

INTRODUCTION

On 14 August, 1991 the Attorney-General, the Hon. Peter Collins, M.P., and the Minister for Justice, the Hon. Terry Griffiths M.P. referred to the Standing Committee on Social Issues of the Legislative Council, an Inquiry into the Juvenile Justice System in New South Wales.

The Terms of Reference for this Inquiry are:

That the Standing Committee on Social Issues undertake a full Inquiry into the Juvenile Justice System in New South Wales and in particular report on:

- (a) crime prevention programs;
- (b) court diversion schemes;
- (c) sentencing and community-based options for the care and management of young offenders;
- (d) selection and training of staff in relevant youth services; and
- (e) the adequacy of services to young people in the juvenile justice system.

This Report is the result of that Inquiry.

An inquiry into Juvenile Justice, resulting from the New South Wales Legislative Council unanimously endorsing a motion proposed by the Hon. Paul O'Grady, M.L.C., previously had been referred to the Committee on February 24, 1990. That motion also requested the Standing Committee on Social Issues conduct a complete investigation into the Juvenile Justice System in this State:

That the Standing Committee on Social Issues undertake a full inquiry into the Juvenile Justice System in New South Wales and in particular report on:

- (1) The implications of:
 - (a) pre-sentencing and court diversion schemes;
 - (b) selection and training of staff in relevant youth services; and
 - (c) community-based options for the management and care of young offenders.

Introduction

The Committee's investigation, using these terms of reference, was terminated with the calling of a State election in May 1991. The results of that election resulted in a slightly changed and expanded membership and a new Chairman of the Committee, the Hon. Dr. Marlene Goldsmith, M.L.C., when it was reconstituted on 2 July, 1991.

All information and evidence collected under the original Terms of Reference were utilised in the production of this Report.

COMMITTEE PHILOSOPHY

The Juvenile Justice System in New South Wales covers young people from the age of 10 to 18. It attempts to recognise the "... unique physical, psychological, and social features of young persons and the application of delinquency standards."¹

During the course of the Inquiry, a number of important factors became apparent to Committee Members. The first and most relevant of these was the peculiar nature of juvenile crime, or more specifically, the fact that the overwhelming majority of young people come in contact with the Juvenile Justice System only once.

"There are some (in fact, many) adolescents who will be caught breaking the law once and for whom this will be their only contact with the juvenile justice system. Because of the associated developmental stages of adolescence (risk taking, peer approval, etc) some young people will engage in behaviour which is atypical for them and they will generally move on in their development to more socially acceptable behaviours. ... These adolescents will generally not re-offend - not because of the threat of heavy penalties - but because of the understanding they have about the consequences of their behaviour."²

Consequently, the Committee is committed to strategies that will minimise the contamination of first and minor offenders by exposure to the justice system, especially exposure to hardened offenders.

The Committee also became aware of the extraordinary complexity involved in successfully reconciling the varying interests associated with juvenile justice.

¹ Freiberg. 1988 p.209

² Submission 4. p.1

Through its juvenile justice legislation and administrative arrangements, the Parliament must strike a proper balance in responding to the needs of the groups interested and involved in Juvenile Justice. The groups interested and involved in Juvenile Justice are identified as follows:

- . young offenders, who often come from dysfunctional families and an abusive past, who are dealing with problems such as drug abuse and homelessness but who nonetheless must be held accountable for their actions;
- . the families of young offenders who must be assisted to perform a caring, protective and responsible role for family members and who must, where feasible be part of the consultative process when decisions regarding the care and management of young offenders are made;
- . the victims of both property and personal crime who must be incorporated into the justice system and where possible recompensed for their suffering and loss; and
- . the community, which demands as safe a home environment as possible, a sense of justice and an appropriate response to crime of any form and sufficient confidence in government responses in relation to value for money.

The Standing Committee on Social Issues is composed of Members from the most diverse backgrounds. However, it was universally recognised that on this issue non-partisan support is essential if meaningful change is to be achieved for the benefit of the community as a whole.

