation No. 103:

- . That where girls are detained, there be adequate numbers of female staff on each shift, especially in management positions.

Recommendation No. 104:

- . That the staff composition of Juvenile Justice Centres, especially in management positions, be representative of the racial and ethnic profile of detainees particularly in relation to those who are Aboriginal or Torres Strait Islanders.

5.3 POLICE OFFICERS

The Committee recognises the influential role of the police in the Juvenile Justice System. "In their interactions with young people, it is the police who have the most influence over a whole series of decisions which will later influence the outcome of the contact with the broader Juvenile Justice System."³³ A major part of police work is concerned with policing young people and in the majority of cases, the police are responsible for the initial contact which young people have with the Juvenile Justice System.

Evidence before the Committee revealed a number of issues which had implications for the training of all police officers. This evidence included the following assertions:

³³ Submission 33. p.212

- . children see the police as powerful figures and as representatives of an authority system hostile to their class and or race;³⁴
- . young people are threatened and subjected to actual violence by the police;
- . intimidatory behaviour toward juveniles who tried to enforce their legal rights;³⁵
- . harassment of young people from a non-English speaking background sitting and talking in public places;³⁶
- . girls being seen as more of a problem because they behave and respond differently;
- . the imposing of bail provisions which set the young person up to fail;³⁷
- . the issuing of written warnings to illiterate adolescents;³⁸
- . little knowledge or understanding among police of Aboriginal culture or of what it means to be an Aborigine in our society;
- . inadequate use of cautions; and
- . inflaming racial prejudice and tension through references in local media to "them" (Aborigines).³⁹

Following careful consideration of the evidence before the Committee it was determined that the New South Wales Police Service should expand its training program both at the Police Academy and "on-the-job" or other professional development courses to adequately equip officers to appreciate and develop the skills required in relation to a wide range of matters. Specific training for police officers has been recommended earlier in this Report particularly in relation to the use and philosophy of cautioning and in relation to the nature of Children's Panels.

³⁴ Submission 33. p.214

³⁵ Submission 33. p. 214 and Evidence 29.2.92

³⁶ Evidence 29.1.92

³⁷ Evidence 6.12.91

³⁸ Evidence 29.1.92

³⁹ Evidence 5.2.92

The Committee considered that police training would benefit from the assistance of members of the Aboriginal community as trainers. In particular, the Aboriginal Community Liaison Officers within the Police Service are considered to have valuable experience and knowledge which would assist in the development of all police officers.

The Committee considers that the type of training required for all police officers and relating to adolescents would be of a similar nature to the Initial Response Officers Course on Domestic Violence conducted by the Police Service. The course would then involve pre-residential reading material, a two week residential skills training component followed by six months field work, prior to an appearance before a review panel before graduation.

Recommendation No. 105:

- . That the New South Wales Police Service establish a training program specifically relating to policing children and young people which, similar to the Initial Response Officers Course on Domestic Violence, involves pre-residential reading material, a two week residential skills training component followed by six months field work, prior to an appearance before a review panel before graduation, and
- . That the New South Wales Police Service include in its training program at the Police Academy and "on-the-job" or other professional development courses, programs to adequately equip officers with the skills to liaise with and manage juveniles.

The skills required include a knowledge of:

- . the circumstances and characteristics of young people. Such training would need to include differences and difficulties relating to sex, physical or intellectual ability, racial and cultural and ethnic background. The effects of poverty, unemployment, sexual abuse, drug dependence and different views toward the police and authority figures held by Aborigines and some migrants would need to be understood;
- . the techniques and skills needed in dealing and interacting with young people;
- . the specific laws, rules and policies for the policing of young people;

- . an understanding and respect of the needs and rights of young people especially the right to use public spaces;
- . the nature of the dynamics of the policing of young people;
- . the legal and human rights of young people;
- . an understanding and respect for the legal and human rights of young people as well as their need for advice and advocacy;
- . an understanding of why racial and other prejudices and discriminatory actions are not appropriate to the professional policing of young people;
- . an understanding of the culture and social relationships of Aboriginal Australians;
- . an appreciation of the effectiveness of cautioning young people, and the preference of a Caution or a Court Attendance Notice rather than a charge;
- . improved awareness of and compliance with the provisions of the Bail Act regarding the presumption in favour of bail and reasonable bail conditions; and
- . an awareness of the role of other agencies in the Juvenile Justice System, and other reasons for their powers, policies and programs.

5.3.1 Police Youth Officers

Recommendations 30 and 31 provide for the position of Police Youth Officer to be developed and established within each patrol area of New South Wales. It was also recommended that a Unit be established within the Police Service to determine the nature of training and development required for all police officers in relation to policing young people.

Consideration was given in Chapter Three to the selection criteria for a Police Youth Officer. It was considered by the Committee that the position of Police Youth Officer would develop from the existing position of General Duties Youth Officers. Thus the current work undertaken by General Duties Youth Officers such as their educative role

and the development of programs in the area of juvenile crime prevention would continue.

The selection criteria considered relevant for the selection of Police Youth Officers would include the officer's particular understanding of adolescents and interest in working with youth. The position would require the ability to contact people from diverse cultural backgrounds especially Aborigines, effectively and sensitively; promote co-operation between individuals, groups and organisations providing services to young people and their families; facilitate culturally relevant decision making processes; and be competent and flexible in working with children, young persons and their families.

Recommendation No. 106:

- . **That the selection criteria for Police Youth Officers include the:**
 - . **officer's understanding of and interest in working with youth;**
 - . **ability to demonstrate effective and sensitive contact with people from diverse cultural backgrounds, especially Aborigines;**
 - . **ability to promote co-operation between individuals, groups and organisations providing services to young people and their families;**
 - . **ability to facilitate culturally relevant decision making processes; and**
 - . **competence and flexibility in working with children, young persons and their families.**

The Committee gave consideration to a separate career structure for Police Youth Officers which would recognise the skills and abilities of the positions, enable officers to move into other career streams, maintain the integrity of the position and ensure the positions become an integral part of a policing career within the New South Wales Police Service.

5.3.2 Aboriginal Community Liaison Officer

The Committee took evidence from a number of Aboriginal Community Liaison Officers in Sydney and in country areas. It is considered that this specialist group of liaison officers is undertaking a valuable role, particularly in western New South Wales. The issues faced in the different areas in which the Aboriginal Community Liaison Officers operate have many similarities. At present, there is no formal mechanism where ideas and effective strategies to deal with these issues are considered by the Aboriginal Community Liaison Officers.

The Committee endorsed the suggestion that Aboriginal Community Liaison Officers would benefit from an opportunity to share their strategies and experiences. The Aboriginal Community Liaison Officers currently travel to the Police Academy for skills training. However it was considered that the meeting of Aboriginal Community Liaison Officers would be most effective in a different environment, outside of the Academy. The Committee also endorsed the suggestion that Aboriginal Community Liaison Officers should participate in training of police officer at the Academy.

The Committee heard that there are thirty-one Aboriginal Community Liaison Officers in New South Wales. Evidence before the Committee showed that one of the three officers in Redfern may need to travel to Mt Druitt or as far as Newcastle to assist police officers dealing with young Aboriginal people.⁴⁰ The Committee considers that additional Aboriginal Community Liaison Officers are required, particularly female Aboriginal Community Liaison Officers. Further, the Committee heard that access to reliable transport sometimes prevented Aboriginal Community Liaison Officers from attending a police station or other meetings particularly when long distances were involved. It was considered by the Committee that reliable transport was essential for Aboriginal Community Liaison Officers to fulfil their role.

Recommendation No. 107:

That, in addition to their ongoing training at the Police Academy, the opportunity be created whereby Aboriginal Community Liaison Officers throughout the state could, meet once per year, at a venue to be determined by the Aboriginal Community Liaison Officers.

Recommendation No. 108:

That the Police Service review the adequacy of Aboriginal Community Liaison Officers with the view to increasing the number of positions throughout New South Wales.

