JUVENILE JUSTICE IN SOUTH AUSTRALIA

Address by Judge Kingsley Newman, Senior Judge of the Children's Court of South Australia, delivered at the 12th Biennial Conference of the Australian Crime Prevention Council, 6 September 1983

For the past decade and perhaps a bit longer, the South Australian approach to dealing with young people in trouble with the law and for other reasons, has attracted considerable interest, both from within Australia and from overseas.

At about the same time, throughout the western world there has been a trend towards developing different forms of alternatives to juvenile courts for young offenders so that these children can have their cases dealt with by less formal means. In our case this less formal means is called the Children's Aid Panel. It was originally called the Juvenile Aid Panel but changed its name at the time the Children's Protection and Young Offenders Act of 1979 came into force. In addition to Aid Panels, South Australia has placed great emphasis upon developing community based programmes as alternatives to residential care and a separate civil jurisdiction now exists to determine the future of those children who have not offended but are in need of care and protection. Many checks and balances have been built into a system in which every effort is made to ensure that each decision made acts in the best interest of the child, as well as providing protection for the community as a whole.

Reduced to its bare bones, the South Australian system consists of Child Protection Panels, Screening Panels, Children's Aid Panels, Children's Courts, Assessment Panels, dismissals, fines, bonds, community based programmes, secure care, Training Centre Review Boards and the Children's Court Advisory Committee. Some of these terms will be familiar to you, others will require explanation, but before commencing any explanation of today's system I want to make it quite clear that these things did not just happen overnight. To set the scene, I will need to return briefly to the very origins of the State of South Australia in the year 1836.

When the first white colonists landed in South Australia, Adelaide was just a bush covered plain separated from the north by a chain of ponds, joined together by a narrow stream. Arriving in mid-summer after a sea voyage of months and having to face the prospect of starting life again from scratch, must have been daunting for even the most courageous. There was no food, except for that which they brought with them, and the few edible fruits, roots and animals that nature provided. There were no roads, or bridges, housing or transport except for bullock drawn drays; and yet those first pioneers swiftly laid the foundations for the State of South Australia, with the City of Adelaide as its centre.

Physical growth aside, it is impossible to study the history of these pioneers and to trace the growth and development of the social planning and legislation that evolved, especially in those matters which affected children, and not acknowledge that we still owe much to them today. I sometimes hear people say that since the start of the Dunstan era, South Australia has emerged as some sort of social laboratory for the country. While acknowledging the great steps forward taken by the Juvenile Courts Act of 1971 I always counter this by saying that historically it has been a social laboratory from the very beginning. Our early pioneers brought with them a plan for collonisation which differed from the general. They brought with them new ideas for a better society which they proceeded to put into practice in the new land, and although the laws and practices they formulated were based on English laws and practices they represented a definite breaking away from tradition. Compulsory education, manhood suffrage, the vote for women, the Torrens system of land registration are a few examples that immediately spring to mind.

In this climate, it is not surprising that South Australia became one of the first places in the world to deal separately with its children in terms of the legal processes. In 1892, the Government instructed the police that all boy offenders under 16 and girl offenders under 18 should be taken to the State Children's Department "lock-up" and that they should be tried in one of its rooms set apart for that purpose. The separation of the hearing of children's cases from Police Courts became a legal requirement upon the introduction of the State Children's Act of 1895. The relevant section reads:

> "The hearing or trial of all complaints or informations against any child for offences punishable on summary conviction before a justice or justices, with or without the consent of the accused or any other person shall:
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> (a) within the city of Adelaide or the town of Port Adelaide be held in some room or place approved of or appointed in that behalf, by the Chief Secretary and not in any police or other court-house.
>
> (b) Outside such city or town, may be held in any police or other court-house but so that the hearing or trials shall take place at an hour other than that at which ordinary trials are taken.
>
> Pending his trial a child may be detained in an institution, but not in prison, watch house or gaol."

The State Children's Department announced in its report of 1900:

> "South Australia may claim to be the only country where a separate and distinct lock-up and court are provided for the detention and trial of all children under 18 years of age."

Chicago lays claim to having established the first Children's Court in 1890 but no matter who was first, it cannot be suggested that we in South Australia simply followed contemporary American thinking in such matters.

In 1865, the Attorney General of the day was asked in the House whether a Bill about to be introduced would provide "the private investigation before the Police Magistrate, or before a Justice of the Peace, of juveniles, and for the punishment of juvenile offenders on their first conviction separate from other prisoners, with a view to more effectively aiming at a reformation; or whether the Government would introduce during the present session, a separate Bill bearing upon juvenile delinquencies?" The Attorney's reply, was that he did not approve of "secret criminal tribunals" and as there was no need for the new powers, the Government would not introduce a separate Bill.

Public opinion apparently demanded otherwise and in 1869, almost 30 years before the Chicago starting date, the Minor Offences Bill was introduced into the House.

This Bill provided for the punishment of young offenders, without branding them as criminals, and prevented them from being sent to prison. Children were to have summary hearings before a special magistrate or justices, rather than trial in the Supreme Court. Punishment provided called for keeping child

offenders in the community and not sending them to prison. The point I make is that our current system is not a conglomeration of recent trendy imports, but rather the continuation of a process recognised by both commonsense and the law in that State for more than 100 years.