Education and leadership in the community and amongst practitioners are essential to ensure confidence and credibility in proposed change.

It is the Committee's hope that this report will go some way to providing a framework for a sympathetic and objective approach to juvenile justice reform in this state.

The Committee strongly endorses the view that because of the peculiar nature of juvenile crime, there should be no attempt to combine the systems of adult and juvenile justice.

The original Child Welfare Act, 1923 and its successor the Child Welfare Act, 1939 governed young people in this state for most of this Century. However, current legislation, in recognition of a more enlightened age and in association with Australia's international responsibilities (see reference to U.N. Conventions in Chapter One), differentiates between young people and adults in the way they are cautioned, arrested, dealt with by the judicial system and held in custody. It is the Committee's firm opinion that such a distinct system should continue.

Introduction

The Committee wishes to state that in a very real sense, reviewing the Juvenile Justice System in New South Wales is addressing the problems after they have occurred. Homelessness, family dysfunction, sexual and physical abuse, poverty, and drug addiction are among the major circumstances which underly juvenile offending and which must be addressed effectively if juvenile offence rates are to be reduced.

The Committee firmly believes that young people should be held accountable for their actions, albeit with some recognition given to their age and particular circumstances. While community representatives, occasionally encouraged by irresponsible media coverage, are often the first to suggest harsher penalties and a stricter response to juveniles, it is this same community which has the most to benefit from crime prevention and the better utilisation of resources. However, none of the above should be seen as an "excuse" for juvenile crime.

The Committee also determined that the personal needs of the offender should be addressed, particularly where such needs are considered to have contributed to the offence. The "needs" of a young offender and the fact that a "deed" or offence has been committed both have to be managed. It is considered by the Committee, that it is important for the young offender, to have their "needs" addressed separately from the "deeds" they have committed. This view was taken in order that assistance to a young offender is not perceived as a reward for offending.

CHAPTER ONE

BACKGROUND

1.1 BACKGROUND TO JUVENILE JUSTICE IN NEW SOUTH WALES

The management and care of young offenders in New South Wales has been a cause of considerable concern for all Governments of this State since the middle of last century. The notorious Parramatta Reform School for "uncontrollable and delinquent girls" was founded as early as 1829. In 1881, Edmund Fosberry, the New South Wales Commissioner of Police, in a report to the Principal Under Secretary in London noted that:

"It is useless to ignore the fact that intemperance, obscenity, and disorderly conduct are growing evils amongst a large class of the youth of the city; well grounded complaints are constantly made of wanton injury to property and annoyance to citizens."¹

In 1971, 1,265 young people were detained in nine institutions. A further 240 young people were held in six remand centres and 102 in a school for truants.² The total of 1,600 detainees in 16 different centres required 800 staff, one third of the total of the then Department of Youth and Community Services.

The average length of stay in institutions was 8.5 months, indicating that many young people were held for longer periods and that:

"... many were in fact detained for quite trivial offences, some of which would not have rendered adults liable to imprisonment, and also for behaviour which was not "criminal" at all".³

The historical response by governments, law enforcement officers and the legal and welfare systems to juvenile offending in this state has overwhelmingly been incarceration.

In 1980-81, the State Government embarked on a major overhaul of the 1939 Child Welfare Act. This review particularly targeted the area of juvenile justice, including sentencing options, court diversion, community welfare facilities and detention centres. While a number of sections of the resulting Community Welfare Act of 1982 were never

¹ Submission 30. p.1

² Submission 1. p.1

³ Submission 23. p.2

proclaimed, the review signalled the commencement of a more enlightened, compassionate and detailed government response to this difficult management area of which this report is only the latest contribution.