In particular, consideration should be given to facilitating the recruitment of female Aboriginal Community Liaison Officers. Where female Aboriginal Community Liaison Officers are difficult to attract and retain in positions, consideration should be given to identifying women in the Aboriginal community who would be willing and appropriate to call upon to assist as required.

⁴⁰ Evidence 28.1.92

That access be made available to reliable transport for Aboriginal Community Liaison Officers in order that they may adequately fulfil their role.

5.4 COURTS

The Committee heard on numerous occasions that magistrates, at least those who were not specialist Children's Magistrates did not demonstrate fully an understanding of the issues and difficulties facing juveniles. Decisions such magistrates made in relation to juveniles were said not to recognise the role of support services and the options available within the child's community.

It was said to the Committee that some solicitors do not have much of an idea of the differences between representing a child and representing an adult. It was suggested that there is a need for specialised training for lawyers who might want to be involved in children's work. The participation of people from a background similar to that of the juvenile before the Court, such as a person from a non-English speaking background was considered to be valuable.⁴¹

Evidence to the Committee also indicated that:

"all court personnel including magistrates, solicitors, prosecutors and probation officers (guidance officers), would be specially qualified by a Diploma in Juvenile Justice."⁴²

"(there are) very few youth services with the capacity to assist the courts, far too few..there are too few trained youth workers with the same capacity."⁴³

The Committee heard on a number of occasions that it is quite common for young people before the court, not to understand court proceedings. It was considered that it would be beneficial for children and young people if language used within court proceedings was simple and able to be understood by them, their families and other support people in attendance.

⁴¹ Evidence 4.4.91, pp.175-6

⁴² Submission 25. p.16

⁴³ Submission 40. p.2

It was proposed to the Committee that there is a need for information days or in-service training for magistrates on a regular basis. Such a program may include a discussion session with relevant workers involved in the formal Juvenile Justice System such as Juvenile Justice Officers, community based workers and police officers.

The issues which might be canvassed in such training might range from dealing with people from non-English speaking background families in court, the behaviour of young persons in court, appropriate language to use and the lack of information exchange between the young person, the Duty Solicitor, Juvenile Justice Officers and relevant support people.⁴⁴

Recommendation No. 109:

- **That a training program be established for all magistrates, particularly those who may from time to time relieve at Children's Courts, to assist them to understand fully issues affecting young offenders, including sentencing options and available services.**

5.5 GENERAL YOUTH WORKERS IN JUVENILE JUSTICE SERVICES

Throughout this Report, particularly in Chapter Two which deals with Crime Prevention Programs and Chapter Six which refers to the adequacy of services to young people in the Juvenile Justice System, comments have been made regarding the particular nature of and staff recommended for specific services. In the first Chapter of the Report the Committee has indicated that an underlying principle to the Inquiry is that selection and training of all persons involved with juveniles should be of the highest order. In particular, specific recommendations in Section 6.6 have been made relating to the selection of workers to staff accommodation services.

Considerations that the Committee determined particularly relevant to the selection and training for staff in the wide range of services to youth at risk have been outlined throughout the Report. In particular the Committee considers that the needs of groups which are either disproportionately represented or have needs which set them apart from the bulk of juvenile justice population, that is Aborigines, Girls, People from non-English speaking backgrounds and rural young people should be a major factor underlying the selection and training of staff.

⁴⁴ Submission 21. p.2

Considering the particular needs of Aborigines, girls and people from non-English speaking backgrounds, which have been described throughout the Report, has led the Committee to make a particular recommendations in relation to the staff and training required for those working with these youth. The Committee determined that it is desirable that wherever juveniles from these groups are or have the potential to be involved in programs, participate in schemes or use services, that the staff of those services be chosen who are able to demonstrate a sensitivity to and knowledge of the specific backgrounds and needs of those groups. Further, it was considered that training may be necessary to develop the knowledge of such workers in relation to the often complex and specific difficulties of youth at risk from these groups.

Recommendation No. 110:

- . **That wherever juveniles who are Aboriginal, female or from a non-English speaking background, are or have the potential to be involved in programs, participate in schemes or use services, that the staff of those services be chosen who are able to demonstrate a sensitivity to and knowledge of the specific backgrounds and needs of those young people.**

- . **That the Office of Juvenile Justice organise training to develop the knowledge of such workers in relation to the often complex and specific difficulties of youth at risk who are Aboriginal, female or from a non-English speaking background.**

CHAPTER SIX

THE ADEQUACY OF SERVICES TO YOUNG PEOPLE IN THE JUVENILE JUSTICE SYSTEM

6.1 INTRODUCTION

In its Terms of Reference the Committee was asked to consider:

"the adequacy of services to young people in the juvenile justice system."

The Committee received a number of submissions and heard evidence on a range of services available to young people in the Juvenile Justice System. Evidence was taken also regarding the range of, and the need for, services for young people at risk of entering the Juvenile Justice System. Chapter Two on Crime Prevention Programs, explores this issue. Given the nature of this Chapter, there may be some overlap between the discussion on services in Chapter Two and the discussion on services here.

Some services have been discussed also in Chapter Four on Sentencing and Community-Based Options for the Care and Management of Young Offenders. In that Chapter the Committee examined and made recommendations in relation to the delivery of services for young people who are sentenced to a community-based option. The Committee noted that for there to be effective supervision of young offenders in the community there needs to be adequately resourced and appropriately staffed Juvenile Justice Offices as well as a range of relevant and adequately resourced programs available in the community. The Committee noted also in that Chapter that Community Youth Centres, a valuable supervisory alternative for young offenders, should be expanded to further regions throughout New South Wales, particularly to rural areas.

In Chapter Four, the Committee considered the issue of young people in custody. In that context it examined the issue of recidivism. The Committee has been told that a number of factors could be seen as contributing to recidivism and continued incarceration of some young offenders. These factors and means of addressing them have been discussed generally throughout the report and some will be highlighted in this Chapter.

6.2 HEALTH

In January 1990 the Director of the Prison Medical Service, Dr J.F. McLeod and the Director of Nursing Mr J. Carmody reviewed the health services available to detainees in Juvenile Justice Centres and made recommendations relating to general health services, drug and alcohol services, psychiatric/psychological services, nursing services and dental services.

A formal and detailed response to this report is currently being prepared by the Department of Health (the Wilton Report), but information provided by the Office of Juvenile Justice indicated that as of mid-April, the report was as yet not available.

The Committee is reluctant to examine closely and make recommendations in the area of general health, psychiatric, nursing and dental services without any specific evidence or expertise and while these services are currently under the investigation of the Department. However, as noted above, evidence from a number of sources has been received in relation to drug and alcohol services, particularly in relation to those available in Juvenile Justice Centres. Discussion and recommendations on this issue are examined below.

Some information has been received in relation to the role and responsibilities of the psychologists at Juvenile Justice Centres. The Committee has heard for instance, that much of the work of those psychologists involves the preparation of court reports. The Committee has been told because of this, case work can be ad hoc. The Committee hopes that the Wilton Report may address this issue.

The Committee wishes to endorse however, the establishment of the position of Senior Psychologist within the Office of Juvenile Justice. The Committee understands that:

"In line with Office of Public Management recommendations, a position of Senior Psychologist has also been established to provide leadership, advice and support to juvenile justice psychologists and field staff."¹

This position also involves the training and supervision of juvenile justice psychologists as well as assessing and providing court reports on complex cases.

The Committee received some information in relation to the health needs of girls in custody. The Committee notes adolescent girls have specific health needs. It was indicated to the Committee that for girls in custody, their needs can be all the more pressing, as many present with gynaecological problems that may require treatment. The Committee has not been able to look closely at this issue but acknowledges that it is a concern that should be monitored by the Office of Juvenile Justice and the Department of Health. While noting that Reiby provides a female nurse for girls to consult, the Committee is concerned that the health, medical and gynaecological needs of girls held in police cells are met.