The reasons why most societies chose to deal differently with children are concisely put in the report of a Working Party convened by Dr. John Seymour, formerly of the Australian Institute of Criminology and now the Senior Lecturer in Law at the Australian National University, entitled "Australian Discussion Paper Topic 2. Juvenile Justice: before and after the onset of delinquency which was prepared for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders". They are: "juvenile offending is often of a temporary and transitory nature. Relatively few offenders continue a career in the juvenile justice system and even fewer continue into the adult system (for Australian research on this subject see Dr. J. Kraus, On the Adult Criminality of Male Juvenile Delinquents. The Australian and New Zealand Journal of Criminology, September 1981, Vol. 14, No. 3, P. 157).

Available evidence also suggests that offending, and more particularly serious and persistent offending, is commonly associated with other problems. These problems may require intervention beyond the scope of the court but within the capabilities of the various helping professions to which the court has access. Also there is continuing debate about the effectiveness of court intervention including some evidence that for certain offenders, involvement with the juvenile justice system can serve to perpetuate offending rather than reduce it. Further reasons why societies choose to deal differently with juveniles include the immaturity, dependency, vulnerability and malleability of children. Recognition is given to the specific needs of children who are going through demanding stages of growth and development. They are still in the process of moving towards an acceptance of responsibility for themselves and their actions. Another, but surprisingly often unacknowledged factor, is our emotional reaction to children, a reaction which evokes in adults a desire to provide sympathetic care. Also in the background is the realisation that children represent the future and are a community's most valuable asset.

Developing John Seymour's reasons further, one can see that the "price" paid should be lower for juveniles than it is for adults. Juveniles are less mature — less able to form moral judgments, less capable of controlling impulses, less aware of the consequences of acts, in short they are less responsible and therefore less blameworthy, than adults. Their diminished responsibility means that they "deserve" a lesser punishment than an adult who commits the same crime.

Because juveniles are emotionally dependent on their parents or guardians in ways that adults are not, removal from the home tends to be a more severe punishment. Lesser punishment means not only more sparing use of detention but also means significantly shorter terms of detention, bonds and periods of licence disqualification, because time has a wholly different dimension for children than it does for adults.

In addition, the socialization of the young is an obligation of the whole of society, not just of the parents or guardians involved. School attendance is compulsory. Courts have the power to take children away from guardians who neglect or abuse them. Society acknowledges it bears a responsibility for youth and therefore youth crime that it does not have in the case of adults. Although their offences cannot be condoned, society has an obligation to do more than merely punish children for their offences. We recognise them to often be victims as well as offenders.

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. In a society that segregates adolescents from adults, it takes time for youngsters to learn to conform their conduct to acceptable social norms and adolescents who grow up in an environment that offers larger rewards for criminal than for noncriminal behaviour need more time than most. We acknowledge that adolescents are more susceptible to peer pressure than are adults, and their peer groups are more likely to push them toward criminal activity. As youngsters mature, they take on more responsibilities — jobs, wives, or husbands, children, finance company payments and mortgages. As their stake in society increases so do the pressures to conform to its code of behaviour. Since the majority of juvenile offenders do in fact age out of crime, it makes sense to respond to juvenile crime with that possibility in mind.

If shorter sentences were all that were involved, there would be no need for a separate juvenile court; criminal court judges could simply take a juvenile's age into account in setting the sentence. But more **is** involved. Juveniles' capacity for change means that less stigma should be attached to conviction and punishment of a juvenile than of an adult. A teenager's record should not hang over him like a cloud for the rest of his life.

Although it would be naive to suggest that the juvenile court has eliminated stigmatization, as its early advocates had hoped, the stigma nonetheless is milder and less enduring than that provided by the adult criminal courts.

In South Australia more than half of offences do not even come to court. The child either receives an official caution, or appears before a Children's Aid Panel and such an appearance cannot be alleged as antecedents later in an adult court.

Also we recognise a juvenile's capacity for change means that punishment ought to be accompanied by help. It has become fashionable of late to belittle or even sneer at the idea of rehabilitation. We may not know enough to help every troubled juvenile but we do not know so little that we ought to stop trying. If rehabilitation has largely failed, the remedy is not to abandon the effort with an air of sophisticated disillusionment; it is to try to understand why, and to intensify the search for approaches that offer some hope of working. This, after all, is what we would do if **our** children were involved. Juveniles should not be detained or have their liberty restricted in other ways, for the **purpose** of rehabilitation except as a last resort. However, once the decision to punish a youngster has been made, there must be a serious attempt to provide whatever help he needs to become a productive member of society.

In the best juvenile courts, sentencing decisions are made with more care and more knowledge than in the best adult courts. Judges and magistrates make an honest effort to balance the need to punish with the obligation to provide offenders with the help that might make change possible.

To be effective in dealing with youth crime, Children's Courts need a broad range of sentencing options. They need an array of noncustodial punishments: ways of responding to delinquent or criminal behaviour that make it clear that sanctions are being imposed, whenever possible without locking away or otherwise damaging the children in the process. In the past, the critical defect in juvenile courts the world over, has been that judges and magistrates generally faced a Hobson's choice between dispositions that were either too lenient or too harsh. It was rare for there to be anything in between probation and incarceration. The incarceration is harsh and often damaging; and probation hardly differs from dismissal. To be effective, the Court must have at its disposal as great a range of programmes and approaches as possible, both of a governmental and nongovernmental nature.

