PROCEEDINGS OF THE

CHILD CARE AND RIGHTS OF CHILDREN CONFERENCE

9 - 10 May 1983

Legislative Chamber,

Parliament Buildings,

Wellington.

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CHILD CARE AND RIGHTS OF CHILDREN

CONFERENCE

The Honourable Venn Young, Minister of Social Welfare, invited a number of people as individuals and as representatives of organisations to meet in a Conference designed to contribute to :

(i) review of the law, principles, provisions and services contributing to an optimum level of protection for the child at risk in the community and an optimum standard of care and protection for children who briefly, on a longer term basis, or permanently require full-time substitute parental care;

(ii) identifying ways in which the rights of the children in the community and in care can be further promoted; and

(iii) ensuring that the safeguards are dependable, practicable, accessible, realistic and reasonable in terms of cost and demands made on those providing care.

The Conference was held in the Legislative Chamber of Parliament Buildings, Wellington, on 9 and 10 May 1983.

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OPENING ADDRESS

HON VENN YOUNG
MINISTER OF SOCIAL WELFARE

Mr Grant, ladies and gentlemen.

I am delighted to have you with me today - firstly because as a group you would be the most experienced assembly of people working in New Zealand in child care and preventive work with children.

Secondly because all of you have given up two and three days out of an extremely hectic scheulde to accept my invitation to give to me and my department the benefit of your experience and expertise.

Many of you are known to me personally some by name others I do not know.

I would however like to welcome you all here today, to thank you for attending, and to assure you that the deliberations of the next two days will be treated with the consideration they deserve when new policy and legislative changes relating to children are formulated.

There are a number of areas I wish the conference to contemplate, but first I would like to briefly review the circumstances leading up to today's conference.

As you are all aware, my department and its predecessor, has been providing services to children and their families for over 50 years.

In recent years, a number of people including some departmental officials have been unsure about the appropriateness of the services including institutional care that the Department offers.

This was brought to a head last year by a report from the Human Rights Commission which itemised a number of complaints made several years earlier by people dissatisfied with certain aspects of care provided by social welfare institutions in the Auckland area.

I then commissioned the most Rev. Archbishop Johnston to conduct a comprehensive investigation into the current practices and procedures in Social Welfare institutions.

His report was a sensitive examination and contained a number of recommendations aimed at improving the quality of care provided by the institutions - many of these recommendations have already been carried out.

One concern featured in both reports - and subsequently was also touched on by the Race Relations Concilliator, Hiwi Tauroa in his report on Youth and the Law in a Multicultural Society.

This was the need for a Bill of Rights for Children.

Whether a Bill of Rights per se is the answer, I will await your advice.

No doubt it can describe the goal. It may spell out the ideal. But too often and here is an example where there is a gulf between the ideals and the reality of a situation.

It is the bridging of that gap that provides us with our objective.

That is what you must help me accomplish. The nation needs to offer its children more protection.

But "How many are at risk?". people may ask; "By whom are the threatened?"

They enquire "What are the risks - are they real?"

Reluctant though we may be to accept the facts, it is known and demonstrably true that too many children are at risk in New Zealand society.

Whether or not the level is greater than it was in the past, how the levels of child abuse in New Zealand compare with overseas, or if certain groups tend more to violence within the home, are all irrelevancies.

The facts of the matter are these - there are children who live with the risks of physical and emotional abuse; there are other risks of neglect or homelessness; there are the consequences of delinquency and deviance and developmental retardation.

If a single New Zealand child faces any of those risks, then it is our duty to set about to remove that risk or correct that damage.

A request: please apply yourselves as much to the <u>means</u> as you do the <u>ends</u>.

An undue concentration of children's rights can suggest that their rights must differ from those of adults.

Legislation is all powerful. It can provide for your being at one moment a child and the next an adult.

In that flash of time your rights either diminish or enhance according to the law even though you are exactly the same person with all the same strengths. And all the same weaknesses, all the same achievements, all the same problems.

I do not think that that makes great sense.

The right to life of a child is no lesser or greater than that of an adult.

A young person is merely an adult in metamorphosis.

What is important is for us to recognise that where there is less experience or where there is immaturity, both physical and mental, there are special demands for safeguards and care.

It is to these that I now wish to turn.

This conference represents a major step towards the goal of strengthening families to enable them to care for their own children.

Its aim must be also to better the caring services for children, and include consideration of a protective system for children who are neglected or abused.

Your aim must be to identify means of helping young offenders recognise the consequences of their offending and wherever possible help find rehabilitation outside of custodial institutions.

The conference must set about developing stronger community supportive programmes, which means developing more supportive communities.

Where these are not appropriate, either through the nature of the offence or the emotional disturbance of the child or young person, the aim of this conference must be to ensure that our institutions reflect the assistance and care required for the child's best interest.

It is important that care and progress is planned, with the child and the family taking part, and that the objective remain the re-establishment of that child within his family.

But not at any price. In all these things, the interest of the child must be paramount.

None of this will be easy.

However, I have been pleased to note the positive calls for a better legal, social and community environment for child care, by individuals and organisations since the Human Rights Commission report, the Johnston report, and the recent Tauroa Report were published.

This conference will provide a forum for the further constructive comment to enable future goals and objectives to be framed for the care, protection and control of those children who, for one reason or another, have become divorced from or have been deprived of a satisfactory experience of family association.

Where a family of origin is not able to care for the child, regardless of supportive services that may have been offered, we should ensure that alternative arrangements provide for care in a family setting and provide access to evaluation and assessment of the circumstances contributing to the problems of the child.

We must recognise that removal from family experience, emotion and identity, may in the long run be more harmful to the child than the reason for his removal.

Where alternative care is necessary it must be without affecting parents rights and their fullest possible involvement in the plans for the child and his progress.

We must examine accountability and the right of review against decisions in the planning for children.

The law relating to guardianship and adoption and the practices and policies of foster home placement may all be a part of your brief.

Let me deal now with matters related to offending.

When it comes to offending I consider that the principles I have outlined must also be applied.

However, we must remember that it is inherent in our system of justice that persons accused of crime have the protective rights of law and the proper conduct of proceedings.

Children who have offended should have no lesser rights and protection, but in saying this I do not want to be misunderstood.

I emphasise that where we choose to deal with juveniles differently from adults we must do so consciously.

But we must take heed of those who argue that involvement with the Courts and a system which passes children to institutions or juvenile prisons can serve to perpetuate offending rather than reduce it and that where the procedures of the law are ill-understood then the law itself is not understood.

We must acknowledge that there are special factors present in children including their immaturity, dependency and vulnerability.

They have specific needs while they are going through demanding stages of growing up.

Although for some the experience may be tinged with pain all young people move towards an increased level of responsibility for themselves and their actions.

Therefore, I believe that once an issue before the Court has been determined in accordance with the rules

of justice, that in dealing with the offender the factors I have outlined should be taken into account, but not before.

What I am saying is that Justice is Justice, is Justice.

Like wine, Justice cannot be enhanced by watering it down.

Nor can we make it go further by rolling it out thin.

In short, a much wider range of options should exist; not from a mixture of justice, but as choices of options for an offender's care, guidance, control and correction.

In this respect it is interesting to note the South Australian Law taken from the 'philosophy section' as it is sometimes referred to:

"In any proceedings under this Act, any Court, panel or other body or person, in the exericse of its or his powers in relation to the child the subject of the proceedings, shall seek to secure for the child such care, correction, control or guidance as will best lead to the proper development of his personality and to his development into a responsible and useful member of the community and, in so doing, shall consider the following factors -

(a) The need to preserve and strengthn the relationship between the child and his parents and other members of his family;
(b) The desirability of leaving the child within his own home;
(c) The desirability of allowing the education or employment of the child to continue without interruption;
(d) Where appropriate, the need to ensure that the child is aware that he must bear responsibility for any action of his against the law;
(e) Where appropriate, the need to protect the community, or any person, from the violent or other wrongful acts of the child."

I leave the final words on this matter of young offenders to Judge Kingsley Newman, Senior Judge of the Children's Court of South Australia:

"The price that has to be paid should be lower for juveniles, however, than it is for adults. Juveniles are less mature - less able to form moral judgements, less capable of controlling their impulses, less aware of the consequences of their Acts.

In a word, they are less responsible, hence less blameworthy than are adults; their diminished responsibility means

that they "deserve" a lesser punishment than does an adult who commits the same crime. By "lesser punishment" I mean more sparing use of incarceration; because juveniles are emotionally dependant on their parents in ways that adults are not, removal from the home tends to be a more severe punishment. I also mean significantly shorter terms, for time has a wholly different dimension for children that it does for adults."

He went on to say:

"In the last analysis, it is juveniles' malleability - their capacity for change - even more than their diminished responsibility that creates the need for a different, and more lenient, sentencing policy."

I regard the discussions and recommendations which will come from the deliberations of the next two days as vitally important and I will be relying on them for guidance when looking at any changes in direction in work with children and families, and in examining the need for new legislation.

I expect the discussions to be positive, rather than lingering on the negative, and that general concepts rather than specific cases will receive the attention of all here.

Because of Cabinet commitments, I will not be able to attend all the sessions over the two days.

However, you can be assured I will be following the progress closely, and will spend as much time here as I can.

I would like to thank you all once again for coming, wish you all a constructive and stimulating conference, and now take much pleasure in declaring the conference officially open.

SOME ISSUES FOR THE DEPARTMENT OF SOCIAL WELFARE

Mr B. M. Manchester
Assistant Director-General (Social Work)
Department of Social Welfare

As I see it, there are four main dimensions to the Department of Social Welfare's involvement in child care. These are:

(i) the investigation of complaints relating to the care and treatment of children;

(ii) the care of children who are placed by the Court under the guardianship of the Director-General of Social Welfare or who come under the Department's care by informal temporary admission, court process or remand, or by formal agreement between the parents and the Director-General that the child will come into the Department's care;

(iii) the care, treatment, training and re-education of the young offender;

(iv) the duty placed upon the Department to undertake work for the promotion of community, family, and personal wellbeing; (this latter dimension encompasses work in the field of policy formation, advisory, co-ordinating and funding programmes, liaison with voluntary agencies, day care, and development of a variety of service responses in the community).

In the time available I wish to make some comments relevant to the issue of children's rights in each of these four areas.

First, I wish to comment on the investigation of complaints relating to the standard of care and treatment which children are receiving.

Throughout the years 1925 to 1971 during which this responsibility rested with the Child Welfare Division of the Department of Education the legislation contained no specific empowering provision in this area. One could assume that such enquiries had to be conducted because there was provision to bring complaint proceedings before the Children's Court.

The Children and Young Persons Act 1974 quite explicitly states that:

> 'It shall be the duty of the Director-General to take positive action and such steps under this Act as in his opinion may assist in preventing children or young persons from being exposed to unnecessary suffering or deprivation or from becoming seriously distrubed or from committing offences.'

More explicitly the provision following immediately after the one just quoted says that:

> '... the Director-General shall arrange for prompt

> enquiry where he knows or has reason to suspect that any child or young person is suffering or likely to suffer from ill-treatment or from inadequate care or control.'

The legislation further provides that any member of the Police or any Social Worker of the Department may make an application in writing and on oath to Judge, Justice or Registrar for a warrant if he has reasonable grounds for suspecting that a child is being ill-treated or neglected in a manner likely to cause unnecessary suffering or is living in an environment injurious to his physical or mental health. The warrant issued enables the member of the Police or Social Worker to enter any premises, search for a child, and make such enquiries as are necessary to determine the care, condition, treatment and behaviour of the child. If the member of the Police or Social Worker considers that grounds exist for bringing complaint proceedings under the Children and Young Persons Act, he is authorised under the warrant to remove the child to a residence as defined under the Act and for the child to be held for up to three days pending determination as to whether court proceedings will ensue.

While the Police have the same powers to apply for warrants and to file complaint proceedings under the Children and Young Persons Act, it is nevertheless the case that the Social Work Division of the Department of Social Welfare has the primary responsibility as a community organisation, a department of central Government, for investigating complaints relating to the care and treatment of children. These complaints come from a wide range of sources - neighbours, relatives, teachers, day care staff, doctors, members of the various nursing services etc. - people who are likely to gain knowledge of what is or may be happening in the home.

The investigation of these complaints is one of the most difficult and demanding tasks which our Social Workers are called upon to perform. It requires a high degree of knowledge, skill, and experience to carry out such enquiries in a way that will maximise the possibility of the most constructive practical outcome for the child. In some cases it may be very much a matter of enabling a parent under circumstances of stress and difficulty to recognise the need for help and to accept the means of obtaining it. The intervention of enquiry may evoke responses of hostility and avoidance which may make it extremely difficult to sift through the ingredients of a situation to determine whether a child is seriously at risk or not. In more extreme cases it is necessary to decide whether the situation is sufficiently critical to warrant bringing the matter before the court.

Most Social Workers of our Department will probably attest to the fact that the tasks of enquiry and investigation and collation of evidence do not rest easily with the traditional therapeutic and supportive roles of social work. Nevertheless through this century in New Zealand we have concluded that the child care and protection enquiry task should primarily rest with a central Government social work service.

If we continue to accept this service arrangement it is, I think, necessary to recognise the need to provide the necessary ingredients to ensure quality service if adequate responses are to be made by staff when carrying out investigations under the legislation. This is central to the protection of the rights of the child who is actually or potentially at risk. It is as important to recognise a situation that is remediable with the child remaining in parental care as it is to identify the situation where the child must be removed for the time being while work is done with the parents, or removed with the expectation that nothing short of permanent alternative parenting care is likely to prove sufficient.

This is an extremely difficult area of decision making. Decisions in most cases don't have to be made suddenly but we are increasingly coming to the view that if the rights of children are to be adequately protected, neither should they take too long.

If decisions are to be soundly based there needs to be:

(i) a good standard of training of social work staff both of a general practice nature and specifically in methods, approaches, and special knowledge relating to child care and protection;

(ii) good standards of professional supervision of Social Workers carrying out these tasks;

(iii) adequate access to and consultation with other professionals in this field - teachers, doctors, psychologists, psychiatrists, lawyers;

(iv) a multi-disciplinary approach to case management in more serious cases.

Some relevant developments have been:

(i) To strengthen the Department's staff training programme offered mainly through three residential staff training centres at Auckland, Levin and Porirua and a variety of regional courses. A further aspect has been to improve the quality and coverage of supervision for field and residential social work staff to understand more clearly the contribution which the psychologist can make, to receive a greater input in training and case discussion from psychologists, and to use more effectively the services offered by the Psychological Service of the Department of Education.

(iii) The availability of bursary provisions for staff to study on full salary for qualification as child therapists - positions are established at Auckland, Hamilton, Wellington and Christchurch. In addition there is gradual but pleasing growth in availability of psychiatrists, psychologists, child therapists,psychotherapists, and counsellors on a fee for service basis.

(iv) A further development has been the establishment on an experimental basis of child protection units at Hamilton, Dunedin and South Auckland. These units represent a systematic multi-disciplinary attempt to provide a dependable, sustained, and well informed approach to case management. A district child protection management committee is formed typically including a lawyer, doctor, paediatrician, social worker. The Department appoints a full time social worker who receives referrals and convenes case conferences of those professional persons actually or potentially involved in a particular case. The Department provides accommodation, secretarial and receptionist services for these units.

(v) Additional specialist and very relevant resources available to the Department in the child care and protection area are a Chief Medical Advisor in Head Office, and a legal staff in Head Office and on a regional basis now numbering 16.

I wish to turn now to the situation of the <u>child in care</u>.

Numbers of children in care have shown a gradual decline each year over the last five years and I believe it is reasonable to expect that this decline will continue. The decline has been from 7,078 in 1978 to 6,588 in 1982.

First I would point out that at the end of 1981 we had 6.852 C & YP under our guardianship or for the time being in our care. Of these nearly 7,000 children, just under 3,000 were in private homes in the community in foster care, 800 were in Social Welfare Family group homes, almost 700 were in our short stay or longer term institutions, just under 1,000 were placed with parents for a trial period. The remainder were in employment, or in a variety of other situations. It can therefore be said that at any one time approximately 10% of the children in our care are in institutions and of that 10% half will be in the institution for three weeks or less and the other half will be in the institution on average for not more than a year. It can certainly be said that we do not display heavy reliance on institutional care either in numbers or duration of stay.

If one subtracts children placed with relatives, those on a trial basis with their own parents, and young persons in employment from the total number of children under guardianship or in care then it can be said that some 55% of children under the Department's care and who are for the time being needing to be brought up away from their parents, are in private homes in the community receiving foster care.

I intend to mention one or two factors which I see as having a significant potential impact on the numbers of children coming into and remaining in care.

I would first say unhesitatingly that the more we develop a staff with adequate basic training and supported by sound in service training programmes, the less liklihood there will be of children being admitted inappropriately to care. Social Workers are likely to have less illusions about 'child saving'

and the potential benefits of admission to care. Admissions that do occur are likely to be less urgent and better planned - to be part of a recognised treatment plan to achieve early restoration to the child's natural family, or to long term or permanent substitute care arrangements in the form of long term foster care or adoption.

A very significant development in endeavouring to improve our response to children at risk, and potentially or actually in need of substitute parental care, was the introduction within the Department of Social Welfare throughout New Zealand of the process of planning for children in care. The development of this process began in 1976, continued in ensuing years, and involved a substantial amount of consultation with the New Zealand Foster Care Federation. A pilot project was introduced in four districts to run for a year from July 1980 and the system was made applicable in all districts from July 1981.

Essentially the scheme involves preparation of a comprehensive plan for the child not later than three months following admission to care. The plan is to be revised at six monthly intervals thereafter with examination of any progress achieved in the interim. At twelve monthly intervals the plan is reviewed by a panel of two comprising the Assistant Director responsible for social work in the district and a person from the community with some special and demonstrated involvement and competence in the general area of child care.

Essential ingredients of the scheme are that the plan is formulated on the basis of a consultative process involving as many significant people as appropriate in the circumstances - the child if of sufficient age, the natural parents, the foster parents, the child's teacher, the social worker. The plan is to incorporate immediate, intermediate and longer term objectives. It is committed to writing and placed on record. A copy is supplied to those most involved.

Though very demanding of time, skill and resources, I regard this process of planning for children in care as the most significant development in the social work of our Department since it was established in 1972. It is a fundamental instrument of accountability in respect of children already in care and the analytic approach this process encourages of exploring strengths and problems, and identifying goals can lead to a better level of decision making regarding whether children really need to come into care in the first place.

There are a number of other matters which merit close consideration in respect of safeguards for the child faced with the possibility of entry to care and for the child already in care.

