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## CHAIRMAN'S FOREWORD

In the breadth of its terms of reference, this inquiry presented the Committee with a special challenge - to take a broad view of Juvenile Justice in New South Wales, while at the same time avoiding superficiality.

If we have achieved this aim, my gratitude is in no small measure owed to our staff. Committee Director Isobel Bothwell and Senior Project Officer Alexandra Shehadie both have worked extraordinary hours in order to complete this lengthy report in the shortest possible time so that needed reforms to Juvenile Justice are not delayed.

Committee Officer Heather Crichton and Assistant Committee Officer Annie Marshall have also been exemplary in their dedication to this project.

Similarly, great pressures have been placed on the Members of the Committee, all of whom are busy Parliamentarians with many other responsibilities. I thank both past and present members for their commitment, and am grateful that we have been able to achieve what must be an extraordinary level of unanimity, for the representatives of five different political parties, across such a broad and often contentious area. This unanimity is, I believe, testimony to the importance of the issues, the needs we perceived, and the commitment of us all to save as many of our children as possible.

Clearly, young offenders need to be accountable for their misdeeds. But equally clearly, our investigations have shown that many of these young people are themselves victims, of physical or sexual abuse or neglect.

As a system we have a responsibility to provide these victims with the skills and resources to cope, in a world that sadly often has no place for them. As a society, we must learn to cherish our children and nurture the family, as the institution that cares for them. Only in this way can future juvenile crime and suffering be prevented.



MARLENE GOLDSMITH  
Chairman

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## ACKNOWLEDGEMENTS

The Standing Committee on Social Issues wishes to record its appreciation for the many thoughtful written submissions and evidence received from members of the public and a wide range of organisations, upon which this Report is heavily dependent.

Our gratitude is extended to the valuable advice and assistance which the Committee received from representatives of the New South Wales Office of Juvenile Justice. In particular we wish to acknowledge the assistance of Carl Loughman and Philip Clarke.

The staff of the Parliamentary Library were helpful and resourceful to the Committee. For their assistance, the Committee extends its thanks.

The Committee would also like to extend a thank you to Simon Waterhouse of the Legislative Council staff and Jan Duncan of Media Monitoring who were particularly co-operative in the provision of resources for the Inquiry, often at very short notice.

We wish to place on record our appreciation to Tony Pooley and Christopher Chippendale for their assistance with the preparation of the Report.

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**TERMS OF REFERENCE:**

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.

**MEMBERSHIP OF THE**  
**STANDING COMMITTEE ON SOCIAL ISSUES COMMITTEE:**

Hon. Dr Marlene Goldsmith, MLC (Chairman), Liberal Party

Hon. Ann Symonds, MLC, (Deputy Chairperson), Australian Labor Party

Hon. Franca Arena, MLC, Australian Labor Party

Hon. Lloyd Coleman, MLC, National Party

Hon. Keith Enderbury, MLC, Australian Labor Party

Hon. Elisabeth Kirkby, MLC, Australian Democrats

Hon. Doug Moppett, MLC, National Party

Rev. The Hon. Fred Nile, MLC, Call to Australia Group

Hon. John Ryan, MLC, Liberal Party

Hon. Helen Sham-Ho, MLC, Liberal Party

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**Front:** Hon. J. Ryan MLC, Hon. A. Symonds MLC (Deputy Chairperson),  
Hon. Dr. M. Goldsmith MLC (Chairman), Hon. E. Kirkby MLC

**(from left to right)**

**MEMBERSHIP OF THE**  
**STANDING COMMITTEE ON SOCIAL ISSUES COMMITTEE**  
**AT THE COMMENCEMENT OF THE INQUIRY:**

Hon. Max Willis, MLC (Chairman), Liberal Party

Hon. Ann Symonds, MLC, (Deputy Chairperson), Australian Labor Party

Hon. Franca Arena, MLC, Australian Labor Party

Hon. Keith Enderbury, MLC, Australian Labor Party

Hon. Duncan Gay, MLC, National Party

Hon. Dr Marlene Goldsmith, MLC, Liberal Party

Hon. Judith Jakins, MLC, National Party

Rev. The Hon. Fred Nile, MLC, Call to Australia Group

Hon. Helen Sham-Ho, MLC, Liberal Party

## EXECUTIVE SUMMARY

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 an Inquiry to the Standing Committee on Social Issues of the Legislative Council, 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.

The Committee heard evidence from 95 people at formal hearings. Detailed discussions and informal meetings were held with 72 people in South Australia, Queensland, Victoria, New Zealand and other countries. A genuine attempt was made to speak to young people, with the Committee meeting with 29 juveniles inside or outside Juvenile Justice Centres.

Juvenile justice has been a prominent issue in New South Wales for some time, with a number of different opinions regarding the operation of the existing system. This system is also quite complex, encompassing a wide variety of responsibilities and services provided by several different authorities and agencies. In writing this Report and in framing its recommendations, the Committee acknowledges the competing interests of those associated with the Juvenile Justice System.