The Australian Institute of Criminology conducted in 1983, a state by state comparison of juvenile incarceration rates. New South Wales was the highest in the country with a figure 60 per cent higher than Victoria and 200 per cent higher than South Australia.⁴

In response to those figures the Department initiated two task forces. The so-called "Houston Report" recommended that young people in detention should remain as close as possible to their own community or region and that alternatives to incarceration, incorporating community participation and other alternatives, be developed on a local basis and that these alternatives be made available to Children's Courts.⁵

The second report from the Department's task forces was the "Pryke Report" which examined each person in custody with a view to releasing those who posed no threat to the community, the future use and possible closure of various institutions and the staffing and location of non-custodial alternative programs.⁶ The Pryke Report concluded that large congregate detention centres were ineffective and contributed to greater recidivism. Smaller regional units and "community cottages" would better serve the needs of young offenders and supervision in the community could be undertaken by a reallocation of youth workers freed up from the closure of detention centres.⁷

The net effect of the Pryke Report was to reduce slightly the number of institutions and almost halve the number of young people who were detained to approximately 450, a figure which has remained fairly static right into the 1990's.

However, the planned creation and revitalisation of community-based alternatives did not eventuate. Nor did the implementation of a detailed and thorough assessment service, considered by the Pryke Report to be crucial to the transfer of young people from institutions back into the community. The "community cottage" scheme was unsuccessful for a number of reasons. Based on an attempt to keep low-risk offenders in closer contact with the community, the scheme:

"... faltered - principally because properties were purchased without community consultation and explanation of their role. Understandably there was a community backlash against the concept."⁸

⁴ Submission 1. p.1

⁵ Houston. 1983

⁶ Pryke. 1983

⁷ Submission 1. pp.2-3, Submission 23. p.4

⁸ Submission 23. p.5

While not everyone accepts this assessment, the community cottage scheme was representative of a broader malaise attendant upon all attempted reforms in the juvenile justice area. Selling the idea of change, particularly change which emphasises treatment and rehabilitation, to a public bombarded with media stories of juvenile gang warfare and "drug-crazed" homeless youth prowling the streets intent on causing physical injury, was exceptionally difficult. Furthermore, "Law and Order" has frequently been a first-order election issue along with health policy and education for all the major political parties:

"This final phase, i.e. the careful and thorough implementation of the whole reform process, demanded both political will and bureaucratic commitment in order to guarantee its success. Neither was forthcoming. As community and media nervousness grew the political will wavered and the Department's executive gradually withdrew even its "support in principle". The underpinning legislation which might have saved the reform was said to be too costly to implement."⁹

The last five years have seen some considerable change in the legislative base and administrative arrangements governing juvenile justice in New South Wales, but more effective community supervision, more successful rehabilitation programs and a significant decrease in the number of juveniles in secure care are yet to be achieved.

A package of legislative reform was introduced in 1987 in which "care" (i.e. welfare) matters were separated from criminal proceedings, set up a distinct Children's Court of New South Wales with specially appointed Children's magistrates, detailed a series of non-custodial sentences available to magistrates, confirmed the age of criminal responsibility at 10 years and regulated the proceedings and conduct of juvenile courts, detention centres and community service orders.

Legislation among that reform package includes the:

- . Children (Criminal Proceedings) Act 1987
- . Children (Care and Protection) Act 1987
- . Children (Community Service Orders) Act 1987
- . Children (Detention Centres) Act 1987
- . Children's Court Act 1987.

⁹ Submission 11. p.4

It is generally recognised that the gradual improvement in the attitudes and facilities associated with juvenile justice in the state of New South Wales commenced in the early 1980s. This was also true of many other states in Australia at this time.

The passage of the 1982 Community Welfare Act was preceded by considerable research and investigation. Changes in the provision of juvenile justice services began as far back as December 1978 when a Green Paper on proposed changes and reforms to the Child Welfare Act, 1939 was released for public comment by the then Minister, Mr R.F. Jackson, M.P.

Whilst some sections of the Community Welfare Act were never proclaimed, most commentators agree that the review which preceded the legislation, proved to be the catalyst for the development of a range of community-based alternatives which emerged during the 1980s. The process also is considered to have engendered the Pryke and Houston Reports and provided much of the background to the package of legislation which was eventually passed in 1987 and implemented.