The Children and Young Persons Act 1974 provides that the court can appoint counsel to represent the child when complaint proceedings are brought by the Police or Social Welfare. I think most if not all concerned in the Court process are now of the view that if proceedings have the possible or likely result of an order removing the child from the care of his parents, the child's interests should be independently represented. Removal from home may be very necessary in the circumstances

or may be something to be strenuously contested. Counsel for the child can play a significant role in ensuring that the Court has full opportunity to consider all aspects of the case of greatest importance to the child's future well-being.

If a child has been admitted to care and if it is clearly not possible for the natural parents to provide adequate continuing care then there seems to be much more agreement now than when our present statute was enacted in 1974, that it should be possible to make a dependable long term substitute parental care arrangement so that the child can bond and develop links with people who will undertake a continuing parenting role.

Section 64 of the Children and Young Persons Act provides that the parents can apply to the court at twelve monthly intervals as long as the child remains in care, for the guardianship of the Director-General to be terminated. This places a purportedly long term foster placement in annual jeopardy and can cause a good deal of long term apprehension and uncertainty. I find myself wondering if it would be more just to offer parents a right of review on two occasions only following the original guardianship order or to have a series of review hearings in the Court throughout the early stages of care until home circumstances have improved to the degree that will permit the child's return or until the conclusion has been reached that the parents cannot offer permanent care for their child. In such an event it can be argued that it should be legally possible to set aside parental rights to enable permanent substitute care arrangements to be made and that the capacity of the parents to provide for the child would only thereafter come into issue if an intended permanent care arrangement failed.

Adoption can give a permanency that overcomes this problem but it is not always appropriate. It can be argued that in the main, particularly for an older child, long term foster care placement can grow into adoption or it may be better that it remains as a foster care arrangement with adequate protection from disruption. As a Department we are examining the concept of subsidised adoption as a means of meeting the long term care requirement of some children with very special needs.

At present as I see it we have no way of protecting long term foster care in a really dependable way and even a more flexible concept of adoption will not meet all cases.

Termination of parental rights as practised in Canada and the United States has been discussed but has not so far been seen to be really practicable. I believe we must nevertheless work to find a better way of protecting the security of the child in care and his care givers where it is clearly evident that his parents cannot resume or take up this responsibility. It may be highly desirable to be able to appropriate cases to retain the parents' presence in the child's life whilst at the same time being able to ensure that the child is not required to be returned to them and that their intervention can be restricted or controlled if necessary.

If the role of foster parents of children in care is to be increasingly recognised in the future by more careful recruitment, training, better levels of remuneration and social work support - if they are increasingly to become colleagues entering into joint social worker foster parent consultation regarding arrangements for children in care, then it is inevitable that differences will on occasions occur between social workers and foster parents regarding suitable care arrangements for a child. If such differences cannot be reconciled our system should provide some means for a demonstrably impartial weighing of the issues and for a decision to be made in the interests of the child.

The Social Work Division of the Department will inevitably have to carry the responsibility of making a firm decision about a child's future but if the foster parent disagrees with a fundamental decision there should be some means of having such conflict of opinion independently examined in the few cases where agreement does not prove possible. I have wondered if for some matters the need could be met by setting up a Social Welfare Appeal or Review Authority to which complaints or appeals by parents, foster parents, relatives, or other interested persons against decisions taken by the Director-General across a specified range of activities could be made. Alternatively such matters could perhaps be brought to the Children and Young Persons Court or Family Court.

We have had two recent cases where the foster parents, in order to have their views fully considered and what they have regarded as the child's best interests properly protected, have had recourse to applications to the High Court for the foster child to be made a ward of the Court. Such proceedings are time consuming and very expensive. Uncertainty can hang over a child's head for a long time and the emotional toll for the litigants can be severe. I would like to think that a means of application to a body such as the Family Court of the Children and Young Persons Court for review of the decision taken by our Department could lead to a more readily accessible but thorough, impartial, and prompt decision on such matters where resolution by negotiation cannot prevail.

I would like now to consider the rights of children and young persons who have offended against the law or who are alleged to have done so and are awaiting the outcome of proceedings.

In New Zealand our law 'mixes' child care and protection and the young offender to a considerable degree in that we have one major piece of legislation dealing with both. Though our Crimes Act mentions ten years of age as the age of criminal responsibility, the Children and Young Persons Act 1974 makes it clear that with the exception of murder and manslaughter (exceptions introduced in 1977) a child, that is a person under fourteen years, can only be brought before the court on offences by way of complaint addressed to the parents. However, the offences have to be of some magnitude in terms of number, of seriousness, and combined with the additional ingredient that the child is in need of care, protection and control.

The young person in terms of the Act can be charged with offences and is normally subject to a dispositional finding in the

Children and Young Persons Court in terms of the provisions of the Children and Young Persons Act. If he or she is fifteen or over(that is, a person 14 years or over but under seventeen) and if the offences are of sufficient gravity, he can be referred to the District Court for sentencing. There is also well formulated machinery for diversion from court proceedings - the Children's Board for the child, and the Youth Aid consultation for the young person. It can fairly be claimed that we endeavour to keep children and young persons out of court to a very significant degree. Our mechanisms of diversion are consultative and involve the Department, the Police and community representatives with final decisions regarding prosecution for offences being made by the Police.

We have tended in the past in our treatment of the young offender to work very much on the welfare rather than the justice model. There has been a tendency to assume that something can be achieved in rehabilitation and retraining even in short periods of residential care and that residential assessment and counselling can provide a useful forerunner to further supervisory oversight in the community.

The trend is now I believe away from the welfare model towards increasingly endeavouring to ensure that the desire to provide a parenting, controlling, and training influence does not result in circumstances of care wherein the child has less legal protection and less safeguard of freedom than the adult. There is also the emergence of a concern to cater for the young offender both in legislation and facilities separately from the care and protection case. This tends to cut across the welfare view in some degree - a view that a child or young person who offends is very often basically responding to deprivation, neglect, inadequate example, inconsistent training, a profound sense of failure, neurotic and psychotic parental influences, etc. The welfare model promotes the notion of residential assessment, indeterminate dispositions such as guardianship orders for offenders whereby the period in care can be terminated when 'treatment' objectives have been achieved.

We are now expecting the quality of evidence to be as adequate and as rigorously tested for the young offender as for the adult and we are increasingly insisting on adequate legal representation. Residential care is going through a period of questioning in terms of what it can achieve and consideration is being given to formality and regulation in circumstances where young persons for the time being lose their liberty.

Looking at legislation it seems to me that there is need to review what is required in law to enable the Director-General of Social Welfare to satisfactorily carry out his role when the court has decided that a child or young person should be placed in his care. At present it is held that the appointment of another guardian can coexist. One wonders if the concept of guardianship is the most appropriate that can be devised in the circumstances to cover the obligations and responsibilities of care, treatment, protection, training and control which the Director-General must assume.

Residential care is going through a period of questioning in terms of what it can achieve and consideration is being given

to formality and regulation in circumstances where young persons for the time being lose their liberty. Residential care has traditionally been based on practice guidelines and administrative instructions as well as in the last fifteen years or so on teaching of the skills and methods of residential care as an aspect of social work. Work has recently been undertaken towards establishing a clear code of practice, and we have yet to determine the degree to which regulations may be necessary to cover residential care generally, or more especially where freedom is removed by containment in a closed, secure or locked facility. Some observers of these trends have felt that care must be taken to ensure that the pendulum does not swing too far in the direction of a 'deeds' rather than a 'needs' approach to the young offender.

Finally, I wish to turn more specifically to prevention. The Department of Social Welfare has certainly inherited the responsibilities of intervention and treatment in the field of child care and protection and the young offender. The legislation in the form of the Children and Young Persons Act 1974 makes this abundantly clear. The legislation also gives very clear authority to the Department to move in the direction of prevention involving the individual, the family and the community. A fundamental right of the child is not to be taken into care unnecessarily. Meeting that requirement goes beyond matters of law and involves availability of resources to the family and in the community.

Unmet need in this area can seem profound. Resources for prevention both in staff and money tend to be harder to obtain than for treatment. A primary difficulty is that of producing convincing evidence that measures adopted are in fact working. For a variety of very understandable, if not acceptable reasons, it has proved over the years to be often easier to obtain funds to help children once they are in care than to obtain money to help their families before the crisis point of family breakdown and admission to care. Faced with pressures of the day the priorities of treatment of identified casualties easily displace attention to deteriorating problems in individuals, groups and communities.

I believe that one of the most significant trends for our Department, and one which has been assisted in some degree by the present economic situation, is to think increasingly of the family and the community.

Directions taken to assist the family are exemplified by the Department's involvement with the New Zealand Red Cross in the establishment of the Family Support Service in South Auckland. A second project with similar objectives of assisting families in difficulty has been mounted by Barnardos in Christchurch. The Department's Social Welfare Volunteer Scheme now involving some one thousand five hundred volunteers throughout the country is primarily aimed at providing an intensive supportive service for families in crisis or with sustained problems.

The Department has an actual or potential funding, advisory and consultative role in connection with a wide range of voluntary services established in, or taking up, work with the child at

risk, the family with problems, the adolescent lacking or aliented from home and parental support, the parent and child or children in need of temporary refuge, the handicapped and disabled etc.

The Department is extending initiatives in the development of budgeting services and has employed a number of social workers to work specifically in relation to young people under our notice who are unemployed. Two Community Care Units have been established in Auckland and South Auckland to act as resource units to which the Police can refer children and young persons requiring placement pending court appearance. Placement possibilities can be explored by the unit's social work staff with relatives, suitable persons, or care-givers recruited, trained and paid special rates for providing this service as an alternative to an institution placement. The Units are an experiment developed in consultation with the Police in an endeavour to reduce the traffic of direct placements in institutions where the home is at least for the time being not found to be a suitable place to which the child or young person can be returned.

We have been concerned for some years at the disproportionately large number of Maori children and young persons coming before the Courts and being admitted to our remand and longer term training institutions. This proportion has risen as high as 80% in some of our institutions on occasions.

You will be aware of the development of the Te Kohanga Reo programme stimulated by the Department of Maori Affiars. This programme provides for the involvement of the Maori pre-school infant in a stimulating environment combining care and education by his own people within the medium of Maori language and culture. I believe this may be a very potent force in sharply reducing the involvement of Maori children and young persons in the offending statistics of the future. Linked with this development in terms of preventive potential for the future is the Maatua Whangai scheme being developed between the Department of Maori Affairs and Social Welfare at the present time. This scheme proposes a process of participation, responsibility and decision making by Maori communities in consultation, and with assistance from, the Departments of Maori Affairs and Social Welfare in receiving and caring for children and young persons within the Maori community. The aim essentially is to provide foster care within whanau Maori for Maori children likely to be placed in institutions or who for various reasons are not able to be placed in their own homes.

Returning to more general issues, I believe that there has been a real growth in terms of community of effort in funding and service arrangements and an increasing readiness to experiment with a variety of approaches to meeting need. The Department has also become involved in attempts to monitor, assess and evaluate programmes of its own and those established through funding support. Some of this work has been carried out by the Department's Research Unit. In addition, particularly in order to test its own programmes, the Department established a Social Programme Evaluation Unit in 1981. The intention was to examine programmes by identifying objectives, testing the appropriateness and the degree of achievement of those

objectives, and to obtain a management commitment to programme change where evidence supports this.

Increasingly, the Department accepts that service responses must take into account the reality of local communities and endeavour to work within the contexts of the resource strengths of those communities towards the effective development of services. The day has passed when a service with responsibilities as wide as those carried by the Department can expect to place a service package of identical form in the local area irrespective of whether the location is West Auckland or Invercargill. There is too much of local significance, resource and response to be taken into account to make such an approach practicable.

The establishment with the Social Work Division of the Department of a Community Development Unit is in recognition of the importance, if we are to improve child care and protection of the rights of children, of moving beyond exercise of statutory powers in respect of the individual to really attempting to identify relevant group and community needs and assisting in developing responses involving the community. Our impowering statutes already give room for this.

OPEN DISCUSSION A.M. MONDAY 9 MAY 1983

ISSUES

1. RACIAL COMPOSITION OF CONFERENCE

A number of speakers noted the discrepancy between the predominantly white representation at the Conference and the predominantly Maori representation in Department of Social Welfare institutions.

2. LEGISLATIVE CHANGES

Requests were made for information concerning proposed legislative changes, of which none had yet appeared in concrete form. The Minister of Social Welfare sought direction from the Conference concerning the possible composition of forthcoming amendments to the Children and Young Persons Act.

3. COMMUNITY PARTICIPATION

It was agreed that those attending the Conference ought to assume a role in raising community consciousness. Community participation, as evidenced in the drafting of the recent Report on Youth and Law in our Multicultural Society, was a two-fold process in which Departments (particularly the Department of Social Welfare) provided funding and other necessary resources, resulting in the publication of reports to which the community could subsequently respond. An "ad hoc" approach towards tapping into community opinion had been adopted out of convenience in the past, in preference to the development of a prescribed strategy for obtaining the people's mandate.

4. ACCOUNTABILITY

Discussion centred around whether accountability, especially in planning for children in care, ought to be achieved within and/or outside the Department of Social Welfare. Some accountability was evident through the twelve monthly review process which was built into the requirements for planning for children in care. It could be argued, however, that a measure of accountability had been lost since the planning process became national in scope, in July 1981.

5. FOSTER CARE

The Conference reaffirmed the importance of foster care as a form of substitute parental care. Concern was expressed

at the number of multiple foster placements and at the increasing likelihood of foster parents having to cope with extremely difficult children. The level of remuneration of foster parents was thought "grossly inadequate", especially in view of the public's fear of baby or child farming. Discussion included a review of the process of the selection of foster parents and the qualities sought in applicants.

6. RESIDENTIAL CARE

The Conference was informed that the Department of Social Welfare is only involved on a case basis with the welfare of children in private orphanages and in secondary schools' boarding establishments, and has no direct responsibility for the services offered. Nevertheless children under the guardianship of the Director-General of Social Welfare can be placed in these non-departmental types of institutions.

7. CHILD PROTECTION TEAMS

The term 'child protection team' was preferred to the term 'child abuse committee' because it conveyed the appropriate sense of an action oriented approach to the problem of child abuse. A request was conveyed to the Conference that alternatives to the multi-disciplinary team approach be kept in mind because of the expense entailed by their operation.

8. ASSISTANCE FOR VOLUNTARY ORGANISATIONS WORKING WITH HOMELESS YOUTH

An appeal was made for assistance for those persons and organisations who help young people in need. Representatives agreed that turning to the family and community for support should be a matter of principle and not of economic necessity, although it was more likely that conventional approaches to child care would be reviewed during a time of tightening resources.

9. REPORT OF ADVISORY COMMITTEE ON YOUTH AND LAW IN OUR MULTICULTURAL SOCIETY

The Department of Social Welfare was asked to make a commitment to this report and to act on its recommendations.

10. HOUSING

Housing was seen to be the gravest social need at present, especially in Auckland and South Auckland. Inadequate housing is a prime reason for many of the phenomena which receive considerable media attention today. Although housing is not part of the Social Welfare portfolio, it falls within that Department's general area of concern.

RESPONSES OF THE JUVENILE JUSTICE SYSTEM AND THE COMMUNITY TO THE YOUNG OFFENDER

Mr Hiwi Tauroa,
Race Relations Concilliator

Minister, Mr Chairman, all of you workers out there, greetings to you.

Ki a Koutou te iwi Maori
Ki a Koutou i nga unoutere o Moana-nui-a-kiwa
Nga Kai mahi Katou
Tena Koutou
No te mea he pai tenei ruma
No te mea kei roto i tenei ruma puta mai ethai o nga ture hou
Tuku ne mihi ki te ruma ki a ratou
Inga tauiwi i roto i tenei whare
Tena Koutou, tena koutou,
Tena Koutou Katoa.

I want first to remind you that systems develop because we create them, we make them, and we are responsible for changes in them. Its easy to talk about systems and find fault with them, without accepting the fact that we have to be participants in them. I don't intend to go through ideas that I have on legislation. All I would like you to do is to read the report that was produced on Youth and Law in our multicultural society, with quite a number of you working on the various committees. None of the recommendations were put there for fun. It wasn't that we were short of words or that we wanted to get rid of work. We put them there because we felt that these kinds of changes need to be made.

I'd like to think that the time will come when we can make the legislation redundant. If we could do that it means we would be all operating on a common sense basis with respect and honour for every person in our community and we wouldn't need all the legislation. For me, thats the target.

Look at the topic for this session, I had a feeling that I maybe should be talking about various acts and various practices. I don't want to, so I'm not going to. I just want to talk to you and ask you some questions. We have many sorts of legislation and we dream it up because situations arise, normally because one group of people who have become a part of the system become isolated from all the other people. When we talk about the different Government Departments for instance, we need to remember that every person in the Government Department is part of the community and every Department is part of the community. If we believe Departments isolate themselves off, then I think, sometimes, we need to take an examination of ourselves and decide who did the isolating.

Coming back to legislation, I would like to think that most of the things that arise that are required to secure the rights of children, will be things that will be part of every person rather than enforced through legislation. Some of us have a short fall when it comes to giving the children what is their right.

Now, I'm going to start teaching. You know, most of us will say that we don't react differently to people not like us. I'm saying we do. What is it that we are attracted to? Is it true that that which stands out, is that or those which are different?

- a black sheep amongst the white flock
- the red sail amongst the white sails
- the inattentive amongst the attentive
- the red roses amongst the white
- the short amongst the tall and vice versa
- the pupil in non regulation uniform.

I'd like to say to you that in our society, as you move around, you will see there are plenty of people who are white and there are 350,000 that are a little bit coloured. I want to say that probably the ones that you notice first are those ones and I also want to say to you that doesn't make you racialist, but what it does do, it means that you need training, so that whatever you're doing, you do not focus continually on the people who are different. That's the point I want to make to you. When you see people on the street, how do you react to somebody who is different? Are you in danger of always focussing on the person who looks different as compared to the person who looks like you? I believe that what's happening is that we have not got used to the idea that all people are different.

I want to present my first real message to you about this. Children are unique. Everybody is unique. You are unique. The most important think about you is that there has never been anybody like you before, and the other thing you ought to know is that there is never going to be another person like you again. Now we accept that for ourselves. Why don't we accept it for children and the young people? We have a young person who is unique, who has differences from other persons. How come we determine to put them in the same kind of institution, give them the same kind of treatment (which doesn't just mean Social Welfare Institutions - it means playcentres, kindergartens, schools the whole shabang), and to try and mould them so that we are all the same? Why do we do that? because I say that one of the rights of a child, is to be unique. You demand that when you're in a position of power, why not do the same for them. Why can't they be unique?