¹ Submission 86. p.8

6.3 DRUG AND ALCOHOL

The Committee heard that a large proportion of young offenders, especially those in custody, had a drug and/or alcohol dependency. Discussions between Committee Members and workers in the Juvenile Justice Centres, indicated that approximately 50% of boys in custody are detained for drug related offences, including offences committed to fund drug habits.² At Mt Penang, the Committee was told that some 70% of the boys there are institutionalised for drug-related offences.³ At Reiby, the Committee heard that among the female residents 80-90% have a drug problem which is also reflected in the offences for which they are detained.⁴

In a study for the Department of Family and Community Services, entitled "Curious, Bored and Wanting to Feel Good", Ernie Zibert, the then Drug and Alcohol Counsellor at Stanmore Community Centre and John Howard, Senior Lecturer of the Clinical Drug Dependence course at Macquarie University's School of Behavioural Sciences interviewed 293 young detainees.⁵

The results of that survey were quite frightening, and there is little reason to imagine that much has changed. Those results included:

- . The average age at which drug use began was 11, while the average age for beginning illicit drug use was 13;
- . 94 per cent of detainees had experimented with alcohol;
- . 90 per cent had tried analgesics, nicotine and cough medicines;
- . 86 per cent had smoked cannabis; and
- . 25 per cent had tried narcotics such as heroin.

The Committee notes that glue and petrol sniffing is also a problem for many young offenders. It has heard that the abuse of prescription drugs such as Rohypnol, particularly by girls, can be common among young offenders.

Information gathered from other sources confirmed the extensive history of drug use by young offenders, especially those in custody.

² Visit, Minda Juvenile Justice Centre, 8.10.91. Visit, Cobham Juvenile Justice Centre, 10.10.91

³ Visits, Mt Penang Juvenile Justice Centre, 5.2.91, 26.3.91, 27.3.91

⁴ Visit, Reiby Juvenile Justice Centre, 3.10.91

⁵ NSW Department of Family and Community Services. 1990(a) pp.3-5

The following exchange occurred during an interview between a journalist and a young female detainee at Reiby Juvenile Justice Centre:

"So most of the girls here are on drug-related charges?

There are about four girls who ain't heroin addicts in this place. There's twenty one girls - the rest of them are heroin addicts. ... So that's pretty much a problem with the girls, is the heroin and the pills. That's the worst drug I've noticed in here you know, is heroin. Most of them are on that.

And how old are most of them when they start to use it?

Oh, fifteen, sixteen. That's about the age when they start. Like some of them in here, I couldn't believe (they) started when they (were) twelve, thirteen. I thought, wow I was only smoking marijuana then and drink(ing) and (taking) pills but not heroin."⁶

The relevant point for this Inquiry is that by the time many of these young people arrive in Juvenile Justice Centres a drug habit is well established and there are limits to how far their problems can be addressed.

A subject of particular interest to Committee members is the provision of methadone services for young people. While the Committee is aware that it is only in rare circumstances that methadone is considered an appropriate response to drug dependence in people below the age of 18, the Report to the Director-General of the (then) Department of Family and Community Services on Health Services to Juvenile Institutions did mention a couple of cases of methadone treatment in institutions and the Committee would support this form of treatment being available in conjunction with counselling and post-release services.⁷

In supporting the provision of health education in schools it is to be hoped that some of these problems can be overcome before they start.

Whilst there is one Drug and Alcohol Counsellor now currently placed in most Juvenile Justice Centres, many of whom seem to offer intensive and appropriate programs for those young offenders whom they see, it seems that once outside, the young person on the whole finds it difficult to maintain a drug-free lifestyle. One young boy with whom Committee Members spoke at Minda, whilst acknowledging the good work of the Drug and Alcohol Counsellor there, commented that:

⁶ Australian Broadcasting Corporation. 1990 pp.6-7

⁷ McLeod. 1990

"Every time I get released I score some heroin and end up back at Minda. I really need some help."⁸

Evidence presented to the Committee from a number of sources revealed that there are few drug and alcohol services available to young people, including young offenders, in the community. It was suggested that this often presented a problem for a magistrate who, when sentencing a young offender with a drug and/or alcohol problem often could not make an appropriate referral. Evidence heard by the Committee indicated that there was a lack of services available, in relation to long term rehabilitation of adolescent substance abusers.⁹ The Committee considers vital, the availability of appropriate drug and alcohol services to young people and young offenders, in the community.

Recommendation No. 111:

• That the Office of Juvenile Justice undertake evaluations on whether more than one Drug and Alcohol Counsellor needs to be placed in those Juvenile Justice Centres with high rates of detainees with drug and/or alcohol dependencies.

Recommendation No. 112:

• That appropriate and consistent follow-up be organised by the Office of Juvenile Justice for those young offenders, released from Juvenile Justice Centres who require on-going treatment for their drug and/or alcohol dependency. (See also Recommendation No. 118).

Recommendation No. 113:

• That the Department of Health supervise the development of further specialised drug and alcohol services in the community to assist young people, including young offenders with drug and/or alcohol dependencies.

⁸ Visit, Minda Juvenile Justice Centre, 8.10.91

⁹ Evidence 19.12.91 p.23

6.4 EDUCATION AND TRAINING

Evidence before the Committee highlighted the important relationship between a child and the school. In particular, behaviour at school and lack of attendance were seen to be indicative for future societal behaviour:

"...an important predictor of serious offending behaviour is (the) relationship between the child and the school. How a young person is able to deal with the relationship in the school setting is a mirror for the child's ability to cope in society generally.

Relationships with peers and authority, and complying with rules which set out the consequences of behaviour, make demands on the child which can reflect how well the child will deal with the wider community as an adolescent and adult. If a child is not coping in this environment, then there should be serious alarm bells for intervention."¹⁰

The Committee noted the significant role of the Home School Liaison Officers in identification and management of children who have difficulty relating to the school environment. The Home School Liaison Program was piloted in 1986 and extended to a statewide service in 1987-88. The program of the Department of School Education, complements the role of the school in maintaining the regular attendance of all students. In particular the program aims:

"to provide support to schools, parents and the community in order to ensure that all children between the ages of 6 and 15 years attend school regularly in accordance with the provisions for compulsory education as set out in the Education Reform Act of 1990."¹¹

Some 120 Home School Liaison Officers work throughout the ten Departmental regions of the state to identify at risk youth and work with their families and schools to facilitate regular attendance and reduce the risk of participation in anti-social behaviour or activities which may lead to involvement with police and the justice system. The Committee noted that specialist positions of Home School Liaison Officers have been created to meet the specific needs of children from non-English speaking backgrounds and their communities.

¹⁰ Submission 41. p.3

¹¹ Submission 89.

In addition, Education Officers (Aboriginal) are employed by the Department in areas of high Aboriginal populations throughout New South Wales. Occupants of these positions need to have demonstrated a commitment to their community and to the resolution of school-based problems contributing to the non-attendance of Aboriginal students.

Evidence taken by the Committee suggested that due to the scattered population groups within isolated areas of New South Wales, it was difficult for these education officers to adequately address the need of Aboriginal children in those areas.¹² The Committee supports the work undertaken under the Home School Liaison Officer Program, encourages the work of the Department in this area and considers that funding should be made available to increase the provision of services under this program to Aboriginal children in rural areas of New South Wales. The Committee heard that whilst additional personnel would be welcome, budget restrictions do not currently allow for additional personnel under the Program.¹³

Recommendation No. 114:

That funding be made available to increase the provision of services, particularly to Aboriginal children in rural areas of New South Wales, under the Home School Liaison Officer Program.

The Committee heard evidence on numerous occasions that many young offenders particularly those in custody have learning difficulties. Indeed, the Committee found a low level of literacy and numeracy skills among many young detained offenders alarming. The Committee has been told also that this factor, with its ramifications of low self-esteem and an inability to succeed in both the school system and the work force, may contribute to a young person embarking on anti-social and offending behaviour.