Section 7 of the Children's Protection and Young Offenders

Act 1979 sets out the factors to be considered when dealing with a child in the South Australian system. It reads as follows:

"7. In any proceedings under this Act, any court panel or other body or person, in the exercise 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 strengthen 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; and

(e) where appropriate, the need to protect the community, or any person, from the violent or other wrongful acts of the child."

The Full Court of the South Australian Supreme Court enlarged upon these provisions by adding, that, in dealing with a juvenile offender

"'the Court is trying to find out what is the best means of turning this delinquent juvenile into a responsible law-abiding adult, and that has really got nothing to do with the seriousness of the crime or the degree of complicity qua some other companion in crime, and no useful comparison can be made between an order made under a non-punitive system and a sentence imposed on an adult"[1]

and

"'It would be quite wrong . . . for a judge in the Children's Court to treat detention as other than the last resort to be resorted to only when satisfied that the other available options do not meet the case".[2]

Apart from the argument already advanced, from the taxpayers' viewpoint, we should never overlook the fact that the cost of keeping children in secure care is extremely high. We have two secure care centres in South Australia; the Remand and Assessment Centre and the Youth Training Centre. It costs $112.24 per day to keep a child at the Remand and Assessment Centre and $119.63 per day for each child held at Youth Training Centre, that is, $41,300 a year to keep a child in S.A.Y.R.A.C. and $43,600 a year to keep a child in Youth Training Centre.

Costs like these alone are good enough reasons for community programmes to prevent delinquency, but when it is appreciated that the child's problems exist in the community and that plucking him out of the community and placing him in the artificial environment of an institution with other disturbed children who could possibly make his and the other inmates' problems worse, then community based programmes have added appeal. I refer again to the published results of Australian research by Mr. J. Kraus, an officer of the Department of Youth and Community Services, Sydney, New South Wales, which suggests that only 3.7% of ex-delinquents generally relapse into serious crime as adults, however, if committed to a juvenile corrective institution, they are about four and a half times more likely to be charged with an indictable or serious offence punishable by imprisonment than are ex-delinquents who have not been committed to secure care. Although the figure of 3.7% is reassuring, it is significant to realise that this group accounts for 44% of adult criminals. It is important therefore, to develop community programmes whenever possible on the dual basis, they are less expensive and achieve more in the long run.

Last but not least, we recognise that the need to treat the child differently from an adult must be balanced against the need to protect the interests of the community as a whole. Few people would argue that a young offender whose conduct endangers the physical security of other members of the community should be left at large and in some cases it becomes apparent that a youthful offender should be plucked out of the juvenile system altogether and treated in all respects as if he were an adult. In appropriate cases the Attorney-General obtains an order from a Supreme Court Judge that such a child be dealt with in the adult courts after a preliminary hearing in the Children's Court has established a case to answer.

Child Protection Panels, Assessment Panels and Children's Courts all have a part to play in the Civil Jurisdiction of the Court of which I spoke earlier.

The Civil Jurisdiction is mainly involved with applications of the Minister of Community Welfare seeking a declaration that a child is "in need of care". The Act defines "in need of care" as being where:

"(a) a guardian of the child has maltreated or neglected the child to the extent that the child has suffered, or is likely to suffer, physical or mental injury, or to the extent that his physical mental or emotional development is in jeopardy;

(b) the guardians of the child are unable or unwilling to exercise adequate supervision and control over the child;

(c) the guardians of the child are unable or unwilling to maintain the child;

or

(d) the guardians of the child are dead, have abandoned the child, or cannot, after reasonable enquiries, be found."

If the Court is satisfied on the balance of probabilities that the child, the subject of the application, meets this criteria, a declaration is made accordingly. Following upon the making of that declaration, the Court

"(a) may, by order, place the child under the guardianship of the Minister for such period of time as the Court thinks fit;

or

(b) may, by order —

(i) place the child under the control of the Director-General in respect of such matters relating to the care and welfare of the child as the Court specifies in the order, for such period of time as the Court thinks fit;

alternatively it may

(ii) direct that the child shall reside with such person as the Court thinks fit;

or

(iii) direct any guardian who is a party to the proceedings to take such steps to secure proper care and control of the child as the Court thinks fit."

If the Court is considering placing the child under the "guardianship of the Minister", it must first obtain an Assessment Panel Report on the child.

In many cases the children are separately represented by counsel as the Court has power to order separate representation in appropriate cases.

The Children's Court in its Civil Jurisdiction also hears all Adoption matters.

There is a growing awareness that child abuse is a community problem. The State takes the view that it is best met by its professionals working in partnership with the community rather than by bundling everything into Court. Community awareness programmes operate to ensure that all people know how to notify the Department for Community Welfare of suspected cases of abuse and that those with a legal responsibility to do so are aware of their obligations.

The Crisis Care Service, often working in conjunction with

the police, provides a 24 hours a day, seven days a week, intervention team in metropolitan Adelaide to respond to all kinds of human problems including parent/child conflict and State wide, six Child Protection Panels operate to enquire into suspected cases of child abuse to support families and children after abuse or neglect has occurred.

Last year of the 427 cases of child abuse, suspected abuse or cases where a child was at risk of mistreatment, all but 33 were able to be handled by the helping professions rather than deferred to Court.