My topic for this session was the Juvenile Justice System and the Community, in terms of the child and particularly the child who has offended. That was what I was to talk about, but I decided rather than talking about the child who has offended, I would like to make sure that none of you offend first. And I'm serious, in that too, because if you have judged people by their colour then you're an offender not the child. Now when we talk Juvenile Justice System, I would like to say that our difficulty is basically that we say, we are involved in the Justice system, but not part of the community, and that's a tragedy really. If you're not involved in the community, what are you involved in?

The child deserves the right, no matter who the child is, to have the services of the community as a whole and the best services of the community and if there is a separation between the two, then there must be changes. When you talk children's rights, that's one of the rights - the right to be unique, the right to have the best services they can get. When we separate a group of institutions from the community, as we frequently do on the guise that this is the best thing for the young people, it very definitely affects the particular cultural group. Mind you, it effects all groups if we only knew it, but that's not something we think about sometimes. So here we are. In our community we've learned that when we walk down the street we're not going to say aha, look at that person, because that person's a different colour.

We just accept that person is human and we can react that way. If we can do this, then we're quite happy to accept too that actually a policeman is a member of our community, as is the social worker, the school teacher - and of course the social worker and the school teacher and the policeman are all so happy to accept that they are part of the community. And we are all intending to work together and the child has the right to think that. The question is whether we are going to <u>do</u> that.

What do we expect of the child? We have to decide in our own minds as to what constitutes a good child and upon whom we concentrate when we are going to make them better or at least good. Some of our differences that effect out attitudes towards children and young persons, is that we consider certain ones to be good and certain ones to be bad: Now we are allowed to do that, but what is the basis of our judgement? The child, as a unique person, has the right to be judged correctly, not according to another person's group of standards - especially when it involves two cultural groups. If I'm a child, I'm going to be rewarded, I'm going to be praised, I'm going to

be approved of and people are going to re-inforce all that by showing me that I'm worthy, I'm nice, I'm good, I'm acceptable. My goodness is the kind of goodness that everybody should have. And then if I'm a bad child, of course, well I might be ridiculed, might seek revenge, might refuse participation. You know you're a bad child so you go and hide in the wash-house until you've decided to be good, then you can come and have tea with the rest of us.

You are probably saying, what's this got to do with legislation? Well, as I see it, its got a lot to do with the children's rights and has a little bit to do with legislation because we need to look at what we do with children. What is the goal of people who are involved with children and young persons? What's the objective? Is it to ridicule them, to reject them, to punish them, to seek revenge from them, to reduce participation in normal society, what is it? Or is it to rehabilitate, if we can use a great big word like that with children? You know, what is the goal? The child has the right to know what the objectives are. Children start to think pretty young and sometimes the actions that we cause can be communicating a lesson which says, "Well we believe that you need to be rejected, we believe that we and other members of society must punish you, we belive that we are going to have to ridicule you before you come right and we also think you should be put away for awhile". Children have the right to expect to know what the goal is that we are setting for them, what we consider to be in their own interests. Can we tell the children what we would like them to do?

I wrote down the things about a good child. I'll tell you what I've written down here. First, be seen and not heard; obey without questions; be in the correct clothes for every situation; don't go swimming in a pair of shorts, must wear a pair of togs; not allowed to wear different coloured socks; must wear your proper uniform and whatever you do, your sandshoes had better be clean; must work to the bell; must work to the whistle; must compete vigourously but must be fair; must eat at the right times according to the clock, whether you're hungrey or not you come in and have tea at half past 5 even though you want to stay out and play games until you get hungry; must attend church at the correct time; always do the right sort of thing, be punctual and learn to be at least of average expectancy. (If you're less than that, by jove, watch it!); you must sing the right songs. Now you must remember all of these things.

We've all got our own pictures of what constitutes a good child and most of our judgements are subjective.

Many of the judgements people make about who is good and who is bad are subjective judgements. We have got an expectancy of the good child and a good child's behaviour. Surely the child has got the right to expect that those people who deal with the child know all the things that they do which are a little different from the norm, which are not wrong and that the child is still good. You have to know why children do things differently, otherwise you're going to classify them as bad children, subjectively, and you're going to give them all sorts of treatment that's to make them better. It isn't going to work and then they are going to start reacting, which is not the best trade. "Show the correct degree of respect", "watch your language", "don't swear," it's facinating to hear the comments at meetings these days. "Put your rubbish in the rubbish basket - just go along to your game of rugby and see where all the rubbish gets dumped!" But, "You do it children. You must do it. We expect you to do these things and be a good kid. If you do all of those things, you're a goody." Everyone of these values is subjective, and according to one group.

Actually, there are alot of other people who have some of those values, but they may react in a different kind of way. And so we just simply say, okay, how well do we really judge? How well do we know some of these other cultures? and how accurate are we when we make these judgements that give us the right to take children away from what is considered to be a place of danger even though they may be with their big brother and their big sister, even though they may be dressed properly, and even though they may have cardigans over their arms. What gives us the right to say that"in my opinion you are in a bad position, one which is dangerous to yourself, so we will remove you? Of course, we are really asking you the question, do you understand all of this, when these judgements are made? If you are white and because of the things that we've said this morning, feel that you are unwanted, I hope you don't feel too guilty or are reluctant to voice support for what's been said. You see, we need <u>you</u> to be saying these things more than we need another group to be saying them because you'll be believed and anyway, you are concerned and you worry and you are sincere. So welcome. Yes, it would be nice to see some others here too. I understand some have been invited who are not here. Well I'm afraid we can't blame the system or an institution for that.

None of us want freedom fed to us. Rights are not things to be given, but are there already. If changes are needed, then they should be made. I am not in favour of teaspoons of change over the next 150 years. Sometimes it is the thinking of people to do things slowly, do them in little

bits - and while you're busy doing it, there's a whole lot of children suffering because of it! Some people don't want to fi into a new kind of situation - but that's what it has to be if we are genuinely concerned for children and young persons.

When we've reached the situation of crisis, the most obvious and easiest way to respond is by identifying something that needs to be done, that can be done very quickly, and presently wrongly affects somebody else. Then we have to decide which is the greatest degree of commitment and where does that lead to. I want to mention the issue we raised at the beginning, which was this coordination/co-operation business. I believe children have the right to expect our community and everybody in it, to work together for the children's good. I believe now that things are not working well, because we are not working together, because we have loyalties to this, loyalties to that and each different loyalty affects a different part of a child.

We need to work together. It is a difficult thing to ask people to do and does not just mean Government Departments. All of the Departments and institutions and organisations must co-operate. Can you all work together? I don't know, perhaps you can. Perhaps you're good at working together. I believe that when we are talking about a child and we say to Social Welfare Department, you are responsible for this, then probably Education come into it somehwere, the Police are involved, they need to have some sort of sharing in it, Labour Department need to take part in it. All Departments need to take part in giving us a whole and healthy and complete child.

I believe that most people in this room are concerned about children, otherwise you would'nt have come, and you're all part of the community. I believe the community really does want to help and they want to participate and I agree with what somebody said earlier this morning, and that was to say that communities don't know what we expect from them because we really don't go out of our way very much to speak to the communities, discuss the matters that are important, or join together. I'm not sure of the degree of co-operation that there is now, but I know that it is one of the things that needs to be done for children and young persons who are coming before the law. I don't believe there are enough options being offered them in terms of correcting things. We are punishing them more than adequately, but what we are not doing is reforming and giving them the opportunity to come back into society or to be part of it while they are being directed. I think there are enough people who are concerned and who will participate if we had somebody asking them to participate.

We do have a co-ordinating job. You know, one of the tragedies of separation within the system is that when a member of the system goes to the community and says I am from such and such system, very often the community today turns off. And it really doesn't matter what system because this is the development that has taken place because of a tendancy to isolate and possibly try to be boss. So now we have got to break it down and we've got to show our willingness to co-operate, so I've described a co-ordinators function in this report.

I believe that our children and young persons should have the right to expect that we use every resource that's in the community and not just be restricted to the resources that are available to one Department or to two. That's the right that the children have, and therefore, if we are going to get the use of all of these resources we've got to have somebody find out about them. I know there is someone in every community, there is a person who can relate to everybody in that community. There are many people who can and want to help and be effective. It means grey-haired people, who at the age of 60 are told that they are not effective any more. They all want to do something, they want to feel important but we tend to reject them. So that is what that great power is. But there are these different service groups, there are librarians, municipal bodies. There's alot of society groups out there who would like to participate if they could only be asked. There are individuals, band leaders, artists who are carvers, or potters, maybe a farmer, maybe a jockey, maybe a skier, maybe, there are any number of people in the community but they are not of the system and somebody needs to be able to contact these people, find their interests and then support them while they're trying to do some of this work. They need the support too.

There is a need to communicate and if there's a need, the right of a child and young person is that those who should communicate do communicate, that's what should be happening.

We need people like you who are interested in this particular issue. We do need some legislation at present but above the legislation, we need people like you to create the attitudinal change in other people so that children and young persons become precious to the society as a whole and not people who can be locked from society, put away from society and be isolated. In the ultimate, there may be one or two instances where this could happen. I'm not sure that it needs to if we really used the resources that we have, but our pride, sometimes our ego, and our loyalty perhaps inhibits us from using resources that are available.

I can only commend to everybody the Youth and Law Report, and the reports put out by other groups. These reports provide background and indicate what should be reinforced by legislation. I support the kind of recommendations that have been made concerning legislation but I also believe that we could get a much better use of resources. It would require Social welfare re-distribution or different distribution because I don't believe that one can continaully call on a community or service to give without at least covering the cost of what's involved.

OPEN DISCUSSION P.M. MONDAY 9 MAY 1983

Specific questions for workshops covered the following areas:

a) the rights of children
b) a protective system for children who are neglected or abused
c) alternatives to institutional care
d) accountability and the right of review of decisions, especially concerning planning for children in care.

Workshop groups responded as follows.

1. GROUP 1

a) Rights of Children

This group did not consider it appropriate at this stage to consider the question of a Bill of Rights. Instead, it saw the essential issue as being one of priorities, concerning both policies and resources. A number of policies had already been proposed, in the form of IYC recommendations and others contained in a series of reports, including the recent Report of the Advisory Committee on Youth and Law in our Multicultural Society.

Group 1 observed a lack of commitment by administrators to the implementation of recommendations already made. Resources were needed to implement these recommendations.

b) Child Abuse and Protection

Resources were required to meet needs in this area. The group considered that the draft Child Protection Bill should be circulated widely but disagreed on its premises, particularly the separation of child protection from offending.

2. GROUP 1A

This group demanded immediate action. It requested total acceptance of the Report of the Advisory Committee on Youth and Law and other reports, noting that the majority of children potentially affected by them are Maori.

The ethnic composition of the Conference itself, it thought would ensure little change. Need existed for specific and immediate legislation constructed around existing reports, which would provide for changes in the existing system rather than changes to fit the system. Group 1A favoured a dual approach to change, involving

1) good legislation, and
2) attitudinal revision.

Rights of Children

Group 1A supported the concept of a Bill of Rights. This idea had been proved successful in other countries, and allowed children to become aware of the rights due to them. Any Bill should be implemented by people in the community, rather than by departments, and be ratified by the community.

The group thought that legislation which is presently based on the nuclear family concept should be rewritten to draw upon the support of the whanau, or extended family. Such an approach would also address the racial issue.

3. GROUP 2

Members of Group 2 agreed that the ten rights set out in the United Nations declaration which New Zealand signed ought to be protected. They also considered that the community should resolve the effects of criminal offending. The Group focussed most of its attention, however, on the problem of child abuse.

Group 2 held that complaints in cases of child abuse could more properly be dealt with in the Family Court. It would not apply this approach to children and young persons who committed a criminal offence. Judge Wallace made a personal plea to the Conference that some consideration ought to be given to the situation of young people who criminally offend.

4. GROUP 3

While differences of viewpoint were evident, this group agreed on the need to identify issues.

a) Rights of Children

The group did not favour a Bill of Rights, on the grounds that New Zealand has no written constitution, or Bill of Rights for adults. If a general philosophy of what was necessary for children were laid down in the form of a Bill, it could possibly become entrenched doctrine in the future.

Instead, a specific code of practice was preferred, which could ensure a child is protected during the transition from family to institutional care, if such a transfer does occur. Categories of children in care may need to be clarified to allow for different treatment of children and young persons with different legal status.

How do we implement a philosophy of rights?

Group 3 made a strong plea for accountability. It saw the role of the institution as being to prepare a child or young person for his/her return to parental care. Reports already written should be examined closely and their recommendations should become part of the philosophy which is built into any new legislation. The principle of consultation was stressed, to allow for input from children themselves.

b) Child Abuse

The group supported the idea of a protective screen and declared its total acceptance for a multidisciplinary approach to child abuse prevention. A wide range of supportive services was required for families at risk, especially in the areas of child care and housing.

Some disagreement arose concerning the way in which the child abuse "system" slots into the Children and Young Persons Act. However members agreed that the Family Court would be an appropriate venue for child abuse cases and that community resources should be used to achieve accountability.

5. GROUP 4

a) Rights of Children

Group 4 did not disagree in principle with a Bill of Rights but thought that such a concept posed two major problems, one being of timescale and the other a risk of poor practical application, unless the Bill's implementation was closely monitored by an independent legal body.

The group favoured improving upon existing legislation. Participants expressed caution over the possible separation of justice and protection questions, preferring a single unified system. They stressed urgency in taking action.

6. GROUP 5

c) Alternatives to Institutions

Group 5 reported that everything possible should be done to keep children and young persons out of institutions. Some other facility of first resort was required, drawing upon community services. There was a need, therefore, to build a caring community and to appoint a Children's Advocate who would co-ordinate community assistance. Community services needed respect, recognition and support.

Much more emphasis needed to be given to prevention. Several members of this group were involved in early childhood care and education and accordingly sought recognition and financial support for organisations involved in this area. They requested greater flexibility, especially in the distribution of funding.

d) Accountability

The group considered that community services, Child Protection Teams and the annual review of all cases concerning children and young persons in institutions would provide greater accountability.

7. GROUP 6

c) Alternatives to Institutions

Discussion centred around the suitability of foster care. This group thought it impractical for foster care to provide care for a particular group of young people, and concluded that a large number of gaps existed in the present continuum of care. It stressed the need for such a continuum, offering alternatives for children and young people who come into care.

Planning for children in care was an important exercise, in which the children themselves ought to be involved. The group found that many young people who come into care do so without a plan.

The Australian suggestion of providing suspensory loans to young people and establishing them in flats, in which they have some stake, surfaced during the discussion. The group thought that such an approach would allow "bonding" to occur between the young people concerned and the community.

Group 6 considered that local communities should decide what are appropriate forms of care for the children and young persons in their area. While there was need for greater community involvement, regions often do not function as communities. Gaps in the continuum of care ought to be filled with the provision of community services.

The group also saw a need for greater deregulation, especially in the areas of finance, Health and Social Welfare requirements. Opportunities existed for greater flexibility in the provision of care, for example through Te Kohanga Reo and the Maatua Whangai programme. The real essence of good care lay in the proper devolution of responsibility to local communities.

d) Accountability

Participants agreed that there should be an independent review authority, attached not to the Department of Social

Welfare but to the Ombudsman's Office or to the Human Rights Commission.

8. GROUP 7

This group covered all four questions for discussion:

a) Rights of Children

Members considered that something more specific than the rights contained in the United Nations Charter was needed in New Zealand, and that a monitoring body along the lines of the US Children's Bureau was necessary. This could also serve as an appeal body, which would be independent and approachable and be entitled to initiate class actions on matters pertaining to children's rights.

b) Child Abuse

Group 7 reported that the spirit of mediation and inquiry which is written into Family Court proceedings ought to be employed in child abuse cases. Some disagreement was evident over the separation of jurisdictions concerned with child protection and offending, with the majority of the group favouring separation. The minority preferring a single jurisdiction feared offending would become "the poor relation" of child protection if separation occurred. However if resources were increased to allow both aspects to be pursued, Group 7 thought that separation would cease to be an issue.

c) Alternatives to Institutions

This group considered that:

- children in care must have access to a person specially appointed to act on their behalf, independent of the Director-General of Social Welfare;

- every child in care must have a plan;

- need exists for a reduction of the time children spend in short-term care;

- Community Care Units in Auckland and South Auckland ought to be replicated, and the Maatua Whangai programme commenced on a national scale;

- more assistance should be available to foster parents, both in the form of finance and access to social workers and the psychological service of the Department of Education;

- preventive support should be extended to families who retain custody of their children.

d) Accountability

Group 7 contended that everything should be done to ensure that a child has access to all available resources. Accountability could be achieved by means of a detailed investigation of complaints received, and Child Care Committees could ensure that recommendations were followed. If a Court hearing eventuated, a report should be presented to it. The group also supported the idea of appointing a children's guardian, or advocate at the Court.

8. GENERAL DISCUSSION

This centred upon the manner in which a Bill of Rights, drawn up and ratified by the community, could reflect our multicultural society. A statement was made to the effect that housing, the education system and benefit levels contribute to the problems of child abuse and child care. Some concern was felt by those present that young people were absent from the Conference's proceedings.

THE LAW RELATING TO THE CHILD AT RISK

Iain Johnston
Senior Lecturer in Law
Canterbury University

My topic is 'The Law Relating to the Child at Risk'. That's a big subject and 45 minutes is not a lot of time in which to deal with it. So I have decided to be very selective: first by considering only children at risk of abuse or neglect rather than children at risk of offending or children whose behaviour is causing concern and is thought to indicate a need for better 'control'; secondly by concentrating, within the abuse/neglect area, on what I see as the main problems and deficiences in our present law. In other words I am interested today in aspects of what may be termed the 'protective' jurisdiction under the Children and Young Persons Act and not in the 'control' or delinquency jurisdiction. Although it may quite rightly be pointed out that children in need of protection and children in need of control do not form two distinct classes I suggest that the need for different legal responses requires them to be separated to some extent (though not necessarily into different Courts). To quote from an earlier article:[1]

> Although the mixing of these two situations may be superficially attractive in the light of the therapeutic rather than punitive aims of the Act and the belief that behavioural problems in children will often be symptoms of prior emotional neglect, the gains in terms of tidiness of philosophy may be outweighed by the inappropriateness of adopting the same adversary procedure and the same form of orders in each area. The balance between welfare and due process for example might justifiably be struck differently in the case of abused or neglected children than in that of uncontrollable children.

But when dealing with the abuse/neglect situation I shall not be confining my attention to children at risk, in this sense, in their families or in the community. I shall also be dealing with children who are at risk after coming into state care. As we all know, the child protection system itself fails some children - by exposing them to new forms of abuse in place of the ones from which it has saved them. And in some cases one is even forced to the conclusion that a child would in the long run have been better off had there been no state intervention at all.