Many people involved in the process gained extensive knowledge of the Juvenile Justice System. The Committee spoke to a number of those people whose evidence proved particularly valuable for the Inquiry.

In July 1990 the Youth Justice Coalition, under the auspices of the Law Foundation of New South Wales, released a report entitled "Kids in Justice: A Blueprint for the 90's". This is undoubtedly the most comprehensive report on the New South Wales Juvenile Justice System yet released. The Report had as its focus the experiences and perspectives of young offenders, their families, victims, members of the community and relevant workers. It dealt with the social context of juvenile crime and juvenile justice, the administrative agencies involved with juvenile offending, the policing of young people, community-based options and Juvenile Justice Centres, all of which the Committee carefully considered within this Report.

It must also be noted that the Committee was greatly assisted by the major relevant Departments, who provided much more than submissions and briefings. Representatives of the then Department of Family and Community Services and, more recently, the Office of Juvenile Justice co-ordinated many of the visits of inspection and provided the Committee with an extraordinary array of statistical, research and background material. The Committee is indebted to the professionalism and co-operation of these departmental officers and the support of the Ministers.

1.2 CURRENT ADMINISTRATION OF THE SYSTEM OF JUVENILE JUSTICE

"Operational responsibility for Juvenile Justice was transferred from the Minister for Health and Community Services to the Minister for Justice from 1 July 1991. The Attorney-General assumed responsibility for policy matters."¹⁰

Subsequent to that transfer, and following a review of the management of juvenile justice by the Office of Public Management a separate Office of Juvenile Justice, reflecting the distinct philosophical differences between the children's and adult correctional systems was created and became operational on 1 November 1991:

"Juvenile Justice retains control of its own operational activity, and the Head of the Office of Juvenile Justice reports directly to the Minister for Justice on management issues and to the Attorney-General on policy matters."¹¹

The Office of Juvenile Justice controls the operations of Juvenile Justice Centres, formerly known as detention centres, the Juvenile Transport Service, Community Youth Centres, Juvenile Justice Community Services (formerly known as Young Offender Support Service), community based programs, policy research and evaluation.

In September 1991, the Attorney-General and the Minister for Justice established the Juvenile Justice Advisory Council. The establishment of such a Council was originally recommended in the Kids in Justice Report. Established to provide advice to the government on juvenile justice policy for an initial period of two years, the Juvenile Justice Advisory Council is independent of the Office of Juvenile Justice and consists of ten members including community representatives, service providers and experts on juvenile justice and crime prevention issues. The Council's role is to advise the State Government, and particularly the Ministers to whom they report directly, on the future policy and management directions for juvenile justice:

"It will develop and recommend a long-term strategic plan for juvenile justice, with a view to appropriate reforms to laws, policies and programs."¹²

¹⁰ Evidence 25.11.91

¹¹ Ibid

¹² Ibid

The Terms of Reference for the Juvenile Justice Advisory Council are:

- "1. To advise the Attorney General and the Minister for Justice on the future policy and management directions of juvenile justice in NSW within the existing budget allocation.
2. To examine and report on models for dealing with juvenile justice, taking into account the recommendations of the Legislative Council Standing Committee on Social Issues Inquiry into Juvenile Justice, the Cabinet Justice Committee response to the Kids in Justice Report and the recommendations of the Office of Public Management Review of the management structure of juvenile justice and to advise the Government on priorities for implementation.
3. To develop and recommend a long-term strategic plan for juvenile justice in NSW.
4. To develop and recommend methods and strategies relating to juvenile crime prevention.
5. To recommend improved coordination across Government and community agencies, taking into account the legal, police, rehabilitation, education, accommodation, health and family issues involved.
6. To make recommendations to the Government on appropriate reforms to laws, policies, and programmes concerning juvenile justice and to include in all recommendations administrative responsibilities, cost, time-frame for implementation and performance measures.
7. To recommend the commissioning of research and to review other reports and studies relating to juvenile justice.
8. To develop and recommend, in liaison with the Bureau of Crime Statistics, a coordinated data gathering system relating to juvenile justice which will provide an essential resource for continuing research and evaluation.
9. To identify and report on the direct and indirect costs of juvenile justice in NSW.

