

South Australian Juvenile Aid Panels



(*His Honour Judge L. K. Newman)

(*His Honour Judge L. K. Newman, Senior Judge in the Adelaide Juvenile Court. Judge Newman who is also an Associate Member of the Australian Crime Prevention Council, attended the Q'ld Branch Seminar on the 17 May and where he showed the South Australian Government film on "Juvenile Aid Panels" and subsequently gave further explanation to this magnificent production. His paper on this subject is reproduced hereunder.)

* * * *

In South Australia we have two separate agencies for dealing with juvenile offenders, Juvenile Courts and Juvenile Aid Panels.

Right at the beginning I make it clear I consider that Juvenile Aid Panels should not be labelled as some sort of youth "diversion" programme. The term "diversion" is much used today in many places but I submit it is not appropriate in this instance. Juvenile Aid Panels are every bit as much creatures of statute as Juvenile Courts. Their powers, duties and responsibilities are strictly defined by the statute which created them. Although they are run in surroundings and in an atmosphere that is much less formal in most respects, when compared with a court, they are every bit as permanent as Juvenile Courts and are as much a part of the total system provided by Parliament to deal with juvenile offenders as are the courts.

They came into being in this way. In 1970, a Social Welfare Advisory Council examining juvenile matters, concluded that "the aims of protecting society from juvenile delinquency, and of helping children in trouble to grow up into mature and law abiding persons, are complementary and not contradictory". Large numbers of children appearing before Juvenile Courts could be seen to be children who with proper guidance and treatment might never offend again. Benefit could be seen in removing these children from the court lists and providing an alternative system that would more adequately meet their needs and in so doing, also meet the needs of society. For that purpose the Council recommended the creation of Juvenile Aid Panels.

A new Juvenile Courts Act was passed and came into effect in July of 1972, since which time both systems have operated and jointly serviced the whole State. The responsibility for Juvenile Aid Panels rests with the Director-General of Community Welfare. The stated general aims of the Panels are as follows:—

(1) To provide an alternative to Court proceedings in the case of cer-

- tain children involved in allegations of offences, truancy or uncontrolled behaviour, making provisions for greater flexibility in dealing with young offenders and other children in trouble
- (2) To offer support and assistance to the child within his family, to encourage help and advise parents in the problems of child care, and to preserve the child's links with his local community.
- (3) By the use of formal undertakings and agreements to provide a child with an opportunity for growth and development within his own family and community.
- (4) To avoid the stigma and procedural formality of a Court appearance, and to deal with matters involving many children in a relatively informal setting with a minimum of delay.
- (5) To achieve a degree of consistency and uniformity in handling the children in trouble, without sacrificing the flexibility to deal appropriately with individual cases.
- (6) To reduce the number of offences committed by juveniles.

At present the system works in this way. A child over the age of 16 years at the time of the commission of an offence comes to court. Subject to certain exceptions, a child under the age of 16 years at the time of the offence, appears before a Juvenile Aid Panel. Those exceptions are:—

- a neglected child;
- a child who is alleged to have committed homicide;
- a child who is arrested by the police and against whom a complaint has been laid;
- a child who is subject to an order of the Juvenile Court and the order, or the effect thereof is not satisfied or completed;
- a child whose case is referred to a Juvenile Court by a Juvenile Aid Panel.

In practice the majority of children under 16 who offend are reported for the offence and in consequence appear before a Juvenile Aid Panel.

A Juvenile Aid Panel may and in some cases must refer a matter to a Juvenile Court when any one of the following circumstances arise:—

- (1) When the child or parent does not appear before a Panel in accordance with a request by the Panel.
- (2) When the child and/or parent or guardian request the Panel to refer the matter to a Juvenile Court.
- (3) When the Panel is of the opinion that the matter should be referred to a Juvenile Court because of the gravity of the offence or because it is expedient in the circumstances of the child or the community that the matter be so referred.
- (4) When the child or a parent or guardian refuses to give an undertaking as requested by the Panel or whenever, in the opinion of the Panel it is otherwise expedient to refer the case to the Court for the purpose of the rehabilitation of the child.

A Juvenile Aid Panel is **not** a Court. It has no power to make findings of fact when a dispute exists, to determine guilt or innocence; in fact no judicial powers of any kind, nor can it make any enforceable orders. If there is any doubt as to whether the child has committed an offence, the case **must** be referred to a Juvenile Court.

The Panel's main role is to counsel young offenders and their parents where the offence is admitted. However, it is obvious from what has just been said that it also performs an important screening function, referring to court those matters outside its non-judicial role or where the coercive powers reserved for the Court in the opinion of the Panel may be the most appropriate means of endeavouring to achieve the objects of the Act.