The law cannot protect children. Only people can protect children. But the law can make it easier, or harder, for people to give that protection. Let me give an example from an actual case:-

A 12 month old child, who I shall call Sam, was referred to a hospital for an X-ray for a suspected fracture. Extensive X-rays and a physical examination revealed more than one fracture and other injuries as well. The injuries were believed to be non-accidental, partly because of the nature of some of them and the inadequacy of the explanations given by the mother and her companion. The child was kept in the hospital while complaint proceedings were taken under the Children and Young Persons Act. Two grounds were relied on in support of the complaint: first, that the child had been, and was likely to be, ill-treated; secondly, that the mother had failed to carry out the duty and care of parenthood by not seeking medical attention for the child sooner. The Judge required a fairly high standard of proof of the Department's allegations but was nevertheless satisfied that one of the injuries was non-accidental. He found, however, that the mother had not inflicted it and that it had probably happened behind her back. Regarding the other allegation the Judge was not prepared to hold that the mother had failed in the duty and care of parenthood by not seeking medical attention for the child sooner. The Judge then ruled that the complaint could not legally be upheld in the absence of proven guilt on the part of the mother. Accordingly, Sam was returned to her care. He was subsequently killed.

I suggest that in that case it was largely the law that failed Sam: the risk to him was detected, it was even proved to the satisfaction of a Judge, and there were people willing to take such steps as the law permitted to give Sam protection.

There are several ways in which I believe our present law is deficient and fails to ensure that children at risk can be given the protection they need. By our present 'law' I mean not only the Children and Young Persons Act itself but also the decisions of the Courts interpreting and applying that Act and the practices of those Departments and officials whose responsibility it is to administer the Act (primarily the Social Work Division of the Department of Social Welfare).

I have provided a list of what I see as the main problem areas in the present law (see Appendix I). What I propose to do is explain and illustrate some of the points on that list. (Others have been dealt with enough already - either yesterday or in the background paper prepared by the National Advisory Committee). I have also provided a set of hypothetical situations which I will use for the purposes of illustration. They are hypothetical only in the sense that they are not based directly on actual cases. But many of the elements in them have

been drawn from different cases that have arisen and in that sense they are only too real.

In addition to pointing out the problems in the present law I will outline some possible reforms. Most of these will be found in the draft Child Protection Bill which has been presented to the Minister by the National Advisory Committee. That proposal is the result of a lot of effort by a working group consisting of two members of the Committee (Dr David Geddis and Mr Laurie O'Reilly) and a number of committed outsiders (most notably Pauline Tapp of the University of Auckland). I do not claim to come here today with simple solutions to what is a very difficult problem but I hope that what I say, together with the ideas in the background paper and the draft bill, will provide you with material for the workshops that are to follow.

Turning now to Case (I):

CASE (1)

The T family first comes to the notice of the DSW when Sheila, the eldest child, appears in the Children and Young Persons Court on a shoplifting charge and the Judge orders a Social Welfare report. A Social Worker visits the home but finds the parents tight-lipped and uncooperative. The children when interviewed are reluctant to talk about their home life and unwilling to criticize their parents in any way.

Sheila is aged 14 and there are three other children: Tina (12), Paula (10) and Miles (9). The mother appears to be an alcoholic but will not listen to suggestions for assessment or treatment and the father will not take any steps to have treatment imposed on her.

Inquiries made at the children's schools reveal an awareness of the family's problems but a failure to do anything about them. Sheila is frequently absent from school, apparently because her father expects her to look after her mother when the mother is unwell and to do the housework. Sheila's behaviour at school has caused concern for some time: she is disruptive in class, aggressive towards other pupils, abusive towards staff and dishonest; she seldom does homework, habitually takes other pupils' food and has been caught shoplifting on earlier occasions but not charged. Tina, Paula and Miles attend another school and according to the authorities they are usually unkempt, dirty and apparently malnourished. Their teachers find them undisciplined and uncooperative.

The Social Worker takes complaint action in respect of all 4 children. The complaint in respect of Sheila alleges behaviour beyond parental control, inability or failure to provide adequate training or control, and persistent failure to attend school without reasonable cause. The complaints in respect of the other three children allege neglect and failure, inability or

unwillingness to exercise the duty and care of parenthood.

The parents deny the complaints and the Court appoints a solicitor to represent the children. The solicitor finds the children very loyal to, and apparently genuinely fond of, their parents. Sheila seems to see it as her responsibility to keep the family together.

After a number of meetings with Sheila, the solicitor gains her confidence and Sheila indicates that she wants to tell her something important but must first be promised that it will not be repeated to anyone. The solicitor tries to avoid giving such an undertaking but it becomes clear that unless she gives it Sheila will not reveal her secret. Accordingly, she agrees to keep the matter confidential. She then learns that Sheila's father has been committing incest with her for about a year and prior to that he used to molest her and her sisters sexually in other ways. Sheila thinks that since he began having sex with her he has stopped molesting Tina and Paula. Although she is unhappy about what is happening to her, she sees it as the only way of preventing the family from being broken up and of protecting her sisters from similar unhappy experiences. Despite the solicitor's advice about the consequences of letting things continue as they are Sheila will not allow her to reveal the incest to anyone.

Sheila's doctor subsequently contacts the solicitor and tells her that he has been concerned about Sheila for some time, that she has had sexual experiences that appear to have been very upsetting for her, and that she has "in the strictest confidence" named a close relative as the person who has been having sex with her. He further reveals that when he saw Paula 18 months ago she described to him an incident in which the same close relative interfered with her sexually. He says he has not acted on this information because he did not believe he was entitled to breach the confidence but he would be willing to give evidence in Court if required to do so.

I suggest that there are several significant elements in this situation: it is a very tight family, which will resist any kind of intervention attempted on a voluntary basis; there is no real prospect of change unless intervention does occur; and there is great difficulty in fact-finding in the face of such loyalty amongst the family members and such resistance to intervention. Another significant point is that Sheila's situation is much more serious than is suggested by the incident which has brought her before the Court, that is the shoplifting. Further, there is a probability that the younger girls will in turn become victims of incest after Sheila grows up and leaves home. On the other hand, there are potential adverse effects on the children if they are removed from home and the family broken up, given the apparent depth of their attachment to the parents. So it is a very difficult situation.

Now to focus on the problems and weaknesses in the law, there are two major questions that we need to ask. First of all, why was action not taken sooner to help these children? Because the Department with the statutory responsibility for taking action was unaware of the situation. Who was aware of it then? The doctor was aware of it, the teachers were aware of it: why didn't they alert the Department? Well there are several possibilities: in the doctor's case, respect for confidentiality perhaps; in the teachers' case, possibly a failure to appreciate the seriousness of the situation or a wish not to become involved. But, when it comes to considering the law, the reason that counts - the reason for no action being taken - is that no-one had to tell the Deparment about the family. No-one had to report the situation this family appeared to be in. So I think the first point that comes out of this case is the need for a legal duty to report cases of suspected abuse or neglect. Clause 11 of the draft bill requires reports to be made to the proposed Child Protection Teams by Police, by Departmental Social Workers and by Medical Practitioners. The draft hasn't gone further than that at the moment but perhaps you might consider in the workshops whether mandatory reporting should extend, for example, to teachers (who often have more contact with children than anyone else and who are in the best position to see signs of, or form suspicions about abuse and neglect) to non-departmental social workers, plunket nurses, public health nurses or even further. So that is the first of the legal problems which I think is illustrated by this situation.

Secondly, now that Sheila is before the Court on a shop-lifting charge, will the incest be brought to the Court's attention? I suggest that quite possibly it won't. First of all the solicitor who has been appointed might not appreciate the long-term serious consequences of incest for her client. Secondly, the soclitor might see it as her duty to carry out Sheila's express instructions and not reveal the incest. Or she might want to put Sheila's interests ahead of her instructions, but not see any way of getting the information before the Court.

I suggest there are some possible responses to these kinds of problems. They are not complete answers: in a situation like this there are no easy answers, but I think some improvements could be made in this area. First of all, there could be some guidance in the legislation as to what a Court-appointed solicitor is supposed to do, in particular, an indication that there is a guardian element in the role. At present the Act does not give clear guidance as to whether the solicitor is a guardian of the person he is appointed to represent, or whether he is simply an advocate bound to follow his client's instructions the way a solicitor ordinarily is with an adult client. Secondly, there could be introduced a requirement of special training of people

who act as legal representatives of children in this context. Thirdly, there could be some clarification and, if necessary, modifications of the law relating to privilege as it applies to abused and neglected children. Fourthly, lawyers and the Courts could be made more aware of children's ability to give reliable evidence, especially in sexual abuse cases, and could adopt a more flexible attitude towards such testimony. In the United States there have been significant developments recently in the readiness of Courts to hear evidence from children and to treat it as reliable, especially in sexual abuse cases, and there are techniques which they use there that can minimise the difficulties for the child in giving evidence. So there is a long way that our law could go in this area to help overcome some of the problems I have described.

It is worth noting that clause 29 of the draft bill gives counsel for the child the right to request the Court to order medical, psychiatric or psychological reports on the child or the parents, and that sort of power might provide a way out of the dilemma in the case we have been considering. The solicitor could try to get the matter of incest brought to light independently by getting a suitable specialist involved in interviewing and counselling the girl.

Turning now to Case (2), which raises quite different issues from those we have been looking at -

CASE (2)

Sonia is 18 and expecting a child. She had her first child at the age of 16. That child was removed from her care after complaint action taken when the child was 6 months old. The intervention was based on serious physical abuse and neglect. Sonia was found to be totally inadequate as a mother and had not formed any bond with the child. She had denied the abuse and contested the complaint proceedings. The proceedings resulted in a guardianship order and placement of the child with foster parents. A few months later the foster parents with the support of the DSW applied successfully to adopt the child. Sonia received no specialist treatment at that time.

Sonia's second pregnancy has been difficult, she has suffered bouts of depression, she drinks and smokes heavily and takes drugs, and she has not visited a doctor since the pregnancy was confirmed.

Sonia's situation has only come to the notice of the DSW as a result of her application for a benefit. She rejects all offers of assistance, support and counselling.

Sonia enters a maternity hosptial when the birth is expected. The staff note that she appears depressed and

does not show normal maternal interest in her baby at the time of delivery or afterwards. She avoids eye contact with the infant and does not seem eager to hold him.

The Department's consultant paediatrician forms the opinion that the infant is at grave risk of abuse if allowed to go home to his mother's unsupervised care, in view of the previous history of abuse and the clear signs of failure to bond on this occasion.

The Department's consultant psychiatrist examines Sonia and ranks the prospects for successful treatment of her very low but stops short of declaring her untreatable.

Important issues in this situation include these:

Should the mother be given a chance or should the interests of the baby be preferred right at this early stage? Do the interests of the baby necessarily lie in prompt and permanent separation from the mother? Can this be answered before intensive treatment of the mother has even been attempted? Should any parent be regarded as untreatable without an attempt being made at treatment? Another obvious question to ask here is whether an attempt to treat the mother - a genuine attempt to treat her - should have been made at the time of removal of the first child, rather than waiting till now, where if treatment is attempted it will possibly be at the expense of the second child. Finally, when should legal action be taken in this kind of situation? Do you wait until the birth and then intervene or do you try to intervene earlier and control the mother's activities? I'm really referring now to the aspect of the drug taking and the need to protect the child while it's still unborn.

Those are not legal questions, and I'm not going to try and give you answers to them. What I will try and do is to indicate where the law stands in relation to a situation like this, so that you can see what changes might be necessary depending on your views as to the legal options that <u>should</u> be available.

First of all, there have now been a few cases in New Zealand in which legal action has successfully been taken to remove newborn or very young infants from their parents where such factors as the previous parenting history, psychiatric instability and absence of bonding between parent and infant have indicated a real risk of ill-treatment or of total parental inability to cope.[2]

So in a situation like the one I've described, where the evidence clearly establishes a substantial risk of abuse, it is quite possible within our present law that a complaint taken under section 27 of the Children and Young Persons Act would be upheld. But as to what would happen after the complaint was upheld (i.e. what the Court would do - whether it would remove the child or

attempt something else) prediction is not so easy. One could not be confident, given the way our Courts approach these things at the moment, that the child would be promptly freed for adoption or even that a guardianship order would be made. The Court might take the view that the mother should be given a chance, subject to suitable safeguards for the baby. In fact there has been a recent case in which just such an approach was taken. What happened was that a three year supervision order was made with special conditions attached to it, one of which involved both the mother and the child in a hospital-based intensive treatment programme lasting several weeks. It was pointed out that if things went wrong, if the conditions weren't complied with, new complaint action could be taken or a complaint of breach of supervision made, either of which would bring the matter back to the Court. What is the situation, though, if, say, the solicitor appointed to represent the infant feels that the matter does need to go back to the Court, or if perhaps the specialist who is involved feels it needs to go back to the Court, but the Social Worker who makes the final decision doesn't accept that view and wants to carry on with the supervision as the Court has directed. I suggest that this reveals a defect and a lack of flexibility in the present legal framework. First of all there is no guarantee that the solicitor will have a continuing role after the supervision order has been made. Secondly, even if the solicitor does continue to act, he does not have the power himself to bring the matter back before the Children and Young Persons Court because the decision as to fresh complaint action or action for breach of supervision is for the Department's Social Workers to make. I suggest that reform is necessary in both respects.

This point about whether the Department should or should not have exclusive control over complaint proceedings doesn't only arise in the kind of situation I have described. It arises generally. Arguably, an outsider who is concerned about a child's situation should be able to get the matter before a Court. That possibility is regarded as quite important in some states in the U.S.A. where there is a very simple procedure for a concerned outsider to get a situation before the Court, in spite of the failure of the Department of Social Services to take action. I suggest that that is a possibility that could also be considered in our system.

Theoretically there is the possibility of independent legal action in the kind of case described and that is in the High Court, under it's wardship jurisdiction, but there are great disadvantages in that. The High Court is not the Court with the most experience in these matters, it is very costly, and the Court's prior leave to bring the application would normally be required. So a much more flexible procedure is needed.

The other major legal issue in this second problem is this: when should the intervention occur? Can Court

action be taken before the mother even gives birth to her baby? I am not aware of any New Zealand cases involving such early legal intervention but I've heard of one where action was contemplated before the child was born. I suggest however that it is very doubtful whether our Courts at the moment would accept that they had jurisdiction to deal with the situation before the child is born. That applies both to the High Court (in its wardship jursidction) and to the Children and Young Persons Courts. Again, in this respect I think we could get some good leads from the United States, where the law has gone further and has allowed in some situations, such as drug taking, action to be taken to control an expctant mother's activities and reduce the risk to the child.[3] To give an example, heroin-addicted mothers, in a high percentage of cases, give birth to addicted babies. Now that is a risk which can be controlled to some extent if intervention occurs before birth because factors like the length of time between the last dose taken by the mother and the birth can very much affect the severity of the infant's withdrawal from the addiction at birth.[4] That may be looking to the future a little in the development of our law, but I suggest that we shouldn't ignore the possible need in some situations to be able to take legal action even before a child is born. Case (5) (see Appendix II) also illustrates this, but in a rather different kind of situation where, for medical reasons, there is a high risk that the child will not be born alive but where it could be saved without risk to the mother if she would allow surgical intervention. Again there have been cases in the United States where ceasarian sections have been ordered in similar situations.

CASE (3)

A 4 year old Maori child is the subject of complaint proceedings alleging neglect and failure to exercise the duty and care of parenthood. The complaint is upheld, one of the allegations found proved being that the parents commonly leaves the child at home alone for up to 2 hours. This has happened both during the day and in the evenings and the parents have ignored warnings about the practice. Their view is that the child is quite capable of telephoning relatives or walking to his aunt's house a short distance away if he wants assistance or company.

In view of the unlikelihood that a supervision order would be effective in the fact of the parents' apparent unwillingness to accept any need for change,the Judge makes a guardianship order. But he expresses the view that it is important to the child's interests that close contact be maintained between him and his parents and that the Department should, after working intensively with the parents, soon be able to return the child to their care.

The Department investigates the possibility of placing the child in his extended natural family but concludes that no satisfactory placement of that kind is available and instead places the child with a pakeha family living 30 miles away from the parents. It proposes to bring the child back to the parents for one weekend each month and tells them that they are free to visit the child at the foster home at their own expense and by arrangement with the foster parents. The parents do not own a car and in any event when they try to arrange such visits they are usually told that it is not convenient.

The Department arranges counselling for the parents but they find many of the counsellor's views about child-rearing incomprehensible.

The first point illustrated by this problem is the difficulty of defining neglect in the fact of different standards of child-rearing. Parents do differ in the degree of responsibility and independence they allow to young children and those differences of course are not simply class or culture-based ones. The second point illustrated is the ease with which guardianship orders can be made under our present system in cases where the risk to the child is not a great one or at least is one which could be dealt with in other ways. If all the Social Worker can point to as putting the child at risk in this situation is the parents' failure to give constant supervision and care, why take the child away? Why not allow the parents to take a break when they need it and help to arrange and if necessary pay for, child-minding services? It would certainly be a lot cheaper than making a guardianship order.

The main aspect of this problem though, the aspect I want to concentrate on, is what happens after the guardianship order is made. My concern is with the need for accountability by the Department of Social Welfare: accountability for the provision of appropriate help and services to the parents and accountability for decisions about where they place the child and what sort of access they arrange or encourage or allow between the child and his natural parents. It is very easy for a situation like this to develop into one of long term fostering with the parents feeling increasingly alienated and helpless and with the child's interests eventually (mainly through the sheer passage of time) being found to lie with the foster parents rather than in re-intergartion into his natural family. That risk of course is affected by such factors as the age at which the removal occurs and the quality of the parent-child relationships existing at that time.

The present law is very deficient in this area of accountability. When the Court makes a guardianship order it effectively hands over the child's future to the Department of Social Welfare. The Director-General and Social Workers are given very wide powers of decision

in relation to such matters as placement, access and help for the parents. Furthermore, the opportunities for having those decisions reviewed by some independent body is very limited. There is a theoretical possibility of review by the High Court in its wardship jursidiction but that is only likely to occur in extreme cases of Departmental failure. Also, it is extremely costly and to expect parents or other interested people to take this sort of action at their own expense to challenge Departmental decisions is quite unrealistic. What the law needs to do is to provide expressly for independent monitoring of the Department's performance in these crucial areas. That point was, as I understood him, accepted by Mr Manchester in what he said yesterday i.e. that there is a need for a much more simple and flexible system of review to ensure accountability.