10. To consult with and promote awareness among young people, families, community groups, the media, the public and Government on issues concerning juvenile justice.
11. To undertake such other activities as determined by the Attorney General or the Minister for Justice."¹³

1.3 WHY SHOULD JUVENILES BE TREATED DIFFERENTLY?

It has been a universally accepted precept that the care and management of young offenders needs to be handled distinctly from actions taken against adult offenders.

More particularly, a separate system has emerged with the intention of saving "...children from the contamination and stigma of being dealt with like and along-side adults, ... it is the very nature of children and their situation [which] demands a different jurisdiction."¹⁴

Articles 37 and 40 of the United Nations Convention of the Rights of the Child (adopted by the General Assembly of the United Nations on 20 November 1989), deal specifically with the administration of juvenile justice. This convention states, amongst other things, that:

"Article 37

- (b) ... The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) ... every child deprived of his or her liberty shall be separated from adults ... and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance; ...

¹³ Juvenile Justice Advisory Council, 8.5.92

¹⁴ Submission 33. p.35

Article 40

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children;

...

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programs and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence."

The more the Committee investigated the whole area of juvenile justice the more apparent became the level of misinformation and incorrect assumptions which presumably have formed the basis of much public discussion in this area.

At the outset of this report, the Committee wishes to take issue with a number of myths and perceptions, and to re-affirm a number of facts and principles of juvenile offending and care which have formed the basis of its deliberations and recommendations.

Misperceptions

There is a juvenile "crime wave", currently overwhelming the citizens of New South Wales.

The Juvenile Justice system has "gone soft" on juvenile crime and Juvenile Justice Centres are "holiday resorts" which encourage absconding.

Having absconded, juvenile criminals engage in an "orgy" of criminal behaviour, threatening the safety of the ordinary citizens of the state.

Facts

Overall, patterns of juvenile offending have remained static for more than a decade, even during periods when adult crime has increased.

Most young offenders grow out of crime. The most common juvenile offender is male and aged between 16 and 18 years of age. More than 60 per cent of young

offenders do not re-appear in court after a first offence and only a small minority pursue criminal careers.¹⁵

"Most juvenile crime is episodic, opportunistic and transitory."¹⁶

Very little crime, particularly involving offences against the person, is committed by juveniles who have escaped from training centres.

These issues will be expanded on later in this Report.

1.4 PRINCIPLES

Following its Inquiry, the Committee has adopted the following principles in relation to Juvenile Justice within New South Wales:

- The first response of an effective Juvenile Justice System must be crime prevention.
- The Juvenile Justice System must continue to be discretely managed, with every effort being made to prevent the progression by young people from Juvenile Justice Centres to adult gaols.
- Young people detained on "care" matters must be separated from those incarcerated on criminal matters.
- Diversion, particularly Police Cautions, should be the first response to minor offences and community based orders should be the most frequent sentencing options.
- Selection and training of all persons involved with juveniles should be of the highest order.
- Community treatment programs hold the best opportunity for the rehabilitation of young offenders by offering the least disruption to the young person and the greatest protection to the wider community. Community consultations regarding the location and operation of such centres should be as detailed as possible.

¹⁵ Submission 1. p.5

¹⁶ Submission 15. p.6

Institutionalisation should always be a last resort, preferably for serious recidivist offenders and those who commit violent crimes.¹⁷

A co-ordinated approach between the law enforcement, health, community service, education, housing and juvenile authorities shall be developed.

Within the juvenile justice process, the victim should be considered and respected.

The young offender and where appropriate his or her family should be involved at all levels of proceedings.

There is a need for the community to be accurately and sensitively informed of the facts relating to juvenile justice and the rationale behind the determinations of government. This responsibility lies with all members of Parliament, the media and relevant educational outlets.