Discussions with teaching staff at various Juvenile Justice Centres revealed that despite their learning difficulties many young people wanted to attend school whilst in custody. The Committee notes that the Department of School Education offers in each Juvenile Justice Centre educational courses at different levels, including at a remedial level. Such classes are naturally smaller than those in schools within the general community and there is greater opportunity for more individual attention.

¹² Evidence 5.2.92

¹³ Submission 89.

However, the Committee has heard that many young offenders have difficulty following on with school education courses after they are released. Evidence presented to the Committee has indicated that liaison between schools within Juvenile Justice Centres and those in the community is ad hoc. For some young people released from custody, particularly those who have been detained for many months, this can mean a difficult transition back into "mainstream" schools and failure to return to school.

Apart from school education programs, the Committee has heard a number of other courses and training programs for detainees are offered at some Juvenile Justice Centres. The Committee on its visits to Mt Penang, for instance, noted that that Centre offers such courses as fibreglassing, upholstery, car maintenance and animal husbandry through TAFE, and some students may undertake apprenticeships. Information provided by the Office of Juvenile Justice, indicates that "juveniles participating in TAFE programmes receive a Certificate of Attainment from a College of TAFE".¹⁴

At the time of its visits the Committee noted that not all Juvenile Justice Centres offered the range of courses available at Mt Penang. The Committee acknowledges that Mt Penang is a committal facility, as opposed to a remand facility, and therefore is in a position to provide courses that may continue for some months. However, many young people are detained for lengthy periods of time in remand centres and would therefore benefit from an on-going course that may be specific to their interests.

The Committee noted that the courses offered to girls in Juvenile Justice Centres were more limited in their range. The Committee noted also that at the time of the visit by Members of the Secretariat to Yasmar Juvenile Justice Centre that Centre was resourced only for school education courses.

Whilst the Committee commends the commitment and dedication of members of Juvenile Justice Centre staff who administer and teach the programs, courses and training offered to young offenders in those centres, it acknowledges that most young offenders have difficulty continuing similar activities in the community or finding relevant employment, following their release. This view was expressed to Members by young people on their visits to Juvenile Justice Centres. The Committee has heard that the problem can be more pronounced for young offenders returning to rural areas, where courses, programs and employment opportunities are more limited than in the metropolitan region and for young people with little access to relevant information.

¹⁴ Submission 86. p.8

The Committee understands that an inter-departmental review on educational programs for young people in custody was agreed to by the Ministers responsible for School education, Community Services and Technical and Further Education.¹⁵ The Terms of Reference of the review are:

1. To conduct a review of current educational, vocational and living skills provision for young people in custody.
2. To produce a report and make recommendations for policy changes that will facilitate:
 - (a) local management;
 - (b) the most effective delivery of services at the local level;
 - (c) co-ordinated delivery of services at the local level;
 - (d) co-ordinated delivery of educational, vocational and living skills provisions;
 - (d) provision and planning for appropriate physical environments for the delivery of services.¹⁶

The Committee understands that "the review report will recommend the publication of a set of principles for the delivery of educational programs to young people in custody. The recommendations arising from the review process will allow those three departments with responsibility for the education of young offenders to make more informed decisions regarding the delivery of services. It is expected that the report will identify service delivery gaps and program duplications allowing the three departments to ensure a coordinated exemplary service to the young people in juvenile justice settings."¹⁷

The Committee considers that it is not appropriate to make recommendations on these issues given that the joint Departmental review is, as yet, unavailable. It is hoped that the issues and concerns raised above, relating to education and training of young offenders in Juvenile Justice Centres, will be addressed by the recommendations of that review. It is also hoped that the recommendations of that review will be responsive to the needs of specialist groups in custody, including Aborigines, young people from non-English speaking backgrounds, young people with a disability and girls.

¹⁵ Submission 89.

¹⁶ Submission 89.

¹⁷ Submission 89. p.2

6.5 SUPERVISION AND FOLLOW-UP

One of the most common issues raised throughout the Inquiry, was that there is limited follow-up of a young offender once he or she is released from custody. The Committee understands that provision for parole is made under the Sentencing Act, 1989 for those young offenders sentenced to more than six months in custody. No such supervision is expressly provided for those given sentences of six months or less. The implications of the Sentencing Act and its application by magistrates, particularly in relation to the supervision and follow-up of young offenders has been discussed in Chapter Four. Recommendations regarding that Act which impact upon the area of supervision and follow-up have been made also.

Considerable evidence submitted to the Committee noted that a lack of appropriate follow-up or post-release supervision, can be a significant contributing factor to a young offender re-offending once released from custody. The Committee believes that such re-offending is a considerable community cost.

As noted above, factors contributing to offending behaviour, particularly by young offenders who have been in custody, can include drug and/or alcohol dependencies, unemployment and poverty, failure within the school system, a dysfunctional family life and inadequate accommodation. The Committee has noted that some of these factors are addressed whilst the young person is in custody. However, for many young offenders they are not consistently followed up once that person is released. The Committee has heard that when a young offender is released, he or she may quickly return to a lifestyle that involves anti-social behaviour, unless appropriate supports are available. Evidence indicates also that further criminal activity may be learnt whilst the young offender is in custody.

The Committee has made a number of recommendations relating to the establishment of residential facilities for young offenders, particularly those released from Juvenile Justice Centres, which it believes will assist in the rehabilitation process of young offenders and in their transition back into the community. These Recommendations are contained in Section 6.6 of this Chapter that refers to Accommodation Services.

Recommendation No. 115:

That once a detainee is released from a Juvenile Justice Centre, appropriate post-release follow-up, suitable to the needs and circumstances of the young offender must be co-ordinated by the Office of Juvenile Justice.

6.6 ACCOMMODATION SERVICES

The Committee has noted throughout the Inquiry that the availability of appropriate accommodation services to young people at risk and to those directly involved in the Juvenile Justice System can be crucial to whether that person will commence or continue to engage in anti-social behaviour. In Chapter Two, the issue of accommodation was examined and recommendations made as to the provision of services to young people. It is proposed at this point to look at the issue of accommodation in relation to fostering and the alternative, the establishment of residential facilities that may assist young offenders, particularly those released from detention.

6.6.1 Fostering

The fostering of young offenders who have inappropriate family circumstances or inadequate accommodation has emerged as an issue throughout the Inquiry. Much of the evidence has revealed that young people who come from a stable and safe family background are less likely to have police contact and become involved in the Juvenile Justice System than those from dysfunctional environments. Fostering, as an alternative for some young offenders is one option that the Committee considers might be utilised by the courts and the Office of Juvenile Justice, as a means of giving a young offender an opportunity to have a safe and secure environment and hence, a chance of avoiding future offending behaviour.

On its visits to Queensland and South Australia, the Committee learnt of successful fostering programs operating in those states that cater for minor, habitual and serious offenders as well as young people at risk. Information learnt on those visits was that prospective "families" are screened thoroughly and monitored to ensure that there are no problems or difficulties for either the young person or the carers.

Both fostering schemes are specialist schemes and provide financial assistance for the care giver; in the case of South Australia, which operates the Intensive Neighbourhood Care Scheme (INC), the Committee heard that the amount then was approximately \$45.00 per day.¹⁸ According to information gained in South Australia, one of the major reasons for the success of the INC program is that the police and the courts are fully aware of the operation of the program.

Whilst fostering in New South Wales is an option which magistrates may utilise in relation to a young offender, it is not formalised as a program as in other jurisdictions.

¹⁸ Discussion, 22.4.91

According to a former foster parent of a young offender who gave evidence before the Committee:

"Ultimately and ideally what's required is that there be people (located) in the community who are prepared to take on that sort of role and be prepared to be a dad or a mum to the kids that are released into their care."¹⁹

Another witness before the Committee, who was a former senior officer with the then Young Offenders Support Team and who has had extensive experience with young offenders, made the following comments in relation to a fostering scheme that might be appropriately utilised by magistrates:

"...I think that fostering is a very important program in terms of giving us the flexibility to actually provide an option for young people in their regions of origin. I think we need flexibility in the system, and I think all too often we look at programs and services, in particular professional models, that don't have the ability to tap into community resources and to use people who have an actual personal motivation for becoming involved. I think that fostering is an option but I think that we have to look at professional fostering. I think that we have to look at paying people a real salary to do a full-time job."²⁰

Further information received by the Committee endorsed the idea of implementing a professional and paid fostering scheme, that would have appropriate accountability mechanisms.