The draft Child Protection Bill does exactly that. It gives the Court the task, when making a guardianship order, of specifying where the child is going to live, of fixing a date for review of the order, and of specifying the services that are to be provided to the child and to the parents. Obviously the Court is going to be influenced to a large extent by what the Department says it can provide and what it recommends but the point about the draft bill is that it forces the Department, first of all, to devise a plan right at the start, and, secondly, to produce that plan to the Court. I suggest that the quality of the plans will be increased if they have to be shown to an independent body like the Court. Independent monitoring provides a greater safeguard than the internal planning procedures which the Department has developed in recent years and which were described yesterday. Those procedures, while they may have improved things a lot, are still subject to the dictates of expediency; more so, than monitoring by the Court. The draft also has other features which would help here: it limits the length of temporary guardianship orders and extensions of them so that a placement can't just drift without scrutiny the way it sometimes does at the moment; and it allows the Court to deal with access quite specifically.

CASE (4)

Gail was the subject of complaint proceedings at the age of nine months and was removed from her mother's care and placed in a foster family. The complaint had been based on physical abuse of Gail by her mother's de facto husband (who was not Gail's father) and on the mother's failure to protect Gail and to obtain medical attention for her. Gail's mother also suffered violent assaults by the de facto.

Gail is now nearly 3 years old and has been in the continuous care of the foster family for 2 years. She has been visited by her mother approximately 30 times during that period.

Gail's mother has now left her de facto husband and married someone else. She has requested the Director-General to discharge the guardianship order and return Gail to her care. Her husband supports her in this.

A Social Worker investigates the mother's present circumstances, interviews the couple and reports favourably on their relationship, their motivation, their affection for Gail and their apparent ability to provide Gail with a good home. The Director-General receives advice that if the matter goes to Court the Court will probably cancel the guardianship order and allow Gail's mother to resume the care of her. Accordingly, he tells Gail's foster parents that he has decided to place Gail back with her mother and seeks their co-operation in minimising the trauma to Gail that is expected to result from the change.

The central problem in this situation is section 64 of the Children and Young Persons Act which deals with applications for review of guardianship orders. Such an application can be made at annual intervals by the parents of a child who has been removed into state care. Under the present law a guardianship order only suspends parental rights: it doesn't terminate them once and for all (only adoption is permanent in that sense).

How do the Courts approach applications by parents to get their children back? The Act does not give very clear guidance on this. On the one hand section 64 seems to look at it from the parents point of view

- have they improved?
- are the factors which led to the making of the guardianship order no longer present?
- can the parents now offer the child a satisfactory home?

On the other hand section 4, which applies generally under the Act, suggests a more child-oriented approach because it basically makes the interests of the child the "first and paramount consideration".

The relationship between s. 4 and s. 64 is not settled. There are court decisions holding that s. 4 applies in this context so that the fact that the parents have improved is not decisive - the child's interests may now require that he not be moved from his foster family which he has come to regard as his real family. But there are also cases in which a parental-rights approach has been taken and the risks of disrupting new bonds with the foster parents overlooked.

Who speaks for the child in this context? Again we find serious weaknesses in the present law. First of all the Court might be bypassed altogether because the Director-General himself has power to discharge a guardianship order, remove the child from the foster parents and return

him to the natural parents. Secondly, the Department of Social Welfare has had, until recently at least, a stated general policy of attempting to reunite children with their natural parents even after long periods of separation. (I suspect that that view is still quite influential, even if less so than it once was.) Thirdly the foster parents are in a very weak position: the Department does not have to listen to the information they can offer about the child; if the mother goes to Court they do not have an automatic right to be heard; and their opportunities for initiating Court action in the interests of the child are limited. Fourthly, even if the question of review of a guardianship order goes to Court the child will not necessarily have separate legal representation: appointment of counsel for the child is discretionary, not automatic.

The draft bill has responded to all of these problems

- it requires detailed planning in accordance with the child's sense of time
- it clearly makes the child's interests paramount
- it allows termination of parental rights in appropriate cases so that the child has security in his surrogate family
- it ensures the Court's involvement in this important area of decision-making
- it ensures that the views of the foster parents will be heard
- and it provides for separate legal representation of the child.

Case No (6) I will not go into (see Appendix III). I said at the beginning that these cases were hypothetical. Case No. 6 is not hypothetical: it is based on a recent decision of the Court. I will leave you to read that situation for yourselves to see again just how children can be at risk even after they come into the system that is supposed to protect them.

One final point should bemade about the draft Child Protection Bill. It should not be seen as dealing only with child abuse in a narrow sense. When you have a chance to study it, you will see that it has much wider application than that. If, as the proposers of it believe, it will improve early intervention, then it actually has significant positive implications even in the area of juvenile offending or delinquency because, as has been pointed out, such offending will often be the result of earlier abuse or neglect.

FOOTNOTES

1. Johnston, 'Complaint Proceedings - Beyond Whose Contorl?' (1981) NZLJ 204,210

2. Butterworths Family Law Service para 6.612n 5a. Such action has been more common in Britian: see Fairburn and Tredinnick, 'Babies removed from their parents at birth: 160 statutory care actions' British Medical Journal, 5 April 1980: 987-991.

3. See Bross and Meredyth, 'Neglect of the Unborn Child: An Analysis Based on Law in the United States' Child Abuse and Neglect, Vol. 3, pp 643-650.

4. Ibid.

APPENDIX I

PROBLEM AREAS IN THE LAW RELATING TO CHILDREN AT RISK OF ABUSE OR NEGLECT

1) Detection

The absence of mandatory reporting and/or a register of children at risk.

2) Assessment and management

The unrealistic expectation that the DSW alone can carry the burden of responding initially to cases of suspected abuse.

The multiple roles of the Department: preventive work, investigation, 'prosecution', giving evidence, reporting on disposition, and post-decision management, services, and therapy.

The involvement of Children's Boards in abuse/neglect cases.

The absence of any legislative recognition of Child Protection Teams.

3) Children and Young Persons Courts

The mixing of 'protection' and 'control' jurisdictions.

The lack of specialist judges.

4) Obstacles to proving the need for protection in section 27 complaints

The uncertainty over the nature of the proceedings: the mixture of criminal and civil, adversary and inquisitorial elements.

The standard of proof.

Privilege and confidentiality.

Judicial interpretation of section 27 as requiring proof of parental guilt or fault.

5) Separate legal representation of children

The absence of any duty on the Court to appoint a legal representative for the child.

Uncertainty over the role of a solicitor appointed to represent the child.

The lack of special training of child representatives.

Restrictions on the solicitor's access to information on DSW files.

6) Disposition

The limited range of appropriate orders in abuse/neglect cases.

Limitations on the information supplied to the Court at the dispositional stage.

Vagueness of the criteria for disposition.

7) Accountability after initial disposition

The Court's lack of power to oversee the delivery of services.

The wide discretion given to the Director-General and Social Workers where a guardianship order has been made and the difficulties faced by parents, foster parents and children themselves in seeking to have Departmental decisions independently reviewed.

8) "Children in limbo"

The absence of legislative guidelines for time-limited final decisions.

The parents' right to seek annual review of a guardianship order and the uncertainty over the criteria for review.

Obstacles to permanent placement: non-availability or inappropriateness of adoption; difficulties in the use of legal alternatives to adoption; financial factors influencing the continuation of insecure fostering.

APPENDIX II

CASE (5):

Margaret is expecting a baby and is advised by a specialist that there is very little chance of the baby being born alive by a natural delivery. Margaret herself however will not be at significant risk. The specialist further advises that if Margaret undergoes a caesarian section she will not be running any significant risk herself and it is very likely that the baby will be perfectly normal and healthy.

Margaret refuses, for religious reasons, to allow delivery of her baby by caesarian section. Her husband supports her in this for the same reasons.

APPENDIX III

CASE (6):

Trevor was taken from his parents at the age of three and a half and placed under the guardianship of the Director-General. This action resulted from abuse and neglect of Trevor.

Over the next 6 years Trevor underwent numerous foster placements, each of which broke down. There was also an unsuccessful trail placement of Trevor back with his parents.

Finally Trevor's case was referred to the Department's Intensive Foster Care Scheme. A couple who already had a child under that scheme were able and willing to take Trevor into their family on whatever basis and for whatever period he needed them.

Despite the view of the two field social workers that Trevor should also be placed for full-time fostering with that couple, to whom he had run away from a Departmental Home on several occasions and with whose other foster child he appeared to get on well, the Department decided against the placement. This decision was based primarily on the theoretical risk of placing two difficult boys with special needs in the same foster family. The Department's Consultant Psychiatrist recongised this risk but preferred it to the risk of further disruptions.

GROUP DISCUSSION A.M. TUESDAY 10 MAY 1983

Workshop discussions covered a range of issues, which are summarised below.

1. GROUP 1

Although the time was right for change, Group 1 urged Conference delegates to participate in more discussion and reading, for example of the draft Child Protection Bill, the ACYL Report and the State Services Commission Report on Early Childhood Care and Education.

Themes requiring greater attention include all aspects of prevention, the diversion of juvenile offenders, protection for young people going to Court, the encouragement of cultural sensitivity and awareness and the need to develop supportive approaches for Pakeha as well as Maori families. More resources are required so that Departments and organisations may further schemes already in operation. The group supported a revision of procedures in the Children and Young Persons Court, preferring to hear cases involving young offenders in this Court rather than in the Family Court.

2. GROUP 1A

The desirability was stressed once more of implementing recommendations already made. All changes should be supportive and preventive, ensuring that the child's interests continue to be paramount. The cultural background of every child should be accorded due consideration. A move away from the adversary system was favoured, with a central role within the Court system being assigned to a Mediator, or Kai-tiaki (as recommended by Hiwi Tauroa). The roles of co-ordinator and mediator would focus upon and be strengthened by these persons' bonds with the community.

Reference was made to the Voluntary Probation Service operating in Victoria, Australia, which could offer an example for greater community involvement in New Zealand. Group 1A concluded by declaring that the Child Protection Bill did not adequately reflect the commitment of the Conference to community participation and awareness of racial and cultural issues.

3. GROUP 2

This group supported the proposal of the Working Party on Access to the Law, for a pilot scheme involving "Children's Advocates" in the Auckland Children and Young Persons Court.

It highlighted ways in which different cultures raise their children, appealing for greater emphasis on prevention and on the extended family. The idea of employing a voluntary worker to care for children between the hours of 5.30 pm and 6.00 am, where necessary, was proposed to the Conference.

4. GROUP 3

This group advocated greater co-ordination between the community, professional organisations and the Department of Social Welfare. It sought a preventive emphasis (including education) and more funding, to allow a "child and family" approach to the care of children to develop.

If child care and intervention were viewed from cultural perspectives other than the European, it would soon become apparent that attitudinal changes are necessary, especially by the judiciary. A more open approach to guardianship and adoption could also prove beneficial.

5. GROUP 4

Group 4 identified the major issues in child care and intervention as follows: accountability, guardianship for young offenders, the separation of offending from complaint action, representation of children and resources. Separate jurisdiction for different types of Court cases involving youth were favoured, on the grounds that the present "combined" system was inappropriate because of the ways in which the Court system operates. A more Maori approach was favoured, in addition to the investigation of wider issues such as unemployment and disparities in income distribution.

6. GROUP 5

Group 5 endorsed the Child Protection Bill, declaring that child abuse is a community responsibility. It sought a move away from the adversary system of the Children and Young Persons Court towards a more informal, "family" approach. Specialist education was needed for judges, and suitably qualified children's advocates ought to be appointed. The group considered that 14 years was an appropriate age for entry into the Children and Young Persons Court in cases of serious offending.

7. GROUP 6

Group 6 argued for representation of abused children. It sought mandatory reporting of instances of child abuse and saw the Family Court as the appropriate venue for

these cases. The most important question before the Conference was perceived to be the decision to adopt a Justice or a Welfare system.

8. GROUP 7

This group discussed modes for diverting young people from the Courts, noting the under-utilisation of Children's Boards. It thought teachers should have a right of direct referral to the Boards.

The West Auckland approach towards community involvement was cited as a successful example of local co-ordination.

Group 7 discussed the competence of legal representation in Court and the level of legal aid payable, referring again to recommendations contained in the Access to the Law Report. It sought reparation from young offenders, who should be introduced to their victims in the hope that meeting them would prove an effective preventive, or diversionary stratagem. This group thought it inappropriate to place the young offender in the Family Court.

Rejecting the adversary system, Group 7 favoured an inquiry approach and the development of a welfare model based on the family. It argued that the age at which a child could be charged with an offence should remain at 14 years and that finite sentences rather than indeterminate ones ought to be imposed.

SPECIALIST SERVICES FOR CHILDREN IN DIFFICULTY

Dr Karen Zelas,
Child and Family Psychiatrist

New Zealand is a nation of generalists - 'do-it-your-selfers' - people who take a pride in being able to do a bit of everything. New Zealanders have been reluctant to acknowledge the need for special services and the advantages to the public of specialisation. They have tended to regard specialists not only with some disdain, but also with suspicion and even fear. One myth that still abounds is that specialists and special services create a need for themselves that otherwise would not exist.

However, many people now are able to appreciate that certain people have special needs which our society has some obligation to meet, and that meeting these needs does not 'make' these people 'different'. If anything, it helps to make them 'the same' as others.

I want briefly to draw a distinction between 'special services' and 'specialist services' and then to speak about both, since it is somewhat arbitrary to separate them.

Special Services

'Special services' are those which are developed to meet a perceived or presumed need in the community. They may be run by voluntary or statutory organisations. They are staffed by people with a broad range of different levels of training and experience. On the one hand, there are services staffed by voluntary workers with a special interest and aptitude for the work and who are given a varying amount of training and supervision. On the other hand, there are services staffed by those with relevant professional training and experience; and of course, there are all manner of models between the two extremes.

Specialist Services

'Specialist services' are those which are able to offer a high level of expertise in a particular area, through being staffed by people who are acknowledged by their peers, on the basis of training and experience, to be specialists in that particular field.

Even currently, there is some difficulty in this country in defining who are 'specialists', yet it is important that they are able to be clearly identified for a variety of purposes. The general public has a right to know who are specialists. Other professionals, including the Courts, need to know who are specialists. They need to know in order to be clear about whose opinion to seek so that they may receive the most well-informed advice in any particular set of circumstances.

A specialist in one context may not appropriately be considered a specialist in another context. The level of specialisation and degree of authority which it is appropriate to invest in a particular specialist will depend on an amalgam of training, experience and personal attributes.

However, professional associations should be encouraged to define clearly and precisely what they consider to be criteria of specialist's status within their own discipline and in relation to particular areas of practice. The criteria for specialist social work status in the area of geriatrics, for instance, must be significantly different from the criteria for specialist status in working with children. A basic training in any discipline cannot in itself be considered to confer specialist status. Registration of both basic qualifications and specialist qualifications is to be encouraged.

Professional Status, Autonomy and Accountability

Some professional disciplines are still young in terms of achieving a satisfactory level of training amongst their members, and establishing their credibility and their professional role and status in relation to other disciplines. Inevitably this leads to some imbalance in the meeting place - threat, tension, anxious defence of boundaries, power struggle for leadership of the group. However, when these natural processes have been worked through and the people are able to see themselves as valued members of a team whose roles are not about to be usurped or controlled by others but who have a special contribution to make which is both peculiar to their own discipline and overlapping to some extent with other disciplines, then all are able to see and enjoy the benefits of being part of a multidisciplinary team.

Belonging to a multidisciplinary team carries both privileges and responsibilities for all members. There is some loss of autonomy, in terms of the need to arrive at team decisions and in terms of clearly defined accountability for professional undertakings both to clients and colleagues. This is so, however, for all members of the team, whatever their level of experience or professional background, and is in line with the ever-increasing awareness of the need for professional accountability.

The ability of professionals of various disciplines centred in different settings to work well together is a most important aspect of the provision of effective services for children and families. Even now, there is a remarkable lack of understanding amongst professionals in related areas about what their colleagues in different disciplines actually do and what contributions they have to make to the mutual assistance of children and families.

Interdisciplinary Liaison

Interdisciplinary liaison can take place at a number of different levels, each requiring a greater degree of involvement of the personnel from the different agencies.

The most superficial level is coordination in which the roles of services, agencies and personnel are clarified, negotiated and fitted together with a minimum of overlap and minimal requirement for actual working together. Each gets on with his own job, as it has been defined.

The next level, cooperation, requires a greater degree of mututal participation and the third level, collaboration, requires a high level of involvement amongst people of varying backgrounds and experience and from organisations with very different structures, modes of functioning, philosophies and responsibilties.

The ultimate in interdisciplinary collaboration is perhaps represented by the Multi-disciplinary Child Protection Team. The element crucial to success is that the Team members develop the ability to work together in a relaxed, trusting and respectful manner and are accountable to one another for carrying out joint decisions. This level of collaboration takes time to evolve, requires a facilitatory umbrella from parent bodies and necessitates putting aside prejudices and rivalries, in order that children do not become victims of professional in-fighting.

Interdepartmental Liaison

As the Report of the Board of Health Committee on Child Health says:

'Just as a child cannot be divided into little parts and apportioned around the countryside to have different pieces cared for by different people or services, so service-provision cannot be divided into neat and discrete packages which are labelled 'health', 'education' or 'welfare', with rigid boundaries between them. It is necessary that a holistic approach be taken to our children's development and to the services which facilitate this development.

'This means that there must be close collaboration between health, social welfare, education, voluntary and church-based agencies at both national and regional levels in the planning and implementation of services and of child and family-oriented programmes of all types. The present Interdepartmental Committee on Health, Education and Welfare is able to provide the beginnings of such collaboration at a national level and to provide a facilitating umbrella to collaboration amongst regional organisations.

'There is no suggestion that all treatment, remediation or special education should take place within any one type of service (such as health or education or welfare) or that one area of service should be developed to the exclusion of another, but that there are contributions which can be and are made by all areas. The important issues are that these services complement one another, that they understand each other's (and their own) capacities and limitations, that they liaise and collaborate, and that there is sufficient flexibility in the system to enable a particular child to find the help best suited to his own needs.'

Manpower Situation

In many special services of children and families, there are critical shortages not only of specialists but even of professionals with a relevant basic training.

The Report of the Board of Health Committee on Child Health points out, for instance, that in the Department of Social Welfare 'fewer than five per cent of social workers at the direct casework level have acquired basic professional training'. This is an incredible situation when one considers the extensive and specialised nature of the statutory and casework responsibilities D.S.W. social workers have for many New Zealand children.

To quote the Report again: 'It seems that despite persistent efforts by the Department of Social Welfare and the New Zealand Social Work Training Council to improve this situation, successive Governments have continued to accord a low priority to the training of social workers'.

There are also serious shortages of suitably trained people in most other mental health professions particularly in the area of those relating to children and families. The greatest shortfall in any medical speciality is that of child psychiatry. Calculated on a population basis, New Zealand requires around 70 child psychiatrists each working with a multi-disciplinary team of psychologists, social workers, child psychotherapists. At present there are the equivalent of 9 full-time child psychiatrists in this country and none who specifically identify themselves as adolescent psychiatrists. There is currently no recognised training in clinical child psychology, and child psychotherapy training is still in its early phases. There are also only very small numbers of trained persons working with children in residential care.