For those of you who would like further details about child protection programmes in South Australia, I suggest you obtain a copy of a paper entitled, "A community-based approach to the prevention of child abuse" delivered by Mr. Ian Lewis at the 2nd National Conference on Child Abuse and Neglect held in Queensland in September 1981.

In recent years there has been an increase in reported cases of child abuse. However, this does not necessarily mean there has been any increase in physical, mental or sexual abuse but rather it reflects greater community and professional awareness and changes in attitudes and services related to such matters.

Returning to the Criminal Jurisdiction, after a child is arrested or reported for an offence, the report is placed before the members of a Screening Panel. As I mentioned earlier, the Children's Protection and Young Offenders Act has provided alternative ways for dealing with offending children. Allegations against a child aged between 10 and 18 years of age are dealt with by a Children's Court or a Children's Aid Panel.

Screening Panels consist of a Senior Police Officer and a Community Welfare Worker. They screen to Court or to an Aid Panel all cases of children who are arrested or reported for offences. The only exceptions are most charges of homicide, and offences against the Motor Vehicles or Road Traffic Acts (other than certain prescribed offences). These exceptions go directly to Court. Truancy is referred directly to an Aid Panel by the Education Department. When making its decision, the Panel considers the allegations against the child and any existing reports of the Department or of the Police Department and decides how the matter should be dealt with. No person is required or is entitled to appear before, or make representation to a Screening Panel and there can be no appeal against the decision of a Panel.

Where the members of a Panel are unable to agree on whether a child should be dealt with by the Court or a Children's Aid Panel, they appear in chambers before a Judge or Special Magistrate whose decision is final.

Guidelines for Screening Panels to make decisions have been developed by the Department and the Police Department. Offences such as rape, arson or where a high degree of personal injury or property damage is involved would normally be referred to the Court. Where a child has had several previous Children's Aid Panel appearances, or is subject to an existing Court order for an offence, a referral to Court would generally be considered to be the more appropriate decision. If the Screening Panel is of the view that the matters should not be dealt with by either of these two agencies, it may certify accordingly and that ends the matter or they may recommend an official police caution.

The next Panel, the Children's Aid Panel, comprises a member of the Police Force and an officer of the Welfare Department in cases when an offence is alleged. Where truancy is alleged, an officer of the Education Department and an officer of the Welfare Department comprise the Panel.

When a child is referred to a Children's Aid Panel the appropriate Department for Community Welfare District Office arranges a meeting and notifies the child and his/her guardians. If the child does not admit the allegations, she/he may notify the Panel and the matter is then referred to the Children's Court. The Panel is not a Court and has no power to decide whether or not a child is guilty. If the child does not admit the offence, the matter must be referred to the Children's Court. The child may request a Court hearing instead of a Panel hearing. The Panel may sit anywhere except in a Courthouse or a Police Station. Panels usually sit at a District Office of the Department of Community Welfare. The room used is usually conducive to a relaxed atmosphere and often has a private waiting area for families.

The Panel may request reports from the Police Department, the Department for Community Welfare, the Education Department or any other agency involved. The Panel makes every effort to find out what has led to the young person's appearance before the Panel. Discussion could cover his schooling or employment, behaviour, family relationships, leisure activities, and plans for the future.

Before a Panel proceeds to deal with a child, it explains the allegations to the child, and satisfies itself that the child admits the allegations. The Panel also informs the child that she/he is entitled to request that the matter be referred to the Children's Court at any stage of the proceedings and what the implications of this are. Following discussion with the young person and his/her guardians, the Panel may:

- warn or counsel the child and his/her guardians;
- ask for a written undertaking by the child or the guardian to follow specific directions or a programme decided by the Panel for a period up to six months, but not requiring the child to change his place of residence.

The Panel may refer the matter to the Children's Court if the child or his/her guardian do not attend the Panel hearing or refuse to give an undertaking, or if the child breaches the undertaking.

The Panels give the young person and his/her family an opportunity to discuss the allegation and any other problems facing them with Panel members who are concerned with their welfare. Panel meetings are informal, sensitive and emphasise the participation of the family; they are aimed at influencing and helping young people and their families. Their impact is greater when the Panel appearance is soon after the offence; meetings are, therefore, arranged quickly.

The aims of the Panel are:

- to deal flexibly and quickly with young people in trouble through law-breaking or truancy;
- to make help available to young people and their families from within the local community, and to help, advise and encourage the parents;
- to avoid the formality and stigma involved in a Court appearance;
- to ensure that both child and parents realise the possible consequences of further offending;
- to reduce juvenile offences.

I stress again, a Children's Aid Panel **is not** a Court. It has no power to make findings of fact when a dispute exists, it has no power to determine guilt or innocence, in fact no judicial powers of any kind, neither 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 Children's Court.

The Panel's role is to counsel and warn young offenders and their parents where the offence is admitted.

Children's Aid Panels were established so that misdemeanours committed at a young age do not adversely affect a person's adult life. Hence, appearances before a Panel cannot be disclosed before a court other than a court exercising jurisdiction under the Children's Protection and Young Offenders Act, 1979 or by any person exercising

powers under the Act unless that person has approval from the Minister of Community Welfare.

One interesting aspect of Aid Panels has been the degree of co-operation that has grown up between police and welfare personnel involved (who traditionally have regarded themselves as being on opposite sides of the fence) and the appreciation that each has gained of the other's points of view. This is particularly so in country areas where Panel work is more evenly distributed amongst police offenders.