From the evidence received, the Committee considers that there are a number advantages in a specialised fostering program being established in relation to young offenders including:

- it provides a young offender with an opportunity to develop in a secure environment;
- it allows a young offender to remain within a community, preferably one with which he or she is familiar; and

¹⁹ Evidence 4.4.91 p.61

²⁰ Evidence 4.4.91 p.103

it can assist in the rehabilitation process of the young offender and provide greater opportunities for that offender to successfully re-integrate into the community.

The Committee is mindful however that unless appropriate safeguards are put in place fostering may have the potential for abuse or exploitation in relation to both the young person or the foster parent. The Committee considers also that unless an appropriate wage is paid to the care giver and adequate support and assistance are available to him or her, the scheme could be limited. In acknowledging this, the Committee is mindful that many young offenders who would be fostered would inevitably be some of the most "difficult" adolescents and would therefore require intensive attention.

The Committee considers that consistent with current policy of the Office of Juvenile Justice measures should be taken to ensure that fostered Aboriginal young people are placed with Aboriginal families.

Recommendation No. 116:

That a fostering scheme be established for a period of 12 months, to be available to Children's Courts Magistrates in relation to both remanded and sentenced young people. That scheme should operate in the following way:

- the scheme be evaluated 12 months from the date it is established;**
- the scheme be co-ordinated by the Office of Juvenile Justice in conjunction with the specialised foster care program of the Department of Community Services;**
- the prospective care-givers be thoroughly screened as to their suitability in providing a safe, secure and supportive environment for the young person;**
- a mechanism for regular assessments of the progress of the young person and the suitability of the placement be established;**
- the care-giver be paid and be provided with any reasonable expense he or she may incur during the course of the placement;**
- appropriate support systems be established within the relevant Departments, which can be utilised whenever the care-giver or the young offender requires assistance in relation to the placement; and**

where a young Aboriginal person is fostered under this scheme, placements should be made with Aboriginal families.

6.6.2 Post-Release Residential Facilities

At Section 6.5 of this Chapter, the Committee examined the issue of supervision and follow-up of young offenders, particularly those discharged from a committal. Evidence received in relation to this issue noted that once a young offender is released from custody he or she may quickly return to offending behaviour if there are few relevant supports available. The Committee heard that without proper supervision or follow-up some young offenders are likely to re-offend. The Committee noted its concern in Chapter Four with aspects of the Sentencing Act and its implementation by magistrates, regarding the limited opportunities that some young offenders released from custody, may have in relation to post-release supervision or follow-up. In that Chapter the Committee recommended that a review be undertaken, as a matter of urgency, by the Attorney General's Department, the Department of Courts Administration and the Office of Juvenile Justice regarding the operation of the Sentencing Act in relation to young offenders, particularly as that Act impacts upon post release supervision and follow-up. The Committee recognises that the availability of proper follow-up is essential to the implementation of the following Recommendations.

The Committee considers that some young offenders who have served a committal require the use of special accommodation facilities that provide a number of services to assist them in their re-integration into the community. The Committee considers that such facilities should be situated throughout New South Wales. This can only be effective if it is a compulsory aspect of the continuum of a rehabilitation program for those young offenders who are deemed (because of their assessment) to be in need of such a period of supervision. Hence the urgency of the Sentencing Act reform for juveniles.

Recommendation No. 117:

That there be established throughout New South Wales small residential facilities, adequately resourced and suitably staffed to assist young offenders, released from their committal, in their transition back into the community.

Recommendation No. 118:

That whilst at a residential facility, the young person should have follow up on his or her drug and alcohol counselling, sexual assault counselling, schooling and any other programs or courses that may have been undertaken in the

Juvenile Justice Centre. Appropriate liaison with community drug and alcohol workers, schools, job training services, accommodation services and families should be undertaken so that the young offender has appropriate contacts when leaving the facility, or can be placed in a school, a job or obtain further job training, or safe accommodation if the family home is not appropriate upon his or her departure. (See also Recommendation No. 112)

Recommendation No. 119:

That psychologists and other counsellors from the Community Youth Centres be available for consultation with the young people at the residential facilities.

Recommendation No. 120:

That the length of the young person's stay at a residential facility, be determined according to the young person's need.

Recommendation No. 121:

That:

- (a) following a young person's departure from the residential facility, resources be made available to Juvenile Justice Community Services to continue, where necessary, the supervision of a young offender.
- (b) there be a wide range of services, training and counselling programs available to assist with such supervision. In this regard, services provided by community organisations should be utilised, and where appropriate, adequately resourced and accredited to fulfil this function.

Recommendation No. 122:

That the establishment of residential facilities be co-ordinated by the Office of Juvenile Justice with the co-operation of the Department of Community Services, the Department of Health, the Department of School Education and the Department of Housing.

6.7 YOUNG OFFENDERS FROM RURAL AREAS

One of the most striking factors brought to the attention of the Committee on its visits to Juvenile Justice Centres and in the evidence it received, is the significant proportion of country young people in custody. Despite this, the major committal centre for boys is at Kariong, near Gosford, and for girls, at Campbelltown; girls on remand are detained also in the facility at Campbelltown.

Moreover, the Committee found that a large proportion of those young people detained from country areas are Aboriginal, many of whom are serving quite lengthy committals or have been on remand for a long period of time.

From the evidence the Committee received, as well as from its discussions with staff and detainees at Juvenile Justice Centres, it is apparent that the geographical distance between centres and detainees' communities, poses significant problems in relation to family contacts and visits and can instil deep feelings of alienation and isolation within the detainees and feelings of loss among families. The Committee has received evidence, that for many parents of Aboriginal young offenders who are held in institutions away from their communities, the feelings of loss can be heightened by the memories of the early policy of taking Aboriginal children away from their families and placing them with white families or in institutions. The Committee has heard also that sometimes many rural families cannot afford the cost of visits to a Juvenile Justice Centre, for the entire period of the sentence.

The Committee has heard that one means of addressing this issue is to establish Juvenile Justice Centres nearer to the regions from where most of the rural detainees come. Whilst the Committee sees merit in such a concept it does not recommend the expansion of detention facilities.

The Committee has heard that the establishment of facilities in Juvenile Justice Centres, where families of detainees might stay, is one means of addressing the problems many families have in visiting their children. The Committee considers appropriate the establishment of such facilities, particularly for parents of detainees from rural areas. The Committee notes that at Minda and Reiby Juvenile Justice Centres some accommodation facilities exist but there is no formal policy for rural families specifically to access those facilities. The Committee notes further that an accommodation facility for families does operate at Riverina Juvenile Justice Centre.²¹

²¹ Discussion, Office of Juvenile Justice, 28.04.92

The Committee considers also, that there should be established a family assistance scheme to assist families from rural areas who cannot meet the cost of visiting children in Juvenile Justice Centres.

Recommendation No. 123:

- That magistrates in rural areas, make every effort to find local solutions to issues of sentencing young offenders, to avoid the option of incarceration and the removal of young offenders from their communities.

Recommendation No. 124:

- That a family assistance scheme be established to assist those families from rural areas who cannot meet the cost of visiting children in Juvenile Justice Centres.

Recommendation No. 125:

- That facilities be established in Juvenile Justice Centres to assist families, particularly families from rural areas, to be close to the children during visits.