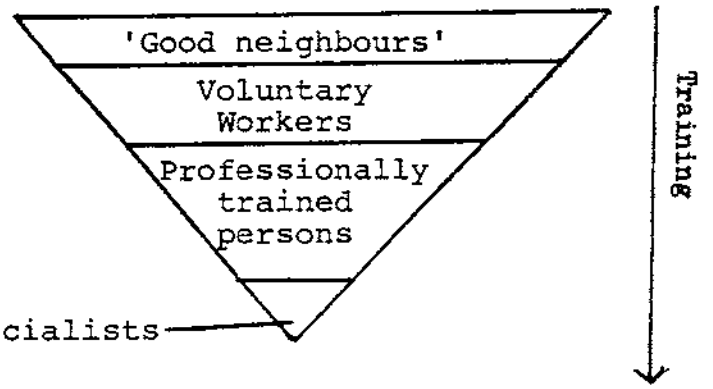
There are, therefore, serious shortages in all spheres - special services and specialist services; caring for children and providing resource backup and specialised treatment. Responsibility for the training of such personnel lies jointly with the Departments of Social Welfare, Health and Education.

In spite of these shortages, the anomolous situation sometimes arises in which a much needed specialist is available, but unable to be employed because there is no approved or funded establishment inspite of the need.

If we are to be able to provide high quality special services and specialist services to children and their families, then it is essential that increased funds be allocated urgently for professional training and that increasing numbers of funded positions be established in appropriate services.

Use of specialist resources

Slide 1



As illustrated in this slide, the balance of helping persons will always include only a relatively small proportion of highly trained specialists. The question then arises: How best to utilize limited specialist resources?

Use of Specialist Time

Slide 2

1. Resource people - advisory committees, seminars etc.

2. Consultants - in response to approaches from other workers about difficult problems, Family Law matters.

3. Service planners - special needs of children and families.

4. Supervisors - using their expertise to supervise the clinical work of other less highly trained persons

5. Trainers - Volunteers
   - Professionals

6. Therapists

The most efficient use of specialist time is in 1 - 5 above. In these ways the spread and impact of their training and experience is greatest and touches indirectly

upon the lives of the greatest number of children and families. It provides an input which broadens the experience of a large number of other professionals and volunteers and it helps broaden the information base of the community at large.

However, there is also a need for the specialist as therapist and here lies one dilemma for the specialist.

In the foreseeable future and possibly well beyond, a specialist (e.g. child psychiatrist could shut himself in an office and do therapy 8 hours a day, 5 days a week. There would still be more children and families needing treatment and he would be isolating himself professionally and spending no time engaging in the other activities which have important educational and preventive implications. So, pragmatic decisions have to be made, priorities set and this means that some children do not presently receive the therapeutic help they need. This is sad, but, with the current manpower situation, unavoidable.

However, whereas it is inefficient for specialist resources to be engaged solely in therapy, it is essential for maintenance of specialist expertise, that professionals, no matter how senior in their organisational hierachy, retain a proportion of their time engaging in clinical work, especially if they are supervising the clinical work of others. This does not happen in some organisations, e.g. D.S.W.

A second dilemma is inherent in the hierachical structure of many of our organisations and that is that training and experience confer seniority in the hierachy and seniority demands increasing administrative responsibility. Clinicians may or may not be interested in being administrators and they may or may not be suited to it. They certainly have not been trained for it.

With the limited specialist resources which are available, it is necessary that as much administrative work as possible is removed from specialists' shoulders and that a breed of administrators is developed and widely installed which has the necessary skills for the administration of services for children and families. It is a crime to waste our specialist clinicians in administration. A system for confering seniority (and recognising it financially) must be developed involving promotion to senior practitioner posts.

Models of Consultation

1. Visiting consultant from outside the organisation.
2. Referral to a consultant elsewhere.
3. Consultation within the organisation.

The first model, with the consultant visiting from outside the organisation, seems to work well with

smaller agencies or units, where approaches are made to the consultant on a personal and more or less informal basis. The consultant is selected because the members of the organisation know, like and respect the contribution the consultant can make and they are keen to receive the imput. The senior people within the organisation are likely to be active participants in the interactions with the consultant. Most importantly, they see the consultant as supportive to them, their aims and objectives.

This model is not satisfactory for a large organisation where the senior persons are not a part of the direct interaction between consultant and field work staff. Feelings of suspicion and threat may be aroused, with many opportunities for misunderstanding.

The second model, referral to a consultant outside the organisation (and possibly within another organisation), is useful and commonly employed. It allows an effective availability of specialist resources to smaller agencies and special services. There are, however, inherent difficulties which must be taken into account, such as those associated with one organisation being seen to be telling another organisation what to do; inappropriate referrals; different perceptions of urgency and priority by the referring agent and the consultant; unrealistic recommendations from the consultant in terms of the resources available to the organisation which will be responsible for implementing the recommendations; unrealistic expectations of the problem-solving abilities of the consultant; denigration of the consultant's opinions or recommendations in an effort to maintain the self-esteem of the referring agency or worker. These difficulties tend to become particularly problematic with large organisations.

The third model is the most suitable for large organisations, such as the Department of Social Welfare. That is, the development within the organisation of specialist services which are able to provide the needs of the agency for consultation, education, treatment, etc.

With this model, there is the capacity for the specialists to be an integral part of the therapeutic teams, not outsiders, non-threatening and with a realistic understanding of the aim, objectives, responsibilities and restraints of the other workers. The Specialist Services Team (D.S.W. Christchurch) has been developed to provide such a service. I would advocate the continuing development of this service and its replication in other areas.

The Marriage Guidance Council has successfully used a version of this model for many years. It has actively sought out suitable consultants - 'supervisors' - from the professional community and formally incorporated them into its organisation to supervise its counsellors.

TABLE 1

Examples of Costs of Special Services

South Auckland Project (Plunket Society/Health Department)		
annual expenditure 1981/82		$1,131,141.00
i.e. annual expenditure per child approx.		$ 54.00
Family Support Units (Plunket Society: 59 Units)		
annual expenditure 1981/82		$1,125,000.00
Parentline, Hamilton		
annual expenditure 1981/82		$ 15,000.00
Daycare Capitation Subsidies by D.S.W. ($15.50 per child per week) 1981/82		$1,884,193.00
Capitation Grants to Voluntary Agencies by D.S.W. in respect of registered Children's Homes ($37 per child per week) and homes for unsupported mothers.		
annual expenditure 1981/82		$ 190,069.00
Salary Subsidy by D.S.W. to Social Workers in Voluntary Agencies doing preventive work with families under stress ($25 per week)		
annual expenditure 1981/82		$1,263,885.00
Red Cross Home Support Service, South Auckland		
annual expenditure 1981/82		$ 40,000.00
Outpatient Specialist Child Psychiatric Service		
annual expenditure 1981/82	approx	$ 332,551.00
average cost per treatment course per child and family	approx	$ 665.00

TABLE II

Costs Residential Care

One child in a D.S.W. residential institution			
National institution	p.a.	$	28,814.00
Regional institution	p.a.	$	27,229.00
Total annual expenditure	1981/82	$2,981,184.00	
One young person in a Justice Department residential institution	p.a.	$	17,842.00
One child occupying a General Hospital bed at $233 per day	p.a.	$	84,045.00
One child in Psychopaedic Hospital at $55 per day	p.a.	$	20,075.00
One child in foster care, D.S.W.	p.a.	$	2,654.00

Use of Limited Financial Resources

Having considered the effective use of certain human resources, let us consider the utilisation of financial resources for children and families.

Although there is a considerable amount of overlap, services for children and families can be divided into those which are preventive in orientation and those which provide intervention for identified problems. In simple terms, intervention can either be treatment-oriented or non-treatment oriented (deterrent, custodial, punitive etc.).

Let us look at costs of some services for children and families. Firstly, the costs of some special services which provide prevention, early intervention and support to children and families.

Slide 3 & 4

Examples of Costs of Special Services Table I

Let us contrast these costs with those involved in the provision of residential care.

Slide 5

Costs of Residential Care Table II

It can be seen that the most cost-effective way of providing residential care for children is foster-care. Any form of residential care is expensive and for this reason, as well as any moral or philosophical reasons, versatile alternatives to residential care should be maximised and resources spread more effectively at an earlier stage in the child's life in order to minimise the numbers of children who require long-term care outside their families.

Let us compare the costs of some of the services outlined in relative terms: One child in a general hospital bed could pay for thirty two children in foster care, more than five Parentline Projects, three Family Support Units or two Red Cross Home Support Services;

one child in a residential D.S.W. institution could pay for two Parentline Projects and the total expenditure could pay for two South Auckland Plunket Projects;
one brain damanged child in a Psychopaedic Hospital could pay for seven children in fostercare or one hundred and seventy one children in day care;
one adolescent in a Detention Centre could pay for developmental health care and supervision for three hundred and thirty young children;
and one child in fostercare could pay for fifty children to have developmental health care.

One could go on making such comparisons. Clearly, intensive preventive services are not without substantial cost. However, it can be seen that by comparison preventive services, particularly those which centre upon voluntary agencies, involve considerably less expenditure than residential treatment or custodial services. This holds true even for those services which employ trained professionals rather than using wholly volunteer labour. Also, we can see that it is cheaper to save children from being abused, or becoming delinquent than to meet the financial consequences of the resulting problems.

Although these relationships are clearly a-parent, old habits (and old institutions!) die hard.

The potential long-term savings in terms of fewer hospital admissions, children in care or under supervision of the Department of Social Welfare, legal and judicial procedures, fewer young people in the Justice Department institutions or on probation, would more than meet the costs of preventive services.

The cost of not implementing a comprehensive national network of primary preventive services will continue to be extremely high, not only in terms of human misery and wasted potentialities, but also in terms of unemployability, mental ill-health, crime and a continuing cycle of inadequate parenting.

Payment for Specialist Time

Before leaving the vexed topic of 'money', I must emphasise that, if we are to be able to utilise specialists as resource persons, advisors, service planners and, in some circumstances, as consultants, supervisors and trainers, there must be provision for paying a suitable fee for their services. If we want the services of specialists, it is unrealistic to expect that they can frequently, regularly or indefinitely contribute their time on a voluntary and altruistic basis, particulary if they are in private practice and have constant and considerable overheads to meet. If we do not accept this principle, we will ultimately reduce our source of specialists to those in statutory agencies or those who are employed by organisations large enough to carry the costs of paying salaries and meeting expenses for work done outside the agency. In our present economy, some organisations are already becoming reluctant to do this.

In this country there is a long history of professionals giving their time voluntarily outside their working hours to community works, self-help groups, voluntary agencies in a variety of roles. This is to be commended and it is not intended that this should

cease. However, it is unrealistic to expect that they can give their working time free of charge, and there is a limit to how much 'R & R' people can sacrifice, no matter how commendable the cause. Our specialists suffer from 'burn-out' the same as anyone else. So, look after them!

Special Services for Children at Risk

Services for children at risk must be designed with the purpose of meeting the special needs of these children. The services must mould to the children's needs, not vice versa.

The life circumstances of these children are such that, while they still have the same basic needs as other children, their levels of need are heightened and distorted due to the lack of satisfactory fulfilment up until this time. This leaves these children particularly vulnerable and in need of special care. In particular, these children have even greater than usual need for protection, acceptance, continuity of care and new adult/parent role models.

Children may be at risk both within the care of their families and outside them, in our society's institutions (including schools and hospitals) and in the care of the Department of Social Welfare.

That children can be at risk 'in Care' sounds a contradiction of terms. However, they can be, either as a consequence of experiences occurring prior to coming into Care or as a consequence of their experiences once they are in Care, or both.

Therefore, special services for children at risk cannot be of one type, or concentrated in one area.

The report of the Board of Health Committee on Child Health is the first report in this country to make a comprehensive review of the mental health needs of children and the special services required to meet these needs.

Slide 6

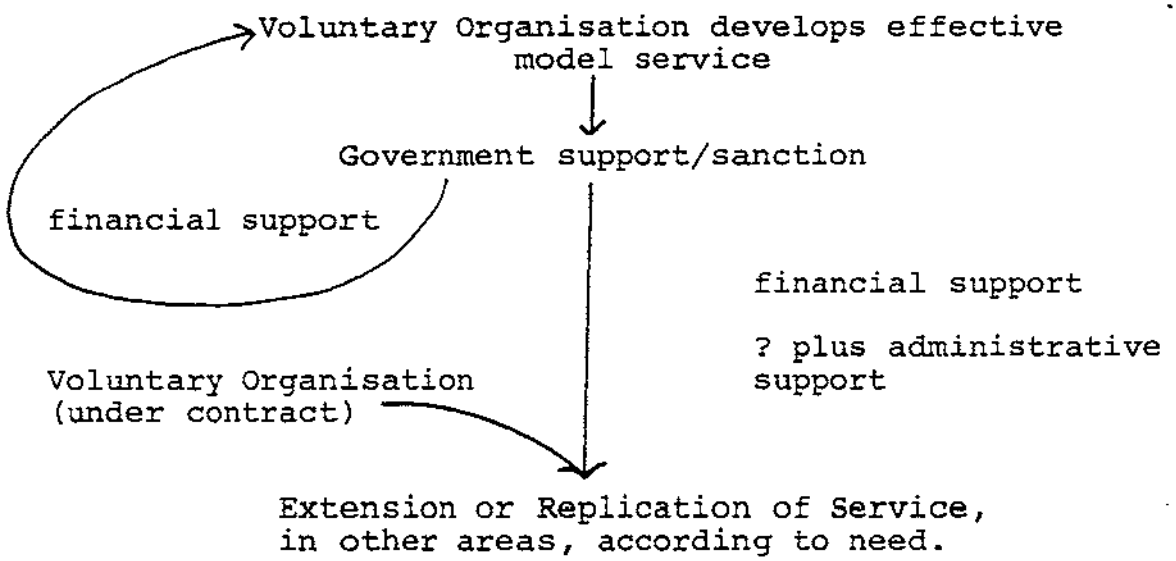
A range of services is required which:

1. maximise effective family functioning
2. provide supplementary care for children, in the face of
   - lack of parental availability
   - inadequate parental coping abilities
   - inadequate material resources
3. provide emergency care for children and families
4. provide high-quality surrogate care for children who cannot be cared for safely (or for other reasons) in their own families
5. provide specialist therapeutic and remedial help to children.

A Model for the Development of Special Services

Many times, a voluntary organisation is in a position to develop, on a small scale, an effective model service. Voluntary organisations may not have the same restraining influences which a large statutory organisation may have, and therefore may more readily be able to experiment in a creative way with new ideas for new services or new modes of service delivery. The voluntary organisation may also be able to provide the service more economically. Increasingly, Government departments are recognising the important role of voluntary organisations, supporting them and entering into service contracts with them.

Slide 7



Services must be effective, acceptable to those for whom they are provided and practical in economic terms. Experimentation and evaluation is required with differing types of programmes and techniques or modes of delivery, in order to bridge the gap between academic understanding of need and disadvantage, on the one hand, and, on the other, effective delivery of services to those most in need.

Specific vulnerability

Vulnerable children may be identified at the following points in their lives when they come into contact, either routinely or at times of crisis, with various helping professionals:

Slide 8

1. Perinatally - by medical practitioners, nurses

2. Routine preventive health care - nurse, G.P.

3.	Non-accidental injury	- G.P. A.&E. and other hospital staff, Police
4.	Parental ill-health	- G.P.
5.	Domestic disputes	- Police
6.	Marital breakdown	- Counsellors, lawyers, Courts
7.	Delinquent behaviour	- School, police, Children's Boards, Courts
8.	Socio-economic factors	- Benefit applications, - unemployment - domestic purposes - Housing Corporation applications
9.	Geographical location	

As a consequence of identification of vulnerability, risk or abuse, appropriate interventions can be made. Although there is increasing awareness of the vulnerability of children at some of these points when children and/or families come to notice, there is need for considerable improvement in recognising their plights and initiating suitable action in many instances.

Preventive Services

The importance of preventive services in supporting and maximising effective family functioning is being increasingly recognised and encouraged. The Department of Social Welfare, as we have seen, is allocating certain resources for preventive work and is supporting voluntary agencies in respect of work of this nature. Preventive services can take the form of:

Slide 9

1. Routine preventive services for all children and families
2. Special services for vulnerable groups/individuals
3. Both 1 and 2

In order to identify children at risk in time to provide preventive intervention, either they must be caught up in a net of preventive services, such as developmental health care, which would be provided for all children and families, or their vulnerability must be detected in some specific fashion at an early stage, and specific assistance offered, or a combination of both these techniques.

Important services which maximise effective family functioning include preparation for parenthood, perinatal care, developmental health care, self-help and other parent groups, social work services and other counselling and therapeutic services for children and families.

Perinatal Identification of Vulnerability (or Risk)

A number of characteristics have been found to be frequently present in abusing parents. When these factors have been identified in the antenatal and postnatal periods they have been found to be reliable predictors of abnormal parenting practices.

Additionally, observations of the mother's and father's responses to the baby during delivery and the immediate post-partum period have similar predictive value.

Extension of routine history-taking and observations in maternity hospitals should be encouraged to include areas relevant to the prediction of potentially harmful parenting practices. Enough attention is given to careful recording of physical data and the keeping of nursing records. It is only a small step to include some additional information. The structures are already present, through general practitioner and Plunket nurse, to initiate additional care for vulnerable families.

Developmental Health Care

The Report of the Board of Health Child Health Committee details a system for the provision of routine developmental health care for children, focussing around the Child Health nurse's relationship with the parent(s) and child, with the support of related health (and other) professionals. Such care provides a matrix for identifying and modifying parenting difficulties and the consequent risks to children at a very early stage in their development.

Parent Education

Parent education is much more than antenatal classes and formal lectures on child development. Nor is parent education just the business of 'Education' with a capital 'E'. The most effective parent education (or preparation for parenthood) is 'Experiential' with a capital 'E' and constitutes various forms of guided practice. Many of the practical skills required in the teacher fall outside the training of those officially labelled 'parent educators'.

PREVENTIVE SERVICES

Slide 10

Maximising Effective Family Functioning

Parent Education ←——————→ Specialist Treatment

Listening and counselling skills, practical experience with behavioural and interactional techniques of working with children and parents need to be blended with theoretical information and parents need to be helped to feel and be more adequate and effective. As can be seen, then, parent education lies on a continum with specialist treatment.