Additionally observers have reported a positive response to Aid Panel appearances by both children and parents. The child is in a more relaxed atmosphere than a courtroom, often participates freely without prompting. There are I am told, often spontaneous comments from parents about how helpful the meeting has been for them, about their relief that the child will not have a court record and also their changed views about the handling of youth by police and social workers.

Statistics show that 83 per cent of children who appear before a Children's Aid Panel do not subsequently appear before a Children's Court. This in itself indicates the effectiveness of the system.

Turning now to the court system, South Australian children are able to request trial by jury in an adult Court if charged with an indictable offence. Also, there is provision for committing a child to an adult Court for trial and sentence upon the application of the Attorney-General. This provides a means whereby children who have committed a very grave offence or have persistently committed serious offences can be dealt with by an adult Court and also preserves the citizen's right to trial by jury if that be the child's wish. Where the matter proceeds in the Children's Court, it is heard summarily, that is without a jury or preliminary hearing.

The Children's Court is able: to sentence a child to a period of detention in a Training Centre (between two months and two years); to suspend a sentence of detention; to place the child on a bond with a wide range of conditions; and to impose fines up to $500. The Act acknowledges the importance of the young person remaining within his/her home and community wherever possible. Consequently, community based treatment programmes are emphasised and these are usually ordered as a condition of a bond. One sentencing tool that is worthy of separate mention is the so-called "progress report". As a condition of a bond or as a condition of bail before appearing for sentence a Court may order that the child "will attend before the Court at such times as may be specified in the recognizance for the purposes of reviewing his progress or circumstances". When this happens the child is made to realise that he must make conscientious efforts to "lift his game" or feel the consequences of detention or bond estreatment.

The Court also has the power to order restitution or compensation up to two thousand dollars if such an order is likely to contribute to the rehabilitation of the child. In cases of fines and restitution, the Court is required to take into account the ability of the child to pay the amount ordered and may reduce the amount of the fine or restitution. In cases where the Court considers that the child should not hold or obtain a driver's licence, it can disqualify the child from holding or obtaining a licence for a specified or unspecified time and order partial disqualification to enable employment to continue for example.

The Court is not able to make an order of detention or require a child to attend a Youth Project Centre without first obtaining a report from an Assessment Panel so that it always has the most up-to-date advice as to the best sentencing options available.

The powers of the judiciary are set out in the Act with Judges having all powers of the Court, Special Magistrates somewhat less, and Special Justices and Justices of the Peace very limited powers.

A police officer or Crown Law officer usually prosecutes. An officer of the Department for Community Welfare appears in Court to present social background reports prepared by Community Welfare Workers. If required, the officer also makes submissions to the Court as to the order the Department considers would be in the best interests of the child.

The Court is required by the provisions of Section 7 of the Children's Protection and Young Offenders Act to give proper emphasis to the dual concepts — the needs of the child to ensure his welfare, whilst at the same time viewing those interests against the background of the whole of society and providing protection for the community in appropriate cases.

Most truancy matters are dealt with by Children's Aid Panels. In the event that the matter is referred to the Children's Court for hearing or determination, the Court is able to place the child on a bond with specific conditions, but may not order a period of detention.

Almost all young people appearing before a Children's Court have a Social Background Report written about them. This report is prepared by a Community Welfare Worker from the local District Office and is submitted to the Court after guilt has been established. Social Background Reports, along with other types of reports, are presented to the Court by a team of Children's Courts Officers.

Legal Aid from the officers of the Legal Services Commission is readily available.

Assessment Panel Reports

The Department for Community Welfare's assessment services provide a multi-disciplinary approach to the exploration and evaluation of the needs of young people and their families. The service is utilized by the Children's Court, Children's Aid Panels and Community Welfare Workers to help them to appraise often complex situations and to make decisions and recommendations regarding the welfare of a particular youth. Assessment services are often central to these difficult decisions and reflect the need of the Courts to have access to reliable, relevant and well documented information. Assessment services provide an opportunity for Community Welfare Workers to have a forum in which they may share their perceptions and decisions with other professionals.

Assessment is a comprehensive process and while it is often associated with "problems" and their exploration and evaluation it would be wrong to view it only within this narrow context. It is as necessary to assess the wider impact of social factors, such as housing and employment, as it is to identify personal difficulties. The need to base welfare intervention on a reasoned analysis of what is really required is at the basis of assessment thinking. It attempts, therefore, to take the guesswork out of decision making and thereby to provide a thorough and comprehensive statement detailing the circumstances of the child and family. If there are problems it attempts to show how they can be best handled. This of course, encompasses a whole range of "treatment" and placement options.

Assessment legislation is addressed in the Community Welfare Act 1972-1979 and the Children's Protection and Young Offenders Act 1979-80.

An Assessment Panel Report is mandatory in three cases —
Civil Jurisdiction — Part III, Section 14(2)
Before a child is placed under the Guardianship of the Minister.

Criminal Jurisdiction — Part IV, Section 51

Before sentencing a child to a period of detention in a Training Centre.

Part IV, Section 71
Before a child can be ordered to attend a Youth Project Centre.