6.9 LEGAL SERVICES

The Committee has received a number of submissions and taken specific evidence in relation to the issue of legal services to young people. Among those from whom the Committee took evidence were solicitors specialising in the Children's Court jurisdiction, solicitors from the Aboriginal Legal Service and Western Aboriginal Legal Service, Children's Court Magistrates and young people who have been through the court process. From the evidence received the Committee acknowledges that young people are entitled to access to quality legal advice and representation that should be no less than an adult would expect.

The Committee understands that in New South Wales there are very few solicitors specialising in Children's Courts matters. The Legal Aid Commission employs one Children's solicitor who services exclusively Cobham Children's Court, at Werrington. That solicitor works in conjunction with a social worker who is employed also by the Commission. The Committee understands that the primary function of the Legal Aid Commission solicitor is the provision of advice to and representation of children in

criminal and care matters that are determined at Cobham Children's Court. The Committee has been informed that a reason for the establishment of a scheme such as that at Cobham was the need for children appearing in that Children's Court to be provided with a continuity of legal representation.

Both Marrickville Legal Centre and Macquarie Legal Centre (at Harris Park) employ a specialist Children's solicitor and Burnside established an Adolescent Legal Service last year. The children's solicitors of these three organisations provide representation to young people charged with a criminal offence as well as providing legal education to young people and to those who work with young people on juvenile justice issues and other matters relevant to adolescents. The Committee notes that there is no specialised Children's Legal Service in rural areas.

Much of the evidence presented to the Committee has related specifically to the availability and provision of legal services to young people charged with a criminal offence. The Committee understands however that the delivery of legal services to young people may include assistance in regard to accommodation, social security, employment and matters affecting children as victims. The Committee notes that the Legal Centres mentioned above and Burnside can often take up these matters for young people. **The Committee commends and encourages the provision of such assistance.** The Committee understands also that the Bicentennial Youth Foundation is currently examining the feasibility of establishing a specialised National Children and Youth Law Centre that will assist young people on a range of legal issues, undertake test cases and initiate policy work in regard to matters impacting on children and young people.

At this stage the Committee will consider in the main, the delivery of legal services to those young people charged with a criminal offence. The Committee is however mindful of the range of legal needs that young people may from time to time have. In this regard it considers appropriate the establishment of a **Youth Information Service to be co-ordinated by the Office of Youth Affairs**, that could provide information to young people on a number of issues, including legal issues that might go beyond criminal matters, and act as a referral agent.

The Committee understands that many young people charged with a criminal offence utilise the duty solicitor service provided by the Legal Aid Commission at each Children's Court. Apart from Cobham which has a full-time specialist solicitor, under this scheme the other Children's Courts are serviced by private solicitors who are remunerated by the Legal Aid Commission. Those solicitors work on a rostered basis and can work at the courts, anywhere from once a week to once a month. Young clients are seen on the morning of court, where instructions are taken in relation to the matter, a plea or where appropriate, bail and the matter is either dealt with then (if it is a guilty plea and relatively straightforward) or adjourned for particular reports or for a hearing.

The Committee has heard that on many days, the list of young people appearing at court can be particularly long. Evidence given to the Committee indicates that duty solicitors can generally see clients for approximately five to ten minutes only. Should the matter be adjourned duty solicitors may not see the young person again until the next court appearance. Where the next court appearance is a sentencing matter, the young person is often represented by a different duty solicitor.

All evidence presented to the Committee on the issue of legal services supported strongly the practice of the availability of representation to all children at Children's Courts charged with a criminal offence. However, some evidence indicated that the current duty solicitor scheme of drawing solicitors from the private profession with only some or very little expertise in children's law may not often serve the best interests of the clients that are being represented. The Committee has also been told that the current system does not adequately make the duty solicitors accountable. One solicitor commented in evidence:

"A solicitor working in a practice at Sutherland who comes in once a month to do the Friday morning roster at Minda and that's it, I would submit is not assisting the system with juveniles as much as we should be looking to. There are obviously a lot of solicitors who work in the scheme who are very committed to children... and who perform an enormously important function. But overall solicitors are too removed from the system and not properly accountable or involved with the welfare and interest of their clients as they should be."²²

The Committee understands that the duty solicitor scheme does not extend to advice for a young person at a police station if questioned by the police or to Juvenile Justice Centres. With regard to police stations it has been indicated that many young people are arrested at times when most solicitors would not be available (i.e. late at night or weekends) and so their access to any legal advice can be limited. The Committee understands that for young people, and even the responsible adult who must be present with them when questioned by the police, knowledge of their legal rights is essential.²³ The Committee notes that an alternative system to having a solicitor present, is to have access to a 24 hour telephone advice service.

The Committee acknowledges that an accused person may not be given the option of a telephone call at a police station. It therefore sees as crucial to the success of any 24 hour telephone advice service, the co-operation of members of the Police Service. In this regard, consideration should be given to providing relevant training to police.

²² Evidence 4.4.91 p.167

²³ Children (Criminal Proceedings) Act. Section 13

The Committee notes that under the Children (Criminal Proceedings) Act, a young person cannot be questioned by a police officer unless a responsible adult is present. Any information received without such an adult being present may later result in that information not being received in evidence. The Committee considers that strict compliance by police officers with this provision is essential in order to prevent actual cases of "verballing", intimidation, or inducement regarding a confession or to prevent allegations of such practices.

The Committee has been told that young people in Juvenile Justice Centres, whether on remand or serving a committal, have particular legal needs. Since there is no solicitor scheme that services those centres specifically, those needs can often go unmet. One witness before the Committee noted that:

"(there needs to be) a solicitor involved in servicing the detention centre because there is no doubt that the children, particularly the children in the remand section...have considerable and varied legal needs, not the least being complaints to the Ombudsman about their treatment, problems they have with staff, a Prisoners Legal Service type where they are advised on their appeals to the District Court or their trials. A major problem - picking up on the despair that children feel when they get into institutions - is they just don't feel like they are going anywhere... Part of it is the fact that they never feel like anyone visits, particularly solicitors."²⁴

The Committee has taken evidence from the Aboriginal Legal Service and the Western Aboriginal Legal Service, in relation to the services they provide to young Aboriginal people charged with a criminal offence. The Committee understands that although neither organisation has a specialist Children's section, most Aboriginal children throughout New South Wales appearing in the Children's Courts on a criminal charge, utilise the services of the Aboriginal Legal Service or Western Aboriginal Legal Service. The Committee has heard that in many instances, both the Aboriginal Legal Service and Western Aboriginal Legal Service are required to service a vast area and solicitors can often be required to appear in more than one court on the same day. The Committee has been told also, that such services operate on limited resources and the solicitors can have very large case loads.

The Committee notes that the Federal Government has announced recently a funding increase of \$50 million for Aboriginal Legal Services which will assist in the expansion of those Services' role as recommended in the Report of the Royal Commission into Aboriginal Deaths in Custody. The Committee commends this initiative and hopes that it

²⁴ Evidence 4.4.91 p.169

may go some way to address some of the issues noted above. The Committee encourages the Minister for Aboriginal Affairs to allocate some of that funding to legal services for Aboriginal children.

Evidence has been presented to the Committee in relation to legal services for young people in rural areas. The Committee understands that in those parts of New South Wales there is no specialist children's legal service, despite the fact that significant numbers of young offenders come from those regions. Young people from the country, charged with a criminal offence generally rely on the Legal Aid Commission or the Aboriginal Legal Service or Western Aboriginal Legal Service. According to one witness before the Committee:

"The larger towns in rural New South Wales, Dubbo, Lismore, Tamworth, Wagga, all have Legal Aid offices or Aboriginal Legal Services, but certainly find it very difficult to cater for the young people who are in more distant areas. There are certainly no specialised children's legal services in any of those parts of rural New South Wales and it is very difficult for solicitors who are there and the magistrates as well to actually gain expertise in those sort of areas because they simply don't deal with the type of matters frequently enough."²⁵

The Committee notes that a special Bail Court has been operating at Minda Children's Court on weekends and public holidays. At the time of writing, Minda Court was still operating and had not yet moved to the Burwood Court complex. **Some Committee members expressed concerns that the Burwood Court complex, dealing with both adult offenders and juveniles is unacceptable and alternative sites for conduct of criminal (and care) proceedings should be actively pursued by the Department of Courts Administration.**

It is understood that when Burwood Court becomes operative for children, it will have a similar Bail Court. The Committee supports the operation of a Bail Court that services children who are remanded by police over weekends and public holidays, including public holidays.