Special Services Within the Police

As quoted in the Tauroa Report, the Police Manual states: 'Perhaps 75% of the Police time is spent on matters unrelated to law enforcement ..... such as helping to settle family disputes, aiding the sick, insane and potential suicides, dealing with sudden and accidental deaths, seaching for missing persons, counselling children ...'

Because of the very important role of the Police in many emergencies which affect the welfare of children, I would press for the development of special teams with additional training and expertise to be utilised preferentially in these situations. I refer in particular to attendance at domestic disputes and investigations of alleged physical and sexual abuse of children.

Special skills are required in these situations. They are necessary in the case of domestic disputes in order to arrive at the most satisfactory resolution of the problem and to perceive and respond to the needs of the children. They are necessary in investigating child abuse, particularly sexual abuse, in order to derive the most complete factual information in a sensitive manner without compounding the trauma.

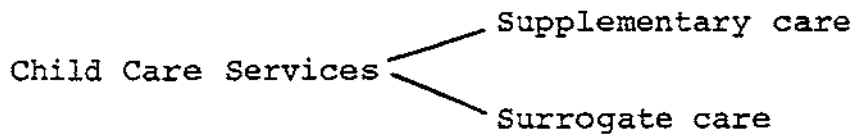
It is essential that Police dealing with these situations have training and experience in interviewing distressed children as well as adults. It is also essential that they are sensitive to the subtleties of children's needs in these circumstances, particularly their need for protection, in the widest sense, and are familiar with the various sources of assistance they might turn to in order to ensure that children get the help they need.

It is unrealistic to expect that a suitable level of aptitude, skill and experience will be present in

all police officers. Therefore, it is necessary that moves be made to establish, wherever practicable, special teams to respond to these needs.

Slide 11

Child Care Services



Child care services can be divided into those which provide care that is supplementary to the care which the child received in his/her own family, while surrogate care is care which replaces or substitutes for care by the child's own family.

The Child Health Committee Report has detailed a broad range of supplementary child care services, which can facilitate and complement the caretaking capacities of families (see handout). It must be emphasised that high-quality, readily accessible supplementary care can help augment family functioning, maintain children in the care of their families, and minimise the need for children to come into Care.

Child Care Services (Slide 12)

Supplementary Care

1. Informal brief care
2. Creches
3. Family daycare
4. Homeminders and home support workers
5. Child care centres
6. Before school care
7. After school care
8. Holiday care
9. Crisis nurseries

Surrogate Care (Substitute Care)

1. Foster care
2. Institutional care

Family Day Care

I want particularly to support the extension of subsidised family day care through out New Zealand. This practice enables flexible arrangements to be made for caring for young children in a family setting, within their own neighbourhood and providing continuity of care with an additional parenting person. Such a setting has potential for providing additional nurture and alternative parenting

experiences for deprived or neglected children. There is the opportunity for the day care family to become like extended family to both the child and the parents, enriching their social and emotional environment and perhaps, by example, increasing parenting skills.

Home Minders and Home Support Workers

The concept of helping and supportive workers coming into the home is well established, but has not been developed as comprehensively and effectively as it might. The concept goes well beyond that of helping professionals, including voluntary workers, visiting the home periodically, and also beyond that of providing domestic help, or meals-on-wheels.

Basically it involves meeting three different types of need for children and families:

1. Providing, through the presence of another suitably trained adult, assistance to a parent who is functioning inadequately whether through mental or physical illness or through a lack of parenting skills and/or household management techniques. This may be anything up to 24 hour care.

2. Providing parental care for a portion of the day in the child's own home in the absence of the parent(s), with the parent(s) taking over full responsibility for the remainder of the time. Such a service can minimise disruption to children during a family crisis or during the brief absence of one parent.

3. Providing short or long term, fulltime care to children in their own home, in effect, a form of fostercare.

While all of these forms of care may be utilised on occasions, there appears to be no policy that makes these available routinely to families in need, nor any scheme which trains people in the skills required for the first mentioned taskd of supporting and training parents through the continued presence of the worker in the home, rather than merely taking over the care of the children or of the house, or popping in from time to time. Some voluntary organisations, with or without Government subsidy, perform some similar services but these appear to have limitations, either in the nature of the service and/or its availability.

Child Care Centres

Child care centres have been a hotly debated

subject for some years. Aside from the fact that their existence is a significant and growing reality which represents a response to user (parent) demand, studies have not been able to substantiate claims of critics that high quality daycare is detrimental to children.

While family day care is to be preferred for infants and toddlers, Caldwell has demonstrated that, at best, child care centres are advantageous to deprived or at risk children and, at worst, they offer no discernable advantages to middle-class, pre-school children from stable homes.

Daycare in child care centres is a necessary part of the range of supportive services for children and families.

A child's placement may vary from full day care five days a week to a few hours a week. It is essential that there be changes to the method of granting capitation subsidies, so that places are subsidised rather than child-attendances. At present the situation could theoretically arise in which a child care centre received no capitation grant because no one child attended for the requisite number of hours per week and yet the centre was continuously fully attended! It is important that children should not be obliged to attend for longer periods than they or their parents wish, merely in order that the requirements for a capitation grant are met.

The report of the State Services Commission makes various recommendations in respect of improving the nature and quality of care received by children in child care centres. The most critical centre around allocation of financial resources, both for training of staff and for maintaining and running the centres. Although large sums of money are involved, it is necessary that these sound recommendations are not left to gather dust on that account.

Crisis Nurseries

In view of the fact that the need for crisis nurseries is not addressed in the Child Health Committee Report, I shall describe them in somewhat more detail.

A crisis nursery 'is a residential care facility which provides short-term, 24-hour care to a small group of children in a particular age group who are suspected of being abused and neglected or who are in danger of being abused or neglected.'

It provides short-term crisis care on referral from social agencies or in response to a direct approach from parent(s). Children are accepted at

any time of the day or night.

Crisis nurseries do not presently exist in New Zealand but are seen in other countries as being a necessary part of the range of special services for children at risk. The National Advisory Committee on the Prevention of Child Abuse supports the need for Crisis Nurseries in this country.

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The major goals of a crisis nursery are to provide

1. A safe environment for the children, and
2. A non-threatening resource for the parent(s)

Other important goals include:

3. Therapeutic aid to the child (emotional)
4. Developmental screening and referral for the child
5. Referral to appropriate on-going programmes including pre-school or day care (including therapeutic day care)
6. Medical screening and helath care
7. Helping the parent obtain assistance
8. Teaching parents to use child care services, including pre-school education.

Crisis nurseries need to be small units with a homely atmosphere set in residential areas yet with ready access to specialist services. Each unit should hold no more than 8 children at any one time. Where possible there should be clustering of children according to age, taking into account, however, the need to keep siblings together in order to help reduce the trauma of separation and strange environs.

A staff ratio of 1 staff to 4 children has been found necessary by day and evening, with a minimum of 2 staff. Fewer are generally required at night but rostered staff should be available on call to meet emergencies.

It is recommended that each child should return to his or her own home within 72 hours after admission.

Surrogate (Substitute) Care of Children

For those children whose needs cannot be met within their families of origin, even with supplementary care and other supportive services, surrogate full-time care is necessary.

The legal processes by which children come into care have been addressed by Iain Johnston. I would affirm the importance of having a concrete plan for the child's proposed placement submitted to the Court at the time of disposition. A variety of

realities might otherwise result in the child's being placed in a situation very different from that envisaged by the Court and it may not prove to be the best of the options open to the child. In custody and access disputes, detailed assessment of alternative environments is required before a decision is made concerning what is in the best interests of the child. A child at risk, coming into Care, deserves no less careful appraisal of her circumstances and options, present and future, and their likely impact upon her than does a child who has two competent, caring parents each wanting her custody.

The cornerstone of surrogate care is fostercare.

In the past a variety of formal and informal arrangements have existed for initiating and supervising fostercare. Particularly with infants and young children it is desirable that the Department of Social Welfare be involved in some capacity and that the children be subjects of formal periodic review procedures.

Flexibility is required in the forms of fostercare made available to children. Careful selection is required, both of the type of fostercare and the fit of the child and foster family. In view of the needs of the child in Care, it is necessary that the foster home is able to adapt to the needs of the child, not the reverse.

Payment for fostercare (whether in the form of allowances or payments for service) must also be able to adapt to the varying needs. The form of fostercare offered to a child should not be restricted by the requirements it is necessary to meet in order to qualify for an allowance.

We must be able to offer children 5-day-a-week care, weekend care, school holiday care. Family day care can be seen as daily fostering.

We need an extension of the special fostering schemes which provide training, close supervision and payments for foster parents who care for children and adolescents with special problems and who might otherwise need to be contained within residential institutions. Both the Department of Social Welfare and 6A Inc. (ChCh) are to be commended for the special fostering schemes they have developed. They are, however, able to care for only a small proportion of the children who could benefit from them.

Considerable specialist support both to child and foster family may be necessary in order to maintain the continuity of care for a child who has had marked and repeated detrimental life experiences. If we are going to ask foster parents to take

on this most important task for our society, we must give them the support they need to carry it out.

Becoming a fully-integrated and loved member of a new family may well be the best therapy a child can have, whether by adoption or by the legal sanctioning of his long-term relationship with his foster family.

Institutional Care

Long term, or even short term, custodial, residential care is, in general, less advantageous for children and adolescents than suitable fostercare. Even some very difficult and antisocial adolescents have been shown to be more readily contained in foster care than in custodial instutions.

The Department of Social Welfare seems to have come to appreciate the need to introduce a therapeutic element into its residential institutions. It faces a number of difficulties in achieving this, most importantly the availability of suitable, trained staff and specialist resources.

The move toward establishing small regional institutions rather than national institutions should continue and all efforts be made to place children in fostercare rather than institutions.

Minimal Acceptable Standards of Care

Minimal acceptable standards of care must be laid down for the care of children outside their families, both in residential and non-residential institutions.

Establishment of Minimal Acceptable Standards of Care

Slide 13

1. Suitability of the environment - material
   - organisational
   - psychosocial
2. Policies and objectives of the institution
3. Staff/child ratio
4. Proportion of trained/untrained staff
5. Availability of specialist support
6. Decision making processes

These questions apply to all settings where children are cared for outside their families. The criteria laid down for each will vary to some extent within certain limits, but need to be determined and recorded as part of the process of accountability.

Slide 15

Decision - Making Processes

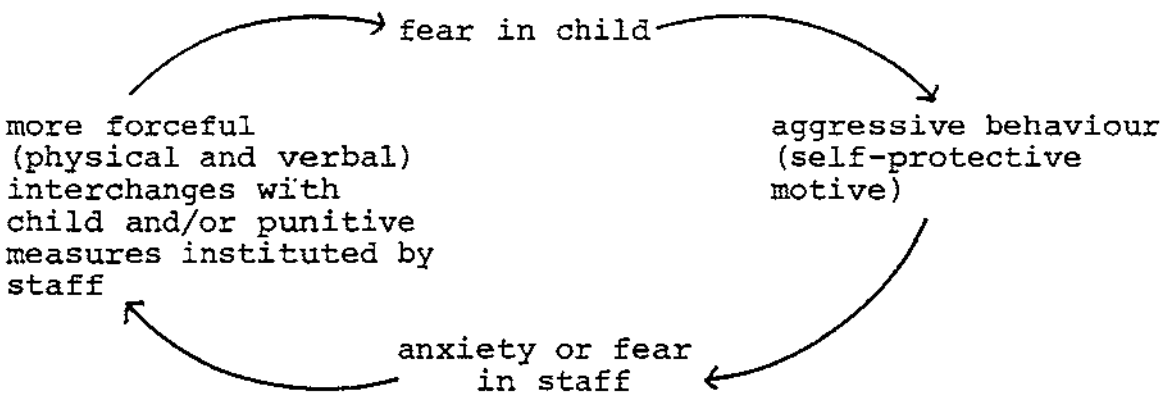
1. Who makes the decisions?
2. How appropriate are they?
3. How are they monitored?
4. What mechanisms are there for appeal and review?

An effort to establish some answers to these questions underlies the proposed Child Protection Bill.

In assessing the quality and suitability of an environment it is necessary to take into account the child's perceptions of it. These are what will determine the child's response to the environment.

Let us take as an example the aggressive child or young person placed in a custodial institution. Even the most hostile, abusive or aggressive child or adolescent is likely to be anxious and fearful when placed in a strange and restrictive environment which he perceives as a form of punishment or retribution.

Slide 16



ESCALATING SPIRAL

It can easily be seen that inappropriate handling by inexperienced or untrained staff can lead to a rapid escalation of violence and the placing of the child in a more and more restrictive and isolating environment quite inappropriate to the needs of the child. Such children need skilled therapeutic care.

Therapeutic Programmes in Institutions

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Therapeutic programmes in institutions, in order to be successful, require the following:

1. Adequate diagnostic procedures
2. Selection of therapeutic technique appropriate to the particular child's problem
3. Adequate training of staff in the use of the necessary therapeutic techniques
4. A suitable context in which to carry out the programme

Special funding needs to be available for use on occasions to place children in alternative forms of residential care, such as boarding schools or hostels. This should usually be recommended on specialist advice, and the numbers of disturbed or deprived children admitted to a school at any one time should be small enough not to disturb the present functioning of the school.

Boarding schools should be accountable to the community for the care of their pupils, in the same way that any other institutions should.

Specialist Treatment Services

The Report of the Board of Health Committee on Child Health has elaborated the need for the urgent development of treatment services for disturbed children and adolescents. Most of its recommendations in this area are directed toward the Department of Health and Regional Hospital Boards.

As already outlined, however, there is a need for the placing of specialists in other settings in order to develop and extend consultant and treatment services within large Government organisations, such as the Departments of Social Welfare, Justice, and Education.

One point particularly relevant to today's discussions is that it is generally considered essential that some person or persons retain responsibilty for, and a commitment to,a child or adolescent who is admitted to a residential psychiatric service. It is important that the child has a home to go back to, whether it be with his natural family or with a foster family, and that he is not left in a psychiatric facility,,unwanted by society.

Therapeutic Day Care

Therapeutic day care is a special treatment service for neglected or abused children as well as children with emotional or developmental problems from other causes. The programme provided for each child is tailored to his/her particular needs. The child attends the treatment centre up to 5 days a week. Again, small groups of age-matched children with a high staff/child ratio is essential. Specialist consultation is required in the planning

and monitoring of the therapeutic programmes.

Some regions have the type of resources to provide such a service to children and families, but most do not and some which have utilise the resources in other equally necessary ways. Overall, there is a need to develop a satisfactory service of this kind for the treatment of physically, sexually and emotionally abused children.

Child Protection Teams

The Department of Social Welfare has supported the development and/or continuance of two pilot projects in the area of child abuse management and is currently developing a third. I do not plan to detail the rationale or the functioning of these Child Abuse Committees (Child Protection Teams) but to say that I strongly support the development nationally of a standardised approach to the management of child abuse and neglect with the financial backing of the Department of Social Welfare.

It is well accepted now that the problem necessitates the close collaboration of a multidisciplinary team experienced in the area and sufficiently senior in their spheres of work to be able to make management decisions. Child abuse and neglect is too complex an issue requiring skills in diverse areas to be the responsibility of just one disciplinary group.

I also believe it is essential that Child Protection Teams are set up by statute in order that they have the power to satisfactorily advocate the needs of children who have been or are at risk of being abused and neglected.

Misuse of Principles of Specialist Treatment

I would like to conclude with a caveat against the misuse of the principles of specialist treatments, such as time out, aversive techniques, negative reinforcement (punishment).

Children can be abused by institutions and/or individual caretakers under the guise of 'treatment'. People with unsuitable personality traits, unsuitably trained and placed in a stressful and demanding situation can easily justify abusive handling, such as corporal punishment, solitary confinement, electric shocks, deprivation of food and privileges, excessive medication, as being 'treatment'.

Not only is such behaviour abusive, but it is ineffective.

Future Directions

In my opinion, the future must hold an increasing liaison between Government departments and voluntary organisations in the provision of services for children and families.

The Department of Social Welfare must be given the resources to carry out its unique statutory responsibilities to children. It must be enabled to remedy the extreme shortage of trained social work staff thus increasing the proportion of trained personnel in direct contact with children and families. The clerical tasks required of trained social workers should be minimised. The Department should continue the trend toward recognising its limitations and contracting out special services to other organisations which may be in a position to provide them more economically or efficiently, may be able to afford the luxury of single-mindedness and commitment to one limited area, and may have more specialised experience in the particular area. The Department should also extend the development of its Specialist Services Teams.

In his responsibility as Guardian to children in care, it must be appreciated that the Director-General of Social Welfare represents a concretization, a figurehead for the community's responsibilities to certain children. Either the Director-General must be given adequate resources to meet the responsibilities or obligations vested in him, or those responsibilities should be curtailed to those which can be implemented within allocated resources. There is no point in our society's making unrealistic demands on the Department and then criticising its failures. The Department's failures are our failures.

OPEN DISCUSSION P.M. TUESDAY 10 MAY 1983

1. BASIC NEEDS

A call was made for greater attention to be given to socio-economic problems. Human needs for food, clothing, shelter and good health form the basis of a preventive approach to dealing with such problems.

2. CONTINUUM OF CARE

Conference delegates agreed that no one type of intervention was more important than another; rather a range of options ought to be provided.

3. A MAORI PERSPECTIVE

A statement was made to the effect that failure to read the ACYL Report amounted to abuse (of the Maori people and their society). Conference speakers had not mentioned Kokiri, Te Kohanga Reo or Maatua Whangai.

These new directions from within Maoridom should have predominated during the Conference's proceedings.

The Maori Women's Welfare League spoke for Maoridom in declaring its belief that the family (whanau) is the most important unit in our society. Too often the Maori people have been told how to live their lives, without consultation by European "expert opinion". The spiritual aspects of life are more important even than physical welfare; every child has a right to spiritual food. Considerable effort is necessary to achieve a middle path between the cultures of Maori and European. If the challenge of spiritually strengthening and supporting the family is not taken by the Government, the Maori people themselves will assume responsibility.

It must always be remembered, when considering social policy, that every person is unique. An institutional approach (of a Welfare State "industry") is totally inappropriate.

4. PARENTAL INVOLVEMENT

The extent of parental involvement in child care was examined. Maori attitudes to this central issue were noted and a remark made that "cross pollination" of Maori and European attitudes and approaches to child rearing did not appear to occur.

5. CHILD ABUSE

An informal approach to the notification of child abuse was favoured by some persons. The flexible structure of the non-statutory body, Parentline, allowed parents who injured their children to report themselves.

In general, Conference delegates agreed that the progress of abused children should be followed into adulthood and behavioural patterns observed so that effective ways of breaking the cycle of neglect and ill-treatment could be developed.

If, in the search for care alternatives, finances are to be supplied to communities and families, the Departments providing the funding would require community support.