Neither the Community Welfare Act, nor the Children's Protection and Young Offenders Act specify membership of an Assessment Panel. Membership is dependent on the child's circumstances and the range of previous and proposed professional involvement. A Panel may include for example, the youth, a Community Welfare Worker, an Assessment Social Worker, a Guidance Officer from the Education Department, the youth's parents and an independent Chairman. A Residential Care Assessment Panel also includes a Residential Care Worker. Other people who could be involved are psychologists, consultant psychiatrists, treatment centre and cottage home staff, school teachers, school liaison officers, specialist consultants from outside the Department, the list is almost inexhaustible.

The Panel's final report is in three parts: the Community Welfare Worker's Social Background Report on the child's home, family history and current circumstances; individual reports as appropriate from other sources referred to above; and the Panel's evaluation and recommendations to the Court or other referring agency.

Although the final responsibility for decisions rests with the Court, acceptance of panel recommendations by the Courts is high. The reason for this is because the Community Welfare Department sees the following matters as essential for the Panels to operate effectively

- Wide knowledge of community resources is required. The Panels must have up-to-date and comprehensive knowledge of all alternative resources which are available for young persons referred to it.
- Good decision-making techniques are needed. The Chairperson in particular must be a capable co-ordinator, highlighting and refining the key points relevant to the final recommendations.
- Administration of the Panels must be reliable. Much damage can be done to the child's best interests by inefficient administration, which may cause traumatic delays.

As I have already said, the policy in South Australia in dealing with juvenile offenders is essentially community based. It is recognised that each offender is a product of his or her total environment, and that any attempt to treat the youth apart from that environment is likely to meet with limited success.

This policy is dependent on the community being prepared to retain offenders in the local situation except in the more extreme cases. It must also be involved in the rehabilitative process. Members of local communities must understand and co-operate in this concept, to make community based treatment programmes successful.

The Department's Community Welfare Workers provide a link between the offender, his or her family, resource groups and the general community. Such activity is designed to alleviate deficiencies in personal and social skills which contribute to patterns of law-breaking behaviour. By matching available resources to the particular needs of each offender the Community Welfare Worker is able to help the young person cope with society in an acceptable way and to help families and communities cope with possible difficult behaviour during the period of rehabilitation.

Counselling and personal support are still the most important parts of the process of helping young offenders. Such support, however, is more concerned with setting targets or formulating goals than with offering advice only. This may entail encouragement, approval, understanding or a host of other things to show the offender he/she is not alone in facing problems. However, with the concept of community involvement, it also encompasses similar support for all those people associated with the offender such as family, employer, landlord, friends and teachers.

On a broader basis, Community Welfare Workers are involved in setting up community activities for groups rather than the individual. These include after-school activities for young children, programmes for offenders, a series of programmes for young aboriginal offenders etc. The services offered by Community Welfare Workers are assisted by the use of Community Aides. The Aides are recruited from the local area, and operate on a voluntary basis. They represent a stage between Departmental function and general community involvement, and are an integral part of their community.

The Department's system of community based residential care comprises regionally based Admission Units and Group homes. In addition there are specialist programmes which provide a cross-regional service for categories of children whose numbers are not sufficiently large to justify regional units.

Non-secure residential care: Children's homes offer care, support and guidance to young people remanded by the Children's Court and to children at risk in the community. Admission units provide short-term care and assessment and group homes offer long-term care. Community treatment units are involved with the training and treatment of young offenders. Within two weeks of a young person being admitted to a unit, an individual goal-oriented programme is prepared in consultation with the young person, the Community Welfare Worker and Unit staff. There are several admission units and residential group homes in South Australia.

Intensive Neighbourhood Care Scheme

The Intensive Neighbourhood Care Scheme is a major innovation in treatment services for young offenders which was introduced in South Australia in 1979. The concept of the programme is based on the Special Family Placement Project established in Kent, U.K. in 1975.

The Scheme gives more intensive, individual care to those young offenders who present no threat to the safety of the community, do not need to be detained in secure care, and yet cannot go home to their own families. An opportunity is created for the young person to demonstrate responsibility by participating creatively in a non-secure situation and in making decisions about the future.

There are three main parts to the scheme:

- **Remand Care** is designed to provide care for young people who have been remanded by a Court and who, in the opinion of the Court, cannot return home, and for whom secure care is not required.
- **The Support Scheme** is designed to provide a specific and individual programme of care for a young offender who would otherwise be placed in secure care by a Court. It is available to those young offenders who, in the opinion of an assessment panel, will benefit from placement in a supportive family environment and who are prepared to agree to sign the agreement specifying their responsibilities and expectations of the treatment programme.
- **Adolescent Girls I.N.C.** is designed to extend the original I.N.C. proposal to adolescent girls who may be offenders or non offenders in those instances where an Assessment Panel Report recommends an I.N.C. placement, and the Court makes an appropriate order. The maximum period of I.N.C. placement is extended from six months to 12 months for this group.

People who apply and are eligible are selected for training as I.N.C. parents. The training has been developed on the assumption that applicants have much to offer and possess

basic skills in interpersonal relationships. It concentrates on developing specific knowledge and ability in areas such as crisis intervention, communication, individual development and supporting others. Information about Court systems, Departmental requirements and lines of responsibility are also provided.

Families are paid $17.80 for each day of care given if the child in care is on remand. If a longer term contract is made, the amount is $22.90 a day. Pocket money allowances may be payable but this is determined according to the financial position of the young offender. Special arrangements have been made in relation to insurance and medical expenses. Families are under twelve-monthly contracts to the Department to provide care as required and to attend training and support sessions during this time. People are not used for placement until they and the selectors are confident that they are ready. The final decision to approve an I.N.C. placement rests with the Children's Court.