The Committee has been informed that in country areas there is no specialist bail court for young people, but should a young person be denied bail by the police over a weekend or a public holiday, a country court may open to determine the bail application. Little evidence has been received on this issue. However, the Committee believes it appropriate that the Juvenile Justice Advisory Council, as part of its brief, look at the question of bail services for young people in country areas.

²⁵ Evidence 9.1.92 p.18

Further evidence presented to the Committee has indicated that proceedings in Children's Courts are often conducted in technical legal jargon that may be beyond the understanding of many young people. Moreover, it has been submitted that contrary to the spirit of the legislation such proceedings do not always involve young people. According to one submission:

"Despite the positive endeavours of some magistrates to involve children in proceedings, there is still very little participation beyond a few words of remorse at the point of sentencing - and it seems likely that many children are baffled by proceedings ... The speed with which guilty pleas are given (by lawyers, not the defendants) and the "facts" of the police tendered (without being read out in court) would not help general comprehension. Much of the hearing proceeds by way of legal shorthand..."²⁶

Information received from young offenders indicates that many had little idea of what was going on throughout their proceedings and that their solicitors often failed to explain fully to them the outcome of the matter.

The Committee notes also that families of young offenders, whilst permitted to accompany the young offender into the court room, are often excluded from participation.

Recommendation No. 126:

That the Attorney General's Department, the Department of Courts Administration, the Legal Aid Commission and the Law Society review the option of the expansion of the children's duty solicitor scheme and provision of a social worker, to other Children's Courts, using the scheme at Cobham Children's Court as a model. As part of the review, consideration be given as to whether more than one salaried solicitor would be required to service Children's Courts.

Recommendation No. 127:

That the duty solicitor scheme be expanded to include a legal service for young people in Juvenile Justice Centres that could assist detainees with bail applications, appeals, complaints and any other relevant legal matter.

²⁶ Submission 47. pp.1-2

Recommendation No. 128:

- That a special Children's Section be established in Head Office of the Legal Aid Commission that would be responsible for the co-ordination and monitoring of the duty solicitor scheme, including an expanded duty solicitor scheme.

Recommendation No. 129:

- That a scheme be established by the Legal Aid Commission whereby a children's solicitor travel on circuit to country areas where there is no specialist Children's Court or specialist children's solicitor to assist in children's criminal proceedings.

Recommendation No. 130:

- That all solicitors participating in the Children's Court duty solicitor scheme be provided with training and education on issues relevant to the needs of the clients that they are to represent and that such training and education be ongoing throughout their time on the roster.

Recommendation No. 131:

- That the Attorney General's Department, the Department of Courts Administration, the Legal Aid Commission and the Law Society examine the option of setting up a 24 hour telephone advice line for young people at police stations, who are charged with a criminal offence.

Recommendation No. 132:

- That Children's Court proceedings be conducted in language that is simple and able to be understood by young people appearing at court and that young people and their families or other support people, be encouraged to participate in the proceedings.

Recommendation No. 133:

That a Youth Information Service be established and co-ordinated through the Office of Youth Affairs, to provide assistance to young people with inquiries on a number of issues, including housing, income assistance, employment and any other relevant matter, and to act as a referral agency.

6.10 OFFICE OF THE OMBUDSMAN

From its evidence the Committee understands that the Office of the Ombudsman can play a significant role in the juvenile justice process. The Committee has heard that young offenders may make complaints to the Ombudsman on a range of issues relevant to juvenile justice, including allegations of police misconduct and treatment in Juvenile Justice Centres, transfer applications, specific policies in centres and allegations of misconduct or mismanagement by staff.

In relation to these issues the Committee has taken evidence from the Ombudsman, a Senior Investigation Officer from the Ombudsman's Office, as well as young people, solicitors and youth workers. Relevant evidence has been taken also from members of Aboriginal communities. The Committee has examined a document detailing the findings by the Office of the Ombudsman in relation to a complaint by a young offender in a Juvenile Justice Centre, against a staff member.

The Committee heard that often where legitimate grounds may exist for a complaint young people may not utilise the service of the Ombudsman because of a lack of knowledge of its existence or because of fear of retaliation by the person against whom the complaint is made. The Committee has heard also that young people are often deterred from lodging a complaint because of the lengthy time that it can take for the findings to be delivered. In his evidence the Ombudsman stated to the Committee, in relation to providing young people with knowledge of the role of the Ombudsman:

"Children less than any other group would have much less knowledge, I am sure...I wouldn't assume that they know anything about the Ombudsman frankly."²⁷

Moreover, according to a Senior Investigation Officer with the Ombudsman's Office commenting on the implications of the length of time of some complaints:

²⁷ Evidence 4.4.91 p.214

"One of the difficulties ...is (that) from time to time we lose the complainant and that tends to happen very often in relation to police complaints where the Police Service has 180 days to carry out their investigation at the first stage and as you can appreciate, 180 days down the line you've very often lost the kid, and if you haven't lost the kid, you've very often lost their interest."²⁸

In response to a question on how better to acquaint young people with the service provided by the Ombudsman's office, the Ombudsman answered:

"it's totally a resource issue... the approach that I would have with the resources would be - education (that) is where the resources would go, education and into an appropriate youth officer."²⁹

Evidence presented to the Committee, from a number of sources has indicated that there should be established in the Ombudsman's Office a position to deal exclusively with and oversee all complaints that affect children and young people and to also provide an educational role for young people about the service provided by the Office. A majority of Committee Members see merit in this proposal. The Committee considers that the position would require co-ordinating investigations relating to all complaints lodged by children, including those in the Juvenile Justice System and establishing a system of education for young people about the role of the Ombudsman. The Committee considers that it would be appropriate for the officer responsible for this position to have the status of Deputy Ombudsman.

Recommendation No. 134:

That a position be created in the Office of the Ombudsman, with the status of Deputy Ombudsman, that would be responsible for the co-ordination of complaints made by children, including those in the Juvenile Justice System, and for the establishment of a system of education and information for children about the role of the Ombudsman. Adequate resources should be made available to assist in the creation of this position.

²⁸ Evidence 04.04.91 p.222

²⁹ Evidence 4.4.91 p.217

6.11 RELATIONSHIP BETWEEN GOVERNMENT AND NON-GOVERNMENT AGENCIES

Relevant services to youth at risk or youth in the juvenile justice area are provided by both the government and non-government sector. The role of non-government agencies in the provision of services for young people is most important. Both Federal and State governments assist non-government agencies through funding grants. The relationship between them has been structured by the requirements of accountability to the government as the supervising authority.

In any funding arrangement between the government and non-government agencies, the Committee considers that agencies should be accountable and that the nature of services provided with government funding be of the type specified by the government. In particular, the Committee considers that it is desirable that an agreement be made between a service provider and the funding body to achieve specified outcomes.

Two key elements in the relationship between the government and non-government agencies affecting the quality of programs are funding and standards of service delivery. Standards of care in service delivery can be encouraged through the mechanism of licensing agencies which maintain a specified standard. Monitoring and evaluating the performance of organisations also ensures that quality care is maintained.

The Committee considers that accountability measures for service providers be relevant to the outcomes specified in funding contracts. Monitoring standards and evaluating of outcomes should remain the role of the funding agency, with continuation of funding based on an agency's level of success in achieving determined outcomes.

DISSENTING OPINION

In this Section of the Report dissenting opinions relating to Community Aid Panels, the Sentencing Act, the Summary Offences Act and Children's Panels are reported.