The powers of Panels are set out in Section 14 of the Juvenile Courts Act. The Section reads as follows:—

- "(1) A Juvenile Aid Panel shall have the following powers when dealing with a child under this Part:—(a) The Panel may warn or counsel the child and his parents or guardians (guardian being defined in the Act as any person (other than the Minister) having the immediate custody and control of the child;
- (b) The Panel may request a child to undertake in writing, to comply with such directions as may be given by the Panel as to any training or rehabilitative programme;
- or
- (d) The Panel may refer a matter to the Juvenile Court if the child, or if the parent or guardian of the child, refuses to make an undertaking as requested by the Panel, or if, in the opinion of the Panel it is otherwise expedient to do so for the purpose of the rehabilitation of the child);
- "(2) Where an undertaking is made by the child or parent or guardian of the child under subsection (1) of this section and the undertaking is not observed at any time within six months after the

undertaking is given, the Panel may refer the matter to a Juvenile Court for hearing and determination."

The Panel consists of two members, one an officer of the Department for Community Welfare experienced in welfare work who acts as member/secretary and the other a senior police officer. In composition it differs greatly from the Scottish Children's Panels where lay members of the community sit. The Panel meets informally with the child and parents in a room in the local office of the Department for Community Welfare. The participants sit in a group generally with a coffee table in the centre. The police officers and welfare workers have been trained in interviewing techniques so that they can assist everyone to effectively take part in the discussions that take place.

The Panel Secretary is responsible for convening a Panel meeting. On the receipt of a police officer's report of an alleged offence, the Secretary meets with the Divisional Officer (senior police officer) to determine the action to be taken and, where necessary and appropriate, to set a day and time for a Panel meeting.

At the commencement of proceedings the police officer reads the allegation report and the youth is asked whether or not the allegation is correct. If the offence is denied, the matter is referred to court. If the offence is admitted, the Panel asks the child and the parents to comment upon the situation, what preceded it, and what has transpired since the offence was committed. The Panel hearing takes place usually three to four weeks after the event. Usually the child's performance at school, home and in the community at large are discussed. The Panel makes every effort to delve into all these aspects and to learn the reasons for the misbehaviour that led to the appearance, and usually is able to investigate all those aspects in the course of its discussion without having to draw on outside persons or agencies for information. The social worker in effect conducts a form of case interview. In this way "labelling" often associated with Juvenile Court appearances where a number of people are contacted in the course of preparing social background reports, is successfully avoided.

Panel meetings take upward of 45 minutes each, providing plenty of time for discussion. The Panel members talk about the matter prior to the hearing and decide how each will handle their particular role. At the conclusion of the hearing, they usually analyse

what has transpired and determine questions of follow-up arrangements. One particularly pleasing aspect of Panel work is that it has provided a means by which officers of the two usually very separate agencies, police and welfare, meet to work together and in so doing gain a greater understanding of the work done by the other. In practice each complements the other in the conduct of the hearing in a way one might not have thought possible, having regard to the stereotype behaviour usually attributed to both.

Observers indicate a positive response to this environment by both children and parents. The child often participates freely without prompting. There are I am told, often spontaneous comments from parents about how helpful the meeting has been to them, their belief that the child will not have a court record, and their changed views about the handling of youth by police and social workers.

At the conclusion of a matter, parents and children are invited to contact their community welfare officer if they desire assistance in the future.

Juvenile Aid Panels were designed to help youth towards law-abiding positive behaviour. They have provided a workable alternative to court proceedings in many cases and have shown that Panels are quite capable of doing the work entrusted to them.

At present approximately 4000 children appear before Juvenile Aid Panels in South Australia each year. Taking the year ended 30th of June 1977 as an example 3503 children appeared before Panels, and in the same period 4250 children appeared before Juvenile Courts for matters, minor traffic excluded. Statistics show that 87 per cent of children appearing before a Panel do not subsequently appear before a Juvenile Court. This in itself, clearly indicates the effectiveness of the system.

The 1971 Juvenile Courts Act is shortly to be replaced with new legislation that will provide many new and desirable changes. The measure of success which Aid Panels achieve can best be seen in the fact that it is proposed to broaden the Panels' operation to include young people up to 18 years of age, and not just 16 as at present.

Panels cannot therefore be considered to be experimental diversion programmes. They are clearly accepted in South Australia as an integral part of the system provided for the guidance of our youth and the protection of our citizens.

TNT group 4
TOTAL SECURITY

Cash and Payroll Delivery Service

Mobile Security Patrols

Static Security Guards

Security Consultant Service

698.1401

SHREDDING
FOR SECURITY



intimus
707

NEW SCOTLAND YARD

6 Models with one to suit you!
Phone us for a free demonstration.

Insti-shred
OFFICE PRODUCTS
25B-27B SHEPPARD RD.,
EMU PLAINS
047 - 21 4028-9
OR 02 - 637 7730