Youth Project Services

The Department's youth project services operate in the Department's regions using a variety of approaches which are designed to meet local needs.

These services provide programmes of a treatment and preventative nature for young persons in regions to prevent offending behaviour and detention in secure care.

The objectives are as follows:

- to provide activity, recreational and other programmes in co-operation with District Office staff and volunteers for young offenders, and those youths "at risk";
- to provide flexible "attendance centre" type programmes for the treatment of persons referred by the Children's Court or Children's Aid Panels (as part of bond or undertaking conditions);
- to provide intensive support and outreach services for young offenders and their families.

Group Workers provide a programme framework within which:

- individual goals may be achieved
- home or placement may be supported or developed
- the young offender may form effective relationships with peers and Group Workers;
- the young offender may receive some gratification and support for remaining in the community without offending.

Most country centres are able to offer Youth Project Schemes as an alternative to normal supervision.

Youth Project Centres are established at Magill, Kilkenny, Marion, Whyalla, Murray Bridge, Mount Gambier, Berri, Cedluna and Port Augusta to provide an alternative to residential care for selected male offenders 14½ to 18 years of age who have a history of serious offending behaviour, partticularly in groups, and who have no serious physical or psychological handicaps.

The programme is aimed at changing the behaviour and/or attittude of the youth in such a way that re-offending will be reduced, with an increased likelihood of him/her coping better in the community.

All young people who attend the Youth Project Centres' compulsory attendance programmes are required under the Children's Protection and Young Offenders Act 1979 to have been assessed and for an Assessment Report to have been submitted to the Court.

The Children's Court may then refer a young person to a Centre as a condition of a Bond order.

The programmes involve the young person on two or three days a week from late afternoon through to mid evening and also for one complete day, usually a Saturday, each week or fortnight, depending on the Centre.

The shorter contacts usually involve youths having a meal together and being involved in educational and recreational activities, designed to stimulate existing skills and introduce them to a wider range of activities.

These programmes allow the young people to maintain their life in the community, at school or work and with their family with a minimum of disruption, but with ample support and counselling provided. Group Workers often visit the youths' homes to help resolve problems in the family.

Since the inception of the programme emphasis has moved from the group being the main source of pressure for change, to increased focus on the individual as the responsible agent for change.

Aboriginal Young Offenders Programme

In 1978 investigations were made to determine the needs of young people living in the major centres of Aboriginal population. As a result of these investigations, Federal funding was granted in 1979 for a three-year programme.

Programmes operated in six locations but lapsed through lack of Federal funding in June 1982.

Community Services Scheme (Default Warrants)

Section 99a of the Amendment Act to the Children's Protection and Young Offenders Act, proclaimed to operate from 3rd July 1980, provided for an alternative to the detention of young people who have failed to make a monetary payment ordered by a Children's Court (e.g. fine, or estreatment of a bond or bail recognizance). All young offenders have the opportunity to participate in the scheme unless ordered by the Court that the fine is to be enforced.

Young people who wish to participate in the scheme are required to undertake community work projects for as long as is required to make up the monetary debt. One day's work is considered equivalent to $25.

One unexpected result of the warrants default programme is not only are fewer children serving detention in default of payment of amounts ordered to be paid by the Court, but more warrants are being paid out by the children than under the previous system.

The Intensive Personal Supervision or Mentor Scheme is a community supervision scheme for young offenders who would otherwise be placed in secure care or who have been granted accelerated conditional release from secure care. Suitable persons are selected to provide intensive community supervision, preferably with the involvement of the young offender concerned. A contract is drawn up, involving the community supervisor, the Community Welfare Worker and the youth for the period of supervision which is usually a maximum of ten hours per week.

Only those young people who are considered not to be a clear and serious risk to themselves or the community are considered for the programme.

The Community Welfare Worker provides ongoing support and supervision to the Community Supervisor and arranges payment for the Supervisor at a rate of $4.50 per hour.

From 15th February 1982, the Court has been able to order that a young person found guilty of an offence carry out a period of community service as a penalty for that offence. In addition, some young offenders serving a detention order have been conditionally released from a Training Centre by the Training Centre Review Board into the programme.

At present the programme operates only in the metropolitan area. Young offenders from 12 to 18 years who are likely to be considered for a short-term Detention Order (2-4 months) will be eligible. The programme is an alternative to secure care.

Before ordering a youth to undertake a community service order, the Children's Court requires a specific recommendation by an Assessment Panel, with confirmation that both

supervision and suitable work are available.

The work performed is confined to community projects which utilise volunteers. Assistance is provided to voluntary organisations and disadvantaged individuals. Participants in the programme are placed on work sites according to supervision requirements. There are two levels of participation:

1. Offenders who present a higher risk, according to their history of offending and/or absconding, will have continuous on-site staff supervision.
2. Others will be supervised by voluntary organisations or approved members of the community, with one visit by supervisory staff for each four working hours.

The maximum period of work ordered is 240 hours, considered to be equivalent to a four-month detention order, with judicial discretion to determine what lesser orders will entail. The work is undertaken as a condition of a bond with supervision by a Community Welfare Worker either with or without a suspended sentence of detention.