A. COMMUNITY AID PANELS

During the course of this Inquiry the Committee visited a number of Community Aid Panels, spoke both with people instrumental in the setting up of the scheme, currently participating in it, and those supporting and opposed to such a scheme. The Committee identified the following problems:

1. Community Aid Panels inevitably "compete" with police cautioning as a first option. This unfortunately results in a broader group of children being subjected to court-style sentences (e.g. Community Service Orders).
2. Members of Community-Aid Panels, while well-intentioned, are simply inadequately trained in mediation or in dealing with the complex causes of juvenile offending.
3. Insufficient guidelines, let alone a legislative base, exist in the operation of Community Aid Panels throughout the state. This results in considerable differences in the experience and suitability of panel members and wildly differing de facto "sentences".

The Committee has already decided that Children's Panels should eventually replace Community Aid Panels. We therefore fail to see why the two systems should operate in tandem. The dual system implies lack of conviction in the Children's Panel. Indeed if guidelines are introduced into Community Aid Panels, it will only help entrench a system which the Committee has decided is "fundamentally flawed". The proliferation of a number of different panels will be confusing for police, children and those working with young offenders. Surely this can only undermine the Committee's recommendations in support of the new system. We therefore recommend the following:

Recommendations:

1. That Community Aid Panels cease to operate in relation to young offenders.
2. That Children's Panels be progressively introduced, without the requirement of a pilot period. Independent evaluation should nevertheless occur after 12 months to assess the impact of the Children's Panels.

B. SENTENCING ACT

Throughout this Inquiry the Committee has been reminded on numerous occasions about the need to differentiate between adults and children in the community's response to criminal behaviour. The reasons for this are stated clearly in the early Chapters of the Report and include the fact that most juveniles do not re-offend and that for some children it is solely in response to peer group pressure before they have the maturity to say no. During the debate which surrounded the introduction of the Sentencing Act these factors were largely overlooked.

The overwhelming policy of the criminal courts in sentencing young offenders is to facilitate rehabilitation and to put to one side the principle of retribution and deterrence. The application of the Sentencing Act to children has led to young offenders spending 34% more time in custody according to a 1992 NSW Judicial Commission Report. In order to break the cycle whereby young offenders grow up to be adult offenders it is vital to concentrate on rehabilitation and addressing individual children's needs. This does not mean that children should go unpunished but rather that such punishment is structured in a way which will do the most to assist the offending juvenile. It is time that children were placed back in the position they were immediately before the Sentencing Act commenced.

Programs designed to deter children from patterns of anti-social behaviour must be given priority. Observations throughout the Inquiry confirm that effective means of encouraging positive behaviour changes for young offenders in custody is through a system of earned remissions. Participation in education, drug and alcohol programs and training schemes, as well as good behaviour, should attract remissions of sentences. Therefore the use of remissions for good behaviour and the desirability of supervision in the community are essential elements of effective management for juvenile offenders. The Committee unanimously supports the view that supervision and follow-up after young offenders leave an institution is critical in assisting the rehabilitation process of such offenders and minimising the chances of recidivism. It is vital that young people

emerging from detention are assisted to re-integrate into their communities. Programs designed to achieve this can only be available to all young offenders released from custody, if the appropriate legislative adjustments are made and funds are provided. It is important to note that the Sentencing Act has parole provisions where sentences are six months or more. As children invariably are sentenced to less than six months they are consequently not eligible for supervision orders. (See Section 6.5 p.182).

The situation whereby children and adults are covered by this same legislation is therefore anomalous. We believe that an immediate review of the legislation should occur and young offenders should have access to remissions for good behaviour and should be dealt with under new legislation permitting remissions, and not under the Sentencing Act, which does not.

Deletions to the Sentencing Act to ensure this, and amendments to the Children (Criminal Proceedings) Act are required so that all sentences for children are governed by the Children (Criminal Proceedings) Act.

Recommendations:

3. **That young offenders be granted access to remission for good behaviour while in custody. This should be achieved either through amendments to the Sentencing Act and/or by new legislation.**
4. **That the Children (Criminal Proceedings) Act be amended to grant young offenders access to remissions and so that all sentences for Children are governed by that Act.**

C. SUMMARY OFFENCES ACT

There has been much community debate recently in relation to the charges of "offensive language" and "offensive conduct" which are found in the Summary Offences Act.

It is clear that the use by police of their powers under this act targets, intentionally or not, some groups in the community, such as children, more than others.

It is instructive to note that in excess of 8,500 convictions for these two offences alone were dealt with by NSW courts in 1990. Surely an inappropriate use of court time when one considers that what may be considered offensive in certain communities or in certain situations would not even be noticed in other areas and amongst other groups of people.

This unfairness is compounded by the availability of imprisonment as a penalty under Section 4 of the Act. In 1990, 20 people were imprisoned for the charge of "offensive language" and a further four were sentenced to periodic detention. Potential imprisonment for relatively trivial offences against public standards, where those standards vary greatly from group to group in the community, is insupportable.

It is a matter of concern that young Aboriginal people are also more at risk than young white people.

The Committee was persuaded during the course of this Inquiry to recommend that the maximum penalty for offensive language by juveniles be a formal caution. It is clear that the use by police of their powers under the current legislation targets, wittingly or unwittingly, some groups in the community more than others. These arguments are so strong to convince us that amendments to the Summary Offences Act are needed. We therefore propose that:

Recommendations:

5. S4 (1) of the Summary Offences Act be amended so that the offence be redefined as "a seriously offensive manner" and
6. S4 (1) (b) of the Summary Offences Act be deleted so that the simple use of offensive language no longer attracts a criminal sanction. Furthermore, that the option of a prison sentence for offensive conduct be abolished.

D. CHILDREN'S PANELS

Every inquiry into Juvenile Justice completed in the last 10 years has concluded that early and repeated contact with the judicial system and subsequent institutionalisation of children has been disadvantageous to the individual, their family, the victim and subsequently the community at large.

The Committee's research has indicated that court procedures and incarceration are intimidating, misunderstood and ineffective for many children. In fact far from being successful in deterring young people from offending behaviour, institutionalisation is directly linked with recidivism rates in the juvenile population.

It is clear that the most important aspect of this inquiry's recommendations are those which relate to the establishment of Children's Panels. They are a radical attempt at diverting children from the court system and confronting and dealing with the causes of the anti-social behaviour of offending juveniles.

The panel's composition reflects this attempt. Convened by a Juvenile Justice Officer, the police and community will be represented as well as the juvenile and his or her family. The victim (and if desired a person to accompany the victim) will also be invited to participate in the proceedings. The panel will seek to reflect the sex, Aboriginality and cultural background of the offender. This unanimous recommendation emerged from the sub-Committee's visit to New Zealand. The Maori-inspired "Family Group Conference" which operates there was not directly transferable given the differences in the two societies, but the Children's Panel reflects the same principles. In New South Wales a greater degree of flexibility will remain with the panel convenor, the Juvenile Justice Officer.

In arriving at this conclusion the Committee has decided to supersede the current operation of Community Aid Panels, at least insofar as they deal with children. We support this proposal. Therefore, we cannot support the recommendation that the Children's Panels commence on a trial basis, simultaneously with Community Aid Panels. The Children's Panels need to be implemented immediately and unconditionally as part of the three-tiered approach recommended by the Committee; that is, increased use of Police Cautions, court diversion through the use of Children's Panels and an increased range of sentencing options available to the Children's courts. Such a policy will prevent confusion within the Juvenile Justice System, reverse the inevitable spiral towards institutionalisation and return the focus of responsibility to the community and the family.

The whole aim of the proposed Children's Panel scheme is to allow and encourage participation by the relevant people and halt the increasing isolation and alienation of young people.

This scheme will force children to acknowledge their own responsibility and link the child more directly to their community. The clear failure of the present system is a persuasive argument in support of the new approach. This important initiative should not be undermined by the continuation of Community Aid Panels, before it has had a chance to succeed. (See recommendations 1 & 2 of this Dissenting Report).