The Standing Committee on Social Issues is composed of Members from diverse backgrounds. However, it was universally considered 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.

During the course of the Inquiry, a number of important factors became apparent to Committee Members. The most relevant of these was the peculiar nature of juvenile crime, or more specifically, that the overwhelming majority of young people come in contact with the juvenile justice system only once. Consequently, the Committee is committed to strategies that will minimise the contamination of first and minor offenders by exposure to the justice system, including exposure to hardened offenders.

A number of principles were outlined by the Committee. These principles underly the recommendations made and approach within this Report, and include:

- . crime prevention must be the first response to juvenile crime;
- . every effort must be 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 be the most frequent sentencing options;
- . institutionalisation should always be used as a last resort;
- . selection and training of all persons involved with juveniles should be of the highest order;
- . the victim should be considered and respected;
- . a co-ordinated approach between the law enforcement, health, community service, education, housing and juvenile authorities is required; and
- . the community needs to be accurately and sensitively informed of the facts relating to juvenile justice and the rationale behind the determinations of government.

The needs of specific groups of young people involved in the Juvenile Justice System became apparent to the Committee. Among those considered by the Committee were Aborigines, girls, people from non-English speaking backgrounds, and rural young people. While the recommendations affect all groups of young people involved in the Juvenile Justice System, the special needs of these groups were highlighted and addressed.

The Committee considered that crime prevention programs are essential to addressing the problems of juvenile offending. The need for such programs can be seen from the estimated costs of juvenile crime. The Committee received evidence that the direct cost of juvenile crime, for damage and injuries, was around \$250 million per year in New South Wales. Further indirect costs, such as insurance premiums and the like, were estimated at about \$150 million per year. The costs in human suffering are immeasurable.

In order to make recommendations about crime prevention strategies, the Committee took a broad approach. This necessitated an investigation of the causes of juvenile crime. The Committee concluded that the reasons for juvenile offending could not be easily isolated and that its causes were many and complex. However, it was found that factors such as poverty, unemployment, family breakdown, school alienation, homelessness, substance abuse and low morale and self-esteem were clearly associated with juvenile offending.

The Committee heard that the formal processing of juveniles by the court has long been an area of concern, especially in jurisdictions where formal diversionary procedures are implemented. The court process may have the effect of the young person being stigmatised as a criminal, perceiving themselves as an offender and becoming unnecessarily caught up in the process. Court proceedings are often slow, with young people remanded for lengthy periods. The Committee considered that effective responses to juvenile offending should be both prompt and related to the offence so that the causal connection is clear.

It was also clear that young people often do not understand court proceedings, and therefore may not fully comprehend the implications of their offending behaviour. The Committee considers that it is in the interest of both the young person and the community that the implications of offending are fully understood by the offender, and that court diversion schemes may better facilitate this process.

The Committee determined that an effective court diversion scheme is the appropriate use of Police Cautions. The Committee made recommendations which serve to increase the use of cautioning by police through updated and streamlined cautioning procedures.

In the course of its Inquiry the Committee heard of the concept of "shaming". Described as the communication of disapproval whilst maintaining a relation of respect for an offender, "shaming" allows young offenders to accept responsibility for their actions while maintaining a sense of self-respect. It was considered by the Committee that such a process could effectively be accomplished through the involvement of the families of young offenders and representatives of the community.

A significant recommendation within this Report is the establishment of a pilot pre-court diversion panel scheme called a Children's Panel. Such Panels would include a community representative and work with the offender's family to facilitate an agreed outcome concerning reparation or amends to any victim involved.

The Committee found that in recent years there has been some reduction in the use of custody as a sentencing option for young offenders. However, the research showed that more young people can be diverted from detention. While it is acknowledged that there is a small group of serious and violent young offenders who should be detained for the protection of the community, the Committee strongly recommends that detention be used as a measure of last resort. The Committee believes that these young offenders who are detained should be provided with services and programs designed to help their re-integration into society.

Community-based sentencing options for other, particularly non-violent offenders were found to be more beneficial for many young offenders. It was found that community-based sentences may help a young offender better develop into a responsible member of their community without the dislocating and damaging effects of incarceration. The Committee strongly supported the use of community-based sentences and made a series of recommendations supporting their use.

However, the Committee considered that community based sentencing options could only work effectively if adequate resources were allocated to assist Juvenile Justice Officers.

The Committee also considered and reported on the selection and training of staff in relevant youth services. The need for a high standard of selection, training and supervision of workers from a number of different professions was recognised. In this regard, the Committee made a number recommendations in relation to youth workers employed in Juvenile Justice Centres.

The Committee also considered evidence in relation to the range of services available to young people in the juvenile justice system. Services addressed include those relating to crime prevention, drugs and alcohol, health, education and training and information and legal advice.