If the youth fails to make a satisfactory commitment to the work arranged, the sentencing court will be advised and any necessary action taken regarding the estreatment of the bond.

In addition to these community based programmes there are a number of joint Department for Community Welfare and Education Department resources which are too complex to canvass in a talk such as this.

The next component in the system is secure care. I have already named the two centres involved. The first is the South Australian Youth Remand and Assessment Centre which is a residential remand and assessment facility providing long-term and short-term secure care for both males and females from 10 to 18 years.

Five units provide accommodation for up to 45 children who have been placed at the Centre by a Children's Court, or others under the Guardianship of the Minister who require short-term care for Assessment and/or detention. The average stay for children on remand is ten days. Children are grouped according to previous experience in secure residential care.

A major function of the Centre is the Assessment process for children on remand.

The other is the South Australian Youth Training Centre which provides a physically secure training facility for male young offenders on a court order. The residents in the centre have been remanded in custody, sentenced to detention, held overnight in police custody, or held in custody in default of payment of a fine.

Welfare and Educational staff in the Centre provide a closely supervised developmental training and support programme in remedial education, social, vocational and recreational skills. The Centre provides accommodation for up to 90 residents.

All residents on a detention order are regularly reviewed by the Training Centre Review Board which is the equivalent of the Parole Board for adults.

Lochiel Park is a residential centre designed to provide rehabilitation and training for intellectually retarded boys, most of whom have appeared before a Children's Court following offences.

Training Centre Review Board

The Training Centre Review Board was established in July 1979.

The functions of the Board are:

- To review the progress and circumstances of children sentenced to detention to a Training Centre. Such reviews must occur at no greater interval than three months, although the Director General of Community Welfare may request a review at any time.
- To authorise the Director General of Community Welfare to grant a child periods of unsupervised leave from a Training Centre.
- To order the release of a child sentenced to detention to a Training Centre, subject to certain conditions.
- To consider Applications by the Minister of Community Welfare for an order that a child be returned to detertion due to alleged breach of the conditions of release. If the board finds the breach proved, then it may order that the child be returned to detention.
- To review those directions of the Director General of Community Welfare, where the Director General has directed that a child, who has been detained in or remanded to a Training Centre pursuant to an order of the Court, be transferred to another Training Centre.
- To recommend to the Director General of Community Welfare that the Director General apply for Absolute Discharge of the child's detention order.

The Review Board consists of the Judges of the Children's Court, two persons appointed by the Governor on the recommendation of the Attorney-General (at least one of whom shall be a woman), and two persons appointed by the Governor on the recommendation of the Minister of Community Welfare (at least one of whom shall be a woman).

The Review Board meets monthly at both Training Centres and more often if the need arises. On such occasions, the Board is composed of one of the Judges of the Children's Court (who also acts as Chairman of the Board), and one of the two nominees of both of the respective Ministers. The Supervisor of the Training Centre, or his delegate, may also attend such meetings.

In considering each child's progress, the Board has available to it a comprehensive range of reports including Assessment Panel, Social Background, Psychiatric/Psychological, plus internal Review Board Report detailing the child's present situation and recommendations for leave and/or conditional release where appropriate.

When reviewing each child's progress, the resident, his/her guardian and legal representative, may make submissions to the Board. When authorising the Director General to grant periods of unsupervised leave, or when ordering the conditional release of a child, the child is required to acknowledge, in writing, that he/she understands and promises to obey the conditions of such leave and/or conditional release.

The final component of the South Australian Juvenile Justice System mentioned in opening was the Children's Court Advisory Committee. The present Act established the Children's Court Advisory Committee, whose function is to monitor and evaluate the administration and operation of the Act, cause such data and statistics in relation to proceedings before the Children's Court to be collected as it thinks fit, or as the Attorney-General may direct, and perform other duties including the preparation of an annual report for Parliament.

The Committee is made up of the Senior Judge of the Children's Court, the Superintendent of Juvenile Prosecutions (Police) and the Deputy Director General of Community Welfare. As well as providing feedback from the organisation each committee member represents, evidence is taken from interested and concerned members of the public. Submissions in writing and oral evidence is received by the Committee as a result of regular newspaper advertisements seeking public involvement.

I hope these explanations have adequately clothed the bare bones I first mentioned. Because the majority of the programmes I have described today are not under the control of the Court, I have in compiling this address, relied heavily on information supplied to me by the Department for Community Welfare and contained in the Department's publication entitled, "Services for Young Offenders".

Those interested in greater detail will find it in that document, but for the ultimate treatise on Juvenile Justice in South Australia may I commend to you the book of the same name, written by Dr. John Seymour and published by the Law Book Co. in association with the Australian Institute of Criminology in 1983.

I will conclude this part of this morning's programme by saying that while fully realising the problems of juvenile offending are as old as time itself and acknowledging that society has not yet devised adequate ways to prevent, control or overcome the more entrenched cases of delinquent behaviour, I firmly believe one thing to be certain. Society must be prepared to approach these problems with imagination, and must consistently update its methods and programmes to keep pace with our rapidly changing world.

No one agency, be it Court, police, welfare, school or any one of the programmes I have outlined can hope to solve all the problems of juvenile crime in our community. Success in working together towards the rehabilitation of young people is however possible for the majority and these young people are, notwithstanding their anti-social acts, worthy of the best care and consideration we can afford to give them.