1.5 STRUCTURE OF THE JUVENILE JUSTICE SYSTEM

In acknowledgment of the principles outlined above, the Committee has outlined in the following paragraphs its perspective on the composition of the Juvenile Justice System in New South Wales.

The juvenile justice system in New South Wales has been described as:

"a combination of rules, institutions and people involved in the control and punishment/rehabilitation of young people as suspects and, primarily, as offenders."¹⁸

The responsibility for the "formal" system lies primarily with four state government departments, vis Attorney-General's, Police, Courts Administration and the Office of Juvenile Justice. The first three of these departments have policy and operational responsibility for both juveniles and adult offenders, with the Office of Juvenile Justice the only one of the four departments which has responsibility solely for juveniles.

Some local councils are involved in the area of juvenile justice, through their provision of crime prevention programs in the form of community services. The Federal government also plays an indirect role in the Juvenile Justice System. Its role includes resourcing through direct and tied grants to the states relating to health, accommodation and human rights.

¹⁷ Submission 15. p.4

¹⁸ Submission 33. p.59

The New South Wales government provides services for families and juveniles at risk, either directly by the Department of Community Services or through grants to a number of non-government organisations.

A wide range of non-government agencies provides services to juveniles at risk and young offenders. The types of non-government agencies involved include service clubs, community and church groups, welfare organisations such as Burnside, Careforce, Centrecare and the Sydney City Mission. In addition youth refuges, other accommodation services and legal services such as the Aboriginal Legal Service provide services to juveniles at risk and young offenders.

1.6 METHOD OF INQUIRY

There has been a dramatic increase in both general research material and the implementation of alternative systems in the juvenile justice area in Australia and overseas in the previous decade. To this end, the Committee sought to access as much research and statistical information as was available to it.

All Government departments and instrumentalities were asked to provide information to the Committee and the Committee held detailed briefings with the Departments of Police and Community Services on two occasions. A briefing was also held with the Minister for Justice and members of the Juvenile Justice Advisory Council.

The Committee sought information from academics, bureaucrats, field officers, youth workers, community and welfare workers, community representatives, a range of Juvenile Justice Centre employees, solicitors, the judiciary, police officers and young people themselves.

The Terms of Reference for the Inquiry inviting submissions from the general public were advertised in the major metropolitan dailies and specific invitations to provide a submission were posted to 48 individuals, Departments and organisations.

1.6.1 Submissions

The Committee received 91 submissions. Overwhelmingly these came from professionals either currently or previously operating in the juvenile justice field. Given the complexity of the issues this is not surprising and it did provide the Committee with a perspective from almost all areas of juvenile justice administration.

As detailed above, the Committee received submissions from all the relevant Departments including the newly established Office of Juvenile Justice.

These submissions detailed the respective role of Departments, their programs and responsibilities.¹⁹

Appropriate government instrumentalities such as the Ombudsman's Office, the Office of Aboriginal Affairs and the Legal Aid Commission also supplied submissions. These bodies explained their specific function within the Juvenile Justice System and commented on their ability to meet that demand.

The Office of Aboriginal Affairs, for instance, deplored the high arrest, conviction and incarceration rate of young aboriginal people:

"Thus, in summary, Aboriginal children are over represented at all stages of the juvenile justice system. This over-representation actually increases with an individual's penetration of the system. Data from both New South Wales and South Australia indicates that the over-representation of Aboriginal children at the prosecution level increases at the Court level, and again at the institutional level."

In its submission, the Legal Aid Commission of New South Wales stated that "the Commission would support the further development and improvement of diversion schemes for juveniles to ensure that custodial sentences are imposed only as a last resort". The submission from the Ombudsman stated that they were simply unable to cope adequately with the demands on their resources.²⁰

"It is my view that my office should be an avenue of last resort except perhaps in those cases of important public interest which require the early intervention of an independent body with significant powers, but to carry out this role more effectively, the resources have to be available and, given the current budget limitations, no further allocations of resources are possible. Indeed... that highlights our problem at the moment."²¹

The greatest single group of submissions came from current and past juvenile justice professionals and young people themselves. This group includes social workers, youth workers, charity workers, lawyers, community health and welfare workers, Children's Court Magistrates, Juvenile Justice Officers (formerly known as YOST workers), children's aid agencies and schemes offered by the traditional church agencies. Without exception, these submissions urged a compassionate and understanding approach to juvenile justice:

¹⁹ Submissions 1, 2, 3, 4, 30.