Conference delegates noted that the cost of financing services provided by voluntary organisations was much greater than the disclosed cost to Government (by way of subsidies).

9. DOES LEGISLATION MEAN A LOSS OF LIBERTY?

The Conference took heed of the warning that doing something for a person's good could result in a loss of liberty. The history of civil liberties, or the right to freedom of the individual, amounted to a history of the development of legalistic procedures (in the United States, the "due process of the law").

10. INDIVIDUAL CONTRIBUTIONS

Individual contributions to change were sought from Conference attenders.

THEMES

A number of inter-related themes emanated from the Conference on Child Care and the Rights of Children, held at Parliament on 9-10 May. The most prominent are cited below.

1. Need for re-evaluation of reports already written

Conference delegates called for immediate action to implement recommendations already made. These are contained in a series of reports ranging from the IYC recommendations to the State Services Commission Report on Early Childhood Care and Education, to Archbishop Johnston's report on Department of Social Welfare institutions and the Report of the Advisory Committee on Youth and Law in our Multicultural Society, among others.

2. Attitudinal changes

The Tauroa Report's emphasis on the need for attitudinal changes was echoed by the Conference.

3. A multicultural approach

Greater cultural sensitivity was advocated, in general terms and more specifically, in the revision of legislation. All changes contemplated ought to reflect a commitment to our multicultural society.

4. Prevention

The Conference favoured a reallocation of resources to allow for stronger emphasis on prevention (for example, of child abuse and offending).

5. Community involvement

The Conference saw a unanimous commitment of delegates to community participation, both in the development of youth programmes and of revised legislation.

6. Diversion

Delegates expressed the hope that community involvement and local co-ordination might help steer "at risk" young people away from offending, and from prosecution.

They considered that the present continuum of care should be extended and gaps filled, so that the care alternative which best suits the interests of a particular child could actually be applied.

7. Support

Supportive programmes for families, both Maori and Pakeha, as well as for young offenders, were favoured. It was thought these would reinforce the focus on prevention.

8. Bill of Rights

Much attention was accorded the question of whether or not a Bill of Rights for children was necessary in New Zealand. Overall opinion tended to consider a Bill of Rights inappropriate, especially in view of New Zealand's lack of a written constitution While a more specific statement of rights was needed, this could be incorporated in revised legislation rather than included in a separate Bill which might not have practical application.

9. Child abuse/protection

A community approach to the prevention of child abuse was favoured, with home support as its basis. Conference delegates approved the use of multidisciplinary child protection teams. In discussing the development of a protective system for children who are neglected or abused, the Conference affirmed the need for a revision of the law concerning child abuse in the light of a series of recent High Court decisions, which have heightened public awareness that problems of child abuse and neglect are not adequately dealt with in the Courts.

10. Separation of jurisdictions: child protection/offending

The separation of offending from complaint action was seen as a major issue. This could involve the development of separate pieces of legislation (for example, the draft Child Protection Bill circulated at the Conference) and of separate jurisdictions for different types of Court cases. While the present "combined" system was increasingly regarded as inappropriate, Conference delegates did not reach a conclusive decision as to whether the separation of child protection from offending would produce any long-term advantages.

11. Guardianship

It was agreed that the guardianship of the Director-General of Social Welfare required redefinition.

12. The Courts

a) Children and Young Persons Court

The Conference found that the entire Court system is in need of substantial revision. Both Court buildings and Court procedures require improvement, so that greater recognition is accorded to the child and in particular, to his or her cultural background.

b) Family Court

Support was obtained for the conduct of child protection cases in the Family Court. A number of delegates considered the Family Court a better venue for safeguarding the interests of a child or young person than the Children and Young Persons Court as presently constructed. Others, however, favoured the introduction of less intimidating Family Court procedures into the Children and Young Persons Court.

13. Education of Judges

The Conference concurred with the Tauroa Report in recommending that judges receive specialist education in the adoption of a more informal approach to youth problems.

14. From an adversary to an inquiry system

A strong plea was made for a rejection of the traditional adversary system in the Children and Young Persons Court, with delegates favouring a mediatory, inquisitorial approach as written into the proceedings of the Family Court. This would permit emphasis to be placed on multiculturalism and the family. More informal procedures would also allow the Judge access to the best possible information concerning a child or young person.

15. A Mediator, or Kai-tiaki

Strong support was accorded Hiwi Tauroa's concept of a Kai-tiaki who would liaise with the Courts, Government departments and the community to ensure that the interests of the child remained paramount. He/she would also have a monitoring function.

16. Children's advocates

The proposal of the Working Party on Access to the Law, for a pilot scheme involving specialist lawyers or "Children's Advocates" in the Auckland Children and Young Persons Court received widespread approval.

17. The young offender

Two principal themes which could be identified were:

a) preference for finite sentences, including reparations by the young offender; and

b) support for declaring 14 years the age of criminal responsibility.

18. Accountability

This recurring theme emerged in different forms throughout the Conference, via suggestions for an independent review authority, Children's Ombudsman, Children's Advocates,

more rigorous investigation of complaints, monitoring by Child Protection Teams, and greater community participation in child care and in the setting of policies and priorities.

19. Resources

It was agreed no necessary action could be taken without access to the requisite resources, both in terms of greater commitment by administrators to immediate change, and of greater funding.

20. Young people's non-participation

A common concern pervaded Conference proceedings that young people should have been present, and their viewpoint heard by those who purport to be guardians of their interests.

LIST OF BACKGROUND READING MATERIAL

The following reading material was made available to Conference Participants:

1. Notes on Child Abuse and Neglect (with reference to N.Z. Courts ... District Judge T.A. Ross

2. Rights of the Child ... N.Z. Committee for Children (I.Y.C.) Inc.

3. Protecting the Rights of Children - Focus on Child Care Services ... N.Z. Childcare Association

4. Administration Aspects of Child Abuse ... National Advisory Committee on the Prevention of Child Abuse

5. Draft "Child Protection Bill"

6. Child Health and Child Health Services in N.Z. ... Extract from the Report of the Committee on Child Health

Copies of this material are available on request to:

Social Work Training Unit
Department of Social Welfare
Head Office

LIST OF CONFERENCE PARTICIPANTS

Mr P. Boshier,
c/- Macalister, Mazengarb
Parkin and Rose,
Barristers and Solicitors,
P.O. Box 927,
WELLINGTON.

Mr Bill Buxton,
Internal Affairs
Department,
WELLINGTON.

Snr Sgt Alec Waugh,
c/- National Police
Headquarters,
Private Bag,
WELLINGTON.

Mrs D. Wren,
Dept of Internal Affairs,
WELLINGTON.

Mr Alan Sugden,
National Secretary,
Solo Parents (NZ) Inc.,
P.O. Box 30-970,
LOWER HUTT.

Mrs B. Wark,
Arohanui Inc.,
P.O. Box 68-558,
Newtown,
AUCKLAND.

Ms Jane Kelsey,
c/- Law Faculty,
University of Auckland,
Private Bag,
AUCKLAND.

Mr E. J. Derrick,
Chairman,
Arohanui Inc.,
P.O. Box 68-558,
Newtown,
AUCKLAND.

Ms Beppie Holm,
PRIME MINISTER'S OFFICE.

Judge G.C.P.A. Wallace,
District Court Judge,
Private Bag J,
AUCKLAND.

Supt Laurie O'Neill,
Police National
Headquarters,
Private Bag,
WELLINGTON.

Mr R. Gray, MP,
Parliament Buildings,
WELLINGTON.

Marion Judge,
Residential Care
Association,
c/- "Kingslea",
P.O. Box 22-080,
CHRISTCHURCH.

Ms Marilyn Waring, MP,
Parliament Buildings,
WELLINGTON.

Joy Anderton,
Anglican Social Services
Family Centre,
71 Woburn Road,
LOWER HUTT.

Mr Roger McClay, MP,
Parliament Buildings,
WELLINGTON.

Rosalyn Coventry,
Anglican Social Services
Family Centre,
71 Woburn Road,
LOWER HUTT.

Mrs Marie Bell,
N.Z. Parent Centres Fed.,
32 Imperial Terrace,
KILBIRNIE.

Mrs D. Barrett,
N.Z. Maori Council,
272 Western Hills Drive,
WHANGAREI.

Mrs June Heyes,
I.H.C.,
29 Ponsonby Road,
KARORI.

Mrs Margaret Barrance,
National Council of Women,
22 Godley Street,
LOWER HUTT.

Mrs M. McGiven,
National Council of Women,
36 Heaton Street,
CHRISTCHURCH.

Mr W. Gendall,
c/- Buddle, Findlay & Co.,
Barristers and Solicitors,
P.O. Box 2694,
WELLINGTON.

Mr Ross Crotty,
c/- Chapman, Tripp & Co.,
Barristers and Solicitors,
P.O. Box 993,
WELLINGTON.

Mrs Eva Naylor,
26 Highbury Crescent,
WELLINGTON, 5.

Mrs Cathy Lythe,
N.Z. Child Care
Association,
P.O. Box 3402,
WELLINGTON.

Ms Julia Duffin,
27 Waru Street,
KHANDALLAH.

Mrs H. Brown,
6A,
"Middlepark",
Middlepark Road,
UPPER RICCARTON.

Ms Margaret Geddes,
National Committee on the
Prevention of Child Abuse,
c/- Department of Social
Welfare,
Head Office,
WELLINGTON.

Mr Hiwi Tauroa,
Race Relations Conciliator,
Norman Doo Building,
295 Karangahape Road,
AUCKLAND.

Dr K. Zelas,
c/- Child and Family Clinic,
44 Cashel Street,
CHRISTCHURCH.

Miss Brown,
Board of Health Committee
on Child Health,
c/- Department of Health,
WELLINGTON.

Mr Pointon,
Board of Health Committee
on Child Health,
c/- Department of Health,
WELLINGTON.

Ms G. Hogan,
c/- Department of Social
Welfare,
HEAD OFFICE.

Ms Kenda Kittelty,
Kindergarten Teachers
Association,
P.O. Box 466,
WELLINGTON.

Fr Peter MacCormack,
c/- Catholic Social
Services,
P.O. Box 1140,
PALMERSTON NORTH.

Mrs Stella Casey,
Advisory Committee on
Women's Affairs,
346 Beach Road,
Mairangi Bay,
AUCKLAND, 10.

Mrs E. Tillett,
113 Pupuke Road,
Birkenhead,
AUCKLAND.

Ms Adrienne Wing,
Advisory Committee on
Women's Affairs,
c/- State Services
Commission,
Private Bag,
WELLINGTON.

Hon. Les Gandar,
Social Advisory Council,
14/213 The Terrace,
WELLINGTON.

Romona Rasch,
Government Research Unit,
PARLIAMENT BUILDINGS.

Rev. A. Robertson,
Auckland P.S.S.A.,
P.O. Box 8637,
AUCKLAND.

Rae Julian,
Opposition Research Unit,
PARLIAMENT BUILDINGS.

Mr A. M. Smith,
Director,
P.S.S.A.,
P.O. Box 374,
INVERCARGILL.

Ms Dianne Davis,
Social Credit Research
Unit,
PARLIAMENT BUILDINGS.

Mr Ross Cotton,
N.Z. Education Institute,
Waterloo School,
Hardy Street,
HUTT VALLEY.

Dr G. McDonald,
New Zealand Council for
Educational Research,
P.O. Box 3237,
WELLINGTON.

Mrs J. Lake,
Wellington Community Law
Centre,
P.O. Box 9385,
WELLINGTON.

Ms F. Hartnett,
N.Z. Society for the
Intellectually Handi-
capped,
P.O. Box 4155,
WELLINGTON.

Mrs E. Uttley,
Barnardo's,
P.O. Box 6434,
WELLINGTON.

Mr G. Johnson,
N.Z. Committee for Children,
P.O. Box 469,
WELLINGTON.

Mrs M. Lythgoe,
N.Z. Committee for Children,
P.O. Box 469,
WELLINGTON.

Dr H. Ismail,
Department of Health,
P.O. Box 5013,
WELLINGTON.

Miss M. Dickie,
Department of Health,
P.O. Box 5013,
WELLINGTON.

Judge T. A. Ross,
District Court,
Private Bag,
DUNEDIN.

Mr T. J. Bannatyne,
Department of Justice,
WELLINGTON.

Mr G. David,
Department of Justice,
WELLINGTON.

Mr D. F. Brown,
Director of Special Educ.,
Dept of Education,
Head Office,
WELLINGTON.

Sister Jocelyn Quinnell,
Child Care Co-ordinating
Committee,
P.O. Box 5808,
Wellesley Street,
AUCKLAND.

Mr D. C. Woollen,
Educ. Officer,
Schools Directorate,
Dept of Education,
WELLINGTON.

Mr A. Hamill,
N.Z. Association of Social
Workers,
c/- Dept of Social Welfare,
Private Bag,
TE ARO.

Mrs J. Jollands,
65 Mudoch Road,
Grey Lynn,
AUCKLAND.

Mr Peter Isaacs,
Catholic Social Services,
c/- P.O. Box 9408,
WELLINGTON.

Mrs J. Rimmington,
Catholic Social Services,
c/- P.O. Box 4237,
CHRISTCHURCH.

Dr I. B. Hassall,
Royal N.Z. Plunket Society,
P.O. Box 6042,
DUNEDIN NORTH.

Professor H. J. Weston,
Royal N.Z. Plunket Society,
P.O. Box 6042,
DUNEDIN NORTH.

Mr J. Burns,
Vice Chairman,
N.Z. Foster Care Fed. Inc.,
389 Pukehangi Road,
ROTORUA.

Mrs J. Worrall,
N.Z. Foster Care Fed. Inc.,
389 Pukehangi Road,
ROTORUA.

R. Clucas,
Child Care Co-ordinating
Committee,
P.O. Box 5808,
Wellesley Street,
AUCKLAND.

Mr J. Belich,
P.O. Box 1462,
WELLINGTON.

Mrs C. Pilgrim,
Education Department,
WELLINGTON.

Mr H. Dixon,
Child and Family Clinic,
NEWTOWN.

Mr J. Togneri,
Child Care Co-ordinating
Committee,
P.O. Box 885,
DUNEDIN.

Dr A. G. Frazer,
Kimberley Hospital and
Training Centre,
Private Bag,
LEVIN.

Mrs B. Duncan,
Chairman,
N.Z. Foster Care Fed,
389 Pukehangi Road,
ROTORUA.

Mrs M. Craig,
Law & Need of the
Child Task Force,
N.Z. Committee for Children,
6 Scenic Heights,
ACACIA BAY.

Mr P. Conroy,
Equal Parental Rights
Association,
P.O. Box 36-022,
Moera,
LOWER HUTT.

Mr I. B. Johnston,
Faculty of Law,
University of Canterbury,
CHRISTCHURCH.

Mr I. Calder,
National Director,
Barnardo's,
P.O. Box 6434,
WELLINGTON.

Mrs Ann Hercus, MP,
PARLIAMENT BUILDINGS.

Mrs Fran Wilde, MP,
PARLIAMENT BUILDINGS.

Mr Keith Hayes,
Methodist Social Services,
P.O. Box 5104,
AUCKLAND.

Miss E. Brodie,
Methodist Social Services,
P.O. Box 6133,
Te Aro,
WELLINGTON.

Dr D. C. Geddis,
National Advisory Committee
on the Prevention of Child
Abuse,
Private Bag 21,
WELLINGTON.

Mr J. Rangihau,
Dept of Maori Affairs,
114-116 Ponsonby Road,
AUCKLAND.

Mrs Cpt Joan Hutson,
Salvation Army,
P.O. Box 6015,
WELLINGTON.

The Most Rev. A. H. Johnston,
3 Wymer Terrace,
HAMILTON.

Mrs S. Usher,
Human Rights Commission,
P.O. Box 5045,
Lambton Quay,
WELLINGTON.

Mr S. Uttley,
Dept of Sociology and Social Work,
Victoria University,
Private Bag,
WELLINGTON.

Mrs P. Tulloch,
Dept of Sociology and Social Work,
Victoria University,
Private Bag,
WELLINGTON.

Mrs M. B. Hodgson,
Parentline,
P.O. Box 11077,
HAMILTON.

Dr K. Bradford,
Advisory Council for the Community Welfare of Disabled Persons,
Braemar Hospital,
NELSON.

Juliet LeCouteur,
Office of the Ombudsman,
P.O. Box 10152,
The Terrace,
WELLINGTON.

Mr Russell Beal,
Dunedin Child Abuse Project,
P.O. Box 885,
DUNEDIN.

Melvin C. Taylor OBE,
Salvation Army,
P.O. Box 6015,
WELLINGTON.

Mr I. W. Jenkin,
National Marriage Guidance Council of N.Z.,
P.O. Box 2728,
WELLINGTON.

Revd A. D. Robertson,
N.Z. Council of Christian Social Services,
P.O. Box 8823,
AUCKLAND.

Revd Father B. Sherry,
N.Z. Council of Christian Social Services,
P.O. Box 9408,
WELLINGTON.

Ms R. Hickman,
National Youth Council of New Zealand,
P.O. Box 9645,
Courtenay Place,
WELLINGTON.

Mr E. Laurenson,
The Open Home Foundation,
P.O. Box 13280,
JOHNSONVILLE.

Mrs M. Arthur,
ACORD,
19 Chamberlain Street,
GREY LYNN.

Mrs P. Tapp,
Faculty of Law,
University of Auckland,
Private Bag,
AUCKLAND.

Mr Rajen Prasad,
Social Work Unit,
Massey University,
Department of Sociology,
PALMERSTON NORTH.

Dr R. Bush,
Paediatric Society of
New Zealand,
Puketiro Centre,
Private Bag,
PORIRUA.

Major R. Rees,
c/- "The Nest",
Kahikatea Drive,
HAMILTON.

Mrs V. Morgan,
Maori Womens Welfare
League,
46 Heke Street,
NGAIO.

Mr Tom Rogerson,
Residential Care
Association,
P.O. Box 23-042,
PAPATOETOE.

Tafa Poutoa,
Pacifica,
40 Hall Crescent,
LOWER HUTT.

Mrs S. Kemp,
Secondary Teachers College,
Private Bag,
Symonds Street,
AUCKLAND.

Mr R. Kerse,
N.Z. Crippled Children
Society,
P.O. Box 6349,
Te Aro,
WELLINGTON.

Mr Max Gray,
N.Z. Crippled Children
Society,
P.O. Box 6349,
Te Aro,
WELLINGTON.

Mr L. M. O'Reilly,
P.O. Box 1985,
CHRISTCHURCH.

DEPARTMENT OF SOCIAL WELFARE

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DIRECTOR GENERAL

MR B. M. MANCHESTER
ASSISTANT DIRECTOR GENERAL (SOCIAL WORK)

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