²⁰ Submissions 46, 52, 57.

²¹ Evidence 4.4.91 p.204

"As a former professional social worker with many years of experience of working with troubled adolescents, I am much concerned with the backward step to have juveniles committed to adult prisons... To take an increasingly punitive line is not the answer."²²

and a detainee said:

"I spent many hours in (solitary) confinement, a cage, empty room, whatever the label, this sort of (psychological) punishment did more damage than good! I began to mutilate my arms; I tried to hurt, slash, bruise myself just to release the anger and pain which I felt."²³

Alternatively, submissions from current and past juvenile justice professionals and young people emphasised the need for incarceration to be used only as a last resort and almost all stated that juvenile justice services in general were understaffed and inadequately resourced:

"... incarceration is notoriously ineffective in preventing further criminal behaviour on release. Often it increases the likelihood of such an event due to the negative impact of institutional living."²⁴

"During my time it was often the case that pre-sentence reports could not be written properly or, in fact, not at all due to chronic staffing shortages. Low staff numbers had the effect of creating a number of problems:

- 1) Reports were of variable quality and inconsistent depth
- 2) People may be employed as YOST workers who were neither suited for the position or, if they had potential, were placed in situations which created difficulties due to their inexperience and lack of training."²⁵

The final significant group of submissions were from academics, many of whom had previously worked as professionals in one or more areas within the Juvenile Justice System. They detailed a variety of what they saw were shortcomings in the system and echoed the sentiments of the professionals by recommending a flexible, co-ordinated and compassionate response to juvenile offending.

²² Submission 8. p.1

²³ Submission 36. p.3

²⁴ Submission 15. p.7

²⁵ Submission 14. p.3

1.6.2 Evidence

The Committee heard a considerable amount of evidence. In addition to the 91 submissions received, evidence was taken at formal hearings and through detailed discussions with 205 people involved in, or concerned with juvenile justice in Australia. A genuine attempt was made to speak to young people, with the Committee meeting with 29 juveniles inside or outside Juvenile Justice Centres.

Sub-Committees also met with over 45 people in other countries. While not exhaustive, Committee members can claim to have examined in some considerable depth most of the current themes and issues in contemporary juvenile justice philosophy and discussed with experts all of the proposals contained in this Report.

1.6.3 Research Material

The Committee accessed a great deal of printed research material. The most significant single piece of research work in the area in recent times is the Kids in Justice Report released in June 1990 by the Youth Justice Coalition, funded by the Law Foundation of New South Wales. This detailed examination of the system is currently being considered by the Government and comments on some of its recommendations are to be found throughout this Report.

Other reports examined by the Committee include:

"Our Homeless Children: The Report of the National Inquiry into Homeless Children", by the Human Rights and Equal Opportunity Commission, 1989.

"Diversionary Scheme for Aboriginal Young Offenders", A Report to the Department of Family and Community Services, May, 1991

"Community Crime Prevention Project: Final Report," Waverley Municipal Council, April, 1991

"Preventing Juvenile Crime: Proceedings of a conference held 17-19 July, 1989," Australian Institute of Criminology, 1991

"Sentencing Young Offenders", The Law Reform Commission, 1988

"Girls at Risk", Women's Co-ordination Unit, June 1986

- "Criminal Justice in North-West New South Wales," Bureau of Crime Statistics and Research, 1987
- "Sentencing Juvenile Offenders and the Sentencing Act 1989 (NSW)", Judicial Commission of New South Wales, 1991
- "Young People and Crime: Costs and Prevention", Australian Institute of Criminology, 1990
- "Youth Crime Prevention: Proceedings of a Policy Forum held 29-29 August, 1990", Australian Institute of Criminology, 1990
- Royal Commission into Aboriginal Deaths in Custody, "National Report Overview and Recommendations", 1991.

1.6.4 Visits of Inspection

Members of the Committee were able to observe, first hand, a variety of systems operating in other states of Australia and overseas.

Committee members visited South Australia to speak with relevant officials in charge of the Screening Panel that operates in that State, spoke with police officers in Queensland about the operation of the "special youth police", and with the relevant people from the Youth Advocacy Centre, both initiatives peculiar to Queensland. The Committee visited Victoria for discussions with Departmental Officers about the implementation difficulties involved after the tabling of the "Carney Report"²⁶ in that state.

A sub-Committee visited New Zealand to examine the operation of the Family Group Conference scheme introduced in 1990 and two Committee members were able to observe the differing systems of juvenile justice in Holland, Sweden and the United States.

Committee members also visited five of the nine Juvenile Justice Centres in the State and held discussions with staff, administrators and the young people themselves. Notwithstanding the contained nature of the audience, Committee members utilised the opportunity to discover what was important to young people in these centres and most of them were very forthright in their suggestions.

The Committee visited Dubbo, Bourke and Moree in an attempt to obtain some sense of the conditions operating in country New South Wales and to more closely examine the environment in which an over-representation of young Aboriginal people end up in custody.

²⁶ Carney. 1983

Finally, the Committee attempted to look at some of the huge variety of other programs and initiatives involved in the juvenile justice area. While not every program or youth centre could be visited, the Committee or its representatives studied crime prevention programs, youth "drop-in" centres and community youth centres, and spoke with Juvenile Justice Officers, youth workers, magistrates and solicitors.

1.7 STRUCTURE OF THE REPORT

This Report seeks to do a number of things:

- . Review the available literature and distil the collective wisdom of the hundreds of people involved in juvenile justice with whom the Committee has spoken;
- . Examine other systems and innovations in operation in Australia and other parts of the world, decide on their applicability for New South Wales and make recommendations accordingly; and
- . Review the current administrative arrangements governing juvenile justice in New South Wales, including the Ministerial advisory mechanisms and comment upon their effectiveness.

The Report does not attempt to review each individual program, Juvenile Justice Centre or crime prevention strategy currently in operation in this state. That is a task which was beyond the resources of this Committee and is also more appropriately undertaken by the relevant Departments.

What this Report does seek to do is to make recommendations to the government concerning the principles, some particular needs and general structure of juvenile justice administration in New South Wales.

The Report follows the parameters set down by the Terms of Reference as closely as possible. Initially outlining the current administrative arrangements in operation, the Report examines the available evidence to make recommendations on crime prevention programs, court diversion schemes, sentencing and community-based options for the care and management of young offenders, selection and training of staff, and the adequacy of services to young people in the Juvenile Justice System.

The most pronounced groups which are either disproportionately represented, or have a set of needs which sets them apart from the bulk of the juvenile justice population are:

- . Aborigines;

Girls;

People from non-English speaking backgrounds; and

Rural young people.

Recommendations in the body of the Report will obviously affect all of these groups. However, the Committee has also looked specifically at these groups and in some instances made recommendations to address their particular needs.

The Committee understands that some young people in the Juvenile Justice System have an intellectual disability. Very limited evidence was presented to the Committee in this regard, and it acknowledges that such young people can be a "hidden group".

The Committee recognises that intellectual disability among young people in the juvenile justice system is a significant issue that needs further examination. The Committee therefore recommends that the Office of Juvenile Justice continues to examine this issue, including a review of the recommendations contained in the "Report from the Working Party on Services to Young Persons with Intellectual Disabilities in the Juvenile Justice System", produced by the then New South Wales Department of Family and Community Services in 1988. Given the limited range of material presented to the Committee no specific comments are made in this area.

The final sections of the Report contain a dissenting opinion, a list of the submissions received, the glossary, the bibliography and lists the witnesses and people with whom the Committee held formal discussions both interstate and overseas.
